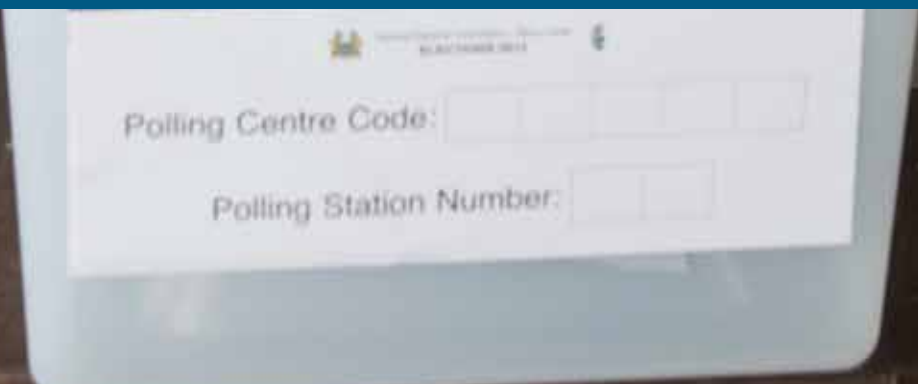


THE
CARTER CENTER



ELECTION OBLIGATIONS AND STANDARDS

A CARTER CENTER ASSESSMENT MANUAL



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THE
CARTER CENTER



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Foreword

The United Nations Universal Declaration of Human Rights recognizes that all citizens are entitled to participate fully in genuine elections – elections that are honest, open, and credible and that serve as a free expression of the citizens' will.

The Carter Center focuses on democracy support and election observation because experience has taught us that the presence of trusted independent observers can play a vital role in lending credibility to peaceful and democratic transfers of power and in preventing and resolving conflicts surrounding political transitions.

This year, in 2014, The Carter Center celebrates 25 years of conducting election observation missions. When I led our first mission to monitor Panama's deeply flawed presidential elections in 1989, election observation was just taking shape. Over the last quarter-century, the methods observers use to assess elections have grown more sophisticated. The early emphasis on election day procedures has given way to long-term comprehensive monitoring of the entire electoral cycle, from the legal framework that governs a country's elections to the resolution of disputes long after votes are counted. Similarly, observation mission reports have replaced the vague standard of "free and fair" with more detailed benchmarks based on international standards grounded in specific instruments of public international human rights law.

In 2005, all major international election observation groups endorsed the Declaration of Principles for International Election Observation, which provides general guidelines for credible observation, including the purpose, scope, and conduct of missions. The collaborative and consultative process that led to the Declaration also laid the foundation for a professional community of election observation groups. Since then, the endorsers of the Declaration have met regularly to discuss common challenges, including the need to build consensus on objective and transparent criteria for assessing elections. The Carter Center is proud to have been a part of this work from the beginning.

The world also has seen rapid growth in the number of citizen groups observing elections in their own countries. Citizen observation is a critical manifestation of the right to participate in public affairs and to hold governments accountable. The 2012 Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations, which closely mirrors the Declaration of Principles for International Election Observation, represents a significant milestone in the advancement of citizen observation. At the same time, election management bodies and parliamentarians are seeking tools to analyze the strengths and weaknesses of their national electoral processes.

I am especially pleased by the growing interest and seriousness with which governments worldwide have come to view international observation by groups like The Carter Center and by their willingness to welcome us in their countries. In parallel, regional and intergovernmental organizations routinely deploy observers under their own auspices, reflecting member states' recognition of observers' role in advancing genuine elections.

Since 2006, the Carter Center's Democratic Election Standards project has focused on building consensus around benchmarks for democratic elections and creating practical tools for election observers and others to assess elections. In 2010, we released the Center's Database of Obligations, which is being relaunched now as the updated Election Obligations and Standards (EOS) Database. The EOS Database is a unique, publicly accessible resource that compiles more than 200 sources of public international law and links concrete human rights obligations contained in these documents to specific parts of the electoral process. I believe this to be an important contribution.

This publication, "Election Obligations and Standards: A Carter Center Manual for Assessing Elections" serves as a distilled companion to the EOS Database. Together, the manual and database make available to citizen observers, election authorities, civil society organizations, and others a practical, innovative framework for assessing electoral processes that is anchored in human rights law.

Through this work, we strengthen the links between the international human rights and elections communities, which share the goals of advancing universal human rights standards while remaining sensitive to the political, historical, and cultural context in which every election takes place. We also strengthen the bonds between international and citizen observers, often working for a common cause in defense of electoral rights. Finally, we hope the use of a shared language and measures for electoral quality by observers and governments and election administrators will further promote genuine elections around the world. I, and Carter Center colleagues, offer the EOS Manual and Database in support of these efforts.

A handwritten signature in black ink, reading "Jimmy Carter". The signature is written in a cursive, flowing style with a large, prominent "J" and "C".

Jimmy Carter
Former U.S. President and Founder of The Carter Center

Introduction

There is now broad international consensus that genuine democratic elections are essential for establishing the legitimate authority of governments. Assessments by international and citizen election observers, from organizations such as The Carter Center and others, play an increasingly important role in shaping perceptions about the democratic quality and overall legitimacy of electoral processes. In addition, electoral assessments by observers and other stakeholders can create an agenda for reform and help ensure the credibility of elections.

The Carter Center has worked since 2006 on a multiphase collaborative initiative aimed at promoting consensus on standards for democratic elections based on public international law—the Democratic Election Standards (DES) project. Working in close coordination with other international organizations focused on elections and human rights issues, the Center has fostered debate and discussion on the strengths and weaknesses of public international law as a means of understanding electoral processes. The Center's work on these issues has both contributed to and is reflective of a growing recognition that there is a coherent body of public international law related to elections that forms the basis of what are more or less commonly accepted election standards. Indeed, in the last 10 years, election professionals (administrators, observers, assistance providers, etc.) from around the world have increasingly referenced public international law obligations when considering the quality of electoral processes.

As elaborated in subsequent sections of this handbook, public international law related to elections provides a valuable basis for developing criteria to assess elections for a number of reasons. First and foremost is that obligations, as found in international and regional treaties and instruments, have been voluntarily agreed to by states themselves. Second, public international law creates an objective and transparent basis for assessing elections. Third, an obligations-based approach recognizes that all countries can improve their electoral processes to better fulfill rights and obligations. Finally, public international law creates a common language for discussions of election quality among a wide range of groups, including citizen and international observers, human rights bodies, election administrators, and others. For these reasons, the Center has focused on public international law as the foundation of its work on elections.

As part of the DES project, The Carter Center reviewed close to 200 sources of international law, including treaties and instruments from the United Nations, the African Union, the Economic Community of West African States (ECOWAS), the Organization of American States (OAS), the League of Arab States, the Council of Europe, the Organization for Security and Cooperation in Europe (OSCE), the Commonwealth of Independent States (CIS), and others, to gain a global picture of the status of international law with regard to electoral processes. In general there are many commonalities between these sources, indicating the coalescence of the international community around core principles that are essential to the enjoyment of rights throughout the electoral cycle.

The first major result of this review process was the creation of the Database of Obligations launched in August 2010, which was redesigned and relaunched in 2014 as the Election Obligations and Standards (EOS) database. The database—online and publicly available through the Carter Center’s website—includes detailed excerpts of international instruments and associates them with the core parts of the electoral process, e.g., voter education, voter registration, and vote counting and tabulation. It has multiple search functions, allowing users to search by part of the electoral process, obligation, country, instrument, organization, and keyword.¹

While initially developed to assist election observation, it became clear during the development and subsequent use of the EOS database that it is a valuable tool for citizens and a wide range of organizations interested in assessing electoral processes. It also became clear that a companion document to the database would be helpful. Instead of the detailed excerpts of treaties and other instruments contained in the EOS database, the companion document could summarize key election issues related to core parts of the electoral process and then reference some of the relevant sources of obligations, including treaties as well as soft law. This handbook serves as that companion to the database.

This manual includes the following sections:

- **Background on Public International Law Sources and Authoring Organizations.** This section outlines sources of international law included in the EOS database. In addition, it provides a brief overview of some of the main authoring organizations, their structure, and treaty monitoring and enforcement mechanisms.
- **The Framework: Obligations and Constituent Parts of the Election.** In this section of the handbook, the 21 obligations and the 10 parts of the electoral process referenced in the EOS database and in this publication are introduced. This section provides valuable background on the general obligations for elections that are referenced in subsequent sections of the handbook.
- **About the Organization of this Manual.** This section provides instructions on how to use this handbook, either alone or with the EOS database.
- **Obligations and Standards for the Election Process.** These 10 sections summarize the obligations related to each of the 10 parts of the electoral process. Each section includes assessment criteria for each part of the process.
- **Appendices.** In the final section, there is background on public international law sources and authoring organizations; key reference tools, including tables of illustrative questions; terms and abbreviations; and a list of references used in the EOS database and in the writing of this handbook.

This handbook was developed in close collaboration with International IDEA, whose “International Obligations for Elections: Guidelines for Legal Frameworks” was also released in the autumn of 2014. This collaboration enriched both initiatives.

¹ Additional information about the Democratic Election Standards project at The Carter Center can be found at electionstandards.cartercenter.org.

The Framework: Obligations and Constituent Parts of the Election

* Public international law (also known as the law of nations) can be defined as “the body of legal rules, norms, and standards that apply between sovereign states and other entities that are legally recognized as international actors.”

— Encyclopedia
Britannica

Public international law is the system of laws that govern interactions between nation states. For several reasons, it provides a sound foundation for assessment criteria for democratic elections. First, public international law creates a framework of standards for democratic elections that states have already accepted voluntarily. That is, states have obligated themselves—through the signature and ratification of treaties and membership in the community of states—to standards of behavior and respect for human rights.

Second, states have agreed to the obligations that are, at times, codified in publicly available international treaties and other instruments. These obligations represent a common agreement of states themselves and a commitment to the citizenry of each state, which is documented and publicly available for review.

Third, the use of obligations found in public international law as the basis of election assessments recognizes that “genuine elections”—as well as democratic processes more broadly—require that all states continuously strive to improve and more fully meet obligations.

Finally, public international law provides the most credible and objective foundation for fostering dialogue among election professionals, human rights bodies, states, election observers, and others on common measures of election quality that are applicable to all nations.

Evidence of obligations in public international law can be found in a variety of sources.² The Carter Center has compiled a set of sources that includes international and regional treaties and conventions, cases and judicial decisions from the various international courts and treaty monitoring bodies, political commitments and

² Statute of the International Court of Justice, art. 38

declarations, and “the teachings of highly-qualified publicists.” In addition, the Center has included handbooks, manuals, and the publications of international and regional organizations, which not only provide support for standards found in other sources of public international law but also provide evidence of state practice with regard to the implementation of international obligations. From these sources, it is possible to glean a deeper understanding of the obligations related to democratic elections and the ways that those obligations may be implemented. Table 1 summarizes the main categories of sources of law included in the EOS database and referenced in this handbook. A full list of references included in the EOS database is included in Appendix D.

Table 1: Sources of Public International Law

Source	Definition of Source
Treaties	Obligations clearly codified in treaties.
Interpretive Documents	Interpretation of treaty obligations by treaty monitoring mechanisms (such as the United Nations Human Rights Committee) or international courts (such as the European Court of Human Rights).
Political Commitments	Instruments such as declarations or other political commitments, which serve as evidence of state practice and customary law.
Other Sources	Handbooks, manuals, and other sources that can provide additional evidence of state practice and customary law with regard to electoral processes.

* Evidence of public international law obligations can be found in international treaties, judicial decisions and interpretive documents from adjudicative bodies, other international instruments and political commitments, and evidence of state practice. This evidence is reflected throughout the document. For more information, please see Appendix A.

Obligations

Through the review of close to 200 public international law documents, The Carter Center has identified 21 fundamental rights and obligations that are relevant to the electoral process.

These obligations include those commonly associated with elections, such as the right and opportunity for every citizen to vote or be elected or the right to a secret ballot, as well as others that, while always applicable, take on special relevance during an election. These obligations are outlined in Chart 1, with greater detail provided on the following pages.

Chart 1: Obligations for Democratic Elections



The 21 obligations for democratic elections fall into four main categories: 1) an overarching obligation regarding genuine elections; 2) foundational obligations related to rule of law and the commitment of the state to take necessary steps to fulfill obligations and protect rights and freedoms; 3) process-focused obligations related to the election process itself; and 4) individual rights and freedoms. Together, these 21 obligations guide a human rights-based approach to election assessment.

Overarching Obligation

Genuine Elections That Reflect the Free Expression of the Will of the People⁴

This obligation to hold genuine elections that reflect the free expression of the will of the electors was first established in article 21 of the Universal Declaration of Human Rights and was subsequently included in article 25 of the International Covenant on Civil and Political Rights. While the notion of “genuine” elections lies at the heart of all democratic elections, the treaties provide little guidance about what actually constitutes a genuine election. However, it is widely understood to mean periodic elections that offer voters a real choice⁵ in an openly competitive environment, held by universal and equal suffrage and by secret ballot. This obligation is overarching, meaning it is applicable to all constituent parts of the electoral cycle, and its fulfillment requires that other essential fundamental rights are protected and fulfilled.

✱ An obligation is “a legal... duty to do or not do something.”³ In the case of public international law, the obligations are those to which states parties have committed by acceding to a convention.

✱ A “standard” is a rule, principle, or criterion for measuring acceptability, quality, or accuracy.⁶

Foundational Obligations

State Must Take Necessary Steps to Give Effect to Rights

International and regional treaties are clear that states must take the steps necessary to give effect to human rights.⁷ This obligation includes ensuring that the national legal framework incorporates the international obligations in treaties agreed to by states.

3 Black's Law Dictionary, abridged 7th edition

4 See, for example, U.N., ICCPR, art. 25(b); OAS, ACHR, art. 23(1)(b); OSCE, Copenhagen Document, para. 6; U.N., UDHR, art. 21(3). While the term “genuine elections” was first used in the UDHR, the summary report of the deliberations over the declaration does not provide a definition of what was meant by “genuine.” Subsequent work by academics and practitioners has gone some way in defining this obligation, for example, U.N., Human Rights and Elections, para. 77; Hinz and Suksi, Election Elements

5 CIS, Convention on Democratic Elections, art. 9(2)

6 See, for example, Black's Law Dictionary or the Oxford English Dictionary.

7 For example, U.N., ICCPR, art. 2(2); U.N., CEDAW, art. 2(d); U.N., ICERD, art. 2(1); U.N., CRPD, art. 4(a-c); AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CIS, Convention on Human Rights, art. 1; CoE, ECHR, art. 1. See also U.N. (CCPR) General Comment 31, paras. 3–4, 7–8, 13 for additional interpretation of this obligation, as well as the U.N. Declaration on Right and Responsibility and U.N. (CCPR), General Comment 25, para. 12

Interpretive sources add that states should:


- Regulate violations of human rights not only by states themselves but also by nonstate actors and private individuals⁸
- Educate the population and public officials on human rights⁹
- Remove barriers to the electoral process for those with specific difficulties (e.g., illiteracy, language barriers, disability, etc.)¹⁰
- Prevent, punish, investigate, and/or redress violations of human rights by nonstate actors¹¹

Interpretive sources add that this obligation to take necessary steps is unqualified and should have immediate effect,¹² and it includes a need to take various positive measures. All branches of the government and other public or governmental authorities are responsible for meeting this obligation.¹³

Political commitments suggest that everyone should have the right to submit criticisms and proposals for improving their functioning to government bodies, agencies, and organizations.¹⁴

With regard to derogations from international obligations, interpretive sources indicate that derogation measures cannot discriminate on the basis of race, color, sex, language, religion, or social origin,¹⁵ and any limitations must respect the nonderogable nature of certain rights.¹⁶

Political commitments add that the state must publicly announce a state of emergency before any derogation measures are put into place.¹⁷ In applying a limitation to rights, a state must use the least restrictive means required.¹⁸ Derogation measures cannot undermine the exercise of rights protected by other international obligations of the state¹⁹ and must be justified by law and subject to review.²⁰

 A derogation is a relaxation of adherence to an obligation.

Rule of Law

International and regional treaties are increasingly making explicit reference to the rule of law.²¹ While not explicitly articulated as an obligation in the ICCPR, the rule of law is recognized as

8 U.N. (CCPR), General Comment 31, para. 8

9 U.N. (CCPR), General Comment 31, para. 7

10 U.N. (CCPR), General Comment 25, para. 11

11 U.N. (CCPR), General Comment 31, paras. 8 and 15

12 U.N. (CCPR), General Comment 31, para. 14

13 U.N. (CCPR), General Comment 31, para. 4

14 UNGA, Declaration on Rights and Responsibility, art. 8(2)

15 U.N. (CCPR), General Comment 29, para. 8

16 CESCR, Siracusa Principles, para. A.14

17 CESCR, Siracusa Principles, para. B.42-44

18 CESCR, Siracusa Principles, para. A.11

19 CESCR, Siracusa Principles, para. D.58-60

20 CESCR, Siracusa Principles, para. E.62

21 U.N., UNCAC, art. 5(1); AU, ACDEG, art. 32(8); CoE, ECHR, Preamble; CIS, Convention on Human Rights, Preamble

an essential condition for the fulfillment of human rights and representative democracy.²²

International and regional treaties also say that states should take measures to promote the principles of the rule of law, keeping in mind that all people are equal before the law²³ and that laws should be equally enforced.²⁴ Laws must also be consistent with international human rights,²⁵ and treaty obligations should be implemented in good faith.²⁶ Conversely, provisions of domestic law may not be used to justify failure to perform treaty obligations.²⁷

Interpretive sources indicate that laws and procedures must not be arbitrarily applied.²⁸ Suspension or exclusion of participatory rights is prohibited except on grounds established by laws that are objective and reasonable.²⁹

Process-Focused Obligations

Periodic Elections

This obligation is generally understood to mean that elections must take place at reasonable intervals.³⁰ Any postponement of the election must be necessary because of the unique exigencies of the situation.³¹

The obligation to hold periodic elections has been interpreted to mean that the interval between elections should not be unduly long, such that the authority of the government is no longer representative of the will of the electors.³²

Other sources, indicative of state practice, suggest that in most cases elections should be held between two and five years apart.³³

Universal Suffrage

The obligation to ensure universal suffrage appears in the International Covenant on Civil and Political Rights and other international treaties³⁴ and requires that the state guarantee that the broadest pool of voters be allowed to cast ballots. Unreasonable restrictions on universal suffrage include those based on:

22 UNGA, Millennium Declaration; UNGA, Resolutions on the rule of law; OAS, IADC, arts. 3 and 4; and OSCE, Copenhagen Document, para. 3; Annan, Report on Rule of Law

23 U.N., ICCPR, art. 26; AU, AfCHPR, art. 19; OAS, ACHR, art. 24; EU, Charter on Fundamental Rights, art. 20; CIS, Convention on Human Rights, art. 20(1)

24 U.N., ICCPR, art. 26

25 U.N., ICCPR, art. 2

26 U.N., Vienna Convention, art. 27

27 Id.

28 U.N. (CCPR), General Comment 25, para. 4

29 U.N. (CCPR), General Comment 25, para. 4

30 For example, U.N., ICCPR, art. 25(b); AU, AfCHPR, arts. 3(4) and 32 (7); OAS, ACHR, art. 23(1)(b); CoE, ECHR Protocol No 1, art. 3; and OSCE, Copenhagen Document, paras. 6 and 7.1

31 CESCR, Siracusa Principles, para. C.51–53

32 U.N. (CCPR), General Comment 25, para. 9

33 CoE (Venice Commission), Code of Good Practice, para. I.1.6

34 For example, U.N., ICCPR, art. 25(b); OAS, ACHR, art. 23(b); CIS, Convention on Human Rights, art. 29(b); AU, ACDEG, art. 4(2); OAS, IADC, art. 3; and OSCE, Copenhagen Document, para. 7.3

- Excessive residency requirements³⁵
- Naturalized citizenship³⁶
- Criminal conviction (disproportionate to the severity of the crime or blanket disenfranchisement provisions)³⁷
- Surpassing the legal age of majority³⁸
- Race³⁹
- Sex⁴⁰
- Religion⁴¹
- Physical disability⁴²
- Mental, intellectual, or psychosocial disability (that is disproportionate or has no reasonable or objective relationship to the person's ability to vote)⁴³
- Political or other opinion⁴⁴
- National or social origin⁴⁵
- Sexual orientation or gender identity⁴⁶
- Language⁴⁷
- Birth or other status⁴⁸
- Literacy⁴⁹
- Education⁵⁰
- Property ownership⁵¹
- Party membership⁵²
- Naturalized citizenship⁵³
- Status as an internally displaced person⁵⁴
- Economic circumstances⁵⁵

35 See OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 11, with regard to reasonable residency requirements.

36 U.N., ICCPR, art. 25(b); U.N. (CCPR), General Comment 25, para. 3

37 OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 14; U.N. (CCPR), Concluding Observations on the United Kingdom and Northern Ireland (2008), para. 28

38 OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 10; U.N., CRC, art. 1

39 U.N., ICCPR, arts. 2 and 25

40 U.N., ICCPR, arts. 2 and 25

41 U.N., ICCPR, arts. 2 and 25

42 U.N., CRPD, art. 29

43 U.N. (CCPR), Concluding Observations, Belize (2013), para. 24

44 U.N., ICCPR, arts. 2 and 25

45 U.N., ICCPR, arts. 2 and 25

46 EU, Charter on Fundamental Rights, art. 21(2); U.N. (CCPR), *Toonen v. Australia* (1994); U.N. (CESCR), General Comment 20, para. 32

47 U.N., ICCPR, art. 2

48 U.N., ICCPR, arts. 2 and 25

49 U.N. (CCPR), General Comment 25, para. 10

50 U.N. (CCPR), General Comment 25, para. 10

51 U.N. (CCPR), General Comment 25, para. 10

52 U.N. (CCPR), General Comment 25, para. 10

53 U.N. (CCPR), General Comment 25, para. 3

54 UNGA, Guiding Principles on Internal Displacement, Principle 4.1

55 U.N., Human Rights and Elections, p. 65

International treaties add that accommodation should be made to facilitate voting by people with disabilities⁵⁶ or by those with special needs.⁵⁷

Equal Suffrage

International and regional treaties protect the right to an election held by equal suffrage.⁵⁸ They require that every voter be granted a vote of equal value to that of other voters.

Interpretive sources add that the principles of “one person, one vote” must apply and that constituency boundaries should be drawn so that voters are represented in the legislature on a (roughly) equal basis.⁵⁹

Other sources, indicative of state practice, suggest that this requires that safeguards be put in place to diminish the potential for multiple voting and fraud.⁶⁰

Secret Ballot

International and regional treaties state that everyone has the right to cast their ballot in secret.⁶¹ This includes people with disabilities.⁶² Voting must be by secret ballot so that ballots cannot be linked with voters who cast them, and voters can cast their ballot without fear of intimidation.

Interpretive sources add that the secrecy of the ballot must be maintained throughout the entire electoral process.⁶³ A few sources indicative of state practice suggest that except in cases in which a voter is being lawfully assisted, a voter cannot waive his/her right to secrecy of the ballot.⁶⁴

Prevention of Corruption

International and regional treaties are clear that states should take measures to prevent corruption.⁶⁵ Anticorruption instruments such as the U.N. Convention Against Corruption include important provisions regarding the behavior of public officials, ensuring that they are honest and responsible.⁶⁶ Treaty sources define corruption as including:

⁵⁶ U.N., CRPD, art. 29(a)

⁵⁷ U.N. (CCPR), General Comment 25, para. 21

⁵⁸ U.N., ICCPR, art. 25 (b); OAS, ACHR, art. 23 (1)(b); CIS, Convention on Human Rights, art. 29(b) and OSCE, Copenhagen Document, para. 7.3

⁵⁹ U.N. (CCPR), General Comment 25, para. 21

⁶⁰ EISA and ECF for SADC Countries, PEMMO, 25; OSCE (ODIHR), Handbook (Ed. 6), p. 59

⁶¹ U.N., ICCPR, art. 25(b); OAS, ACHR, art. 23 (b); CoE, ECHR (Protocol 1), art. 3; CIS,

Convention on Human Rights, art. 29(b); U.N., UDHR, art. 21(3); OAS, IADC, art. 3; and OSCE, Copenhagen Document, para. 7.4

⁶² U.N., CRPD, art. 29(a)(ii)

⁶³ U.N. (CCPR), General Comment 25, para. 20

⁶⁴ EU, Handbook (Ed. 2), p. 79

⁶⁵ U.N., UNCAC, art. 18; AU, ACDEG, art. 7(1); OAC, IACAC, art. 11(2); CIS, Convention on Democratic Elections, art. 3(6)

⁶⁶ U.N., UNCAC, art. 8(1)

- The solicitation or acceptance of something of value in exchange for an advantage⁶⁷
- The offering or granting of something of value in exchange for an act or omission in the performance of a public function⁶⁸
- Fraudulent use or concealment of property derived from corrupt activities⁶⁹
- Participation or conspiracy to commit corrupt activities⁷⁰
- Any act or omission of official functions by a public official to gain illicit benefits⁷¹
- The use of state property for purposes other than those for which they were intended for the benefit of the public official or a third party⁷²
- Improper influence⁷³

International and regional treaties encourage states to implement or maintain effective policies to prevent corruption, including transparency in procurement, decision making, and recruitment of officials as well as public participation as a means of discouraging corruption.⁷⁴ Further, states are encouraged to promote campaign and political finance regulation and to promote public participation in decision making. In the context of elections, these obligations are relevant to issues regarding the use of public resources by incumbents.

Individual Rights and Freedoms

Right and Opportunity to Participate in Public Affairs

International and regional treaties protect the ability of citizens to participate in the public affairs of their country.⁷⁵ Women as well as men have the right to participate in the public affairs of their country.⁷⁶ International treaties also explicitly protect the rights of people with disabilities and members of minority groups to participate in public affairs.⁷⁷

State practice sources suggest that states have the obligation to respect the right of civil society groups (including citizen observer

67 AU, Convention on Corruption, art. 4

68 U.N., UNCAC, art. 19; AU, Convention on Corruption, art. 4; OAC, IACAC, art. VI; GRECO, Criminal Law Convention, art. 2

69 AU, Convention on Corruption, art. 4; OAS, IACAC, art. VI

70 Id.

71 Id.

72 Id.

73 U.N., UNCAC, art. 18; AU, Convention on Corruption, art. 4

74 UNCAC, art. 7(3); on public decision making see, U.N., UNCAC, art. 13(a). On recruitment of staff, see U.N., UNCAC, art. 7(a); AU, Convention on Corruption, art. 7(4) or OAS, IACAC, art. III (4). On procurement, see U.N., UNCAC, art. 9; AU, Convention on Corruption, art. 7(4) and OAS, IACAC, art. III(4)

75 U.N., ICCPR, art. 25 (a); AU, AfCHPR, art. 13 (1); OAS, ACHR, art. 23 (1); and CIS, Convention on Human Rights, art. 29 (a)

76 U.N., CEDAW, art. 7 (c)

77 U.N., ICERD, art. 5(c); U.N., CRPD, art. 29(b)(1)

organizations) to engage in the political and electoral process, including granting accreditation to allow such activities.⁷⁸

Observation. Regional treaties are clear that the participation of observers, both citizen and international, may enhance all aspects of the electoral process⁷⁹ and should be facilitated.

Right and Opportunity to Vote

International and regional treaties protect the right to vote.⁸⁰ Unlike most other rights in the ICCPR and other documents, the right to vote is often restricted to citizens, though resident noncitizens may also be entitled to vote.⁸¹ This right may be limited based only on objective and reasonable criteria. Unreasonable restrictions include, but are not limited to, those based on:

- Excessive residency requirements⁸²
- Naturalized citizenship⁸³
- Criminal conviction (disproportionate to the severity of the crime or blanket disenfranchisement provisions)⁸⁴
- Status as a remanded prisoner yet to be convicted of an offense⁸⁵
- Surpassing the legal age of majority⁸⁶
- Race⁸⁷
- Sex⁸⁸
- Religion⁸⁹
- Physical disability⁹⁰
- Mental, intellectual, or psychosocial disability (that is disproportionate or has no reasonable or objective relationship to the person's ability to vote)⁹¹
- Political or other opinion⁹²
- National or social origin⁹³

78 U.N., Report of the Special Representative to the Secretary General on Human Rights Defenders (2006), para. 106

79 AU, ACDEG, arts. 19-22; CIS, Convention on Democratic Elections, art. 1(2); OSCE, Copenhagen Document, para. 8; OAS, IADC, arts. 23-25

80 U.N., ICCPR, art. 25; AU, AfCHPR, art. 13(1); AU, Protocol to the AfCHPR, art. 9; OAS, ACHR, art. 23(1)(b); CIS, Convention on Democratic Elections, art. 2(a); EU, Charter on Fundamental Rights, art. 40

81 CoE, Convention on the Participation of Foreigners, S.II.1992, art. 6(1)

82 See OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 11 with regard to reasonable residency requirements.

83 U.N., ICCPR, art. 25(b); U.N. (CCPR), General Comment 25, para. 3

84 OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 14; U.N. (CCPR), Concluding Observations on the United Kingdom and Northern Ireland (2008), para. 28

85 U.N. (CCPR), Fongum Gorji-Dinka v Cameroon, Communication No. 1134/2002 (2005), p. 6

86 OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 10; U.N., CRC, art. 1

87 U.N., ICCPR, arts. 2 and 25

88 U.N., ICCPR, arts. 2 and 25

89 U.N., ICCPR, arts. 2 and 25

90 U.N., CRPD, art. 29

91 U.N. (CCPR), Concluding Observations, Belize (2013), para. 24

92 U.N., ICCPR, arts. 2 and 25

93 U.N., ICCPR, arts. 2 and 25

- Sexual orientation or gender identity⁹⁴
- Language⁹⁵
- Birth or other status⁹⁶
- Literacy⁹⁷
- Education⁹⁸
- Property ownership⁹⁹
- Party membership¹⁰⁰
- Status as an internally displaced person¹⁰¹
- Economic circumstances¹⁰²

Interpretive sources indicate that even reasonable restrictions may have a disproportionate or indirect impact on the enjoyment of rights by women.¹⁰³ In addition, they suggest that states should ensure that reasonable restrictions do not disproportionately impact minority groups.¹⁰⁴ The right to vote cannot be restricted on the basis of individualized decisions taken by a judge.¹⁰⁵

Right and Opportunity to Be Elected

International and regional treaties protect the right of every citizen to be elected,¹⁰⁶ subject only to objective and reasonable restrictions. Unreasonable restrictions include, but are not limited to, those based on:

- Excessive residency requirements¹⁰⁷
- Naturalized citizenship¹⁰⁸
- Criminal conviction (disproportionate to the severity of the crime or blanket disenfranchisement provisions)¹⁰⁹
- Surpassing the legal age of majority¹¹⁰
- Race¹¹¹
- Sex¹¹²
- Religion¹¹³

94 EU, Charter on Fundamental Rights, art. 21(2); U.N. (CCPR), *Toonen v. Australia* (1994); U.N. (CESCR), General Comment 20, para. 32

95 U.N., ICCPR, art. 2

96 U.N., ICCPR, arts. 2 and 25

97 U.N. (CCPR), General Comment 25, para. 10

98 U.N. (CCPR), General Comment 25, para. 10

99 U.N. (CCPR), General Comment 25, para. 10

100 U.N. (CCPR), General Comment 25, para. 10

101 U.N., Guiding Principles on Internal Displacement, Principle 4.1

102 U.N., Human Rights and Elections, p. 65

103 U.N., CEDAW, General Recommendation 23, para. 18

104 U.N. (CCPR), Concluding Observations, United States of America (2006), para. 35

105 U.N. (CRPD), Concluding Observations, Spain (2011), para. 48

106 U.N., ICCPR, art. 25(b); AU, AfCHPR, art. 13(1); OAS, ACHR, art. 23(1)(a); LAS, Arab Charter, art. 24(3-4); CIS, Convention on Human Rights, art. 29(b)

107 See OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 11 with regard to reasonable residency requirements. CoE, European Convention on the Participation of Foreigners, art. 6.1

108 U.N., ICCPR, art. 25(b); U.N. (CCPR), General Comment 25, para. 3

109 OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 14; U.N. (CCPR), Concluding Observations on the United Kingdom and Northern Ireland (2008), para. 28

110 OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 10; U.N., CRC, art. 1

111 U.N., ICCPR, arts. 2 and 25

112 U.N., ICCPR, arts. 2 and 25

113 U.N., ICCPR, arts. 2 and 25

- Physical disability¹¹⁴
- Political or other opinion¹¹⁵
- National or social origin¹¹⁶
- Sexual orientation or gender identity¹¹⁷
- Language¹¹⁸
- Birth or other status¹¹⁹
- Literacy¹²⁰
- Education¹²¹
- Property ownership¹²²
- Party membership¹²³
- Status as an internally displaced person¹²⁴
- Economic circumstances¹²⁵
- Holding a position that does not constitute a conflict of interest if also holding elective office¹²⁶
- Excessive monetary fees or deposits¹²⁷

Interpretive sources indicate that even reasonable restrictions may have a disproportionate or indirect impact on the enjoyment of rights by women.¹²⁸ In addition, they suggest that states should ensure that reasonable restrictions do not disproportionately impact minority groups.¹²⁹

Other state practice sources indicate that the loss of the right to be elected may only be imposed after adjudication by a court.¹³⁰

Equality Between Men and Women¹³¹

Treaty sources make clear that women should enjoy equal rights to men¹³² and that in some cases states should take temporary special measures to achieve de facto equality for women.¹³³

Interpretive sources indicate that temporary special measures to achieve de facto equality for women can include financially assisting and training women candidates, amending electoral procedures, developing campaigns directed at equal participation, and targeting

114 U.N., CRPD, art. 29

115 U.N., ICCPR, arts. 2 and 25

116 U.N., ICCPR, arts. 2 and 25

117 EU, Charter on Fundamental Rights, art. 21(2); U.N. (CCPR), *Toonen v. Australia* (1994); U.N. (CESCR), General Comment 20, para. 32

118 U.N., ICCPR, art. 2

119 U.N., ICCPR, arts. 2 and 25

120 U.N. (CCPR), General Comment 25, para. 10

121 U.N. (CCPR), General Comment 25, para. 10

122 U.N. (CCPR), General Comment 25, para. 10

123 U.N. (CCPR), General Comment 25, para. 10

124 UNGA, Guiding Principles on Internal Displacement, Principle 4.1

125 U.N., Human Rights and Elections, p. 65

126 U.N. (CCPR), General Comment 25, para. 16

127 U.N. (CCPR), General Comment 25, para. 16

128 U.N., CEDAW, General Recommendation 23, para. 18

129 U.N. (CCPR), Concluding Observations, United States of America (2006), para. 35

130 OSCE, Moscow Document, para. 18

131 U.N., CEDAW, arts. 3–4

132 U.N., ICCPR, art. 3; AU, AfCHPR, art. 2(1)(a); CoE, ECHR, art. 23

133 U.N., CEDAW, art. 3

women for appointment to public positions or the use of quotas to ensure female participation in public affairs.¹³⁴ Interpretive sources also indicate that measures taken to ensure equitable representation of women should not be considered discriminatory.¹³⁵ Other examples of special measures to ensure equality between men and women are included in subsequent sections of the publication.

Interpretive sources highlight the importance of gender disaggregated data in order to fully assess the degree to which women and men are able to participate in electoral processes equally.¹³⁶

Freedom From Discrimination and Equality Before the Law

International treaties establish the right to equality before the law while separately calling for freedom from discrimination in the exercise of human rights and fundamental freedoms.¹³⁷ Although the obligation is explicitly tied to the rights enshrined in Article 25 of the ICCPR, it is applicable to all the obligations in the covenant.

International and regional treaties require that everyone be able to enjoy their rights, free from discrimination on the basis of race, color, sex, language, religion, political or other opinion, property, sexual orientation or gender identity,¹³⁸ physical or mental ability,¹³⁹ birth, or other status at any time.¹⁴⁰ Treaty sources also state that although states may regulate the law concerning nationality, citizenship, or naturalization, they may not discriminate against any particular nationality in doing so.¹⁴¹ Where linguistic minorities exist, those that belong to such minorities should not be denied the right to use their own language.¹⁴²

Treaty sources also indicate that—in addition to the obligation not to discriminate in the protection and promotion of other rights—all are equal before the law and should enjoy the equal protection of the law.¹⁴³ Everyone has the right of equal access to any place or service intended for use by the public.¹⁴⁴

Interpretive sources state that the state is obligated to perform both its “negative duty” to refrain from discrimination and its “positive duty” to prevent discrimination;¹⁴⁵ for example, by promulgating antidiscrimination legislation.¹⁴⁶

¹³⁴ U.N., CEDAW, General Recommendation 23, para.15

¹³⁵ U.N. (CCPR), General Comment 28, para. 29

¹³⁶ U.N., CEDAW, General Recommendation 25, para. 35

¹³⁷ U.N., ICCPR, art. 2(1); AU, AfCHPR, art. 2; OAS, ACHR, art. 1; EU, ECHR, art. 14; and CIS, Convention on Human Rights, art. 20

¹³⁸ EU, Charter on Fundamental Rights, art. 21(2); U.N. (CCPR), *Toonen v Australia* (1994); U.N. (CESCR), General Comment 20, para. 32

¹³⁹ U.N., CRPD, art. 4; OAS, Inter-American Convention on the Rights of People with Disabilities, art. 2(c)

¹⁴⁰ U.N., ICCPR, art. 25; AU, AfCHPR, art. 2; OAS, ACHR, art. 1; CIS, Convention on Human Rights, art. 20

¹⁴¹ U.N., ICERD, art. 1

¹⁴² U.N., ICCPR, art. 26; AU, AfCHPR, art. 19; OAS, ACHR, art. 24; EU, Charter on Fundamental Rights, art. 20; CIS, Convention on Human Rights, art. 20(1)

¹⁴³ U.N., ICCPR, art. 26

¹⁴⁴ U.N., ICERD, art. 5; U.N., CRPD, art. 9

¹⁴⁵ U.N. (CCPR), General Comment 28, para. 21

¹⁴⁶ U.N., Report on the Working Group of Experts on People of African Descent, para. 82

Special Measures. International and regional treaties state that temporary special measures for advancing ethnic minorities or groups that have suffered past discrimination may be taken, when the circumstances warrant.¹⁴⁷ These measures should not be maintained after the objectives for which they were taken are met and should not result in the maintenance of unequal rights for different groups.¹⁴⁸ In order to ensure equal opportunity for people belonging to minority groups, it is recommended that states collect disaggregated data.¹⁴⁹

International and regional treaties also state that measures may be taken to ensure the equal enjoyment of rights by people with disabilities. Specific measures aimed at ensuring de facto equality for people with disabilities should not be considered discriminatory.¹⁵⁰

Freedom of Assembly

International and regional treaties recognize freedom of assembly as essential to democratic elections, especially for candidates and political parties.¹⁵¹ Freedom of assembly may only be restricted under circumstances prescribed by law and necessary in a democratic society.¹⁵² These include:

- National security¹⁵³
- Public safety¹⁵⁴
- Public order (*ordre public*)¹⁵⁵
- Public health and morals
- The protection of the rights and freedoms of others¹⁵⁶

Freedom of Association

International and regional treaties protect freedom of association.¹⁵⁷ Freedom of association is critical in the context of political parties and campaign activities and includes the ability to freely establish political parties.¹⁵⁸ Restrictions must be prescribed by law and are necessary in a democratic society.¹⁵⁹ These include those in the interests of:

147 U.N., ICERD, art. 1

148 U.N., ICERD, art. 1

149 U.N. (CCPR), Concluding Observations, France (2008), para. 12

150 U.N., CRPD, art. 5

151 U.N., ICCPR, art. 21; AU, AfCHPR, art. 11; OAS, ACHR, art. 15; LAS, Arab Charter, art. 24 (5–1); CoE, ECHR, art. 11; CIS, Convention on Human Rights, art. 12(1)

152 U.N., ICCPR, art. 21; OAS, ACHR, art. 15; CIS, Convention on Human Rights, art. 12(2)

153 U.N., ICCPR, art. 21; AU, AfCHPR, art. 11; OAS, ACHR, art. 15; CoE, ECHR, art. 11(2); CIS, Convention on Human Rights, art. 12(2)

154 U.N., ICCPR, art. 21; OAS, ACHR, art. 15; CoE, ECHR, art. 11(2); CIS, Convention on Human Rights, art. 12(2)

155 U.N., ICCPR, art. 21; OAS, ACHR, art. 15; CoE, ECHR, art. 11(2); CIS, Convention on Human Rights, art. 12(2)

156 U.N., ICCPR, art. 21; OAS, ACHR, art. 15; CoE, ECHR, art. 11(2); CIS, Convention on Human Rights, art. 12(2)

157 U.N., ICCPR, art. 22(1); AU, AfCHPR, art. 10(1); OAS, ACHR, art. 16(1); LAS, Arab Charter, art. 24; CoE, ECHR, art. 11; and CIS, Convention on Human Rights, art. 12(1)

158 AU, ACDEG, art. 3(11); U.N. (CCPR), General Comment 25, para. 26

159 U.N., ICCPR, art. 22(2); AU, AfCHPR, art. 10; OAS, ACHR, art. 16(2); LAS, Arab Charter, art. 24; CoE, ECHR, art. 11(2); CIS, Convention on Human Rights, art. 12(2)

- National security¹⁶⁰
- Public safety¹⁶¹
- Public order (*ordre public*)¹⁶²
- Public health and morals¹⁶³
- The protection of the rights and freedoms of others¹⁶⁴

Restrictions on freedom of association – on the basis that ideas that are not favorable to the government will be promoted – are unreasonable.¹⁶⁵ Lawful restrictions on the freedom of association may be placed on members of the armed forces and police.¹⁶⁶

Interpretation offered by the U.N. Human Rights Committee makes it clear that some individual rights can also be enjoyed in groups with others.¹⁶⁷ This is critical to an understanding of freedom of association with regard to the electoral process.

Nongovernmental organizations. International and regional treaties are clear that everyone has the right to associate with nongovernmental organizations.¹⁶⁸

Political commitments add that national law should not unjustifiably restrict the ability of any person to join a nongovernmental organization and that states should recognize accredited organizations and facilitate their ability to conduct their activities.¹⁶⁹ Any act or omission by a governmental organ that affects a nongovernmental organization should be subject to administrative review and open to challenge.¹⁷⁰ While specific documentation may be required to establish a nongovernmental organization, the administrative process for registration should be applied with minimum margin of discretion.¹⁷¹

Freedom of Movement

International and regional treaties protect freedom of movement, which is considered essential during the electoral process, not only for political parties and voters but also for poll workers and election observers.¹⁷² It includes the ability of citizens who are abroad to return (where the law allows) to their country to participate in

¹⁶⁰ U.N., ICCPR, art. 22; OAS, ACHR, art. 16; LAS, Arab Charter, art. 24; CoE, ECHR, art. 11; CIS, Convention on Human Rights, art. 12

¹⁶¹ Id.

¹⁶² Id.

¹⁶³ Id.

¹⁶⁴ Id.

¹⁶⁵ U.N. (CCPR), Victor Korneenko et al. v Belarus (2006), para. 7.3

¹⁶⁶ U.N., ICCPR, art. 22

¹⁶⁷ U.N. (CCPR), General Comment 31, para. 9

¹⁶⁸ U.N., CEDAW, art. 7; U.N., CRPD, art. 29; AU, ACDEG, art. 27

¹⁶⁹ CoE, Fundamental Principles on NGOs, p. 4; OSCE, Moscow Document, para. 43

¹⁷⁰ CoE, Fundamental Principles on NGOs, p. 2

¹⁷¹ CoE (Committee of Ministers), Guidelines to Promote the Development of NGOs, paras. 12–13

¹⁷² U.N., ICCPR, art. 12(1); ICERD, art. 5(d.i); AU, AfCHPR, art. 12(1); OAS, ACHR, art. 22(1); LAS, Arab Charter, art. 26(1); EU, Charter on Fundamental Rights, art. 45(1); CIS, Convention on Human Rights, art. 22; U.N. (CCPR), General Comment 27, paras. 11, 14 and 20–21; U.N., UDHR, art. 13

elections.¹⁷³ Any restriction of the right to freedom of movement must be proportionate to the interests it intends to protect.¹⁷⁴ Restrictions may include those in the interests of:

- National security¹⁷⁵
- Public order¹⁷⁶
- Public health or morals¹⁷⁷
- Protection of the rights and freedoms of others¹⁷⁸
- Prevention of a crime¹⁷⁹

Political commitments add that those displaced in advance of an election should have the opportunity to return on election day to cast their ballots.¹⁸⁰

Freedom of Opinion and Expression

International and regional treaties protect freedom of opinion and expression.¹⁸¹ Free communication of information and ideas by voters and candidates is essential to genuine elections. It includes the right for everyone, including political parties, candidates, and their supporters, to seek, receive, and impart ideas through any means of their choice, including but not limited to writing, speech, print, art,¹⁸² or the Internet.¹⁸³ Freedom of expression also protects the right to communicate freely with international bodies.¹⁸⁴

Freedom of expression may only be restricted under certain circumstances as are prescribed by law and are necessary in a democratic society.¹⁸⁵ Such restrictions include those that:

- Are in the interests of national security¹⁸⁶
- Protect territorial integrity¹⁸⁷
- Are in the interests of public safety¹⁸⁸
- Maintain the authority and impartiality of the judiciary¹⁸⁹
- Prevent disclosure of information received in confidence¹⁹⁰

173 U.N., ICCPR, art. 12(2); AU, AfCHRP, art. 12(2); CIS, Convention on Human Rights, art. 22(2)

174 U.N. (CCPR), General Comment 27, para. 14

175 U.N., ICCPR, art. 12(3); AU, AfCHRP, art. 12(3); OAS, ACHR, art. 22(3); CIS, Convention on Human Rights, art. 22(3)

176 *Id.*

177 U.N., ICCPR, art. 12; AU, AfCHRP, art. 12(3); CIS, Convention on Human Rights, art. 22(3)

178 U.N., ICCPR, art. 12; OAS, ACHR, art. 22(3); CIS, Convention on Human Rights, art. 22(3)

179 OAS, ACHR, art. 22

180 UNGA, Guidelines on Internal Displacement, para. 22(1)(c–d)

181 U.N., ICCPR, art. 19; AU, AfCHRP, art. 9(2); OAS, ACHR, art. 13; LAS, Arab Charter, art. 32; CoE, ECHR, art. 10; CIS, Convention on Human Rights, art. 11; U.N., UDHR, art. 19

182 U.N., ICCPR, art. 19

183 U.N. (CCPR), General Comment 34, para. 12

184 AU, ACDEG, art. 27(8)

185 U.N., ICCPR, art. 19; OAS, ACHR, art. 13; LAS, Arab Charter, art. 32; CoE, ECHR, art. 10; CIS, Convention on Human Rights, art. 11

186 U.N., ICCPR, art. 19; OAS, ACHR, art. 13(2)(b); LAS, Arab Charter, art. 32(2); CoE, ECHR, art. 10(2); CIS, Convention on Human Rights, art. 11(2)

187 CoE, ECHR, art. 10

188 OAS, ACHR, art. 13(2); LAS, Arab Charter, art. 32(2); CoE, ECHR, art. 10(2); CIS, Convention on Human Rights, art. 11(2)

189 CoE, ECHR, art. 10

190 CoE, ECHR, art. 10

Freedom of expression may be restricted when an expression seeks to destroy other established rights¹⁹¹ or for the protection of the rights and freedoms of others.¹⁹² Any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence should be prohibited by law.¹⁹³

Regional treaties offer specific guidance regarding limitations to ensure that free communication and circulation of ideas may not be restricted by indirect means such as abuse of regulatory controls over the media.¹⁹⁴

Interpretive sources support the notion that free communication of information and ideas about public and political issues between citizens, candidates, and elected representatives is necessary.¹⁹⁵

Interpretive sources state that restrictions on the Internet or other information dissemination systems are permissible only to the extent they seek to protect rights. Sites may not be blocked simply because they are critical of the government.¹⁹⁶

Transparency and Access to Information

International and regional treaties establish that everyone has the right to seek and receive information.¹⁹⁷ While an important right itself, access to information is also a critical means of ensuring transparency and accountability throughout the electoral process. When taken together with the state's obligation to take the steps necessary to give effect to rights and with the transparency-related elements of the obligation to prevent corruption, a strong argument can be made for an obligation for transparency in the electoral process.¹⁹⁸

A limited set of reasonable and objective restrictions may be placed on access to information. Such restrictions include those in the interests of:

- National security¹⁹⁹
- Protecting territorial integrity²⁰⁰
- Public safety²⁰¹
- Maintaining the authority and impartiality of the judiciary²⁰²

191 U.N., ICCPR, art. 5

192 U.N., ICCPR, art. 5; OAS, ACHR, art. 13(2)(a); LAS, Arab Charter, art. 32(2); CoE, ECHR, art. 10(2); CIS, Convention on Human Rights, art. 10(2)

193 U.N., ICCPR, art. 20(2); OAS, ACHR, art. 13(5)

194 OAS, ACHR, art. 13

195 U.N. (CCPR), General Comment 25, para. 25

196 U.N. (CCPR), General Comment 34, para. 43

197 U.N., ICCPR, art. 19(2); AU, AfCHPR, art. 9(1); OAS, ACHR, art. 13(1); LAS, Arab Charter,

art. 32; CoE, ECHR, art. 10(1); CIS, Convention on Human Rights, art. 11(1)

198 U.N., UNCAC, art. 10(a) and 13(1)(b)(d); AU, Convention on Corruption

199 U.N., ICCPR, art. 19; OAS, ACHR, art. 13(2)(b); LAS, Arab Charter, art. 32(2); CoE, ECHR, art. 10(2); CIS, Convention on Human Rights, art. 11(2)

200 CoE, ECHR, art. 10

201 OAS, ACHR, art. 13(2); LAS, Arab Charter, art. 32(2); CoE, ECHR, art. 10(2); CIS, Convention on Human Rights, art. 11(2)

202 CoE, ECHR, art. 10

- The prevention of disclosure of information received in confidence²⁰³

In addition, access to information may be restricted in order to protect the rights and freedoms of others²⁰⁴ and when an expression seeks to destroy other established rights.²⁰⁵ It may also be restricted to protect personal data.²⁰⁶

States should take steps to ensure access to information for people with disabilities without additional cost.²⁰⁷

Right to Security of the Person

International and regional treaties protect the right to security of the person, which includes protection from arbitrary arrest, detention, and exile.²⁰⁸

Interpretive sources specifically highlight the need for voters to be protected from interference, coercion, or intimidation.²⁰⁹

State practice sources suggest that this obligation also requires law enforcement to behave in a neutral manner during the electoral process.²¹⁰

Right to an Effective Remedy

International and regional treaties protect the right of everyone to an effective remedy before a competent national tribunal for acts that violate their rights or freedoms.²¹¹ The right to an effective remedy is fundamental to ensuring the fulfillment of all other human rights. Therefore, the right to an effective remedy is applicable throughout the electoral process. Regional treaties clearly state that remedies should be available for complaints arising throughout the electoral process, including the ability to challenge results.²¹²

Effective redress requires that disputes be dealt with in a timely manner²¹³ and that states must enforce the remedy when granted.²¹⁴

Interpretive sources expand upon this obligation, stating that a recurrence of a rights violation must be prevented.²¹⁵ In addition, cessation of a violation is an essential element of an effective remedy.²¹⁶ An effective remedy may require reparation or, at times, may require states to take interim measures.²¹⁷

203 CoE, ECHR, art. 10

204 U.N., ICCPR, art. 25

205 U.N., ICCPR, art. 25

206 U.N., UNCAC, arts. 10 and 13; CoE, Convention on the Protection of Personal Data, art. 4(1); EU, Charter on Fundamental Rights, art. 8(1)

207 U.N., CRPD, art. 9

208 U.N., ICCPR, art. 9; AU, AfCHPR, art. 6; OAS, ACHR, arts. 7(1) and 7(3); LAS, Arab Charter, art. 14; CoE, ECHR, art. 5; CIS, Convention on Human Rights, art. 5(1); U.N., UDHR, arts. 3 and 9

209 U.N. (CCPR), General Comment 25, para. 11

210 EU, Handbook (Ed. 2) p. 52

211 U.N., ICCPR, art. 2; OAS, ACHR, art. 25; CoE, ECHR, art. 13

212 ECOWAS, Protocol, art. 7

213 AU, AfCHPR, art. 7

214 U.N., ICCPR, art. 2

215 U.N., General Comment 31, para. 17

216 U.N. (CCPR), General Comment 31, para. 15

217 U.N. (CCPR), General Comment 31, paras. 16 and 19

Right to a Fair and Public Hearing²¹⁸


International and regional treaties state that everyone is entitled to a fair and public hearing by a competent, impartial, and independent tribunal in determination of their rights.²¹⁹ They add that fair trial must be expeditious²²⁰ and that the independence and impartiality of tribunals are absolute rights.²²¹ This right must be protected except for specific and objective reasons as determined by law.²²²

The right to appeal is not guaranteed in the determination of a suit at law,²²³ and the obligation for a public hearing does not necessarily apply to appellate proceedings.²²⁴

Interpretive sources suggest that the notion of a fair trial includes the guarantee of a fair and public hearing, absent of influence,²²⁵ which requires an independent, impartial, and competent tribunal.²²⁶ While interpretive sources are clear that any body that meets the criteria of impartiality and independence can be considered a tribunal,²²⁷ they also state that a situation in which the executive and the judiciary are not clearly distinguishable is incompatible with the notion of an independent and impartial tribunal.²²⁸ An electoral management body, with executive powers, would not meet the criteria of an independent and impartial tribunal; therefore, a hearing by a separate judicial body would be required.

In the context of dispute resolution, equality before the courts is essential. Interpretive sources suggest that this includes equality in arms and equal access to the courts.²²⁹ Fees that de facto prevent access to the courts may violate the obligation of equal access to the courts.²³⁰ This guarantee extends to judicial bodies entrusted with any judicial task.

Independence of the tribunal requires proper procedures detailing appointment, term limits, security, and remuneration of tribunal members.²³¹ Impartiality requires that judges act without bias and that the tribunal appears unbiased to the reasonable observer.²³² While a fair and public hearing is one essential means of promoting an effective remedy for violations of other fundamental rights,

 Equality of arms requires that each party must be afforded a reasonable opportunity to present his case—including his evidence—under conditions that do not place him at a substantial disadvantage vis-a-vis his opponent. —Hentrich v France

218 The principle of “equality of arms,” is considered essential to a fair hearing and requires “that each party must be afforded a reasonable opportunity to present his case—including his evidence—under conditions that do not place him at a substantial disadvantage vis-a-vis his opponent.” (Hentrich v France).

219 U.N., ICCPR, art. 14; AU, AfCHPR, art. 7; OAS, ACHR, art. 8; LAS, Arab Charter, art. 13; CoE, ECHR, art. 6(1); CIS, Convention on Human Rights, art. 6(1)

220 U.N. (CCPR), General Comment 32, para. 27

221 U.N., ICCPR, art. 14

222 U.N., ICCPR, art. 14

223 U.N. (CCPR), General Comment 32, para. 46

224 U.N. (CCPR), General Comment 32, para. 28

225 U.N. (CCPR), General Comment 32, para. 25

226 U.N. (CCPR), General Comment 32, para. 19

227 U.N. (CCPR), General Comment 32, para. 18

228 U.N. (CCPR), General Comment 32, para. 19

229 U.N. (CCPR), General Comment 32, para. 8

230 U.N. (CCPR), General Comment 32, para. 11

231 U.N. (CCPR), General Comment 32, para. 19

232 U.N. (CCPR), General Comment 32, para. 21

remedy must also be available for violations of the right to a fair and public hearing itself.²³³

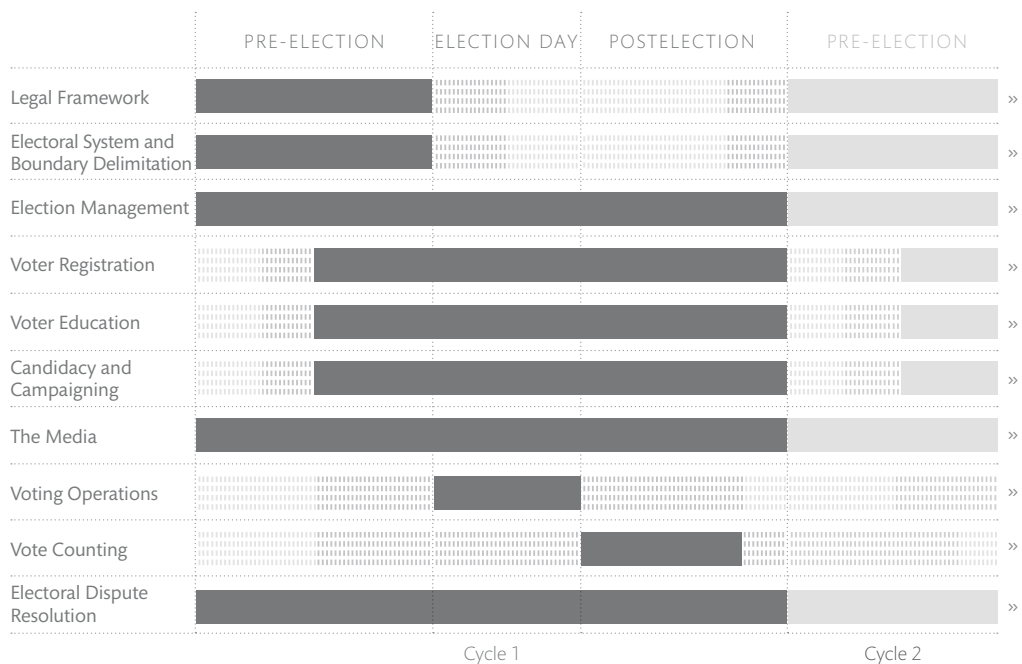
The Parts of the Electoral Process

The Carter Center—building on the work of the ACE Electoral Knowledge Network, the European Union, the U.N. Development Program (UNDP), International IDEA, and many others—recognizes that an election is much more than just election day: It is a cyclical process that unfolds over months before and after voting occurs. Focusing on the parts of the process most relevant to election observation and assessment, The Carter Center has identified 10 core parts of the electoral process that form the backbone of the analytical framework outlined in this publication. These parts, represented in Chart 2 below, are:

- The legal framework. Includes rules that regulate how all aspects of the electoral process will unfold to ensure that the electoral process is consistent with the state's human rights obligations.
- The electoral system and boundary delimitation. Focuses on ways votes are converted into mandates and how constituencies are drawn. Like the legal framework, they must be consistent with a state's human rights obligations.
- Election management. Includes issues related to the structure and mandate of the electoral management body.
- Voter registration. Includes all aspects of the electoral process related to the registration of voters.
- Voter education. Includes efforts provided by the state, the electoral management body, political parties, or civil society to educate the citizenry on the electoral process.
- Candidacy and campaigning. Includes the registration of candidates and political parties, campaign finance, and other aspects of the electoral process associated with campaigns and/or candidates and political parties.
- The media. Includes not only issues related to the rights of journalists, but also to the overall media environment, media coverage, and the ability of political contestants to equitably access the media.

233 U.N. (CCPR), General Comment 32, para. 58

Chart 2: Parts of the Electoral Process



- **Voting operations.** Relates to election-day operations and events, including polling station operations and management, the secrecy of the ballot, and issues such as the procurement of ballots or technology and establishing alternative means of voting.
- **Vote counting.** Includes all counting, aggregation, and tabulation processes through to the final announcement of results.
- **Electoral dispute resolution.** Includes any mechanism established to hear and adjudicate election-related disputes throughout the electoral cycle.

Based on a close review of nearly 200 sources of public international law, each of the 21 obligations was associated with the relevant constituent parts of the election, creating a framework for election assessments. The 21 obligations are described in greater detail in subsequent sections of this guide, along with their meaning in the context of specific parts of the electoral process. Chart 3 provides an overview snapshot of the obligations that have been found particularly relevant to various constituent parts of the electoral process.

Chart 3: Relevant Obligations

	LEGAL FRAMEWORK	ELECTORAL SYSTEM AND BOUNDARY DELIMITATION	ELECTION MANAGEMENT	VOTER REGISTRATION	VOTER EDUCATION	CANDIDACY AND CAMPAIGNING	THE MEDIA	VOTING OPERATIONS	VOTE COUNTING AND TABULATION	ELECTORAL DISPUTE RESOLUTION
Genuine Elections That Reflect the Free Expression of the Will of the People	●	●	●	●	●	●	●	●	●	●
Right and Opportunity to Vote				●	●			●	●	
Right and Opportunity to Be Elected					●	●		●	●	
Right and Opportunity to Participate in Public Affairs		●		●	●	●		●	●	
Freedom of Association				●	●	●		●	●	
Freedom of Assembly						●				
Freedom of Movement			●	●		●	●	●	●	
Freedom of Opinion and Expression						●	●			
Transparency and Access to Information			●	●		●	●	●	●	●
Right to Security of the Person			●	●		●	●	●	●	●
Freedom From Discrimination and Equality Before the Law	●	●	●	●	●	●	●	●	●	●
Equality Between Men and Women	●	●	●	●	●	●	●	●	●	●
Right to a Fair and Public Hearing			●							●
Right to an Effective Remedy	●	●	●	●	●	●	●	●	●	●
Universal Suffrage				●	●			●	●	
Equal Suffrage		●		●	●			●	●	
Secret Ballot					●			●	●	
Periodic Elections	●	●	●	●	●	●	●	●	●	●
Prevention of Corruption			●	●		●	●	●	●	
State Must Take Necessary Steps to Give Effect to Rights	●	●	●	●	●	●	●	●	●	●
Rule of Law	●	●	●	●	●	●	●	●	●	●

● Macro-Level Obligation
● Process-Focused Obligations
● Individual Rights and Freedoms
● Foundational Obligations

About the Organization of Subsequent Sections of This Manual

This manual serves as a companion to the Carter Center's Election Obligations and Standards (EOS) database. It is intended to serve as a reference guide and to assist in the assessment of electoral processes conducted by election observers and others interested in understanding the quality of the election process and the degree to which practices meet international obligations and standards. Like a dictionary, its format and structure are intended to allow the user to quickly find relevant information, without necessarily reading the manual from cover to cover.

This manual draws heavily from the content of the EOS database. Unlike the EOS database, however, it does not include excerpts of the key treaties and instruments relevant to elections. Rather, the manual summarizes information from the EOS database, thus providing a ready reference for election assessment. In addition, it outlines criteria for assessing the degree to which electoral processes meet obligations and standards and provides illustrative questions for data collection that can be used to guide the evaluation process.

Sections 1–10 of the Manual

The following sections of the manual are organized by constituent part of the electoral process (as outlined in the previous Framework section of this handbook). Each section begins with a definition of the part of the electoral process, followed by a summary of the main electoral issues covered in that section.

In order to avoid repetition and make the manual user-friendly, each section is divided into subsections focused on discrete electoral issues. These electoral issues are topics or subjects that often arise regarding this part of the electoral process.

After the electoral issue, the key obligations relevant to the electoral issue are listed (again, based on the review of sources of obligations).

When using this handbook in conjunction with the EOS database, searching by the key obligations and constituent part of the election should return results that include full quotes from all of the source documents summarized in this handbook.

For each electoral issue, one or more assessment criteria are provided, drawing from our interpretation of the sources of international law.

Assessment criteria are supported by short summaries of the sources of international law reviewed and included in the EOS database. The statements of obligations are generally not direct quotes from any of the source documents but rather are statements that summarize the content of one or more quotes from the source documents. The excerpts of the instruments on which the summary is based can be found in the EOS database, which also includes the full text of the instruments (when available electronically).

Each of the summary statements is supported by one or more references that support that statement. Although there may be several sources that support the same general principle in the summary, a selection of citations is included in the footnotes, with international and regional treaties given preference in order to reduce duplication and very lengthy citations. For example:

Voter education campaigns are necessary to ensure an informed community is able to effectively exercise their article 25 rights, including the right to be elected.
— U.N. (CCPR), General Comment 25, para. 11

In addition, it should be noted that the summary statement, which is a summary of all the sources regarding that issue included in the EOS database, may not be a direct paraphrase of any single reference source. To review all of the sources that are the basis of each summary statement, the EOS database may be consulted.

An annotated sample page from the following chapters—as well as the icons used throughout the subsequent sections of the handbook—is included here.

! To find full quotes from the source documents summarized in this manual, search by key obligations and relevant parts of the electoral process in the Obligations and Standards database.



Section 1: Legal Framework



Section 2: Electoral System and Boundary Delimitation



Section 3: Election Management



Section 4: Voter Registration



Section 5: Voter Education



Section 6: Candidacy and Campaigning



Section 7: The Media



Section 8: Voting Operations



Section 9: Vote Counting and Tabulation



Section 10: Electoral Dispute Resolution

State practice sources indicate that the electoral system should be entrenched in the constitution, while the form, content, and operation of the adopted system should be elaborated in the electoral act.²⁴¹

Participatory rights were protected at the highest level of the law (the constitution).

Interpretive sources provide that the protection of participatory rights should be established in laws as high as the constitution.²⁴² This includes the other rights and freedoms pertinent to the electoral process as well as the full body of human rights protected by international and regional law. Any suspension or exclusion of participatory rights is prohibited unless established by law and objective and reasonable.²⁴³

The key obligations for each electoral issue are listed; the terms facilitate searches in the EOS database.

Electoral issues are the topics or subjects relevant to the larger part of the electoral process.

Derogation of Obligations

● **Key Obligations:**

- *State Must Take Necessary Steps to Give Effect to Rights*
- *Rule of Law*

When derogating obligations and/or restricting human rights, the least restrictive measures were taken and no limitations were placed on nonderogable rights.

Interpretive sources indicate that even in cases in which rights are derogated, there can be no discrimination on the basis of race, color, sex, language, religion, or social origin, and any limitations must respect the nonderogable nature of certain rights.²⁴⁴ Derogation measures cannot undermine the exercise of rights protected to a greater extent by other international obligations of the state.²⁴⁵

Political commitments also support a state using the least restrictive means required when applying a limitation to rights.²⁴⁶

Prior to the derogation of human rights and electoral obligations, a state of emergency was publicly announced.

Treaty sources indicate that, at times, in a state of emergency, it may be necessary for a state to relax the full protection of human rights and electoral obligations or derogate their obligations.²⁴⁷

! See the Framework section at the beginning of this handbook for more information regarding unreasonable restrictions on electoral rights.

Tips provide guidance about how to cross-reference this handbook.

* A derogation is a relaxation of adherence to an obligation.

Definitions of key terms are included as needed.

Assessment criteria for the electoral issues are included in each section.

Statements summarizing the sources in the EOS database and on which the assessment criteria are based provide an overview of international law on each electoral issue.

241 CoE (Venice Com

Practice, sec. II.2.b

242 U.N. (CCPR), Gen

243 U.N. (CCPR), Gen

para. 8

a. A.11



Section 1

Legal Framework

Relevant Obligations

- Genuine Elections That Reflect the Free Expression of the Will of the People
- Freedom From Discrimination and Equality Before the Law
- Equality Between Men and Women
- Right to an Effective Remedy
- Periodic Elections
- State Must Take Necessary Steps to Give Effect to Rights
- Rule of Law

-
- Macro-Level Obligation
 - Individual Rights and Freedoms
 - Process-Focused Obligations
 - Foundational Obligations



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Derogation of Obligations	42	Postponement of Elections	46	Special Measures	49
Rule of Law and the Legal Framework	43	Election Calendar and the Enjoyment of Rights	46	The Right to an Effective Remedy, Including Challenging Election Results	50
State Authorities Responsible for Upholding Rights	44	Freedom From Discrimination in the Legal Framework	47		

A sound legal framework is essential for effective administration of genuine democratic elections. The legal framework includes the rules found in the domestic laws of the country that regulate how all aspects of the electoral process should unfold. These laws may include the constitution; election laws; laws regulating the media, political parties, civil society actors, etc.; and other rules and regulations promulgated by the appropriate authorities such as procedures for election administration. Ideally these laws will be written, will be clear and consistent with one another, and will provide a framework for elections that protects and advances international human rights.

Assessment of the legal framework for an electoral process requires thorough review of the governing laws, rules, and regulations. It is important to understand the content of the legal framework—including the degree to which internationally recognized rights are protected and obligations fulfilled—as well as any gaps in the legal framework that may undermine the process.

The following section of this manual provides guidance on several electoral issues regarding the legal framework. These include issues related to:

- The protection of human rights and fulfillment of obligations as well as any derogation measures
- The role of state authorities, including the EMB, in upholding rights
- The timing of elections and the impact of the electoral calendar on human rights and obligations
- The need for the legal framework to be nondiscriminatory
- The right to an effective remedy

! More information about legal frameworks for elections can be found in the ACE Electoral Knowledge Network encyclopedia.

Because the legal framework is also relevant to all other parts of the electoral process, it is important to note that information regarding the legal framework and other aspects of the elections is also included throughout subsequent sections of this manual. A nonexhaustive list of illustrative questions for data collection regarding the assessment criteria included below can be found in Appendix C.



International Human Rights Obligations and the Legal Framework

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*
- *Rule of Law*

The legal framework for elections included the protection of fundamental rights and made international obligations domestically binding.

International treaties oblige states to take the steps necessary to give effect to human rights.²³⁴ This means that where not already provided for by existing legislation or other measures, states must, in accordance with their constitutional processes, adopt legislation or other measures to give effect to human rights. Treaty obligations should be implemented in good faith.²³⁵

Interpretation for this obligation, i.e., from the Human Rights Committee, has made clear that the state's obligation requires unqualified and immediate action, including taking various positive measures.²³⁶ These include educating the population and state officials in human rights²³⁷ and the prevention, punishment, investigation, and/or redress of violations of human rights by nonstate actors.²³⁸

Any restrictions placed on fundamental rights were reasonable and objective.

Interpretive sources note that any suspension or exclusion of participatory rights is prohibited unless the suspension/exclusion is established by law and is objective and reasonable.²³⁹

Key aspects of the election process were enshrined in law at the highest level (e.g., the electoral system was enshrined in the constitution).

Interpretive sources state that the allocation of powers and the means by which individual citizens exercise the right to participate in the conduct of public affairs should be established by the constitution and other laws.²⁴⁰

234 U.N., ICCPR, art. 2; AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CoE, Convention on the Protection of Human Rights and Fundamental Freedoms, art. 1; CIS, Convention on Human Rights and Fundamental Freedoms, art. 1

235 U.N., Vienna Convention on Treaties, art. 26

236 U.N. (CCPR), General Comment 31, para. 14

237 U.N. (CCPR), General Comment 31, para. 7

238 U.N. (CCPR), General Comment 31, para. 8

239 U.N. (CCPR), General Comment 25, para. 4

240 U.N. (CCPR), General Comment 25, para. 5

State practice sources indicate that the electoral system should be entrenched in the constitution, while the form, content, and operation of the adopted system should be elaborated in the electoral act.²⁴¹

Participatory rights were protected at the highest level of the law (the constitution).

Interpretive sources provide that the protection of participatory rights should be established in laws as high as the constitution.²⁴² This includes the other rights and freedoms pertinent to the electoral process as well as the full body of human rights protected by international and regional law. Any suspension or exclusion of participatory rights is prohibited unless established by law and objective and reasonable.²⁴³

Derogation of Obligations

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*
- *Rule of Law*

When derogating obligations and/or restricting human rights, the least restrictive measures were taken and no limitations were placed on nonderogable rights.

Interpretive sources indicate that even in cases in which rights are derogated, there can be no discrimination on the basis of race, color, sex, language, religion, or social origin, and any limitations must respect the nonderogable nature of certain rights.²⁴⁴ Derogation measures cannot undermine the exercise of rights protected to a greater extent by other international obligations of the state.²⁴⁵

Political commitments also support a state using the least restrictive means required when applying a limitation to rights.²⁴⁶

Prior to the derogation of human rights and electoral obligations, a state of emergency was publicly announced.

Treaty sources indicate that, at times, in a state of emergency, it may be necessary for a state to relax the full protection of human rights and electoral obligations or derogate their obligations.²⁴⁷

! See the Framework section at the beginning of this handbook for more information regarding unreasonable restrictions on electoral rights.

* A derogation is a relaxation of adherence to an obligation.

241 CoE (Venice Commission), Code of Good Practice, sec. II.2.b

242 U.N. (CCPR), General Comment 25, para. 5

243 U.N. (CCPR), General Comment 25, para. 4

244 U.N. (CCPR), General Comment 29, para. 8

245 U.N., ICCPR, art. 4(1)

246 U.N. (CESCR), Siracusa Principles, para. A.11

247 U.N., ICCPR, art. 4(1)



Derogations of rights must be strictly required by the exigencies of the situation.

Political commitments also require the state to publicly announce a state of emergency before any derogation measures are put into place.²⁴⁸ Laws governing states of emergency should provide a prompt and independent review by the legislature of the necessity of derogation measures.²⁴⁹

Any restrictions on rights were justified by law and subject to review.

Political commitments further state that any restriction of rights must be justified by law and subject to review.²⁵⁰

Rule of Law and the Legal Framework

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*
- *Rule of Law*

The principles of rule of law were promoted.

Treaty sources provide that states should take measures to promote the principles of the rule of law when establishing the legal framework for elections.²⁵¹

Political commitments and state practice sources with regard to the rule of law in the legal framework for elections indicate that a state should:

- Have a single body of electoral laws.²⁵² When electoral legislation exists at different levels of the law, it is important that such legislation does not conflict and that clear and precise regulations and administrative instructions for the electoral process are laid out.²⁵³
- Promote public participation in decision making.²⁵⁴
- Provide the law for public review in the official languages of the country.²⁵⁵

The legal framework for elections was stable.

Regional treaties state that steps should be taken to ensure that no substantial change to the electoral law is made within the six

248 U.N. (CESCR), Siracusa Principles, para. B.42–44

249 U.N. (CESCR), Siracusa Principles, para. C.55

250 U.N. (CESCR), Siracusa Principles, para. E.62

251 U.N., UNCAC, art. 5 (1); AU, ACDEG, art. 32.8; CoE, Convention on the Protection of Human Rights and Fundamental Freedoms, Preamble; CIS, Convention on Human Rights and Fundamental Freedoms, Preamble

252 OSCE (ODIHR), Legal Framework (Ed. 1), p. 6

253 OSCE (ODIHR), Legal Framework (Ed. 1), p. 5–6; U.N., Human Rights and Elections, para. 131

254 OAS, IADC, art. 2

255 EISA and ECF of SADC Countries, PEMMO, p. 9; OSCE (ODIHR), Domestic Election Observers, p. 36

months prior to the election without the consent of a majority of political actors.²⁵⁶

The laws regulating elections were equally enforced and were not arbitrarily applied.

International treaties have stated that the rule of law requires that all are equal before the law,²⁵⁷ and laws are equally enforced.²⁵⁸ Respect for the rule of law ensures a political and legal environment conducive to the conduct of a genuine electoral process and the fulfillment of electoral rights.

Interpretive sources further state that the rule of law requires that:

- Laws and procedures are not arbitrarily applied.²⁵⁹
- Laws are publicly promulgated and available for review.²⁶⁰

Sanctions for violations of the electoral law were proportionate, appropriate, and effectively enforced.

International treaties state that sanctions related to the violation of rights and freedoms, when necessary, should be proportionate, appropriate, and effectively enforced.²⁶¹

State practice sources make this explicit for violations of electoral law.²⁶²

State Authorities Responsible for Upholding Rights

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*

All branches of the government are responsible for protecting human rights, including those responsible for administering election processes.

Regional treaties indicate that states should ensure transparency in the management of public affairs.²⁶³

Interpretive sources state that all branches of the government – and other public or governmental authorities – are responsible for giving effect to and protecting human rights.²⁶⁴ This includes the electoral management body, the government, the police, the security services, etc. Interpretive sources also suggest that states should

! Refer to Section 10, Electoral Dispute Resolution, for additional information on this issue.

256 ECOWAS, Protocol, art. 2(1)

257 U.N., ICCPR, art. 26; OAS, ACHR, art. 24; AU, AfCHPR, art. 8; CIS, Convention on Human Rights and Fundamental Freedoms, art. 20(1), EU, Charter on Fundamental Rights, art. 20

258 U.N., ICCPR, art. 26

259 U.N. (CCPR), General Comment 25, para. 4

260 OSCE (ODIHR), Legal Framework (Ed. 1), p. 6

261 AU, ACDEG, art. 17 ; U.N. (CCPR), General Comment 31, para. 4

262 U.N., Human Rights and Elections, para. 118

263 AU, ACDEG, at. 3(8); ECOWAS, Protocol on DGG, art. 34(2)

264 U.N. (CCPR), General Comment 31, para. 4



provide education on human rights among public officials and the population at large.²⁶⁵

Authority and Responsibility of the Electoral Management Body in Interpreting the Law

Key Obligations:

● Rule of Law

The role of the electoral management body in interpreting and administering the election law was clearly defined in the legal framework.

State practice sources recommend that the roles and responsibilities of various state bodies in interpreting and administering the law be clear. In particular, the role of the electoral management body should be defined by law to ensure the EMB can interpret election laws but not in a way that undermines the legislative process.²⁶⁶

! Refer to Section 3, Election Management, for more information on this issue.

Regularity of Elections

Key Obligations:

● Periodic Elections

● State Must Take Necessary Steps to Give Effect to Rights

Elections have been held periodically.

International and regional treaties require that elections be held at periodic intervals.²⁶⁷ The will of the people can only be expressed through genuine and periodic elections.

The period between elections was not unduly long.

Interpretive sources state that the obligation to hold periodic elections has been understood to mean that the interval between elections should not be unduly long, such that the authority of the government is no longer representative of the will of the electors.²⁶⁸ Citizen participation in genuine periodic elections is essential to ensure the accountability of representatives for the exercise of the legislative or executive powers vested in them.²⁶⁹

State practice sources suggest that elections should not only be periodic but also should be held at regular intervals. Many states schedule elections every two-five years (depending on the office).²⁷⁰

265 U.N. (CCPR), General Comment 31, para. 7

266 OSCE (ODIHR), Legal Framework (Ed.1), p. 6

267 U.N., ICCPR, art. 25(b); ACHR, art. 23 ; AU ACDEG, art. 3(4)

268 U.N. (CCPR), General Comment 25, para. 9

269 U.N. (CCPR), General Comment 25, para. 9

270 CoE (Venice Commission), Code of Good Practice, sec. I.6

Postponement of Elections

Key Obligations:

● *Periodic Elections*

The legal framework only allowed for temporary postponement of the election in times of declared public emergency.

International and regional treaties state that while temporary postponement of an election due to public emergency is permitted, the postponement must be deemed necessary in the circumstances and should not be contrary to the state's obligation under international law.²⁷¹ Long postponements of elections are likely counter to the international obligation to allow citizens to hold their government accountable.

Election Calendar and the Enjoyment of Rights

Key Obligations:

● *State Must Take Necessary Steps to Give Effect to Rights*

The legal framework included a realistic electoral calendar that allowed adequate time to successfully implement all aspects of the election.

International and regional treaties obligate states to give effect to human rights,²⁷² including when planning the electoral process.

State practice sources suggest that electoral calendars must allow for all aspects of an election to be carried out effectively, including providing sufficient time for all necessary administrative, legal, training, and logistics arrangements to be made.²⁷³ These same sources indicate that the calendar should be made public.

The legislative calendar related to the development of electoral laws was published well in advance of deadlines.

Other sources further indicate that any legislative calendars related to the development of electoral laws should be published well in advance of the election so that all concerned citizens, organizations, and parties can be prepared to represent their interests.²⁷⁴

271 U.N., ICCPR, art. 4

272 U.N., ICCPR, art. 2

273 U.N., Human Rights and Elections, para. 75

274 Merloe, Promoting Legal Framework, p. 38



Freedom From Discrimination in the Legal Framework

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Equality Between Men and Women*

The legal framework for elections did not include provisions that discriminate on the basis of prohibited grounds.

International and regional treaties prohibit discrimination on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, physical or mental ability, sexual orientation or gender identity, birth, or other status at any time.²⁷⁵

The state must perform both its “negative duty” to refrain from discrimination and its “positive duty” to prevent discrimination.²⁷⁶

Interpretive sources note that the legal framework for elections should protect this right and should not itself be discriminatory.²⁷⁷

Minorities were able to use their own language(s).

Treaty sources provide that where linguistic minorities exist, those that belong to such minorities should not be denied the right to use their own language.²⁷⁸

The legal framework for elections included guarantees of equality before the law.

International and regional treaties also state that all are equal before the law.²⁷⁹

Interpretive sources clarify that in addition to the obligation not to discriminate in the protection and promotion of other rights, all are equal before the law and should enjoy the equal protection of the law.²⁸⁰

The legal framework provided equal access to any place or service intended for use by the public.

Treaty sources recognize that everyone has the right of equal access to any place or service intended for use by the public.²⁸¹ States should not discriminate with regard to access to public places or services by citizens, including those participating in the electoral process. This includes citizen access to public places such as polling stations.

275 U.N., ICCPR, art. 2; U.N., CRPD, art. 2; AU, AfCHPR, art. 2; OAS, ACHR, art. 1; LAS, Arab Charter, art. 3; EU, Charter on Fundamental Rights, art. 21(1); CIS, Convention on Human Rights, art. 20(2); U.N. (CESCR), General Comment 20, para. 32

276 U.N. (CCPR), General Comment 28, para. 21

277 U.N. (CCPR), General Comment 28, para. 21

278 U.N., ICCPR, art. 27

279 U.N., ICCPR, art. 26; AU, AfCHPR, art. 19; OAS, ACHR, art. 24; EU, Charter on Fundamental Freedoms, art. 20; CIS, Convention on Human Rights and Fundamental Freedoms, art. 20(1); LAS, Arab Charter, art. 3

280 U.N. (CCPR), General Comment 28, para. 21

281 U.N., ICERD, art. 5(f)

Citizenship

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Equality Between Men and Women*
- *Rule of Law*

The rules regarding citizenship were clear and nondiscriminatory.

International treaties make an explicit link between citizenship and the enjoyment of participatory rights.²⁸² While everyone has the right to a nationality,²⁸³ states may regulate the law concerning nationality, citizenship, or naturalization, but they may not discriminate against any particular nationality in doing so.²⁸⁴

Interpretive sources note that distinctions between those who attain citizenship by birth or by naturalization may be discriminatory.²⁸⁵

Other sources support the requirement that the process for attaining citizenship should be clearly defined and nondiscriminatory.²⁸⁶

Citizenship rules did not discriminate directly or indirectly against women.

International treaties make it clear that citizenship rules should not discriminate against women; for example, when attaining or conferring citizenship for spouses or children.²⁸⁷

The Legal Framework and Men and Women

Key Obligations:

- *Equality Between Men and Women*

The legal framework for elections included guarantees of equality before the law for men and women.

International and regional treaties are very clear that men and women should enjoy equal rights.²⁸⁸ The legal framework should ensure that the equal rights of men and women are upheld throughout the electoral process, while the framework itself is not either directly or indirectly discriminatory.

282 U.N., ICCPR, art. 25

283 U.N., UDHR, art. 15

284 U.N., ICERD, art. 1(3)

285 U.N. (CCPR), General Comment 25, para. 3

286 U.N., Recommendations of the second session of the Forum on Minority Issues on

minorities and effective political participation, para. 26

287 U.N., CEDAW, art. 9(1)

288 U.N., ICCPR, art. 3; AU, AfCHPR, art. 2(1)(a); EU, Charter on Fundamental Rights, art. 23



Special Measures

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Equality Between Men and Women*
- *State Must Take Necessary Steps to Give Effect to Rights*

The state took steps to ensure de facto equality between men and women.

Treaty sources make clear that women should enjoy equal rights to men,²⁸⁹ and that in some cases, states should take temporary special measures to achieve de facto equality for women.²⁹⁰

Interpretive sources indicate that temporary special measures to achieve de facto equal representation for women can include financially assisting and training women candidates, amending electoral procedures, developing campaigns directed at equal participation, targeting women for appointment to public positions, or using quotas to ensure female participation in public affairs.²⁹¹ Interpretive sources also indicate that measures taken to ensure equitable representation of women should not be considered discriminatory.²⁹²

Special measures were taken, as necessary, to promote equality for minorities.

International treaties state that temporary special measures for advancing ethnic minorities or groups that have suffered past discrimination may also be taken and should not be considered discriminatory when the circumstances warrant the measures.²⁹³ These measures should not be maintained after the objectives for which they were taken are met and should not result in the maintenance of unequal rights for different groups.²⁹⁴

Special measures were taken to ensure de facto equality for people with disabilities.

International treaties obligate states to ensure and promote human rights and fundamental freedoms without any discrimination on the basis of disability.²⁹⁵ Specific measures aimed at ensuring de facto equality for people with disabilities should not be considered discriminatory.²⁹⁶ Other treaty sources also call on states to recognize that women and girls with disabilities are subject to multiple discrimination.²⁹⁷

289 U.N., ICCPR, art. 3

290 U.N., CEDAW, art. 3

291 U.N. (CEDAW), General Recommendation 23, para. 15

292 U.N. (CCPR), General Comment 28, para. 29

293 U.N., ICERD, art. 1(4)

294 U.N., ICERD, art. 1(4)

295 U.N., CRPD, art. 4

296 U.N., CRPD, art. 5(4)

297 U.N., CRPD, art. 6(1)

Interpretive sources further indicate the legal framework should provide people with disabilities with the opportunity to vote and be elected.²⁹⁸

The Right to an Effective Remedy, Including Challenging Election Results

Key Obligations:

- *Right to an Effective Remedy*
- *Rule of Law*

The legal framework provided citizens with an effective (timely and enforceable) remedy throughout the electoral process.

International and regional treaties establish that everyone has the right to an effective remedy before a competent national tribunal for acts that violate their rights or freedoms.²⁹⁹ The right to an effective remedy is fundamental to ensuring all other human rights may be fulfilled. As such, the right to an effective remedy is applicable wherever other fundamental human rights are considered and throughout the electoral process. Also the right to remedy must be recognized in the legal framework.

Regional treaties link the right to remedy to the conduct of elections and the announcement of results.³⁰⁰ They also state that remedies, when granted, should be effective. Effective redress requires that disputes must be dealt with in a timely manner³⁰¹ and that states must enforce the remedy when granted.³⁰²

Interpretive sources note that not only is cessation of a violation an essential element of an effective remedy,³⁰³ it also prevents recurrence of the violation.³⁰⁴ Such sources also indicate that an effective remedy requires reparation and, at times, may require states to take interim measures.³⁰⁵

The legal framework for elections included the right to challenge the election results as necessary.

Political commitments reinforce the need for the right to challenge election results to be provided by law.³⁰⁶

! Refer to the Electoral Dispute Resolution section for additional information on this issue.

298 U.N. (CRPD), Concluding Observations, Hungary (2012), para. 26

299 U.N., ICCPR, art. 2(3); OAS, ACHR, art.25(1); CoE, Convention on the Protection of Human Rights and Fundamental Freedoms, art. 13

300 AU, ACDEG, art. 17(2); ECOWAS, Protocol on DGG, art. 7

301 AU, ACDEG, art. 17 (2)

302 U.N., ICCPR, art. 2(3)

303 U.N. (CCPR), General Comment 31, para. 15

304 U.N. (CCPR), General Comment 31, para. 17

305 U.N. (CCPR), General Comment 31, paras. 16 and 19

306 SADC, Principles and Guidelines, para. 2.1.10



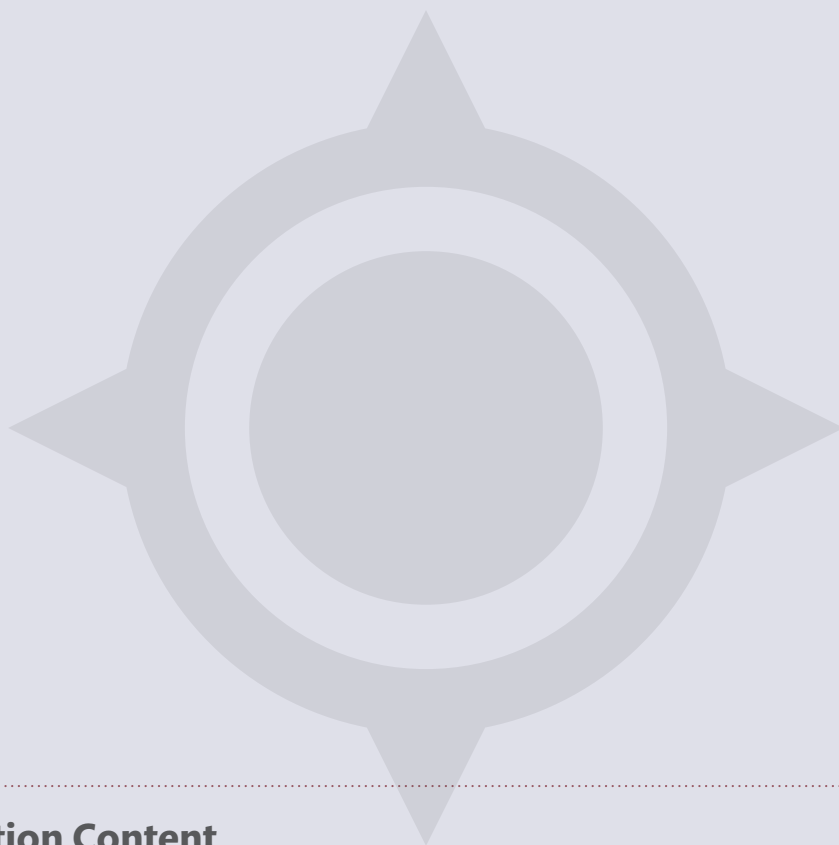
Section 2

Electoral System and Boundary Delimitation

Relevant Obligations

- Genuine Elections That Reflect the Free Expression of the Will of the People
- Right and Opportunity to Participate in Public Affairs
- Freedom From Discrimination and Equality Before the Law
- Equality Between Men and Women
- Right to an Effective Remedy
- Equal Suffrage
- Periodic Elections
- State Must Take Necessary Steps to Give Effect to Rights
- Rule of Law

-
- Macro-Level Obligation
 - Individual Rights and Freedoms
 - Process-Focused Obligations
 - Foundational Obligations



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Choice of the Electoral System	57				

The electoral system and boundary delimitation process are very important elements of the electoral process. Because they are intrinsically linked, for the purposes of the EOS database and this manual, they are combined into one constituent part.

Electoral system is the system used to convert the number of votes cast into political mandates that ensure the electorate can hold its representatives accountable. There are a wide variety of electoral systems that can be used in electoral processes, and each has consequences for the final composition of the elected body. Electoral systems can be categorized into three main “families.”

- Plurality/majoritarian systems in which the candidate or parties with the most votes are considered the winners. Examples of plurality/majority systems include first past the post, block vote, party block vote, alternative vote, and two-round electoral systems.
- Proportional representation systems in which parties receive approximately the same share of the seats as the votes cast. Proportional representation systems are List PR systems or single-transferrable-vote systems.
- Mixed systems in which plurality/majoritarian systems run alongside one another in an attempt to have the best aspects of each system.

While public international law does not prescribe the electoral system to be used, it does provide some guidance on the need for inclusiveness and transparency of the system chosen as well as the need for any system to uphold fundamental human rights and freedoms.

 Refer to the ACE Electoral Knowledge Network for more information on electoral systems and boundary delimitation.

Boundary delimitation is the process for determining the boundaries of electoral districts as well as the process for determining the number of elected seats per constituency. Boundary delimitation is an important means of ensuring equality in the weight of votes as well as representation in the electoral body, particularly with shifts in the size and makeup of voting populations.

The electoral system in use will determine how districts are delimited. In plurality or majority systems, the number of seats that a party receives is dependent not only on the party's share of votes cast but also where those votes were cast. Delimitation for plurality or majority systems, therefore, requires review of geographic boundaries in order to adapt to changes in population. The drawing of boundaries in such systems can become very political and can alter the composition of the elected body to be more or less inclusive. In both plurality and proportional representation systems, shifts in population can be addressed by changing the number of seats allocated to districts. In mixed systems, both redrawing of



districts and the allocation of seats can be undertaken as needed to address population changes.

Although decisions regarding the electoral system and the process of boundary delimitation often occur far in advance of many election assessments, understanding the degree to which they fulfill international obligations is an important step in reaching an overall evaluation of the electoral process. In some cases the electoral system and boundary delimitation processes may be important determinants of whether the process is inclusive. Because these processes occur in advance of the arrival of many international observation missions, assessment and analysis may require post hoc evaluation. For citizen observers, observation of these processes as they occur may be a real possibility.

The following section of the manual provides guidance on several electoral issues including those related to:

- The legal framework for the electoral system and boundary delimitation
- The choice of the electoral system
- Criteria for and public participation in boundary delimitation
- Nondiscrimination and the right to an effective remedy in the context of both the electoral system and boundary delimitation

A nonexhaustive list of illustrative questions for data collection regarding the assessment criteria outlined are included in Appendix C.

The Legal Framework for Electoral Systems and Boundary Delimitation

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*
- *Rule of Law*

The principles of rule of law were promoted.

Treaty sources provide that states should take measures to promote the principles of the rule of law.³⁰⁷ The rule of law is widely recognized as an essential condition for the fulfillment of human rights and representative democracy.³⁰⁸

! Refer to the Legal Framework section for more information.

³⁰⁷ U.N., UNCAC, art. 5; AU, ACDEG, art. 32(8); CoE, ECHR, Preamble; CIS, Convention on Human Rights, Preamble

³⁰⁸ UNGA, Millenium Declaration; UNGA, Resolutions on the Rule of Law; OAS, IADC, arts. 3 and 4; OSCE, Copenhagen Document, para. 3

The laws regulating elections were equally enforced and were not arbitrarily applied.

Respect for the rule of law ensures a political and legal environment conducive to the conduct of a genuine electoral process and the fulfillment of electoral rights. International treaties have stated that the rule of law requires that all are equal before the law³⁰⁹ and that laws are equally enforced.³¹⁰

Interpretive sources add that rule of law requires that laws and procedures are not arbitrarily applied.³¹¹

The legal framework for elections was consistent with international human rights.

International treaties require, as a means of adhering to rule of law, that the legal framework be consistent with international human rights obligations.³¹²

Interpretive sources add that suspension or exclusion of participatory rights is prohibited except on grounds established by law that are reasonable and objective.

There were clear legal provisions regarding the electoral system and boundary delimitation.

State practice sources indicate that the fundamental aspects of the electoral law, including those regarding the electoral system and delimitation of boundaries, should be clearly stated in the law³¹³ and enshrined in the constitution or at a level higher than ordinary law.³¹⁴ In addition, other state practice sources indicate that electoral legislation should be made widely available to the public for review.³¹⁵

Other state practice sources maintain that electoral processes (including the electoral system and boundary delimitation) must be subject to the rule of law rather than to decisions of the current government or a single party.³¹⁶

309 U.N., ICCPR, art. 26

310 U.N., ICCPR, art. 26

311 U.N. (CCPR), General Comment 25, para. 4

312 U.N., ICCPR, art. 2(3)(a); AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CoE, ECHR, art. 1; CIS, Convention on Human Rights, art. 1

313 CoE (Venice Commission), Code of Good Practice, sec. I.2.2.13

314 CoE (Venice Commission), Code of Good Practice, sec.II.2.b

315 OSCE (ODIHR), Legal Framework (Ed. 1), p. 6

316 U.N., Human Rights and Elections, para. 78



Oversight of Boundary Delimitation

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*

The state took the steps necessary to give effect to rights regarding the boundary delimitation process and the electoral system through effective oversight mechanisms.

State practice sources suggest that redistricting be conducted according to a method established by law that regulates the frequency of and criteria for such a process; the degree of public participation in it, the role of stakeholders in it, and the authority structure for conducting the boundary delimitation processes.³¹⁷

Some state practice sources also indicate that boundary delimitation should not be manipulated to favor particular groups,³¹⁸ and delimitation techniques designed to discount the votes of particular groups or geographic areas should be prohibited.³¹⁹ State practice sources suggest that boundary delimitation should be managed by an independent and impartial body.³²⁰

Choice of the Electoral System

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*
- *Rule of Law*

The electoral system allowed multiparty participation and actual and equal representation.

States are obligated by international and regional treaties to take the steps necessary to give effect to human rights.³²¹ This obligation applies to the entire electoral process and all electoral rights. States must take steps to ensure that laws are consistent with international human rights.

Interpretive sources add that all branches of government and other public or governmental authorities are responsible for meeting this obligation.³²²

Interpretive sources also make clear that while no electoral system is prescribed by international law, any system chosen should be

317 CoE (Venice Commission), Code of Good Practice, sec. I.2.2.vii

318 EISA and ECF of SADC Countries, PEMMO, p. 13

319 U.N., Human Rights and Elections, para. 103

320 U.N., Report of the Independent Expert on Minorities (2010), p. 78

321 U.N., ICCPR, art. 2(2); AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CoE, ECHR, art. 1; CIS, Convention on Human Rights, art. 1

322 U.N. (CCPR), General Comment 25, para. 4

consistent with international obligations and should be clearly stated in law.³²³ The electoral system should support multiparty participation.³²⁴ Proportionate representation of citizens of all ethnic origins is to be encouraged,³²⁵ and electoral systems should support direct elections.³²⁶

Interpretive sources also indicate that electoral systems should ensure actual and equal representation in elected bodies.³²⁷ Interpretive sources add that elected representatives should be able to exercise governmental power.³²⁸

The legal framework defined the formulas to be used to convert votes into mandates.

Other sources, indicative of state practice, state that the rules for the election should clearly define the electoral formula to be used to convert votes into mandates as well as the electoral timeline for the announcement and certification of results.³²⁹

The electoral system was enshrined in law at the highest level (e.g., the constitution).

Other sources, indicative of state practice, add that the means by which citizens participate in public affairs, such as the electoral system, should be enshrined in the constitution or other similar high-level law.³³⁰

Criteria for Boundary Apportionment

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Equal Suffrage*
- *State Must Take Necessary Steps to Give Effect to Rights*

Each vote was of equal weight.

International and regional treaties state that elections must respect equal suffrage.³³¹ Equal suffrage is an essential element of a genuine election and is recognized as such at the international and regional level.

323 U.N. (CCPR), General Comment 25, para. 21

324 U.N. (CCPR), Concluding Observations on Uganda (2004), para. 22

325 U.N. (CERD), Concluding Observations, Jordan (2012), para. 13

326 U.N. (CCPR), Concluding Observations on Hong Kong, (1995), paras. 408–435

327 U.N. (CCPR), Concluding Observation on the United States, (2006), para. 36

328 U.N. (CCPR), General Comment 25, para. 7

329 CoE (Venice Commission), Code of Good Practice, Sec. II.2.b

330 U.N. (CCPR), General Comment 25, para. 5

331 U.N., ICCPR, art. 25; OAS, ACHR, art. 23; CIS, Convention on Democratic Elections, art. 3(1)(a) U.N., UDHR, art. 21(3)



Where variances occurred between the number of voters in various constituencies, they were small.

Interpretive sources add that equal suffrage and the “one person, one vote” rule require that constituency boundaries be drawn so that voters are represented in the legislature on a (roughly) equal basis.³³² Although equal suffrage is best achieved by assigning the same number of voters to each representative,³³³ it may be achieved through boundary assignment based on specific apportionment criteria. While true equality in delimitation may not always be possible, other sources state that variances should rarely exceed 10 percent.³³⁴

The apportionment criteria were publicly available and included details such as the number of residents, number of registered voters, number of actual voters, or a combination thereof.

Other sources indicative of state practice say that equal suffrage may be achieved through apportionment criteria based on a number of criteria, which can include the number of residents, number of resident nationals (including minors), number of registered voters, number of actual voters, or a combination thereof.³³⁵ Boundary assignment may also take into account geographical criteria or administrative or historical boundary lines.³³⁶ While true equality in delimitation may not always be possible, other sources state that variances should rarely exceed 10 percent.³³⁷

Citizen Participation in the Boundary Delimitation Process

Key Obligations:

- *Right and Opportunity to Participate in Public Affairs*

The right to participate in public affairs was protected, including during the boundary delimitation process.

International and regional treaties protect the right of all people to participate in the public affairs of their country.³³⁸ The right and opportunity to participate in public affairs are a widely recognized obligation in public international law. Not only does it include the rights to vote and to be elected, it also includes the right of citizens to participate in nongovernmental organizations³³⁹ and the ability of citizens to participate in citizen observation organizations. Women

*** Apportionment** criteria are the criteria used to divide or apportion electoral districts or allocate the number of representatives per number of voters.

³³² U.N. (CCPR), General Comment 25, para. 21; U.N. (CCPR), *Istvan Matyas v Slovakia*, (2002), 2.2

³³³ U.N. (CCPR), General Comment 25, para. 21

³³⁴ CoE (Venice Commission), Code of Good Practice, sec. I.2.2.15

³³⁵ CoE (Venice Commission), Code of Good Practice, sec. I.2.2.13

³³⁶ CoE (Venice Commission), Code of Good Practice, sec. I.2.2.14; EISA and ECF of SADC Countries, PEMMO, p. 13

³³⁷ CoE (Venice Commission), Code of Good Practice, sec. I.2.2.15

³³⁸ U.N., ICCPR, art. 25; AU, AfCHPR, art. 13(1); OAS, ACHR, art. 23(1)(a)

³³⁹ U.N., CEDAW, art. 7(b)

as well as men have the right to participate in the public affairs of their country.³⁴⁰

The boundary delimitation process was subject to independent scrutiny by civil society, candidates and political parties, or other groups.

State practice sources indicate that public participation should extend to the boundary delimitation process.³⁴¹ Other state practice sources indicate that candidates' agents should be guaranteed access to monitor all aspects of the electoral process, including ballot production, boundary delimitation, and voter registration.³⁴²

Freedom From Discrimination in the Electoral System and Boundary Delimitation Process

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Equality Between Men and Women*

The electoral system did not discriminate against citizens on grounds prohibited by international law.

Treaty obligations prohibit discrimination on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, physical or mental ability, sexual orientation or gender identity, geographic region of residence, birth, or other status.³⁴³ In addition, international treaties are clear that all are equal before the law and should enjoy the equal protection of the law.³⁴⁴

Interpretive sources add detail, saying that the state is obligated to perform both its "negative duty" to refrain from discrimination and its "positive duty" to prevent discrimination.³⁴⁵ This includes state actions affecting the electoral system and boundary delimitation process.

Special Measures

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Equality Between Men and Women*
- *State Must Take Necessary Steps to Give Effect to Rights*

340 U.N., ICCPR, art. 25(a)

341 CoE (Venice Commission), Code of Good Practice, sec. i.2.2.vii

342 SADC, Principles and Guidelines Governing Democratic Elections, para. 7.8

343 U.N., ICCPR, art. 2; U.N., CRPD, art. 2; AU, AfCHPR, art. 1; OAS, ACHR, art. 1; LAS, Arab Charter, art. 3; EU, Charter on Fundamental

Rights, art. 21(1); CIS, Convention on Human Rights, art. 20(2); U.N. (CESCR), General Comment 20, para. 32

344 U.N., ICCPR, art. 26; AU, AfCHPR, art. 8; OAS, ACHR, art. 24; CIS, Convention on Human Rights, art. 20(1)

345 U.N. (CCPR), General Comment 25, para. 21



The state took steps to ensure de facto equality between men and women.

Treaty sources make clear that women should enjoy equal rights to men³⁴⁶ and that, in some cases, states should take temporary special measures to achieve de facto equality for women.³⁴⁷

Interpretive sources indicate that temporary special measures to achieve de facto equality for women can include financially assisting and training women candidates, amending electoral procedures, developing campaigns directed at equal participation, and targeting women for appointment to public positions or the use of quotas to ensure female participation in public affairs.³⁴⁸ It is important that any measures used are effective. Interpretive sources indicate that states should consider implementing a system of alternation of female and male candidates on party lists.³⁴⁹ Other interpretive sources indicate that measures taken to ensure equitable representation of women should not be considered discriminatory.³⁵⁰

Other state practice sources highlight the special responsibility of electoral management bodies to ensure that women participate in the electoral process.³⁵¹

Special measures were taken, as necessary, to promote equality for minorities.

International treaties state that temporary special measures for advancing ethnic minorities or groups that have suffered past discrimination may also be taken when the circumstances warrant, and they should not necessarily be considered discriminatory.³⁵² These measures should not be maintained after the objectives for which they were taken are met and should not result in the maintenance of unequal rights for different groups.³⁵³

Other state practice sources point out that special measures such as the use of quotas or reserved seats³⁵⁴ may be used to ensure minority participation or representation.³⁵⁵ When seats are reserved for minorities, members of minority groups may have the right to vote for both a minority representative with a reserved seat and a general nonminority representative.³⁵⁶ State practice sources also state that electoral management bodies should ensure that minorities participate in the electoral process.³⁵⁷

346 U.N., ICCPR, art. 3; AU, AfCHPR, art. 2(1)(a); EU, Charter on Fundamental Rights, art. 23

347 U.N., CEDAW, art. 3

348 U.N. (CEDAW), General Recommendation 23, para. 15

349 U.N. (CEDAW), Concluding Remarks on Costa Rica (2003), para. 59

350 U.N. (CCPR), General Comment 28, para. 29

351 International IDEA, Code: Election Administration, para. 6

352 U.N., ICERD, art. 1(4)

353 U.N., ICERD, art. 1(4)

354 U.N. (CCPR), Concluding Observations, Hungary (2010), para. 20

355 U.N., Report of the Independent Expert on Minority Issues, para. 77

356 U.N., Report of the Independent Expert on Minority Issues, para. 70

357 International IDEA, Code: Election Administration, para. 6

! Refer to the Electoral Dispute Resolution section of this handbook for more information.

Special measures were taken to ensure de facto equality for people with disabilities.

Treaty sources obligate states to ensure and promote human rights and fundamental freedoms without any discrimination on the basis of disability.³⁵⁸ Specific measures aimed at ensuring de facto equality for people with disabilities should not be considered discriminatory.³⁵⁹ Other treaty sources obligate states to recognize that women and girls with disabilities are subject to multiple discrimination.³⁶⁰

Interpretive sources further indicate the legal framework should provide people with disabilities with the opportunity to vote and be elected.³⁶¹

Quotas for groups other than those whose interests are protected by special measures were regulated so as not to promote inequality among voters.

Interpretive sources indicate that quotas for groups other than those whose interests are protected by special measures (e.g., quotas for occupational groups like farmers or workers) should be the subject of scrutiny to ensure that they do not promote inequality.³⁶²

The Election Calendar and Enjoyment of Rights

Key Obligations:

- *Equal Suffrage*
- *Periodic Elections*
- *State Must Take Necessary Steps to Give Effect to Rights*

The election calendar provided sufficient time for a review of the boundaries to take place as necessary.

International and regional treaties obligate states to give effect to human rights,³⁶³ including during planning of the electoral process.

358 U.N., CRPD, art. 4

359 U.N., CRPD, art. 5(4)

360 U.N., CRPD, art. 6(1)

361 U.N. (CRPD), Concluding Observations, Hungary (2012), para. 26

362 U.N. (CCPR), Concluding Observations on Hong Kong, paras. 408–435

363 U.N., ICCPR, art. 2; AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CoE, ECHR, art. 1; CIS, Convention on Human Rights, art. 1



State practice sources suggest that when scheduling elections, adequate time be allowed to successfully implement other necessary parts of the election, such as boundary delimitation.³⁶⁴ Other state practice sources highlight the importance of frequent boundary delimitation, ensuring quality of voting rights,³⁶⁵ and suggest that the review of boundaries should take place sufficiently in advance of the election to avoid instability.³⁶⁶

Right to an Effective Remedy

Key Obligations:

● *Right to an Effective Remedy*

There was an effective means of seeking redress for violations concerning boundary delimitation and the electoral system.

International and regional treaties establish that everyone has the right to an effective (timely and enforceable) remedy before a competent tribunal for acts that violate their rights or freedoms.³⁶⁷ The right to an effective remedy is fundamental to ensuring all other human rights may be fulfilled. It extends to all parts of the electoral process, including electoral system and boundary delimitation.

Other state practice sources suggest that boundary delimitation requires remedies that sufficiently equalize the ratio between population and representation and/or ensure that constituencies as drawn do not discriminate.³⁶⁸

³⁶⁴ U.N., Human Rights and Elections, para. 75

³⁶⁵ CoE (Venice Commission), Code of Good Practice, sec. I.2.2.v

³⁶⁶ CoE (Venice Commission), Code of Good Practice, sec. II.2.b

³⁶⁷ U.N., ICCPR, art. 2(3); AU, ACDEG, art. 17(2); OAS, ACHR, art. 25(1); CoE, ECHR, art. 13

³⁶⁸ Merloe, Promoting Legal Frameworks, p. 51



Section 3

Election Management

Relevant Obligations

- Genuine Elections That Reflect the Free Expression of the Will of the People
- Freedom of Movement
- Transparency and Access to Information
- Right to Security of the Person
- Freedom From Discrimination and Equality Before the Law
- Equality Between Men and Women
- Right to a Fair and Public Hearing
- Right to an Effective Remedy
- Periodic Elections
- Prevention of Corruption
- State Must Take Necessary Steps to Give Effect to Rights
- Rule of Law

-
- Macro-Level Obligation
 - Individual Rights and Freedoms
 - Process-Focused Obligations
 - Foundational Obligations



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An independent and impartial body charged with implementing elections is an important means of ensuring the integrity of the electoral process. An effective electoral management body (EMB), responsible for implementing much of the electoral process, can enable the participation of voters and protect the democratic process. The EMB can be responsible for, among other things, voter education, voter registration, polling operations, counting and tabulation, and settlement of some electoral disputes. The exact composition and responsibilities of an EMB vary greatly from country to country, and these decisions clearly fall within the margin of appreciation of the state. However, the requirement that the body uphold national law and advance electoral rights is universal.

Given the role of the EMB as the primary implementer of the electoral process, and its responsibility for ensuring that the process adheres to national law, election assessments must include an evaluation not only of the EMB's actions but also of its makeup and internal processes. This evaluation, in conjunction with assessments of the body's role in implementing the rest of the process, will help establish the degree to which the election was administered fairly and impartially.

! Refer to the ACE Electoral Knowledge Network for more information on election management.

The following section of the manual addresses the role, function, and responsibilities of the electoral management body in the electoral process and provides guidance on several electoral issues, including:

- The legal framework for election management
- Independence and impartiality
- Transparency, access to information, and the EMB
- The EMB and nondiscrimination
- The right to an effective remedy

Other chapters of the manual address the implementation of the electoral process. A nonexhaustive list of illustrative questions for data collection on assessment criteria is included in Appendix C.



The Legal Framework and Election Management

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*
- *Rule of Law*

The electoral management body acted in conformity with the law.

Political commitment sources recommend that the election administration body should act in conformity with the law³⁶⁹

The laws regulating elections were equally enforced and were not arbitrarily applied.

International treaties sources state that the rule of law requires that all are equal before the law³⁷⁰ and laws are equally enforced.³⁷¹ Respect for the rule of law ensures a political and legal environment conducive to the conduct of a genuine electoral process and the fulfillment of electoral rights.

Interpretive sources indicate that laws and procedures must not be arbitrarily applied by state bodies, including by the EMB.³⁷² Suspension or exclusion of participatory rights is prohibited except on objective grounds established by law.

The legal framework for elections was consistent with international human rights.

Treaty sources provide that states should take measures to promote the principles of the rule of law.³⁷³ The rule of law is widely recognized as an essential condition for the fulfillment of human rights and representative democracy.³⁷⁴

International treaties require that the legal framework be consistent with international human rights obligations.³⁷⁵

The authority of the electoral management body was recognized by key stakeholders.

Political commitment sources suggest that everyone participating in the election should recognize the authority of the election commission.³⁷⁶

! Refer to the Legal Framework section of this publication for more information.

³⁶⁹ U.N., Declaration on Rights and Responsibilities, art. 11

³⁷⁰ U.N., ICCPR, art. 26; AU, AfCHPR, art. 10(3); OAS, ACHR, art. 24; CIS, Convention on Human Rights, art. 20(1); EU, Charter on Fundamental Rights, art. 20

³⁷¹ U.N., ICCPR, art. 26

³⁷² U.N. (CCPR), General Comment 25, para. 4

³⁷³ U.N., UNCAC, art. 5(1); AU, ACDEG, art. 32.8; CoE, ECHR, Preamble; CIS, Convention on Human Rights, Preamble

³⁷⁴ UNGA, Millenium Declaration; UNGA, Resolutions on the Rule of Law; OAS, IADC, arts. 3 and 4; OSCE, Copenhagen Document, para. 3

³⁷⁵ U.N., ICCPR, art. 2

³⁷⁶ AU, Declaration on the Principles Governing Elections, art. IV(13)

The Election Calendar and the Enjoyment of Rights

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*

An electoral management body implemented elections with adequate time to implement all parts of the electoral process.

International treaties obligate the state to safeguard and fulfill human rights.³⁷⁷ In the context of the rights to vote and be elected, this requires the state to implement electoral processes.

State practice sources suggest that when scheduling elections, adequate time is allowed to successfully administer the electoral process.³⁷⁸

Electoral Management Body Responsibility for Protection of Rights

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*

The electoral management body took steps to implement an electoral process that fulfilled and protected human rights.

International and regional treaties obligate the state to take the steps necessary to safeguard human rights.³⁷⁹

Interpretive sources add that branches of the government and other public or governmental authorities, including the EMB, are responsible for meeting this obligation.³⁸⁰

Steps were taken to institutionalize efficient and effective public administration.

Regional treaties maintain that states should take steps to institutionalize good governance through accountable, efficient, and effective public administration³⁸¹ and should ensure transparency in the management of public affairs including elections.³⁸²

377 U.N., ICCPR, art. 2; AU, AfCHPR, art. 1; OAS, ACHR, art. 2

378 U.N., Human Rights and Elections, para. 75

379 U.N., ICCPR, art. 2; AU, AfCHPR, art. 1; OAS, ACHR, art. 2

380 U.N. (CCPR), General Comment 31, para. 4

381 AU, ACDEG, art. 32(1)

382 ECOWAS, Protocol, art. 34(2); CIS, Convention on Democratic Elections, art. 7(1–2)



Independence and Impartiality of the Electoral Management Body

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Prevention of Corruption*
- *State Must Take Necessary Steps to Give Effect to Rights*
- *Rule of Law*

There was an independent and impartial electoral management body.

Regional treaties are increasingly making explicit reference to the need for an independent and impartial electoral management body.³⁸³

Further, interpretive sources add that basing access to public service on equal opportunity, general principles of merit, and secure tenure ensures that people holding public service positions are free from political interference.³⁸⁴

State practice sources suggest that the impartiality of election management bodies should be ensured at all levels, from the national commission to the polling station.³⁸⁵

The electoral management body acted impartially in the administration of the election.

Regional treaties also state that an electoral management body should be impartial in the performance of their public function³⁸⁶ and that this encourages public confidence in the body.³⁸⁷

The electoral management body had sufficient resources to implement all phases of the election process.

Regional treaties state that sufficient funding and resources should be provided for the conduct of an electoral process that is free from interference from any other electoral stakeholders.³⁸⁸

383 CIS, Convention on Democratic Elections, art. 19(j); AU, ACDEG, art. 17(1); ECOWAS, Protocol, art. 3; U.N. (CCPR), General Comment 25, para. 20

384 U.N. (CCPR), General Comment 25, para. 24

385 CoE (Venice Commission), Code of Good Practice, sec. II.3.1.b

386 AU, ACDEG, art. 17 (1)

387 ECOWAS, Protocol, art. 3

388 AU, ACDEG, art. 15 (4)

Recruitment of Electoral Management Body Staff

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Prevention of Corruption*
- *State Must Take Necessary Steps to Give Effect to Rights*

The recruitment and appointment of electoral management body staff were transparent, efficient, and equitable and instilled public confidence in the body.

International and regional treaties are clear that states must take measures to prevent corruption.³⁸⁹ Particularly relevant to the election management process, states must ensure transparency, efficiency, and equity in the recruitment of officials.³⁹⁰ To ensure access to public employment in general terms of equality, the criteria and processes for appointment, promotion, suspension, and dismissal must be objective and reasonable.³⁹¹

Treaties add that affirmative measures may be taken, as appropriate, to ensure that there is equal access to public service for all citizens.³⁹²

Interpretive sources indicate that transparent recruitment can be a valuable means to ensure public confidence in the management body.³⁹³ Further, interpretive sources add that basing access to public service on equal opportunity, general principles of merit, and secure tenure ensures that people holding public service positions are free from political interference.³⁹⁴

State practice sources indicate that recruitment of EMB staff should be transparent, efficient, and equitable. This may require that there be consensus among the parties represented in parliament.³⁹⁵

The appointment to and membership of the electoral management body were regulated by law.

To deter corruption, interpretive sources suggest that bodies appointing members of electoral commissions should be unable to dismiss them at will.³⁹⁶

State practice sources suggest that laws regulating the membership of the electoral commission should be enshrined in the constitution or at another level above ordinary law.³⁹⁷

389 U.N., UNCAC, art. 18; AU, Convention on Corruption, art. 18

390 U.N., UNCAC, art. 7(1)(a); OAS, Convention Against Corruption, art. III(4); AU, Convention On Corruption, art. 7(4)

391 U.N. (CCPR), General Comment 32, para. 19

392 U.N., ICCPR, art. 25(c); AU, AfCHPR, art. 13(2); OAS, ACHR, art. 23(1)(c)

393 U.N. (CCPR), General Comment 31, para. 7

394 U.N. (CCPR), General Comment 25, para. 24

395 U.N., Report of the Special Rapporteur to Cambodia, 2012

396 U.N. (CCPR), General Comment 25, para. 24

397 CoE (Venice Commission), Code of Good Practice, sec. I, para. i.2.b



Training of Electoral Management Body Staff

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*

Electoral management body personnel received training on the electoral process and international obligations

Political commitment sources indicate that training for EMB members should include training on human rights, including obligations related to elections.³⁹⁸

Access to Information and Electoral Management Body Documents

Key Obligations:

- *Transparency and Access to Information*

The electoral management body provided citizens with access to information throughout the electoral process.

The right of transparency and access to information is born from the guarantee that the right to free expression includes the ability for everyone to seek and receive information and ideas.³⁹⁹ Freedom of expression and access to information may be subject to certain limited restrictions.

The state proactively put government information of public interest, including electoral information, in the public domain.

International treaties state that states should proactively put in the public domain government information of public interest.⁴⁰⁰ This would include information regarding the electoral process.

! Refer to the Framework section of this handbook for more information about permissible restrictions on the right to access information.

Transparency in Electoral Management Body Decision Making and Procurement

Key Obligations:

- *Transparency and Access to Information*
- *Prevention of Corruption*

The electoral management body ensured transparency in its decision making; for example, through open meetings and the use of public and competitive tenders.

398 U.N., Declaration on Rights and Responsibilities, art. 15

399 U.N., ICCPR, art. 19(2); AU, Convention on Corruption, art. 9; OAS, ACHR, art. 13(1); CoE, ECHR, art. 10(1)

400 U.N., UNCAC, art. 10(a)

Treaty obligations establish the general requirement to prevent corruption and indicate that states should promote transparency in public decision making and procurement and should encourage public participation as a means of combating corruption.⁴⁰¹

Regional treaties suggest that the election management process, including meetings of election bodies, be transparent.⁴⁰²

State practice sources indicate that it is also desirable that EMBs take decisions by a qualified majority or by consensus.⁴⁰³

Anticorruption Policies Within the Electoral Management Body

Key Obligations:

● *Prevention of Corruption*

The electoral management body, as an organ of the state, implemented effective policies to discourage acts of corruption.

International treaties encourage states to implement or maintain effective policies that encourage public participation in order to discourage corruption.⁴⁰⁴

Treaty sources define corruption as including:

- The solicitation or acceptance of something of value in exchange for an advantage⁴⁰⁵
- The offering or granting of something of value in exchange for an act or omission in the performance of a public function⁴⁰⁶
- Fraudulent use or concealment of property derived from corrupt activities⁴⁰⁷
- Participation or conspiracy to commit corrupt activities⁴⁰⁸
- Any act or omission of official functions by a public official to gain illicit benefits⁴⁰⁹
- The use of state property for purposes other than those for which they were intended for the benefit of the public official or a third party⁴¹⁰
- Improper influence⁴¹¹

401 U.N., UNCAC, art. 13(1)(a); AU, Convention on Corruption, art. 12(2)

402 CIS, Convention on Democratic Elections, arts. 7 and 13

403 CoE (Venice Commission), Code of Good Practice, sec. II.3.1.80

404 U.N., UNCAC, art. 13(1)(a)

405 AU, Convention on Corruption, art. 4

406 U.N., UNCAC, art. 19; AU, Convention on Corruption, art. 4(1)(a); OAS, Inter-American Convention Against Corruption, art. VI(1)(b)

407 AU, Convention on Corruption, art. 4; OAS, Inter-American Convention Against Corruption, art. VI(1)(d)

408 AU, Convention on Corruption, art. 4; OAS, Inter-American Convention Against Corruption, art. VI(1)(e)

409 AU, Convention on Corruption, art. 4; OAS, Inter-American Convention Against Corruption, art. VI(1)(c)

410 AU, Convention on Corruption, art. 4(1)(d)

411 U.N., UNCAC, art. 18; AU, Convention on Corruption, art. 4(1)(f)



State practice sources indicate that electoral and other legislation should include procedures and penalties aimed at preventing corruption.⁴¹²

Freedom From Discrimination and the Electoral Management Body

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Equality Between Men and Women*

The electoral management body treated all citizens equally.

International and regional treaties state that discrimination on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, physical or mental ability, sexual orientation or gender identity, birth, or other status⁴¹³ is prohibited. In addition, international treaties are clear that all are equal before the law and should enjoy equal protection under the law.⁴¹⁴

Interpretive sources add that the state is obligated to perform both its “negative duty” to refrain from discrimination and its “positive duty” to prevent discrimination.⁴¹⁵

Special Measures

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Equality Between Men and Women*
- *State Must Take Necessary Steps to Give Effect to Rights*

The state took steps to ensure de facto equality between men and women.

International treaties make clear that women should enjoy equal rights to men⁴¹⁶ and that in some cases, states should take temporary special measures to achieve de facto equality for women.⁴¹⁷

Interpretive sources indicate that temporary special measures to achieve de facto equality for women can include financially assisting and training women candidates, amending electoral procedures, developing campaigns directed at equal participation, and targeting women for appointment to public positions or the use of quotas to ensure female participation in public affairs.⁴¹⁸ Interpretive sources

412 U.N., Human Rights and Elections, para. 118

413 U.N., ICCPR, art. 2; U.N., CRPD, art. 2; AU, AfCHPR, art. 2; OAS, ACHR, art. 1; LAS, Arab Charter, art. 3; EU Charter on Fundamental Rights, art. 21(1); U.N. (CESCR), General Comment 20, para. 32

414 U.N., ICCPR, art. 26

415 U.N. (CCPR), General Comment 28, para. 21

416 U.N., ICCPR, art. 3; AU, AfCHPR, art. 2(1)(a); OAS, ACHR, art. 28; EU, Charter on Fundamental Rights, art. 23

417 U.N., CEDAW, art. 3

418 U.N. (CEDAW), General Recommendation 23, para.15

also indicate that measures taken to ensure equitable representation of women should not be considered discriminatory.⁴¹⁹

Special measures were taken, as necessary, to promote equality for minorities.

International treaties state that temporary special measures for advancing ethnic minorities or groups that have suffered past discrimination may also be taken when the circumstances warrant. Such measures should not be considered discriminatory,⁴²⁰ should not be maintained after the objectives for which they were taken are met, and should not result in the maintenance of unequal rights for different groups.⁴²¹

Special measures were taken to ensure de facto equality for people with disabilities.

Treaty sources obligate states to ensure and promote human rights and fundamental freedoms without any discrimination on the basis of disability.⁴²² Specific measures aimed at ensuring de facto equality for people with disabilities should not be considered discriminatory.⁴²³ Other treaty sources also call on states to recognize that women and girls with disabilities are subject to multiple discrimination.⁴²⁴

Interpretive sources further indicate the legal framework should provide people with disabilities with the opportunity to vote and be elected.⁴²⁵

State practice sources suggest that electoral management bodies should ensure that minorities and people with disabilities participate in the electoral process.⁴²⁶

The electoral management body included women.

Other sources, as evidence of state practice, suggest that EMBs should ensure that women participate in the electoral process.⁴²⁷ They also state that the EMB should include women among its staff,⁴²⁸ presumably in numbers consistent with principles of equality (i.e., at least 50 percent).

419 U.N. (CCPR), General Comment 28, para. 29

420 U.N., ICERD, art. 1

421 U.N., ICERD, art. 1

422 U.N., CRPD, art. 4

423 U.N., CRPD, art. 5(4)

424 U.N., CRPD, art. 6 (1)

425 U.N. (CRPD), Concluding Observations, Hungary (2012), para. 26

426 International IDEA, Code, para. 6

427 International IDEA, Code, para. 6

428 EISA and ECF for SADC Countries, PEMMO, p. 12



Safety, Security, and the Electoral Management Body

Key Obligations:

● *Right to Security of the Person*

The right to security of the person for all citizens (including EMB personnel) was protected throughout the election period.

International treaties state that everyone has the right to security of the person, free from arbitrary arrest or detention.⁴²⁹ It requires that individuals be free from physical and emotional violence at all times. EMB personnel should both be free from intimidation or threats to their safety and should promote the safety of others involved in the electoral process.

Freedom of Movement for Electoral Management Body Personnel

Key Obligations:

● *Freedom of Movement*

Electoral management body staff and officials were able to move freely throughout the country to administer the election and at the same time did not prevent or hinder the free movement of citizens during the election process.

International and regional treaties state that everyone has the right to freedom of movement within the borders of each state.⁴³⁰ Freedom of movement is a fundamental right that ensures that everyone—including candidates, voters, citizen observers, EMB personnel (including poll workers), and others—are able to move throughout the territory.

! Refer to the Framework section of this handbook for information on restrictions on freedom of movement.

Right to an Effective Remedy for Electoral Management Body Actions

Key Obligations:

● *Right to an Effective Remedy*

An effective (timely and enforceable) remedy was available for all violations of their fundamental rights.

International treaties are clear that everyone has the right to an effective (timely and enforceable)⁴³¹ remedy before a competent tribunal for acts that violate their rights or freedoms.⁴³²

! Refer to the Electoral Dispute Resolution section of this handbook for more information.

⁴²⁹ U.N., ICCPR, art. 9; AU, AfCHPR, art. 6; OAS, ACHR, art. 7(1); CoE, ECHR, art. 5(1); CIS, Convention on Human Rights, art. 5(1)

⁴³⁰ U.N., ICCPR, art. 12(1); AU, AfCHPR, art. 12(1); OAS, ACHR, art. 22(1); LAS, Arab Charter, art. 26(1); EU, Charter on Fundamental Rights,

art. 45(1); CIS, Convention on Human Rights, art. 22(1)

⁴³¹ U.N., ICCPR, art. 2; AU, AfCHPR, art. 7

⁴³² U.N., ICCPR, art. 2(3); AU, ACDEG, art. 17(2); OAS, ACHR, art. 25(1); CoE, ECHR, art. 13

Regional treaties state that individuals should have the right to remedy for violations of their participatory rights relating to the election process⁴³³ and that remedies should be available for complaints arising throughout the electoral process.⁴³⁴ The right to remedy throughout the electoral process inherently includes actions taken by the EMB.

Hearings by Impartial and Independent Tribunals

Key Obligations:

● *Right to a Fair and Public Hearing*

Citizens were granted a fair and public hearing by a competent, impartial, and independent tribunal in the determination of their rights.

International treaties state that everyone is entitled to a fair and public hearing by a competent, impartial, and independent tribunal in determination of their rights.⁴³⁵ The right to a public hearing must be protected except for specific and objective reasons as determined by law.⁴³⁶ The independence and impartiality of tribunals are absolute rights.⁴³⁷

Interpretive sources suggest that the notion of a fair trial includes the guarantee of a fair and public hearing, absent of influence.⁴³⁸ Impartiality requires that judges act without bias and that the tribunal appears unbiased to the reasonable observer.⁴³⁹

Interpretive sources state if the functions and competencies of the judiciary and the executive are not clearly distinguishable or if the executive is able to control or direct the judiciary, that situation is not compatible with the notion of an independent tribunal.⁴⁴⁰ In some cases, EMBs cannot be considered independent tribunals according to the ICCPR because they bear executive functions. In such cases, a hearing by a body that meets the criteria of a tribunal should be available.⁴⁴¹

In addition, interpretive sources also indicate that while a fair and public hearing is one essential means of promoting an effective remedy for violations of other fundamental rights, a remedy must also be available for violations of the right to a fair and public hearing itself.⁴⁴²

433 AU, ACDEG, art. 17(2)

434 ECOWAS, Protocol, art. 7

435 U.N., ICCPR, art. 14(1); OAS, ACHR, art. 8(1); CIS, Convention on Human Rights, art. 6(1)

436 U.N., ICCPR, art. 14

437 U.N., ICCPR, art. 14

438 U.N. (CCPR), General Comment 32, para. 25

439 U.N. (CCPR), General Comment 32, para. 21

440 U.N. (CCPR), General Comment 32, para. 19

441 U.N. (CCPR), Leonid Sinitsin v. Belarus, Communication no. 1047/2002 (2006), para. 7.3

442 U.N. (CCPR), General Comment 32, para. 58



The tribunal was protected from political influence.

Interpretive sources indicate that independence of the tribunal requires clear procedures regarding the appointment, term limits, security, and remuneration of tribunal members.⁴⁴³

The proceedings of any complaints were transparent, and all parties to the complaint were given an equal opportunity to present evidence.

Other sources indicate that proceedings on complaints and appeals should be transparent⁴⁴⁴ and that the opportunity should exist to present evidence in support of a complaint.⁴⁴⁵

“Forum shopping” was discouraged.

State practice sources indicate that appeal channels, when available, should be narrowly constructed so that neither the appellants nor the authorities can choose the appeal body.⁴⁴⁶

⁴⁴³ U.N. (CCPR), General Comment 32, para. 19

⁴⁴⁴ OSCE (ODIHR), Existing Commitments, p. 75

⁴⁴⁵ OSCE (ODIHR), Existing Commitments, p. 75

⁴⁴⁶ CoE (Venice Commission), Code of Good Practice, sec II.3.3.b



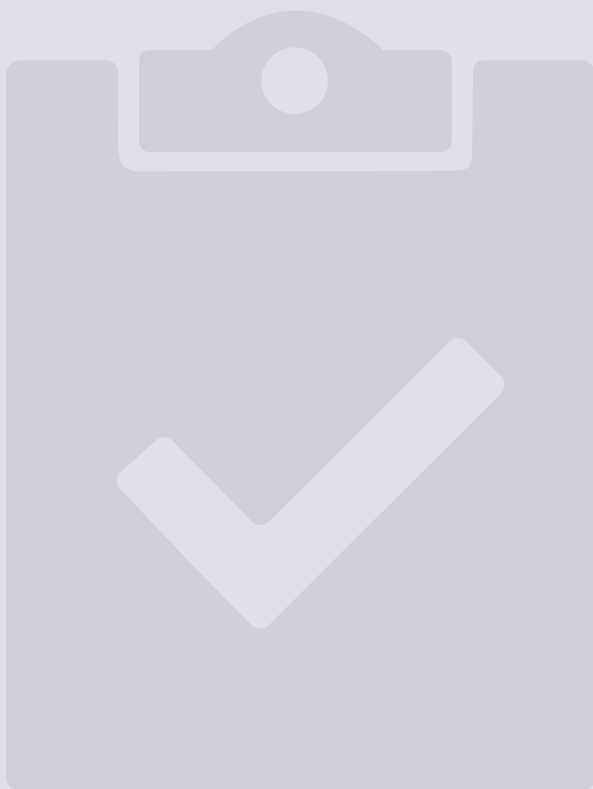
Section 4

Voter Registration

Relevant Obligations

- | | |
|--|--|
| ● Genuine Elections That Reflect the Free Expression of the Will of the People | ● Equality Between Men and Women |
| ● Right and Opportunity to Vote | ● Right to an Effective Remedy |
| ● Right and Opportunity to Participate in Public Affairs | ● Universal Suffrage |
| ● Freedom of Association | ● Equal Suffrage |
| ● Freedom of Movement | ● Periodic Elections |
| ● Transparency and Access to Information | ● Prevention of Corruption |
| ● Right to Security of the Person | ● State Must Take Necessary Steps to Give Effect to Rights |
| ● Freedom From Discrimination and Equality Before the Law | ● Rule of Law |
-

- Macro-Level Obligation
- Individual Rights and Freedoms
- Process-Focused Obligations
- Foundational Obligations




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Effective voter registration, offered to the broadest pool of citizens possible, is an important means of ensuring that the right to vote is protected. Voter registration is one means of promoting inclusive voting processes, while at the same time safeguarding against voting by ineligible people. Voter registration can be conducted by a variety of means, and these processes vary from country to country. Regardless of the method used, voter registration should ensure inclusivity and should protect electoral rights and fulfill international obligations.

Because of its central role in determining voter eligibility, an assessment of voter registration is essential to a comprehensive evaluation of the electoral process. For many international election observation missions, voter registration will take place before the arrival of the mission and so a post hoc analysis of available data is necessary. In some cases, however, international missions are able to observe voter registration as it unfolds. In such cases, long-term observers can provide valuable firsthand information about the process. For citizen observers, the timelines of voter registration pose less of a barrier, and organizations with sufficient resources and access to information can conduct very useful audits of voter registration data to verify its accuracy.

 Refer to the ACE Electoral Knowledge Network for more information on voter registration processes.

The following section of the manual provides guidance on a number of electoral issues including:

- The legal framework for voter registration
- Inclusive lists
- Creating and maintaining accurate lists
- Transparency, access to information, and observation of voter registration
- The right to an effective remedy

A nonexhaustive list of illustrative questions for data collection on the assessment criteria is included in Appendix C.



The Legal Framework and Voter Registration

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*
- *Rule of Law*

The principles of rule of law were promoted.

Treaty sources provide that states should take measures to promote the principles of the rule of law.⁴⁴⁷ The rule of law is widely recognized as an essential condition for the fulfillment of human rights and representative democracy.⁴⁴⁸

! Refer to the Legal Framework section of this handbook for more information.

The laws regulating elections were equally enforced and were not arbitrarily applied.

International treaties state that the rule of law requires that all are equal before the law⁴⁴⁹ and laws are equally enforced.⁴⁵⁰ Respect for the rule of law ensures a political and legal environment conducive to the conduct of a genuine electoral process and the fulfillment of electoral rights.

Interpretive sources further state that rule of law requires that laws and procedures are not arbitrarily applied.⁴⁵¹

The legal framework for elections was consistent with international human rights.

International treaties require, as a means to adhere to rule of law, that the legal framework be consistent with international human rights obligations.⁴⁵²

Voter registration procedures were clearly stipulated by law.

State practice sources suggest that voter registration procedures should be clearly stipulated in the law.⁴⁵³

Voter Registration and the Fulfillment of Human Rights

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*

The state took the steps necessary to give effect to rights during the voter registration process, including the creation of an effective procedure for voter registration.

447 U.N., UNCAC, art. 5(1); AU, ACDEG, art. 32(8); CoE, ECHR, Preamble; CIS, Convention on Human Rights, Preamble

448 U.N., Millennium Declaration; UNGA, Resolutions on the Rule of Law; OAS, IADC, arts. 3 and 4; and OSCE, Copenhagen Document, para. 3

449 U.N., ICCPR, art. 26; AU, AfCHPR, art. 19; OAS, ACHR, art. 24; EU, Charter on Fundamental

Rights, art. 20; CIS, Convention on Human Rights, art. 20(1)

450 U.N., ICCPR, art. 26

451 U.N. (CCPR), General Comment 25, para. 4

452 U.N., ICCPR, art. 2(2); AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CoE, ECHR, art. 1; CIS, Convention on Human Rights, art. 1

453 EU, Handbook (Ed. 2), p. 43

States are obligated by international treaties to take the steps necessary to give effect to human rights.⁴⁵⁴

Interpretive sources amplify this obligation, stating that all branches of the government and other public or governmental authorities are responsible for meeting this obligation.⁴⁵⁵ States should ensure the voter registration process is conducted in a manner that respects a variety of rights. Interpretive sources indicate information and materials about voting should be available in minority languages of the country.⁴⁵⁶

There was adequate time for the voter registration process, including exhibition of preliminary lists and opportunities for challenges and corrections.

State practice sources recommend that when scheduling elections, adequate time be allowed to successfully implement other necessary parts of the election, including voter registration.⁴⁵⁷ Potential voters may be offered continuous and accessible voter registration facilities and should be ensured sufficient time to register so that as many people as possible can register.⁴⁵⁸

Citizenship

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Equality Between Men and Women*
- *Rule of Law*

The rules regarding citizenship were clear and nondiscriminatory.

While everyone has the right to a nationality,⁴⁵⁹ the details of citizenship are generally not addressed in great detail in international law: They have traditionally been considered within the state's remit to regulate. The link between citizenship and the enjoyment of participatory rights is made explicit in international treaties.⁴⁶⁰ Although states may regulate the law concerning nationality, citizenship, or naturalization, they may not discriminate against any particular nationality in doing so.⁴⁶¹

Interpretive sources note that distinctions between those who attain citizenship by birth or by naturalization may be discriminatory.⁴⁶²

454 U.N., ICCPR, art. 2(2); AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CoE, ECHR, art. 1; CIS, Convention on Human Rights, art. 1

455 U.N. (CCPR), General Comment 31, para. 4

456 U.N. (CCPR), General Comment 25, para. 12

457 U.N., Human Rights and Elections, para. 75

458 EISA and ECF of SADC Countries, PEMMO, p. 15 and 16

459 U.N., UDHR, art. 15

460 U.N., ICCPR, art. 25

461 U.N., ICERD, art. 1(3)

462 U.N. (CCPR), General Comment 25, para. 3



Other sources support the requirement that the process for attaining citizenship should be clearly defined and nondiscriminatory.⁴⁶³

Citizenship rules did not discriminate directly or indirectly against women.

International treaties make it clear that citizenship rules should not discriminate against women; for example, when attaining or conferring citizenship for spouses or children.⁴⁶⁴

Voter Eligibility and Barriers to Registration

Key Obligations:

● *Universal Suffrage*

Voter registration promoted universal suffrage.

International treaties state that elections must be held by universal suffrage.⁴⁶⁵

However, universal suffrage may be subject to objective and reasonable restrictions. These restrictions are particularly important in the context of voter registration.

Limitations on universal suffrage imposed during the voter registration process were reasonable and objective.

Interpretive sources indicate that any limits placed on universal suffrage in the context of voter registration must be based on objective and reasonable criteria.⁴⁶⁶ These include residency,⁴⁶⁷ citizenship,⁴⁶⁸ criminal conviction,⁴⁶⁹ and reaching a minimum age.⁴⁷⁰

Voter registration promoted broad participation, and there were no barriers to participation by otherwise qualified eligible voters.

Interpretive sources state that although voter registration is not a requisite component of a successful electoral process,⁴⁷¹ in cases where voter registration is conducted in order to determine eligibility, universal suffrage requires that broad participation be promoted.⁴⁷² Further, participation of eligible voters in the registration process should not be inhibited,⁴⁷³ and unnecessary technical barriers to participation by otherwise qualified eligible voters should be removed.⁴⁷⁴

! Refer to the Framework section of this handbook for more information regarding reasonable and unreasonable restrictions on universal suffrage.

463 U.N., Recommendations of the second session of the Forum on Minority Issues on minorities and effective political participation, para. 26

464 U.N., CEDAW, art. 9(1)

465 U.N., ICCPR, art. 25(b); AU, ACDEG, art. 4(2); OAS, ACHR, art. 23(1)(b); CIS, Convention on Human Rights, art. 29(b)

466 U.N. (CCPR), General Comment 25, para. 4

467 OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 11

468 U.N., ICCPR, art. 25(b)

469 OAS, ACHR, art. 23

470 OAS, ACHR, art. 23

471 U.N. (CCPR), General Comment 25, para. 11

472 U.N. (CCPR), General Comment 25, para. 11

473 U.N. (CCPR), General Comment 25, para. 11

474 U.N. (CCPR), General Comment 25, para. 11

Freedom From Discrimination in the Voter Registration Process

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*

Eligibility requirements for voter registration were reasonable and objective and did not discriminate on the basis of prohibited grounds.

International treaties prohibit discrimination on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, physical or mental ability, sexual orientation or gender identity, birth, or other status at any time.⁴⁷⁵

In addition, international treaties state that all are equal before the law and should enjoy the equal protection of the law.⁴⁷⁶ Voter registration processes should be free from discriminatory restrictions of rights. This may require the use of assistive technologies to facilitate participation by people with disabilities⁴⁷⁷

Voter registration facilities were accessible to all.

Everyone has the right of equal access to any place or service intended for use by the public.⁴⁷⁸ This includes facilities used for voter registration.

Special Measures

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Equality Between Men and Women*
- *State Must Take Necessary Steps to Give Effect to Rights*

The state took steps to ensure de facto equality between men and women.

Treaty sources make clear that women should enjoy equal rights to men⁴⁷⁹ and that in some cases, states should take temporary special measures to achieve de facto equality for women.⁴⁸⁰

Interpretive sources indicate that temporary special measures to achieve de facto equality for women can include financially assisting and training women candidates, amending electoral procedures, developing campaigns directed at equal participation, and targeting women for appointment to public positions or the use of quotas to

475 U.N., ICCPR, art. 25; U.N., CRPD, art. 2; AU, AfCHPR, art. 2; OAS, ACHR, art. 1; LAS, Arab Charter, art. 3; EU, Charter on Fundamental Rights, art. 21(1); CIS, Convention on Human Rights, art. 20(2)

476 U.N., ICCPR, art. 26; AU, AfCHPR, art. 19; OAS, ACHR, art. 24; EU, Charter on Fundamental

Rights, art. 20; CIS, Convention on Human Rights, art. 20(1)

477 U.N., CRPD, art. 29

478 U.N., ICERD, art. 5; U.N., CRPD, art. 9

479 U.N., ICCPR, art. 3; AU, AfCHPR, art. 2(1)(a); CoE, ECHR, art. 23

480 U.N., CEDAW, art. 3



ensure female participation in public affairs.⁴⁸¹ Interpretive sources also indicate that measures taken to ensure equitable representation of women should not be considered discriminatory.⁴⁸²

State practice sources suggest that the voter registration system should be carefully tailored to ensure that cultural factors affecting women (e.g., name changes with marriage) do not result in disenfranchisement.⁴⁸³

Special measures were taken, as necessary, to promote equality for minorities.

International treaties state that temporary special measures for advancing ethnic minorities or groups that have suffered past discrimination may also be taken when the circumstances warrant. Such measures should not be considered discriminatory,⁴⁸⁴ should not be maintained after the objectives for which they were taken are met, and should not result in the maintenance of unequal rights for different groups.⁴⁸⁵

Special measures were taken to ensure de facto equality for people with disabilities.

Treaties obligate states to ensure and promote human rights and fundamental freedoms without any discrimination on the basis of disability.⁴⁸⁶ Specific measures aimed at ensuring de facto equality for people with disabilities should not be considered discriminatory.⁴⁸⁷

Other treaty sources also call on states to recognize that women and girls with disabilities are subject to multiple discrimination.⁴⁸⁸

Interpretive sources further indicate the legal framework should provide people with disabilities with the opportunity to vote and be elected.⁴⁸⁹

Voter Registration in Minority Languages

Key Obligations:

- *Transparency and Access to Information*
- *Freedom From Discrimination and Equality Before the Law*
- *State Must Take Necessary Steps to Give Effect to Rights*

481 U.N. (CEDAW), General Recommendation 23, para.15

482 U.N. (CCPR), General Comment 28, para. 29

483 OSCE (ODIHR), Women's Participation, p. 25

484 U.N., ICERD, art. 1

485 U.N., ICERD, art. 1

486 U.N., CRPD, art. 4

487 U.N., CRPD, art. 5

488 U.N., CRPD, art. 6 (1)

489 U.N. (CRPD), Concluding Observations, Hungary (2012), para. 26

Linguistic minorities were able to use their own language.

International treaties state that where linguistic minorities exist, those that belong to such minorities should not be denied the right to use their own language.⁴⁹⁰

Interpretive sources indicate that information and materials about voting should be available in minority languages of the country.⁴⁹¹

State practice sources suggest that in order to ensure that all citizens can access information regarding the voter registration process, registration forms and guidelines should be available in minority languages of the country.⁴⁹²

Accuracy of the List

Key Obligations:

- *Universal Suffrage*
- *Equal Suffrage*
- *Periodic Elections*
- *State Must Take Necessary Steps to Give Effect to Rights*

The voter list was accurate and up-to-date.

International treaties state that elections must be held by equal suffrage.⁴⁹³ Equal suffrage should be protected throughout the voter registration process.

Political commitments indicate that a voter list should be accurate and current in order to ensure the right to vote is extended to all eligible citizens.⁴⁹⁴

State practice sources suggest that fulfillment of universal and equal suffrage requires regular updating or re-establishment of the voter list.⁴⁹⁵

Voter registration processes prevented multiple registrations.

State practice sources suggest that equal suffrage and the “one person, one vote” rule require that multiple voting and registration be prohibited and that safeguards be put in place to diminish the potential for multiple voting and fraud.⁴⁹⁶

The state took steps to facilitate registration.

State practice sources indicate that the fulfillment of universal suffrage is partially dependent on the success of the voter registration

490 U.N., ICCPR, art. 27

491 U.N. (CCPR), General Comment 25, para. 12

492 OSCE (ODIHR), National Minorities, sec. 5.1.2, Lund Recommendation 7

493 U.N., ICCPR, art. 25(b); OAS, ACHR, art. 23(1)(b); CIS, Convention on Human Rights, art. 29(b)

494 UNGA, Guidelines Concerning Personal Data Files, art. 2

495 CoE (Venice Commission), Code of Good Practice, sec. i.1.2.ii

496 OSCE (ODIHR), Handbook (Ed. 6), p. 59



process⁴⁹⁷ and suggest that a voter list may be reliably established through a variety of acceptable methods, including periodic list, continuous list, or civil registry,⁴⁹⁸ in order to ensure that the data remains current. To ensure broad participation, state practice sources also suggest that states should facilitate absentee registration.⁴⁹⁹

Transparency in Creating and Maintaining the Voter List

Key Obligations:

- *Transparency and Access to Information*

There was transparency in the creation and maintenance of the voter list.

Regional treaties support the need for states to ensure complete transparency in the conduct of voter registration and maintenance of the voter list.⁵⁰⁰

State practice sources suggest that registration procedures should be clearly stated and readily accessible for review by potential voters.⁵⁰¹

Correction of Voter Registration Data

Key Obligations:

- *Right to an Effective Remedy*
- *State Must Take Necessary Steps to Give Effect to Rights*

Citizens that offered proof of identity had the right to rectify information about them that was inaccurate.

Interpretive sources state that in regard to the protection and use of personal data, everyone who offers proof of identity has the right to rectify information about them in the case of unlawful or inaccurate entries.⁵⁰²

Voter registration procedures allowed for claims (of unjustified exclusion) and objections (for incorrect inclusion).

State practice sources recommend that an effective remedy be available for complaints regarding the voter registration process, that mistakes should be corrected, and that additions or deletions made to ensure that both disenfranchisement and voting by ineligible people are prevented.⁵⁰³

497 CoE (Venice Commission), Code of Good Practice, sec. I.1.2.7

498 EISA and ECF of SADC Countries, PEMMO, p. 15

499 CoE (Venice Commission), Code of Good Practice, sec. I.1.1.c

500 ECOWAS, Protocol, art. 6

501 OSCE (ODIHR), Resolving Electoral Disputes, para. II.E.25

502 U.N. (CCPR), General Comment 34, para. 18

503 EU, Handbook (Ed. 2), p. 44

! Refer to the Framework section of this handbook for more information regarding restrictions on the right of access to information.

Voter Access to Registration Information

Key Obligations:

- *Transparency and Access to Information*
- *Freedom From Discrimination and Equality Before the Law*

The state proactively put information regarding voter registration in the public domain.

International treaties protect the right of access to information. This right is born from the right to free expression, which includes the ability for everyone to seek and receive information and ideas.⁵⁰⁴ Access to information is subject to reasonable and objective restrictions. In the context of voter registration, the right of access to information must be balanced with the right to keep private sensitive personal information.

International treaties suggest that states should proactively put in the public domain, government information of public interest.⁵⁰⁵ This would include information regarding the electoral process and voter registration.

Citizens had access to information regarding their inclusion on the voter list, and this information was provided to them in an intelligible format.

Regional treaties state that every citizen should receive information on his/her inclusion on the voter list.⁵⁰⁶

Interpretive sources extend the understanding of this obligation by ensuring that anyone who offers proof of identity has the right to know whether information concerning them is being processed and the right to obtain it in an intelligible form.⁵⁰⁷

Voters had the ability to correct errors in the voter list.

Interpretive sources underscore the importance of voters having access to a procedure that makes it possible to have errors on the voter list corrected.⁵⁰⁸

The voter list was publicly displayed, and there was adequate time for public inspection of the list, including time for objections and the adjudication of disputes.

State practice sources suggest that the voter list should be publicly displayed⁵⁰⁹ and that there be sufficient time for public inspection of

504 U.N., UNCAC, art. 10

505 U.N., UNCAC, art. 10

506 CIS, Convention on Democratic Elections, art. 2(d)

507 U.N. (CCPR), General Comment 34, para. 18

508 U.N. (CCPR), General Comment 34, para. 18

509 CoE (Venice Commission), Code of Good Practice, sec. I.1.2.iii



the voter list, including time for objections to be raised and for the adjudication of appeals.⁵¹⁰

Privacy and Voter Registration

Key Obligations:

● Transparency and Access to Information

Personal data collected was not used for other purposes.

Regional treaties indicate that personal data included in the voter list may only be used for the purposes for which it was collected.⁵¹¹ Such a balance between the right to privacy⁵¹² and access to information is critical for the fulfillment of all rights.

The voter list did not include information beyond that necessary to identify a voter and establish his/her eligibility.

Political commitment sources suggest that in order to ensure that voter list information cannot be misused, a voter list should not include information beyond that required to identify voters and establish their eligibility.⁵¹³

Freedom of Movement for the Purposes of Voter Registration

Key Obligations:

● Freedom of Movement

Freedom of movement was respected throughout the voter registration process.

International treaties establish that everyone has the right to freedom of movement within the borders of each state.⁵¹⁴ Freedom of movement is a fundamental right that ensures that everyone, including candidates, voters, citizen observers, and poll workers, are able to move throughout the territory during the voter registration process. The right of freedom of movement may only be restricted when provided by law, necessary in a democratic society.⁵¹⁵

Citizens were able to return to the country (as necessary) to register to vote.

Freedom of movement, as established in international treaties, requires that everyone has the right to leave and return to his/her own country.⁵¹⁶

! Refer to the Framework section of this handbook for more information about permissible restrictions on freedom of movement.

⁵¹⁰ Commonwealth Secretariat, Good Practice, para. 17

⁵¹¹ CoE, Convention for the Protection of Individuals With Regard to Automatic Processing of Personal Data, art. 5

⁵¹² U.N., ICCPR, art. 17

⁵¹³ UNGA, Guidelines Concerning Computerized Data Files, art. 3

⁵¹⁴ U.N., ICCPR, art. 12(1); AU, AfCHPR, art. 12(1); OAS, ACHR, art. 22(1); LAS, Arab Charter, art. 26(1); EU, Charter of Fundamental Rights, art. 45(1); CIS, Convention on Human Rights, art. 22(1)

⁵¹⁵ U.N., ICCPR, art. 12

⁵¹⁶ U.N., ICCPR, art. 12(2); AU, AfCHPR, art. 12(2); CIS, Convention on Human Rights, art. 22(2)

Citizens displaced against their will had the opportunity to be considered resident in their former place of residence.

Political commitment sources indicate that people displaced against their will should have the opportunity to be considered resident in their former place of residence.⁵¹⁷

Transparency in Decision Making and Procurement in the Voter Registration Process

Key Obligations:

- *Prevention of Corruption*

The electoral management body promoted transparency in its decision making and procurement processes, including with regard to voter registration processes.

International treaties require that states take measures to prevent corruption that may arise in various forms.⁵¹⁸ As a means of combating corruption, states should promote transparency in public decision making and procurement as well as public participation.⁵¹⁹ This includes procurement related to the voter registration process.

Voter Education on Voter Registration

Key Obligations:

- *Right and Opportunity to Vote*
- *Universal Suffrage*

Voter education campaigns included information regarding voter registration processes.

Interpretive sources are clear that voter education campaigns are necessary to ensure an informed community is able to effectively exercise its right to vote.⁵²⁰ Voter education should include information on the voter registration process and eligibility requirements.

! Refer to the Voter Education section of this handbook for more information.

517 UNGA, Guiding Principles on Internal Displacement, Principle 22

518 U.N., UNCAC, art. 18; AU, Convention on Corruption, art. 7

519 U.N., UNCAC, art. 13

520 U.N. (CCPR), General Comment 25, para. 11



Partisan and Nonpartisan Observation of the Voter Registration Process

Key Obligations:

- *Right and Opportunity to Participate in Public Affairs*

Citizen observers were able to access and comment on all parts of the electoral process, including voter registration.

Regional treaties recognize that the participation of citizen observers may enhance all aspects of the electoral process, including voter registration.⁵²¹

International treaties state that everyone has the right of equal access to any place or service intended for use by the public.⁵²² This includes candidate representatives requiring access to the facilities used for voter registration.

Candidates and parties were able to monitor the elections and had access to the voter list without undue cost.

State practice sources suggest that candidates and their agents should be guaranteed access to monitor all aspects of the electoral process, including voter registration.⁵²³ They also recommend that parties have access to the voter roll without undue cost.⁵²⁴

International treaties state that everyone has the right of equal access to any place or service intended for use by the public.⁵²⁵ This includes candidate representatives requiring access to the facilities used for voter registration.

Voter Registration Activities by Civil Society

Key Obligations:

- *Freedom of Association*

Civil society organizations were permitted to conduct voter registration free from unreasonable restrictions.

International treaties protect freedom of association.⁵²⁶ Freedom of association may only be restricted under certain circumstances as are prescribed by law and are necessary in a democratic society.⁵²⁷

! Refer to the Framework section of this handbook for more information on permissible restrictions on freedom of association

521 AU, ACDEG, arts. 19–22; CIS, Convention on Democratic Elections, art. 1(2); OSCE, Copenhagen Document, para. 8; OAS, IADC, arts. 23–25

522 OSCE (ODIHR), Legal Framework (Ed. 1), p. 13

523 U.N., ICERD, art. 5; U.N., CRPD, art. 9

524 U.N., ICCPR, art. 22(2); AU, AfCHPR, art. 10(1); OAS, ACHR, art. 16(1); LAS, Arab Charter, art. 24(5–7); EU, Charter on Fundamental Rights,

art. 12(1); CoE, ECHR, art. 11(1); CIS, Convention on Human Rights, art. 12(1)

525 U.N., ICCPR, art. 22

526 U.N., ICCPR, art. 22(2); AU, AfCHPR, art. 10(1); OAS, ACHR, art. 16(1); LAS, Arab Charter, art. 24(5–7); EU, Charter on Fundamental Rights, art. 12(1); CoE, ECHR, art. 11(1); CIS, Convention on Human Rights, art. 12(1)

527 U.N., ICCPR, art. 22

These freedom-of-association rights should extend to civil society organizations conducting voter registration activities.

Political commitments suggest that states should not unreasonably restrict the activities of nongovernmental organizations,⁵²⁸ including those activities related to voter registration.

Safety, Security, and Voter Registration

Key Obligations:

● *Right to Security of the Person*

The state prohibited interference with registration, intimidation, or coercion of potential voters.

International treaties state that everyone has the right to security of the person free from arbitrary arrest or detention.⁵²⁹ It requires that individuals be free from physical and emotional violence at all times, including during the voter registration process.

Interpretive sources indicate that for voter registration to be respected, states must ensure that interference with registration, intimidation, or coercion of potential voters are prohibited.⁵³⁰

State practice sources recommend that law enforcement behave in a neutral manner during the electoral process, including voter registration.⁵³¹

Right to an Effective Remedy and Voter Registration


Key Obligations:

● *Right to an Effective Remedy*

An effective remedy was available for all citizens for violations of their rights during the voter registration process.

International and regional treaties state that everyone has the right to an effective (timely and enforceable)⁵³² remedy for acts that violate their rights or freedoms.⁵³³ The right to effective remedy also applies during voter registration.

Regional treaties state that remedies should be available for complaints arising throughout the electoral process.⁵³⁴

 Refer to the Electoral Dispute Resolution section of this handbook for more information.

528 OSCE, Moscow Document, para. 43

529 U.N., ICCPR, art. 9; AU, AfCHPR, art. 6; OAS, ACHR, art. 7(1)

530 U.N. (CCPR), General Comment 25, para. 11

531 EU, Handbook (Ed. 2.), p. 52

532 U.N., ICCPR, art. 2; AU, AfCHPR, art. 7

533 U.N., ICCPR, art. 2; OAS, ACHR, art. 25; CoE, ECHR, art. 13

534 ECOWAS, Protocol, art. 7



There was a clear timeline for complaints regarding voter registration that ensured that complaints were resolved prior to election day and in time for the election.

State practice sources suggest that decisions on requests for a remedy during voter registration should be made within a time period set by law.⁵³⁵ To ensure the finalization of the voter list and to provide clarity on election day, the timeline for filing complaints arising from the voter registration period may be limited directly before the election⁵³⁶ and all complaints relating to the voter list should be resolved prior to election day.⁵³⁷

⁵³⁵ OSCE (ODIHR), Legal Framework, p. 14

⁵³⁶ OSCE (ODIHR), Resolving Electoral Disputes, para. II.E.2.6

⁵³⁷ EU, Handbook on EU Election Observation (Ed. 2), p. 44



Section 5

Voter Education

Relevant Obligations

- Genuine Elections That Reflect the Free Expression of the Will of the People
- Right and Opportunity to Vote
- Right and Opportunity to be Elected
- Right and Opportunity to Participate in Public Affairs
- Freedom of Association
- Freedom From Discrimination and Equality Before the Law
- Equality Between Men and Women
- Right to an Effective Remedy
- Universal Suffrage
- Equal Suffrage
- Secret Ballot
- Periodic Elections
- State Must Take Necessary Steps to Give Effect to Rights
- Rule of Law

-
- Macro-Level Obligation
 - Individual Rights and Freedoms
 - Process-Focused Obligations
 - Foundational Obligations




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Effective voter education efforts are crucial to ensuring that all potential voters have the necessary information not only to exercise their right to vote but also to understand and have confidence in the entire electoral process. International law is increasingly addressing the need for inclusive voter education campaigns that will ensure an informed electorate.

The content of voter education campaigns should not be limited to the logistics of registering and voting but should also increase citizen awareness of their democratic rights and fundamental freedoms as well as the associated international obligations. Voter education can be provided by a number of potential sources, including state actors such as the electoral management body, political parties, and civil society. Regardless of the organization providing voter education, efforts should ensure that all potential voters—including women, minorities, and people with disabilities—have access to this information.

Given its role in preparing citizens to exercise their electoral rights, an assessment of voter education processes is important. Not only will such an assessment provide insight into whether voter education has been adequately implemented, it may provide valuable information on the cause of problems seen during other parts of the electoral process, such as voter registration or election-day voting operations. Long-term observers can be a valuable resource for collecting data on voter education campaigns.

 Refer to the ACE Electoral Knowledge Network for more information on voter education processes.

The following section of the manual provides guidance on a number of electoral issues, including:

- The legal framework for voter education
- Human rights and voter education
- The content of voter education campaigns
- Provision of nondiscriminatory voter education
- Observation of voter education
- The right to an effective remedy

A nonexhaustive list of illustrative questions for data collection on the assessment criteria outlined in this handbook is included in Appendix C.



The Legal Framework and Voter Education

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*
- *Rule of Law*

The principles of rule of law were promoted.

Treaty sources provide that states should take measures to promote the principles of the rule of law.⁵³⁸ The rule of law is widely recognized as an essential condition for the fulfillment of human rights and representative democracy.⁵³⁹

The legal framework for elections was consistent with international human rights.

International treaties require, as a means to adhere to rule of law, that the legal framework be consistent with international human rights obligations.⁵⁴⁰

The laws regulating elections were equally enforced and were not arbitrarily applied.

International treaties have stated that the rule of law requires that all are equal before the law⁵⁴¹ and that laws are equally enforced.⁵⁴² Respect for the rule of law ensures a political and legal environment conducive to the conduct of a genuine electoral process and the fulfillment of electoral rights.

Interpretive sources have further stated that rule of law requires that laws and procedures are not arbitrarily applied.⁵⁴³ Suspension or exclusion of participatory rights is prohibited except on grounds established by law.⁵⁴⁴

! Please also refer to the Media section for more information on the media and voter education.

The Election Calendar and the Enjoyment of Rights

Key Obligations:

- *Periodic Elections*
- *State Must Take Necessary Steps to Give Effect to Rights*

The scheduling of elections granted sufficient time for a complete and comprehensive voter education program.

International and regional treaties obligate states to give effect to human rights,⁵⁴⁵ including when planning the electoral process.

⁵³⁸ U.N., UNCAC, art. 5; AU, ACDEG, art. 32(8); CoE, ECHR, Preamble; CIS, Convention on Human Rights, Preamble

⁵³⁹ UNGA, Millennium Declaration; UNGA, Resolutions on the Rule of Law; OAS, IADC, arts. 3 and 4; and OSCE, Copenhagen Document, para. 3

⁵⁴⁰ U.N., ICCPR, art. 2; AU, AfCHPR, art. 1; OAS, ACHR, art. 2

⁵⁴¹ U.N., ICCPR, art. 26; AU, AfCHPR, art. 19; OAS, ACHR, art. 24; CIS, Convention on Human Rights, art. 20 (1); EU, Charter on Fundamental Rights, art. 20

⁵⁴² U.N., ICCPR, art. 26

⁵⁴³ U.N. (CCPR), General Comment 25, para. 4

⁵⁴⁴ U.N. (CCPR), General Comment 25, para. 4

⁵⁴⁵ U.N., ICCPR, art. 2

State practice sources suggest that when scheduling elections, adequate time should be allowed to successfully implement the election process, including effective and timely voter education drives.⁵⁴⁶

Universal Suffrage, the Right to Vote, and Voter Education

Key Obligations:

- *Right and Opportunity to Vote*
- *Universal Suffrage*
- *State Must Take Necessary Steps to Give Effect to Rights*

The obligations of universal suffrage and the right to vote were advanced through voter education.

International treaties state that elections must be held by universal suffrage.⁵⁴⁷ In addition, every citizen should have the right and the opportunity to vote.⁵⁴⁸ Both universal suffrage and the right to vote can be subject only to reasonable and objective restrictions.⁵⁴⁹

All eligible voters were informed of their electoral rights before, during, and after election day.

Interpretive sources are clear that voter education campaigns are necessary to create an informed electorate that is able to effectively exercise their right to vote.⁵⁵⁰

State practice sources support the interpretive sources, suggesting that the fulfillment of universal suffrage is partially dependent on the success of an adequate voter education process.⁵⁵¹

Voter education campaigns were responsive to the needs of the electorate.

State practice sources indicate the importance of voter education campaigns that are responsive to the needs of the electorate⁵⁵² and are designed with the aim of reaching all eligible voters.⁵⁵³

The Content of Voter Education Campaigns

Key Obligations:

- *Right and Opportunity to Vote*
- *Right to an Effective Remedy*

⁵⁴⁶ U.N., Human Rights and Elections, para. 75

⁵⁴⁷ U.N., ICCPR, art. 25(b); OAS, ACHR, art. 23; U.N., UDHR, art. 21(3); U.N., ICERD, art. 5(c); AU, ACDEG, art. 4

⁵⁴⁸ ICCPR, art. 25; AU, AfCHPR, art. 13(1); AU, Protocol to the AfCHPR, art. 9; OAS, ACHR, art. 23(1)(b); CIS, Convention on Democratic Elections, art. 2(a); EU, Charter on Fundamental Rights, art. 40

⁵⁴⁹ U.N. (CCPR), General Comment 25, para. 10

⁵⁵⁰ U.N. (CCPR), General Comment 25, para. 11

⁵⁵¹ Norwegian Helsinki Committee, Manual for Election Observation, sec. 5.5

⁵⁵² International IDEA, Code, p. 14

⁵⁵³ OSCE (ODIHR), Domestic Election Observers, p. 97



- *Equal Suffrage*
- *Secret Ballot*
- *State Must Take Necessary Steps to Give Effect to Rights*

Voter education efforts included information about all electoral rights, including equal suffrage, the right to vote and be elected, the right to an effective remedy, and the secret ballot.

International and regional treaties say that states must take the steps necessary to give effect to rights.⁵⁵⁴

Interpretive sources make clear that the state's obligation to take steps includes the provision of education on human rights.⁵⁵⁵

State practice sources elaborate, suggesting that this obligation includes the provision of voter education on issues such as equal suffrage and the secret ballot.⁵⁵⁶

Voter education campaigns included information on restrictions that may be applied to participatory rights.

State practice sources indicate that it is important that any restrictions on the right to vote are to be established in advance of election day⁵⁵⁷ and that the loss of this right may only be imposed after adjudication by a court.⁵⁵⁸ In general, voter education campaigns should explain when and how participatory rights may be restricted.

Voter education campaigns included information about the voting and registration process.

State practice sources suggest that voter education campaigns should be designed to provide sufficient information to voters on voting and registration processes.⁵⁵⁹

Provision of Voter Education by the Electoral Management Body

Key Obligations:

- *Right and Opportunity to Participate in Public Affairs*
- *State Must Take Necessary Steps to Give Effect to Rights*

The state took the steps necessary to give effect to rights during voter education.

554 U.N., ICCPR, art. 2

555 U.N. (CCPR), General Comment 31, para. 7

556 Norwegian Helsinki Committee, Manual for Election Observation, sec. 5.5

557 Goodwin Gill, *Free and Fair* (2006), p.127

558 OSCE, Moscow Document, para. 18

559 U.N., Human Rights and Elections, para. 88

International treaties establish that states must take the steps necessary to fulfill and safeguard human rights. Regional treaties build on this, obligating states to provide civic (including voter) education.⁵⁶⁰

Voter education was provided by the EMB and was impartial and responsive to the needs of the electorate.

State practice sources suggest that state voter education campaigns should be conducted in an impartial manner.⁵⁶¹

Other state practice sources suggest that EMBs, as principal organs of the state responsible for election implementation, bear primary responsibility for voter education⁵⁶² and that voter education campaigns should be responsive to the needs to the electorate⁵⁶³ and materials distributed in a timely manner.⁵⁶⁴

Provision of Voter Education by Civil Society and Political Parties

Key Obligations:

- *Right and Opportunity to Participate in Public Affairs*
- *Freedom of Association*

Civil society organizations participated in voter education.

According to international treaties, the right and opportunity to participate in public affairs include not only the right to vote and to be elected but also the right of citizens to participate in nongovernmental organizations⁵⁶⁵ and the ability of citizens to participate in citizen observation organizations.

International treaties also protect freedom of association as an important right in the context of the electoral process.⁵⁶⁶ It may only be restricted under certain circumstances that are prescribed by law and necessary in a democratic society.⁵⁶⁷

Political commitments note that states should recognize accredited nongovernmental organizations and facilitate their ability to conduct their activities, presumably including voter education.⁵⁶⁸

State practice sources suggest that while the state bears principal responsibility for voter education,⁵⁶⁹ the opportunity for civil society

! Refer to the Framework section of this handbook for more information about restrictions on freedom of association.

⁵⁶⁰ AU, ACDEG, art. 12

⁵⁶¹ U.N., Human Rights and Elections, para. 87

⁵⁶² EISA and ECF of SADC Countries, PEMMO, p. 22

⁵⁶³ U.N., Electoral Management Bodies, p. 102

⁵⁶⁴ EU, Handbook (Ed. 1), p. 65

⁵⁶⁵ U.N., CEDAW, art. 7; AU, AfCHPR, art. 10(1); OAS, ACHR, art. 23 (1)

⁵⁶⁶ U.N., ICCPR, art. 22(2); AU, AfCHPR, art. 10(1); OAS, ACHR, art. 16(1); LAS, Arab Charter, art. 24(5-7); EU, Charter on Fundamental Rights, art. 12(1); CoE, ECHR, art. 11(1); CIS, Convention on Human Rights, art. 12(1)

⁵⁶⁷ U.N., ICCPR, art. 22(1)

⁵⁶⁸ OSCE, Moscow Document, para. 43

⁵⁶⁹ AU, ACDEG, art. 12



and international organizations to contribute to voter education efforts should exist.⁵⁷⁰

Political parties and/or candidates were permitted to provide voter education.

State practice sources suggest that political parties may provide voter education, though this responsibility should principally reside with the state.⁵⁷¹

Freedom From Discrimination in Voter Education

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Equality Between Men and Women*

All citizens received voter education regardless of their race, color, sex, language, religion, political or other opinion, national or social origin, physical or mental ability, sexual orientation or gender identity, property, birth, or other status.

International treaties prohibit discrimination on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, physical or mental ability, sexual orientation or gender identity, birth, or other status at any time.⁵⁷² In addition, treaties state that all are equal before the law and should enjoy the equal protection of the law.⁵⁷³

Interpretive sources indicate that the state is obligated to perform both its “negative duty” to refrain from discrimination and its “positive duty” to prevent discrimination.⁵⁷⁴

Locations used for voter education were accessible in a nondiscriminatory manner.

International treaties are clear that everyone has the right of equal access to any place or service intended for use by the public.⁵⁷⁵ In the context of voter education, it is reasonable to assume that this means that all potential voters should have access to locations used for the purposes of voter education.

Voter education materials facilitated voting by illiterate voters.

Interpretive sources state that voter education campaigns should facilitate the participation of illiterate voters.⁵⁷⁶ To this end,

570 EISA and ECF of SADC Countries, PEMMO, p. 22

571 EISA and ECF of SADC Countries, PEMMO, p. 22

572 U.N., ICCPR, art. 25; U.N., CRPD, art. 2; AU, AfCHPR, art. 2; OAS, ACHR, art. 1; LAS, Arab Charter, art. 3; EU, Charter on Fundamental Rights, art. 21(1); CIS, Convention on Human

Rights, art. 20(2); U.N. (CESCR), General Comment 20, para. 32

573 U.N., ICCPR, art. 26; OAS, ACHR, art. 24; AU, AfCHPR, art. 8; CIS, Convention on Human Rights, art. 20(1)

574 U.N. (CCPR), General Comment 28, para. 21

575 U.N., ICERD, art. 5; U.N., CRPD, art. 9

576 U.N. (CCPR), General Comment 25, para. 12

interpretive sources suggest that specific methods, such as the use of photographs and symbols, should be adopted.⁵⁷⁷

Special Measures

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Equality Between Men and Women*

The state took steps to ensure de facto equality between men and women.

Treaty sources make clear that women should enjoy equal rights to men⁵⁷⁸ and that in some cases, states should take temporary special measures to achieve de facto equality for women.⁵⁷⁹

Interpretive sources indicate that temporary special measures to achieve de facto equality for women can include providing women with access to voter education to ensure that they understand their right to vote and how to exercise it.⁵⁸⁰ Interpretive sources also indicate that measures taken to ensure equitable representation of women should not be considered discriminatory.⁵⁸¹

Special measures were taken, as necessary, to promote equality for minorities.

Treaty sources also indicate that temporary special measures for advancing ethnic minorities or groups that have suffered past discrimination may also be taken when the circumstances warrant. Such measures should not be considered discriminatory,⁵⁸² should not be maintained after the objectives for which they were taken are met, and should not result in the maintenance of unequal rights for different groups.⁵⁸³

Interpretive sources add that in the context of voter education, campaigns specifically focused on minority groups may be undertaken to promote awareness of the importance of active participation in public and political life.⁵⁸⁴

Special measures were taken to ensure de facto equality for people with disabilities.

Treaty sources obligate states to ensure and promote human rights and fundamental freedoms without any discrimination on the basis of disability.⁵⁸⁵ Specific measures aimed at ensuring de facto equality for people with disabilities should not be

577 U.N. (CCPR), General Comment 25, para. 12

578 U.N., ICCPR, art. 3; AU, AfCHPR, art. 2(1)(a); CoE, ECHR, art. 23

579 U.N., CEDAW, art. 3

580 U.N. (CEDAW), General Recommendation 23, para. 45

581 U.N. (CCPR), General Comment 28, para. 29

582 U.N., ICERD, art. 1(4)

583 U.N., ICERD, art. 1(4)

584 U.N. (CERD), Concluding Observations, Nepal (2004), para. 17

585 U.N., CRPD, art. 4



considered discriminatory.⁵⁸⁶ Other treaty sources also call on states to recognize that women and girls with disabilities are subject to multiple discrimination.⁵⁸⁷

Treaty sources further state that education campaigns to facilitate the participation of people with disabilities should be provided.⁵⁸⁸

Interpretive sources further indicate the legal framework should provide people with disabilities with the opportunity to vote and be elected.⁵⁸⁹

Voter education materials were available in all official languages as well as minority languages.

International treaties state that where linguistic minorities exist, those that belong to such minorities should not be denied the right to use their own language.⁵⁹⁰

Interpretive sources support this, adding that information and materials about voting should be available in minority languages.⁵⁹¹

Partisan and Nonpartisan Observation of Voter Education

Key Obligations:

- *Right and Opportunity to Participate in Public Affairs*
- *Freedom of Association*

Citizens were able to participate in public affairs through nongovernmental organizations.

International and regional treaties state that all people have the right to participate in the public affairs of their country.⁵⁹² Regional treaties are clear that the participation of observers, both citizen and international, may enhance all aspects of the electoral process.⁵⁹³

Observers, citizen and international, were given access to the voter education process.

Political commitment sources suggest that observation can enhance all aspects of the electoral process, including voter education campaigns.⁵⁹⁴ This includes observer access to the voter education process.

586 U.N., CRPD, art. 5(4)

587 U.N., CRPD, art. 6(1)

588 U.N., CRPD, arts. 24(1)(c) and 29

589 U.N. (CRPD), Concluding Observations, Hungary (2012), para. 26

590 U.N., ICCPR, art. 27

591 U.N. (CCPR), General Comment 25, para. 12

592 U.N., ICCPR, art. 25; AU, AfCHPR, art. 13; OAS, ACHR, art. 23

593 AU, ACDEG, arts. 19-22; CIS, Convention on Democratic Elections, art. 1(2); OSCE, Copenhagen Document, para. 8; OAS, IADC, arts. 23-25

594 OSCE, Copenhagen Document, para. 8

Right to an Effective Remedy and Voter Education

Key Obligations:

● *Right to an Effective Remedy*

There was a timely and effective means of seeking redress for violations of rights, including regarding voter education.

International treaties state that everyone has the right to an effective (timely and enforceable)⁵⁹⁵ remedy before a competent national tribunal for acts that violate their rights or freedoms.⁵⁹⁶ The right to an effective remedy is fundamental to ensuring all other human rights may be fulfilled. Regional treaties state that remedies should be available for complaints arising throughout the electoral process including voter education.⁵⁹⁷

Political commitment sources indicate that individuals must have the right to a remedy for violations of their participatory rights relating to the election process.⁵⁹⁸

595 U.N., ICCPR, art. 2; AfCHPR, art. 7

596 U.N., ICCPR, art. 2; OAS, ACHR, art. 25; CoE, ECHR, art. 13

597 ECOWAS, Protocol, art. 7

598 CoE, Declaration on the Code of Good Practice, p. 1



Section 6

Candidacy and Campaigning

Relevant Obligations

- | | |
|--|--|
| ● Genuine Elections That Reflect the Free Expression of the Will of the People | ● Right to Security of the Person |
| ● Right and Opportunity to Be Elected | ● Freedom From Discrimination and Equality Before the Law |
| ● Right and Opportunity to Participate in Public Affairs | ● Equality Between Men and Women |
| ● Freedom of Association | ● Right to an Effective Remedy |
| ● Freedom of Assembly | ● Periodic Elections |
| ● Freedom of Movement | ● Prevention of Corruption |
| ● Freedom of Opinion and Expression | ● State Must Take Necessary Steps to Give Effect to Rights |
| ● Transparency and Access to Information | ● Rule of Law |
-

- Macro-Level Obligation
- Individual Rights and Freedoms
- Process-Focused Obligations
- Foundational Obligations




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Candidates and political parties are important stakeholders in the electoral process. In this section of the handbook, several interrelated issues regarding candidacy and campaigning are addressed. Not only do candidates have rights, they also represent the opinions and political voices of voters.

Given the central role of candidates and political parties in the electoral process, an assessment of the degree to which they are able to function freely, without inhibiting the rights of others, is important to evaluating the overall integrity of the election process. To function freely, candidates and parties must be able to associate, assemble, and communicate freely and operate in the context of a level playing field. For election observers, both citizen and international, most of the information collected about campaigning and candidate or party activities will be collected by long-term observers.

 Refer to the ACE Electoral Knowledge Network for more information on candidates, political parties, and campaigns.

This section of the manual includes a range of issues related to candidates, parties, and campaigning, including:

- The establishment and regulation of political parties
- Candidacy
- Campaigning, including freedom of expression
- Transparency, access to information, and observation of campaigning
- The right to an effective remedy
- Campaign finance

A nonexhaustive list of illustrative questions for data collection on the assessment criteria outlined below can be found in Appendix C.



The Legal Framework and Candidacy and Campaigning

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*
- *Rule of Law*

The principles of rule of law were promoted.

Treaty sources provide that states should take measures to promote the principles of the rule of law.⁵⁹⁹ The rule of law is widely recognized as an essential condition for the fulfillment of human rights and representative democracy.⁶⁰⁰

The laws regulating elections were equally enforced and were not arbitrarily applied.

Respect for the rule of law ensures a political and legal environment conducive to the conduct of a genuine electoral process and the fulfillment of electoral rights. International treaties have stated that the rule of law requires that all are equal before the law⁶⁰¹ and that laws are equally enforced.⁶⁰²

Interpretive sources have further stated that rule of law requires that laws and procedures are not arbitrarily applied.⁶⁰³

The legal framework for elections was consistent with international human rights.

International treaties require, as a means to adhere to rule of law, that the legal framework be consistent with international human rights obligations.⁶⁰⁴

Campaign finance regulation was consistent with the principles of the rule of law.

State practice sources note that the system of campaign finance must be established with respect for the rule of law, with all components of the system of party and candidate financing codified in the legal framework.⁶⁰⁵ Such legislation on political party and campaign finance should:

- Be clear, unambiguous,⁶⁰⁶ and publicly available⁶⁰⁷

599 U.N., UNCAC, art. 5; AU, ACDEG, art. 32 (4); CoE, ECHR, Preamble; CIS, Convention on Human Rights, Preamble

600 UNGA, Millennium Declaration; UNGA Resolutions on the Rule of Law; OAS, IADC, arts. 3 and 4; and OSCE, Copenhagen Document, para. 3

601 U.N., ICCPR, art. 26; AU, AfCHPR, art. 19; OAS, ACHR, art. 24; CIS, Convention on Human

Rights, art. 20(1); EU, Charter on Fundamental Rights, art. 20

602 U.N., ICCPR, art. 26

603 U.N. (CCPR), General Comment 25, para. 4

604 U.N., ICCPR, art. 2

605 van Biezen, Guidelines, p. 14

606 Dahl, in Political Finance in Postconflict Societies, p. 129

607 van Biezen, Guidelines, p. 15

- Avoid conflicting provisions governing the activities of political parties and their financial activities⁶⁰⁸
- Avoid conflicting provisions between laws governing the financing of national and subnational parties⁶⁰⁹
- Cover fundamental issues such as sources of funding; private donations; public subsidies to political parties; the financing of election campaigns; and provisions for disclosure, reporting, monitoring, and enforcement.⁶¹⁰

Establishment, Regulation of, and Membership in Political Parties

Key Obligations:

- *Right and Opportunity to Be Elected*
- *Freedom of Association*
- *Freedom From Discrimination and Equality Before the Law*

Citizens were able to establish and participate in political parties and other associations.

International treaties protect the right of freedom of association,⁶¹¹ which is particularly important in the context of candidacy and campaigning. Individuals should be able to freely associate for political purposes, including the creation of political parties or for voicing their support for specific candidate(s).⁶¹² Freedom of association may only be restricted under certain circumstances as are prescribed by law and are necessary in a democratic society.⁶¹³ Lawful restrictions on this freedom may also be placed on members of the armed forces and police.⁶¹⁴

Regional treaties, supported by political commitments, state that all individuals and groups should have the right to establish their own political parties or political organizations⁶¹⁵ on equal terms⁶¹⁶ and that such association must be voluntary.⁶¹⁷

International treaties also state that this right must be enjoyed free from discrimination on the basis of prohibited grounds.⁶¹⁸

⁶⁰⁸ van Biezen, Guidelines, p. 15

⁶⁰⁹ van Biezen, Guidelines, p. 15

⁶¹⁰ van Biezen, Guidelines, p. 15

⁶¹¹ U.N., ICCPR, art. 22; AU, AfCHPR, art. 10; OAS, ACHR, art. 16

⁶¹² AU, ACDEG, art. 3 (11); CIS, Convention on Democratic Elections, art. 19 (1)(g)

⁶¹³ U.N., ICCPR, art. 22(2); OAS, ACHR, art. 16(2); CoE, ECHR, art. 11(2); CIS, Convention on Human Rights, art. 12(2)

⁶¹⁴ U.N., ICCPR, art. 22(2)

⁶¹⁵ AU, AfCHPR, art. 10; U.N. (CCPR), General Comment 25, para. 27

⁶¹⁶ OSCE, Copenhagen Document, para. 7.6

⁶¹⁷ U.N., UDHR, art. 20

⁶¹⁸ U.N., ICCPR, art. 25; U.N., CRPD, art. 2; AU, AfCHPR, art. 2; OAS, ACHR, art. 1; LAS, Arab Charter, art. 3; EU, Charter on Fundamental Rights, art. 21(1); CIS, Convention on Human Rights, art. 20(2)



Political organizations were treated equally in being recognized and registering as a party.

Regional treaties, supported by political commitments, state that all individuals and groups should have the right to establish their own political parties or political organizations⁶¹⁹ on equal terms⁶²⁰ and that such association must be voluntary.⁶²¹

Regional treaties provide that regardless of their ideological position, political parties should be treated equally in being recognized and registering as a party.⁶²²

Interpretive sources emphasize that party registration should not be used as a means of silencing political movements that are opposed to the current government.⁶²³

Political commitment sources further state that political parties should be assured that they will be able to compete with each other on an equal basis before the law.⁶²⁴

Individual electoral rights could be enjoyed in community with others.

Interpretive sources state that some individual electoral rights, such as the freedom of association and rights of minorities, can be enjoyed in community with others and can give rise to claims of violations of the rights of others, which amounts to a violation of the individual's own rights.⁶²⁵

Regulations and deadlines for legal recognition of political parties were clearly specified. Registration requirements were not so stringent that they jeopardized freedom of association.

State practice sources note that states should legally recognize political parties for the effective exercise of related civil and political rights.⁶²⁶ Requirements for legal recognition should be clearly specified and realistic,⁶²⁷ and deadlines for applications for legal recognition should be clear.⁶²⁸ Further, state practice sources also indicate that any requirements should not be too burdensome,⁶²⁹ and they should be proportionate to its objective.⁶³⁰

The grounds for rejecting registration of a party were based on objective criteria.

Sources indicative of state practice note that the grounds for rejecting a registration application should be based on objective criteria.⁶³¹

! Refer to the Framework section at the beginning of this handbook for more information on unreasonable restrictions on the right to be elected.

619 AU, AfCHPR, art. 10 ; U.N. (CCPR), General Comment 25, para. 27

620 OSCE, Copenhagen Document, para. 7.6

621 U.N., UDHR, art. 20

622 CIS, Convention on Democratic Elections, art. 9(6)

623 U.N. (CCPR), Concluding Observations on Azerbaijan (2001), p. 23

624 OSCE, Copenhagen Document, art. 7.6

625 U.N. (CCPR), General Comment 31, para. 9

626 OSCE, Copenhagen Document, para. 7.6

627 *Id.*

628 *Id.*

629 CoE (Venice Commission), Parties in Elections, para. 15

630 CoE (Venice Commission), Legislation on Political Parties, para. B

631 CoE (Venice Commission), Guidelines on Legislation on Political Parties, para. B

Internal Party Policies

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*

The participatory rights of citizens were protected and fulfilled by parties in their internal management.

In support of the obligation to take the steps necessary to give effect to rights, interpretive sources say that states should ensure that, in their internal management, political parties respect applicable obligations (i.e. provisions of ICCPR Article 25) in order to enable citizens to exercise their rights.⁶³² This can be interpreted to require that there are procedures in place to ensure internal democratic processes.

Candidature

Key Obligations:

- *Right and Opportunity to Be Elected*
- *Freedom of Association*
- *Freedom From Discrimination and Equality Before the Law*
- *Rule of Law*

Every citizen had the right to be elected, subject only to reasonable restrictions.

International and regional treaties protect the right and opportunity of every citizen to be elected.⁶³³ The right to be elected may only be subject to objective and reasonable restrictions. Unreasonable restrictions include those based on excessive residency requirements;⁶³⁴ naturalized citizenship;⁶³⁵ criminal conviction (disproportionate to the severity of the crime or blanket disenfranchisement provisions);⁶³⁶ surpassing the legal age of majority;⁶³⁷ race;⁶³⁸ sex;⁶³⁹ religion;⁶⁴⁰ physical disability;⁶⁴¹ political or other opinion;⁶⁴² national or social origin;⁶⁴³ sexual orientation or gender identity;⁶⁴⁴ language;⁶⁴⁵

632 U.N. (CCPR), General Comment 25, para. 27

633 U.N., ICCPR, art. 25; AU, AfCHPR, art. 13; OAS, ACHR, 23; LAS, Arab Charter on Human Rights, art. 24; CIS, Convention on Democratic Elections, art. 3; OSCE, Copenhagen Document, para. 7.5

634 See OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 11 with regard to reasonable residency requirements. CoE, European Convention on the Participation of Foreigners, art. 6.1

635 U.N., ICCPR, art. 25(b); U.N. (CCPR), General Comment 25, para. 3

636 OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 14; U.N. (CCPR), Concluding

Observations on the United Kingdom and Northern Ireland (2008), para. 28

637 OAS, ACHR, art. 23; U.N. (CCPR), General Comment, 25 para. 10; U.N., CRC, art. 1

638 U.N., ICCPR, arts. 2 and 25

639 U.N., ICCPR, arts. 2 and 25

640 U.N., ICCPR, arts. 2 and 25

641 U.N., CRPD, art. 29

642 U.N., ICCPR, arts. 2 and 25

643 U.N., ICCPR, arts. 2 and 25

644 EU, Charter on Fundamental Rights, art. 21(2); U.N. (CCPR), Toonen v. Australia (1994); U.N. (CESCR), General Comment 20, para. 32

645 U.N., ICCPR, art. 2



birth or other status;⁶⁴⁶ literacy;⁶⁴⁷ education;⁶⁴⁸ property ownership;⁶⁴⁹ party membership;⁶⁵⁰ naturalized citizenship;⁶⁵¹ status as an internally displaced person;⁶⁵² economic circumstances;⁶⁵³ holding a position that does not constitute a conflict of interest if also holding elective office;⁶⁵⁴ and excessive monetary fees or deposits.⁶⁵⁵

Interpretive sources state that the suspension or exclusion of participatory rights is prohibited unless the suspension/exclusion is established by law and is objective and reasonable.⁶⁵⁶

Other state practice sources underscore the importance of a clear deadline after which the validity of candidatures cannot be challenged.⁶⁵⁷

! Refer to the Framework section of this handbook for more information on unreasonable restrictions on the right to be elected.

Candidacy requirements upheld freedom of association.

State practice sources suggest that if political parties are required to register with election authorities when contesting the election, any demands placed on them regarding registration should not be so stringent as to jeopardize their freedom of association.⁶⁵⁸

The loss of the right to be elected was only imposed after adjudication by a court.

State practice sources also indicate that the loss of the right to be elected may only be imposed after adjudication by a court.⁶⁵⁹

Citizens were able to support any and all candidates of their choice.

State practice sources also suggest that voters should be allowed to sign ballot qualification petitions for more than one candidate or party.⁶⁶⁰

Independent Candidacy

Key Obligations:

- *Right and Opportunity to Be Elected*
- *Freedom From Discrimination and Equality Before the Law*

646 U.N., ICCPR, arts. 2 and 25

647 U.N. (CCPR), General Comment 25, para. 10

648 U.N. (CCPR), General Comment 25, para. 10

649 U.N. (CCPR), General Comment 25, para. 10

650 U.N. (CCPR), General Comment 25, para. 10

651 U.N. (CCPR), General Comment 25, para. 3

652 U.N., Guiding Principles on Internal Displacement, Principle 4.1

653 U.N., Human Rights and Elections, p. 65

654 U.N. (CCPR), General Comment 25, para. 16

655 U.N. (CCPR), General Comment 25, para. 16

656 U.N. (CCPR), General Comment 25, para. 4

657 Petit, Resolving Election Disputes, para. II.F.28

658 CoE (Venice Commission), Guidelines on Political Parties, para. II(5)

659 OSCE, Moscow Document, para. 18

660 OSCE (ODIHR), Existing Commitments, p. 63

Regulations regarding candidacy were the same for the independent and partisan actors.

Interpretive sources state that regulations regarding candidacy should be the same for independent and partisan actors.⁶⁶¹ Individuals should not suffer discrimination because they are not affiliated with a political party.⁶⁶²

Female Candidates

Key Obligations:

- *Equality Between Men and Women*

Female candidates participated in the electoral process on an equal basis with men.

International and regional treaties state that men and women should enjoy equal rights.⁶⁶³

Interpretive sources state that women should be able to compete in electoral processes on an equal basis with men and that political parties should embrace the principles of equal opportunity for female candidates.⁶⁶⁴ Female candidates should receive adequate funds to campaign, which may require allocation of public funds.⁶⁶⁵ In addition, the state may develop training and mentoring programs for women candidates and women elected to public office as well as programs on leadership and negotiation skills for current and future women leaders.⁶⁶⁶

Equal Treatment of Candidates and Parties

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Equality Between Men and Women*

Regulations for candidacy and campaigning were not discriminatory.

International and regional treaties prohibit discrimination on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, physical or mental ability, sexual orientation or gender identity, birth, or other status at any time.⁶⁶⁷ In addition, international law is clear that all are equal before the law and should enjoy the equal protection of the law.⁶⁶⁸

661 U.N. (CCPR), General Comment 25, para. 15

662 U.N. (CCPR), General Comment 25, para. 7

663 U.N., ICCPR, art. 3; AU, AfCHPR, art. 2(1)(a); EU, Charter on Fundamental Rights, art. 23

664 U.N. (CEDAW), General Recommendation 23, para. 22

665 U.N. (CEDAW), Concluding Observations, Ethiopia (2011), para. 27

666 U.N. (CEDAW), Concluding Observations, Oman (2011), para. 32

667 U.N., ICCPR, art. 25; U.N., CRPD, art. 2; AU, AfCHPR, art. 2; OAS, ACHR, art. 1; LAS, Arab Charter, art. 3; EU, Charter on Fundamental Rights, art. 21(1); CIS, Convention on Human Rights, art. 20(2)

668 U.N., ICCPR, art. 26



No one suffered discrimination or disadvantage of any kind because of their candidacy.

Interpretive sources note that no one should suffer from discrimination or disadvantage of any kind because of their candidacy.⁶⁶⁹

Candidates and political parties were able to compete with each other on an equal basis.

Political commitment sources and state practice sources add definition to freedom from discrimination with regard to candidacy and campaigns by stating that:

- Political parties should be assured they will be able to compete with each other on an equal basis before the law.⁶⁷⁰
- All political contestants should have an equal period of time in which to campaign.⁶⁷¹
- Procedures for ballot access should be nondiscriminatory.⁶⁷²
- The legal framework should provide clear guidance with regard to the placement of candidates on the ballot.⁶⁷³
- All candidates and parties should be given equal time in which to campaign, and new parties should be able to compete under fair conditions with more well-established parties.⁶⁷⁴

Political commitment sources suggest that parties – well established or new, large or small – be able to compete with each other on an equal basis before the law.⁶⁷⁵

Special Measures

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Equality Between Men and Women*

The state took steps to ensure de facto equality between men and women.

Treaty sources make it clear that women should enjoy equal rights to men⁶⁷⁶ and that in some cases states should take temporary special measures to achieve de facto equality for women.⁶⁷⁷

Interpretive sources indicate that temporary special measures to achieve de facto equality for women can include financially assisting and training women candidates, amending electoral procedures,

669 U.N. (CCPR), General Comment 25, para. 15

670 OSCE, Copenhagen Document, art. 7.6

671 OSCE (ODIHR), Observation Handbook (Ed. 5), p. 47

672 OSCE (ODIHR), Existing Commitments, p. 63

673 OSCE (ODIHR), Legal Framework (Ed. 1), p. 16

674 CoE (Committee of Ministers), Rec. 1516(2001) on Financing Political Parties, para. 8(A)(iii)

675 OSCE, Copenhagen Document, para. 7.6

676 U.N., ICCPR, art. 3; AU, AfCHPR, art. 2(1)(a); CoE, ECHR, art. 23

677 U.N., CEDAW, art. 3

developing campaigns directed at equal participation, and targeting women for appointment to public positions or using quotas to ensure female participation in public affairs.⁶⁷⁸

Interpretive sources also indicate that measures taken to ensure equitable representation of women should not be considered discriminatory.⁶⁷⁹

In the context of candidates and campaigning this may require that parties take active steps to ensure women are included on party lists, quotas, etc. Interpretive sources also indicate that it may even require that specific systems be used to ensure that women can participate equally, e.g., the alternation of male and female candidates on party lists.⁶⁸⁰

Special measures were taken, as necessary, to promote equality for minorities.

International treaties state that temporary special measures for advancing ethnic minorities or groups that have suffered past discrimination may also be taken when the circumstances warrant. Such measures should not be considered discriminatory,⁶⁸¹ should not be maintained after the objectives for which they were taken are met, and should not result in the maintenance of unequal rights for different groups.⁶⁸² In the context of candidacy and campaigning, this may include measures to ensure that minorities are able to campaign for reserved seats as well as general seats.

Special measures were taken to ensure de facto equality for people with disabilities.

Treaties obligate states to ensure and promote human rights and fundamental freedoms without any discrimination on the basis of disability.⁶⁸³ Specific measures aimed at ensuring de facto equality for people with disabilities should not be considered discriminatory.⁶⁸⁴ Other treaty sources also call on states to recognize that women and girls with disabilities are subject to multiple discrimination.⁶⁸⁵

Interpretive sources further indicate the legal framework should provide people with disabilities with the opportunity to vote and be elected.⁶⁸⁶

⁶⁷⁸ U.N., CEDAW, General Recommendation 23, para.15

⁶⁷⁹ U.N. (CCPR), General Comment 28, para. 29

⁶⁸⁰ U.N. (CEDAW), Concluding Remarks on Costa Rica (2003)

⁶⁸¹ U.N., ICERD, art. 1

⁶⁸² U.N., ICERD, art. 1

⁶⁸³ U.N., CRPD, art. 4

⁶⁸⁴ U.N., CRPD, art. 5(4)

⁶⁸⁵ U.N., CRPD, art. 6 (1)

⁶⁸⁶ U.N. (CRPD), Concluding Observations, Hungary (2012), para. 26



Equal Access to Public Places

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*

Public places were accessible to all in a nondiscriminatory fashion.

International treaties state that everyone has the right of equal access to any place or service intended for use by the public,⁶⁸⁷ including public places that may be used for campaigning purposes.

State practice sources add that political associations should have equal opportunity to access public facilities.⁶⁸⁸

Freedom of Opinion and Expression for Political Candidates and Their Supporters

Key Obligations:

- *Freedom of Opinion and Expression*

Freedom of opinion and expression was protected throughout the campaign process.

International treaties provide that everyone has the right to freedom of expression in order to share information and ideas of all kinds, whether through public speech or other means.⁶⁸⁹ Freedom of expression may only be restricted under certain circumstances that are prescribed by law and are necessary in a democratic society.⁶⁹⁰ In addition to the establishment of these acceptable limitations, regional treaties offer specific guidance to ensure that free communication and circulation of ideas may not be restricted by indirect means (such as abuse of regulatory controls over the media).⁶⁹¹

Political commitment sources suggest that candidates and their supporters should be able to freely communicate their ideas through all forms of the media, including the Internet.⁶⁹² They also extend freedom of expression to include unhindered communication with international bodies, such as those providing electoral assistance, on matters of human rights.⁶⁹³

Political parties were able to communicate their opinions to the electorate.

International treaties provide that parties and candidates must be able to communicate their opinions to the electorate.⁶⁹⁴

! Refer to the Framework section of this handbook for more information on permissible restrictions on freedom of association.

⁶⁸⁷ U.N., ICERD, art. 5; U.N., CPRD, art. 9

⁶⁸⁸ EU, Handbook (Ed. 2), p. 52

⁶⁸⁹ U.N., ICCPR, art. 19(2); OAS, ACHR, art. 13(1); CoE, ECHR, art. 10(1); CIS, Convention on Human Rights, art. 11(1)

⁶⁹⁰ U.N., ICCPR, art. 19(3); OAS, ACHR, art. 13(2)(b); CoE, ECHR, art. 10(2); CIS, Convention on Human Rights, art. 11(2)

⁶⁹¹ OAS, ACHR, art. 13

⁶⁹² CoE (Committee of Ministers), Declaration on the Rule of Law in the Information Society, art. 1

⁶⁹³ UNGA, Declaration on Rights and Responsibilities, art. 4

⁶⁹⁴ CIS, Convention on Democratic Elections, art. 19(2)(g)

Interpretive sources further state that there should be free communication of information and ideas about public and political issues between citizens, candidates, and elected representatives.⁶⁹⁵

Advocacy of Hatred and Incitement to Violence

Key Obligations:

- *Freedom of Association*
- *Freedom of Opinion and Expression*

Advocacy of national, racial, and religious hatred that constituted incitement to discrimination, hostility, or violence was prohibited by law, and the law was enforced.

International treaties allow that the freedom of expression may be restricted when an expression seeks to destroy other established rights⁶⁹⁶ and when the rights and freedoms of others should be protected.⁶⁹⁷ Any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence should be prohibited by law, and the law should be enforced.⁶⁹⁸

State practice sources further provide that states may prohibit political parties that advocate the use of violence.⁶⁹⁹ This would not necessarily constitute a violation or unreasonable restriction on the freedom of association.

Campaign Silence Period

Key Obligations:

- *Freedom of Opinion and Expression*

If a campaign silence period was imposed, it was reasonable in length.

Political commitments suggest that a campaign silence period may be instituted immediately in advance of polling day, allowing voters to exercise their franchise freely and without undue pressure.⁷⁰⁰ This is not to be considered a violation of freedom of expression but should not be imposed for overly long periods of time.

Campaigning Without Interference

Key Obligations:

- *Freedom of Assembly*

⁶⁹⁵ U.N. (CCPR), General Comment 25, para. 25

⁶⁹⁶ U.N., ICCPR, art. 5(1); OAS, ACHR, art. 29(a-b)

⁶⁹⁷ U.N., ICCPR, art. 25

⁶⁹⁸ U.N., ICCPR, art. 20(2); OAS, ACHR, art. 13(5)

⁶⁹⁹ CoE (Venice Commission), Guidelines on Prohibition, para. li(3)

⁷⁰⁰ CoE (Committee of Ministers), Rec. on Measures Concerning Media Coverage During Elections, para. 3.1



Candidates and their supporters were able to assemble freely throughout the campaign period. This obligation included organizing and participating in public rallies and peaceful campaign activities.

International and regional treaties protect the right to freedom of assembly.⁷⁰¹

Political commitment sources state that political parties, candidates, and citizens should have the right to organize and participate in public rallies and conduct legitimate campaigning without undue influence.⁷⁰²

State practice sources indicate that freedom of peaceful assembly is particularly important during campaigning, when communication between citizens and political leaders is a central focus.⁷⁰³

Restrictions on the campaign activities were nondiscriminatory and subject to prompt independent and impartial judicial review.

Interpretive sources provide that restrictions on the right to assemble should be nondiscriminatory. Where regulatory measures such as those requiring systems of permits or prior notification of assemblies are used, their application must not go beyond the mentioned measures.⁷⁰⁴

This is supported by sources indicative of state practice, which suggest that any restrictions must be subject to independent, impartial, and prompt judicial review.⁷⁰⁵

! See also the Framework section of this handbook for more information on permissible restrictions on freedom of assembly.

Freedom of Movement for Political Candidates and Their Supporters

Key Obligations:

● Freedom of Movement

Freedom of movement was respected for all electoral stakeholders, including candidates, parties, and their supporters during the campaign period.

International treaties state that everyone has the right to freedom of movement within the borders of each state, including candidates, voters, citizen observers, and poll workers who need to be able to move about the territory.⁷⁰⁶ The right of freedom of movement may

⁷⁰¹ U.N., ICCPR, art. 21; AU, AfCHPR, art. 11; OAS, ACHR, art. 15; LAS, Arab Charter, art. 24; CoE, ECHR, art. 11(1); CIS, Convention on Human Rights, art. 12(1)

⁷⁰² OSCE, Copenhagen Document, para. 9.2; IPU, Declaration on Criteria for Free and Fair Elections, art. 4

⁷⁰³ OSCE (ODIHR), Guidelines on Freedom of Peaceful Assembly, para. 1.1.5

⁷⁰⁴ U.N. (CCPR), Concluding Observations on Cyprus (1994), paras. 312–333

⁷⁰⁵ U.N., Report of the Special Rapporteur on Freedom of Assembly (2012), p. 20

⁷⁰⁶ U.N., ICCPR, art. 12; AU, AfCHPR, art. 12(1); OAS, ACHR, art. 22(1); LAS, Arab Charter, art. 26(1); CIS, Convention on Human Rights, art. 22(1)

only be restricted when provided by law, necessary in a democratic society and consistent with other rights.⁷⁰⁷

State practice sources indicate that freedom of movement must be respected in the context of candidacy and campaigning, including political rallies and meetings.⁷⁰⁸

Observation of the Campaign Period

Key Obligations:

- *Right and Opportunity to Participate in Public Affairs*

Citizens were able to participate in public affairs through political parties and nongovernmental organizations.

International and regional treaties state that all people have the right to participate in the public affairs of their country.⁷⁰⁹ The right and opportunity to participate in public affairs are widely recognized obligations in public international law. This includes the right of individuals to join nongovernmental organizations, including those that observe elections.

Election observers were able to observe the campaign process.

Regional treaties state that observers, both citizen and international, can enhance all aspects of the electoral process, including those related to candidacy and campaigning.⁷¹⁰

Transparency and Access to Electoral Documents

Key Obligations:

- *Transparency and Access to Information*

The right of access to information was protected for everyone.

Treaty sources guarantee the right of access to information – which is born from the guarantee that the right to free expression includes the ability for everyone to seek and receive information and ideas.⁷¹¹

States should take steps to ensure access to information for people with disabilities without additional cost.⁷¹²

⁷⁰⁷ U.N., ICCPR, art. 12; AU, AfCHPR, art. 12(1); OAS, ACHR, art. 22(1); LAS, Arab Charter, art. 26(1); CIS, Convention on Human Rights, art. 22(1)

⁷⁰⁸ IPU, Declaration on Criteria for Free and Fair Elections, art. 4(3)

⁷⁰⁹ U.N., ICCPR, art. 25(a); AU, AfCHPR, art. 13(1); OAS, ACHR, art. 23(1)

⁷¹⁰ AU, ACDEG, arts. 19–22; CIS, Convention on Democratic Elections, art. 1(2); OSCE, Copenhagen Document, para. 8; OAS, IADC, arts. 23–25

⁷¹¹ U.N., ICCPR, art. 19(2); AU, Convention on Corruption, art. 9; OAS, ACHR, art. 13(1); CoE, ECHR, art. 10(1); CIS, Convention on Human Rights, art. 11(1)

⁷¹² U.N., CRPD, art. 9(f)



The state proactively put in the public domain government information of public interest.

International treaties maintain that states should proactively put in the public domain government information of public interest.⁷¹³ This would include information regarding the electoral process.

Right to an Effective Remedy for Candidates and Parties

Key Obligations:

● *Right to an Effective Remedy*

There was a timely and effective means of seeking redress for violations of rights regarding candidacy and campaigning.

Treaty sources state that everyone has the right to an effective (timely and enforceable)⁷¹⁴ remedy before a competent tribunal for acts that violate their rights or freedoms.⁷¹⁵ The right to an effective remedy is fundamental to ensuring all other human rights may be fulfilled.

Interpretive sources further provide that cessation of a violation is an essential element of an effective remedy.⁷¹⁶

Parties were granted an opportunity to challenge state decisions that restrict their formation and activities.

State practice sources indicate that, in the context of candidacy and campaigning, parties and candidates should be granted an opportunity to challenge state decisions that restrict their formation or activities.⁷¹⁷

Security of the Person for Candidates, Parties, and Their Supporters

Key Obligations:

● *Right to Security of the Person*

The right to security of the person was enjoyed by all electoral stakeholders, including candidates, party members, and their supporters.

Treaty sources provide that everyone has the right to security of the person without arbitrary arrest or detention.⁷¹⁸ Clearly, this right includes the campaign period and the activities of campaigns.

713 U.N., UNCAC, art. 10

714 U.N., ICCPR, art. 2; AU, AfCHPR, art. 7

715 U.N., ICCPR, art. 2(3); OAS, ACHR, art. 25(1); CoE, ECHR, art. 13

716 U.N. (CCPR), General Comment 31, para. 15

717 CoE (Venice Commission), Legislation on Political Parties, para. E

718 U.N., ICCPR, art. 9; AU, AfCHPR, art. 6; OAS, ACHR, art. 7(1); LAS, Arab Charter, art. 14(1-2); CoE, ECHR, art. 5(1); CIS, Convention on Human Rights, art. 5(1)

Interpretive sources note that female candidates can be subject to greater intimidation and coercion than their male counterparts.⁷¹⁹

State practice sources indicate that candidates should not engage in violence⁷²⁰ and that law enforcement should behave in a neutral manner.⁷²¹

The Election Calendar and Enjoyment of Rights

Key Obligations:

- *Periodic Elections*
- *State Must Take Necessary Steps to Give Effect to Rights*

The election schedule provided adequate time for the registration of candidates and campaigning, as well as the resolution of any complaints prior to election day.

State practice sources indicate that when scheduling elections, adequate time should be allowed to successfully implement other necessary parts of the election,⁷²² including campaigning.⁷²³

Regulation of Campaign Contributions

Key Obligations:

- *Right and Opportunity to Be Elected*
- *Freedom of Opinion and Expression*

There were clear rules and regulations regarding the acceptable sources of financial donations.

Political commitment sources indicate that measures taken by states to govern donations to parties can include rules to:

- Avoid conflicts of interest⁷²⁴
- Ensure transparency of donations⁷²⁵
- Avoid prejudice to the activities of parties⁷²⁶
- Ensure the independence of the party⁷²⁷

They add that the state can regulate the contributions of legal entities⁷²⁸ and that the rules concerning donations to political parties should apply, as appropriate, to other entities associated with political parties.⁷²⁹

719 U.N. (CEDAW), Concluding Remarks on Timor Leste (2009), para. 39

720 IPU, Declaration on Free and Fair Elections, art. 3(9)

721 EU, Handbook (Ed. 2), p. 52

722 U.N., Human Rights and Elections, para. 75

723 U.N., Human Rights and Elections, para. 108

724 CoE (Committee of Ministers), Recommendation (2003)4, art. 3(a)

725 CoE (Committee of Ministers), Recommendation (2003)4, art. 3(b)

726 CoE (Committee of Ministers), Recommendation (2003)4, art. 3(a)

727 CoE (Committee of Ministers), Recommendation (2003)4, art. 3(a)

728 CoE (Committee of Ministers), Recommendation (2003)4, art. 5(b)

729 CoE (Committee of Ministers), Recommendation (2003)4, art. 6



State practice sources state that public laws should prohibit only those forms of fundraising that have no connection to the party's *raison d'être*.⁷³⁰

The state regulated foreign funding of candidates and parties but did not limit contributions by nationals living abroad.

Regional treaties oblige states to regulate funding by foreign donors, but in order to prevent discrimination, states should not limit contributions by nationals living abroad.⁷³¹

Candidates could contribute to their own campaigns, subject to reasonable limitations.

State practice sources indicate that within reasonable limitations, candidates should be able to contribute to their own campaigns.⁷³²

Reasonable limitations were imposed on private contributions.

Political commitments provide that reasonable limitations may be placed on private funding contributions to level the playing field during campaign activities.⁷³³ Additionally, states should consider limiting or prohibiting donations from anonymous sources.⁷³⁴

Other state practice sources suggest that limits on private contributions may consist of a maximum threshold on the amount of money that may be accepted from a single source⁷³⁵ and a limit on the total sum of acceptable private donations.⁷³⁶

State practice sources add that cash donations should be prohibited.⁷³⁷ States should consider introducing rules that define acceptable sources of donations to political parties and/or candidates.⁷³⁸ Low-value donations may be excluded from the obligation to refuse anonymous donations.⁷³⁹

Public Funding for Election Campaigns

Key Obligations:

- *Right and Opportunity to Be Elected*
- *Freedom From Discrimination and Equality Before the Law*

730 van Biezen, Guidelines, p. 70

731 CIS, Convention on Democratic Elections, art. 12(3)

732 CoE (Venice Commission), Parties in Elections, para. 31

733 CoE (Committee of Ministers), Recommendation (2003)4, art. 3(b)

734 CoE (Congress of Local and Regional Authorities), Resolution 105(2000) on Financial Transparency of Political Parties, para. 16

735 van Biezen, Guidelines, p. 22

736 van Biezen, Guidelines, p. 22

737 van Biezen, Guidelines, p. 59

738 van Biezen, Guidelines, p. 22

739 van Biezen, Guidelines, p. 26

Both the state and citizens were able to support candidates and parties, including financial support, and this support did not interfere with the independence of the party.

Political commitment sources suggest that both the state and its citizens are entitled to provide support to candidates and political parties.⁷⁴⁰ However, state and citizen support should not interfere with the independence of the political party.⁷⁴¹ State support may be financial,⁷⁴² and the state may contribute, directly or indirectly, to the operational costs of party activities, election campaigns, and the functioning of parliamentary party groups.⁷⁴³ However, state support should be limited to reasonable contributions.⁷⁴⁴

State support of candidates was available on an equitable basis and was distributed according to an objective, fair and reasonable formula.

Political commitment sources also suggest that the formula for the distribution of state support be objective, fair, and reasonable.⁷⁴⁵ If election campaign expenses are reimbursed by the state, the state should ensure that the system of such reimbursement is sufficiently well-developed to permit elections to take place in a pluralistic climate.⁷⁴⁶

State practice sources suggest that if public funds are distributed to political parties and candidates, those funds should be available on an equitable basis.⁷⁴⁷

Private Funding for Campaigns

Key Obligations:

- *Right and Opportunity to Be Elected*
- *Right and Opportunity to Participate in Public Affairs*
- *Freedom of Opinion and Expression*

Citizens were able to support candidates and parties, including financial support, and this support did not interfere with the independence of the party.

Political commitment sources suggest that both the state and its citizens are entitled to provide support to candidates and political

740 CoE (Committee of Ministers), Recommendation (2003)4, art. 1

741 CoE (Committee of Ministers), Recommendation (2003)4, art. 1

742 CoE, (Committee of Ministers), Recommendation (2003)4, art. 1

743 PACE, Recommendation 1516 (2001), para. 8(A)(iv)

744 CoE (Committee of Ministers), Recommendation (2003)4, art. 1

745 CoE, (Committee of Ministers), Recommendation (2003)4, art. 1

746 CoE (Congress of Local and Regional Authorities), Resolution 105 (2000), para. 13

747 CoE (Venice Commission), Code of Good Practice, sec. 1.2.3.aa.iii



parties.⁷⁴⁸ However, state and citizen support should not interfere with the independence of the political party.

The system for regulating private financial contributions ensured equality of freedom to raise private funds.

Where private funding contributions are allowed, the system should be designed to ensure equality of freedom to raise private funds.⁷⁴⁹

Campaign Expenditures

Key Obligations:

- *Right and Opportunity to Be Elected*
- *Freedom From Discrimination and Equality Before the Law*

There were limits imposed on campaign expenditures.

Interpretive sources indicate that states should consider imposing reasonable limits on campaign expenditure where it is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by disproportionate expenditure on behalf of any candidate or party.⁷⁵⁰

All candidates were treated equitably with regard to campaign finance and expenditures.

Sources indicative of state practice further note that where legislation allows for public funding, private funding, or a mix of the two, legislation should ensure that all political parties and candidates are treated equitably with respect to campaign finance and expenditures.⁷⁵¹

Disclosure of Campaign Finances

Key Obligations:

- *Transparency and Access to Information*
- *Prevention of Corruption*

The funding received by a political party and/or candidate was disclosed in regular reports.

Regional treaty sources state that funding received by any political party or candidate should be disclosed⁷⁵² in reports submitted at regular intervals.⁷⁵³

748 CoE (Committee of Ministers), Recommendation (2003)4, art. 1

749 International IDEA, Legal Framework, p. 67

750 U.N. (CCPR), General Comment 25, para. 19

751 Commonwealth Secretariat, Reference Guide for Election Observers, p. 24

752 CIS, Convention on Democratic Elections, art. 12(4)

753 CIS, Convention on Democratic Elections, art. 12(5)

State practice sources suggest that campaign finance reports be timely, public, detailed and comprehensive, and understandable to the public at large.⁷⁵⁴ To ensure timeliness, states should require that election campaign reporting schedules allow release of the report in advance of election day.⁷⁵⁵

In addition, political commitments suggest that states should require records of expenditure;⁷⁵⁶ that parties present and make public their accounts;⁷⁵⁷ that the accounts of political parties specify all donations received by the party, including the nature and value of the donation;⁷⁵⁸ and that parties and related entities keep proper books and accounts. The accounts of parties should be consolidated and should include the accounts of said related entities.⁷⁵⁹

Additional state practice sources suggest that adequate disclosure in the context of campaign finance requires the adoption of separate reporting requirements for operational and electoral activities⁷⁶⁰ as well as a requirement to keep special records for direct and indirect contributions to campaigns.⁷⁶¹ Parties should also offer access to their foundational documents, procedures, and accounts.⁷⁶²

Disclosure provisions should clearly identify what counts as campaign expenditure.

These state practice sources provide that legislation should distinguish between income and expenditure,⁷⁶³ require disclosure of all donations exceeding a certain minimum threshold,⁷⁶⁴ and require itemization of donations into standardized categories.⁷⁶⁵

In addition, disclosure provisions should distinguish between the financing of political parties and the financing of candidates⁷⁶⁶ as well as between routine party finances and electoral finances.⁷⁶⁷ Disclosure rules should also include both national and local party finances.⁷⁶⁸

754 Transparency International, Reporting and Public Disclosure, p. 2

755 van Biezen, Guidelines, p.61

756 CoE (Committee of Ministers), Recommendation (2003)4, para. 10

757 CoE (Committee of Ministers), Recommendation (2003)4, para. 13

758 CoE (Committee of Ministers), Recommendation (2003)4, para. 12(a)

759 CoE (Committee of Ministers), Recommendation (2003)4, para. 11

760 CoE (Venice Commission), Report on the Participation of Political Parties, para. 30

761 van Biezen, Guidelines, p. 61

762 CoE (Venice Commission), Good Practice in the Field of Political Parties, para. 2.20

763 van Biezen, Guidelines, p. 55

764 van Biezen, Guidelines, p. 55

765 van Biezen, Guidelines, p. 55

766 van Biezen, Guidelines, p. 55

767 van Biezen, Guidelines, p. 55

768 van Biezen, Guidelines, p. 55



In addition, state practice sources also indicate that regulations should clearly identify a campaign expenditure⁷⁶⁹ and an established campaign period for the purposes of recording expenditure.⁷⁷⁰

Campaign finance reporting requirements were realistic, and disclosure requirements struck a balance between transparency and the privacy of donors.

State practice sources clarify that while detailed reports are clearly necessary, it is also important that the requirements for financial reporting of electoral activity be realistic.⁷⁷¹ In all cases, disclosure regulations should strike a balance between transparency and privacy.⁷⁷²

Misuse of State Resources

Key Obligations:

- *Right to Security of the Person*
- *Prevention of Corruption*

There was a balanced and transparent system for political party financing.

International treaties identify the importance of the prevention of corruption in the context of campaign financing and note that states should foster a balanced and transparent system of political party financing.⁷⁷³

Public resources were not abused in support of a particular party or candidate.

Political commitment sources make clear that material public resources should not be abused in support of a particular political party or candidate⁷⁷⁴ and that parties may not receive clandestine or fraudulently obtained financial aid.⁷⁷⁵

The law was clear regarding the extent to which public employees could be involved in a campaign. Public employees were not coerced into voting for a particular candidate or party.

State practice sources suggest the law should also be clear regarding the extent to which public employees may be involved in a campaign.⁷⁷⁶ Public employees should not be coerced to

⁷⁶⁹ van Biezen, Guidelines, p. 31

⁷⁷⁰ van Biezen, Guidelines, p. 31

⁷⁷¹ Dahl, Bob, in Political Finance in Postconflict Societies, IFES, p. 129

⁷⁷² International IDEA, Funding of Political Parties, p. 16

⁷⁷³ U.N., UNCAC, art. 7

⁷⁷⁴ CoE (Venice Commission), Code of Good Practice in the Field of Political Parties, para. 41

⁷⁷⁵ CoE (Venice Commission), Good Practice in the Field of Political Parties, para. 42

⁷⁷⁶ OSCE (ODIHR), Handbook (Ed. 6), p. 60

vote for a particular party or candidate.⁷⁷⁷ Additionally, electoral legislation should include procedures and penalties aimed at preventing corruption.⁷⁷⁸

Independent Body to Monitor Campaign Finances

Key Obligations:

● *State Must Take Necessary Steps to Give Effect to Rights*

The state took steps to provide for independent monitoring of campaign and political financing.

Political commitment sources suggest that the state should provide for the independent monitoring of campaign and political finance.⁷⁷⁹

State practice sources suggest that legislation on an independent monitoring body should define:

- The procedure for appointing members to the monitoring body⁷⁸⁰
- The definition of their specific powers and activities⁷⁸¹
- The types of breaches of the law to be sanctioned⁷⁸²
- Procedures for appeal against decisions of the agency⁷⁸³

Other state practice sources add that the monitoring body should have security of funding, be free from political pressure,⁷⁸⁴ and should have autonomous capacity to seek out violations.⁷⁸⁵ Further, state practice sources indicate that it is important that the monitoring body provide accessible and timely information⁷⁸⁶ and respect human rights.⁷⁸⁷ As one concrete measure to ensure freedom from political influence, members should not be eligible for reappointment.⁷⁸⁸

777 U.N. (CPR), General Comment 25, para. 20

778 U.N., Human Rights and Elections, para. 118

779 CoE (Congress of Local and Regional Authorities), Res. 105(2000), para. 11

780 van Biezen, Guidelines, p. 64

781 van Biezen, Guidelines, p. 64

782 van Biezen, Guidelines, p. 64

783 Transparency International, Policy Position No. 2/2005, p. 4

784 Transparency International, Policy Position No. 2/2005, p. 3

785 Transparency International, Policy Position No. 2/2005, p. 3

786 Transparency International, Policy Position No. 2/2005, p. 4

787 Transparency International, Policy Position No. 2/2005, p. 4

788 van Biezen, Guidelines, p. 66



Sanctions for Campaign Finance Violations

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*

Violations of rules regarding political and campaign finance were subject to proportionate and effective sanctions.

Political commitment sources suggest that states should also require that the infringement of rules regarding party funding be subject to effective and proportionate sanctions.⁷⁸⁹ One way states can facilitate this requirement is to promote specialization of branches of the government in the fight against illegal campaign funding.⁷⁹⁰

⁷⁸⁹ CoE (Committee of Ministers), Recommendation (2003)4, art. 16

⁷⁹⁰ CoE (Committee of Ministers), Recommendation (2003)4, art. 15



Section 7

The Media

Relevant Obligations


- Genuine Elections That Reflect the Free Expression of the Will of the People
- Equality Between Men and Women
- Freedom of Movement
- Right to an Effective Remedy
- Freedom of Opinion and Expression
- Periodic Elections
- Transparency and Access to Information
- Prevention of Corruption
- Right to Security of the Person
- State Must Take Necessary Steps to Give Effect to Rights
- Freedom From Discrimination and Equality Before the Law
- Rule of Law

-
- Macro-Level Obligation
 - Individual Rights and Freedoms
 - Process-Focused Obligations
 - Foundational Obligations



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 Refer to the ACE Electoral Knowledge Network for more information on the media and elections.

The media play a complex role in the electoral process, providing information to voters and a platform to parties and candidates while also serving a “watchdog” function. These roles require that the rights of members of the media be protected while at the same time requiring that the media respect the rights of others.

Assessments of the media during an electoral process may focus on one or more of the different roles of media, though most often media assessments focus on evaluating the media’s coverage of candidates and campaigns.

The following section of the manual provides guidance on a number of electoral issues regarding the media, including:

- The legal framework for the media
- Independence of the media
- Freedom of expression and the media
- Campaigning and the media
- The right to an effective remedy

A nonexhaustive list of illustrative questions for data collection on the assessment criteria is included in Appendix C.



The Legal Framework and the Media

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*
- *Rule of Law*

The principles of rule of law were promoted.

Treaty sources provide that states should take measures to promote the principles of the rule of law.⁷⁹¹ The rule of law is widely recognized as an essential condition for the fulfillment of human rights and representative democracy.⁷⁹²

The laws regulating elections were equally enforced and were not arbitrarily applied.

International treaties have stated that the rule of law requires that all are equal before the law⁷⁹³ and that laws are equally enforced.⁷⁹⁴ Respect for the rule of law ensures a political and legal environment conducive to the conduct of a genuine electoral process and the fulfillment of electoral rights.

Interpretive sources state further that rule of law requires that laws and procedures are not arbitrarily applied.⁷⁹⁵

The legal framework for elections was consistent with international human rights.

International treaties require that the legal framework be consistent with international human rights obligations.⁷⁹⁶

Pluralistic and Balanced Media

Key Obligations:

- *Transparency and Access to Information*
- *Freedom From Discrimination and Equality Before the Law*

A pluralistic media promoted citizen access to information, and the media was free to play an impartial and objective role in covering electoral issues.

Treaty sources indicate that while the media must be provided access to information, the state has a responsibility to promote access to information by ensuring a pluralistic media that allows citizens access to a variety of viewpoints and media outlets.⁷⁹⁷

! Refer to the Legal Framework section of this handbook for more information.

⁷⁹¹ U.N., UNCAC, art. 5(1); AU, ACDEG, art. 32(8); CoE, ECHR, Preamble; CIS, Convention on Human Rights, Preamble.

⁷⁹² U.N., Millennium Declaration; UNGA, Resolutions on the Rule of Law; OAS, IADC, arts. 3 and 4; and OSCE, Copenhagen Document, para. 3.

⁷⁹³ U.N., ICCPR, art. 26; AU, AfCHPR, art. 19; OAS, ACHR, art. 24; EU, Charter on Fundamental

Rights, art. 20; CIS, Convention on Human Rights, art. 20(1)

⁷⁹⁴ U.N., ICCPR, art. 26

⁷⁹⁵ U.N. (CCPR), General Comment 25, para. 4

⁷⁹⁶ U.N., ICCPR, art. 2(2); AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CoE, ECHR, art. 1; CIS, Convention on Human Rights, art. 1

⁷⁹⁷ EU, Charter on Fundamental Rights, art. 11(2)

Interpretive sources further note that the state should promote media pluralism and be prevented from having a monopoly on media⁷⁹⁸ and that licensing regulations should not be used as a means of stifling freedom of expression or access to information.⁷⁹⁹

Political commitments suggest that public service media should ensure that the public receive adequate and politically balanced information during election periods.⁸⁰⁰

The structure of media ownership was transparent so that citizens could better understand potential biases in their information sources.

Political commitments indicate that the structure of media ownership should be transparent so that individuals are aware of the potential biases in their information sources.⁸⁰¹

Space in the media existed for political debate.

Sources indicative of state practice suggest that sufficient media space should be guaranteed to allow for the open questioning and debate between political leaders and candidates.⁸⁰²

Independence of the Media

Key Obligations:

● Freedom of Opinion and Expression

There were no restrictions on people who may practice journalism by the state, though journalists may have regulated themselves.

Interpretive sources allow regulation or accreditation of journalists only in ways that regulate access to certain places or events.⁸⁰³ These schemes should be nondiscriminatory and should use reasonable and objective criteria.⁸⁰⁴

State practice sources further recommend that restrictions on who may practice journalism should be unlawful.⁸⁰⁵

Editorial independence was protected, and the government did not abuse resources or influence to exert control over media content.

Interpretive sources provide that public media outlets should be guaranteed independence and editorial freedom, and the provision of funding should not undermine this independence.⁸⁰⁶

798 U.N. (CCPR), Concluding Observations, Russian Federation (2003), para. 18

799 U.N. (CCPR), Concluding Observations, Ukraine (2001), para. 22

800 AU, Principles on Freedom of Expression, art. 3

801 CoE (Committee of Ministers), Recommendation R94(13) on measures to promote media transparency, Guideline 1

802 OHCHR, Resolution 2005/38 on The Right to Freedom of Opinion and Expression, para. 4p

803 U.N. (CCPR), General Comment 34, para. 44

804 U.N. (CCPR), General Comment 34, para. 44

805 OAS, Inter-American Principles on Freedom of Expression, Principle 6

806 U.N. (CCPR), General Comment 34, para. 16



Political commitments indicate that editorial independence should be protected from political or economic interference.⁸⁰⁷ Political commitments dictate that government officials should not abuse resources or influence to exert control over media content.⁸⁰⁸

The media was able to express criticisms of the government.

Interpretive sources provide that the freedom of expression and opinion for the journalists and the media outlets for which they work should include the ability to express criticisms of the government.⁸⁰⁹

The media was not held liable for the reproduction of untrue statements made by others.

State practice sources emphasize that the journalists and the media outlets for which they work should not be held liable for the reproduction of untrue statements made by others.⁸¹⁰

Independent Body to Regulate Broadcasting During Elections

Key Obligations:

● *State Must Take Necessary Steps to Give Effect to Rights*

The state took the steps necessary to guarantee rights with regard to the media; for example, through the establishment of an independent body to regulate election broadcasts.

Treaty sources oblige states to take the steps necessary to give effect to human rights.⁸¹¹ The obligation upon states to take the steps necessary to give effect to human rights applies to the entire electoral process and all electoral rights.

Interpretive sources indicate that necessary steps taken to ensure rights in the context of the media environment may include the establishment of an independent body to regulate broadcasts.⁸¹²

The appointment and functioning of regulatory authorities of the media were transparent, and they were independent and protected from political interference. The media regulatory body acted in a transparent and impartial manner.

Political commitments recommend that states take steps to ensure that the appointment and functioning of regulatory authorities

807 CoE (Committee of Ministers), Declaration on the guarantee of independence of public service broadcasting, para. li

808 OAS, Inter-American Principles on Freedom of Expression, Principle 13

809 U.N. (CCPR), General Comment 34, para. 38

810 CoE (Venice Commission), Guidelines on Media Analysis, p. 8

811 U.N., ICCPR, art. 2(2); AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CoE, ECHR, art. 1; CIS, Convention on Human Rights, art. 1

812 U.N. (CCPR), General Comment 34, para. 39

are transparent⁸¹³ and that such authorities are independent and protected from interference.⁸¹⁴

State practice sources also suggest that creating a media regulatory body that acts in an impartial and transparent manner can be beneficial during elections.⁸¹⁵

Freedom of Expression and the Media

Key Obligation:

● *Freedom of Opinion and Expression*

Freedom of opinion and expression by the media was respected throughout the electoral process. In addition, the media respected the freedom of opinion and expression of others.

International treaties provide for freedom of expression as the right for everyone—including political parties and candidates—to seek, receive, and impart ideas through any means of their choice, including but not limited to writing, speech, print, art,⁸¹⁶ or the Internet. Freedom of expression may only be restricted under certain circumstances prescribed by law and necessary in a democratic society.⁸¹⁷ Such restrictions include those that:

- Are in the interests of national security⁸¹⁸
- Protect territorial integrity⁸¹⁹
- Are in the interests of public safety⁸²⁰
- Maintain the authority and impartiality of the judiciary⁸²¹
- Prevent disclosure of information received in confidence⁸²²

Regional treaties state that freedom of expression should not be limited by the imposition of prior censorship,⁸²³ abuse of government, or private control over the media.⁸²⁴

Free communication of information and ideas about public and political issues took place between citizens, candidates, and elected representatives.

Interpretive sources reinforce that free communication of information and ideas about public and political issues between citizens, candidates, and elected representatives is necessary.⁸²⁵

813 AU, Principles on Freedom of Expression, art. 7.2

814 AU, Principles on Freedom of Expression, art. 7

815 EU, Handbook (Ed. 2), p. 56

816 U.N., ICCPR, art. 19(2); AU, Principles on Freedom of Expression in Africa, art. 1(1); OAS, ACHR, art. 13(1); CoE, ECHR, art. 10(1); CIS, Convention on Human Rights, art. 11(1)

817 U.N., ICCPR, art. 19; OAS, ACHR, art. 13(2) (b); CoE, ECHR, art. 10(2); CIS, Convention on Human Rights, art. 11(2)

818 U.N., ICCPR, art. 19

819 CoE, ECHR, art. 10(2)

820 CoE, ECHR, art. 10(2)

821 CoE, ECHR, art. 10(2)

822 CoE, ECHR, art. 10(2)

823 OAS, ACHR, art. 13(3)(b)

824 OAS, ACHR, art. 13(3)

825 U.N. (CCPR), General Comment 25, para. 25



Hate Speech and Incitement to Violence

Key Obligations:

● *Freedom of Opinion and Expression*

Advocacy of national, racial, or religious hatred that constituted incitement to discrimination, hostility, or violence was prohibited by law, and the law was enforced.

International treaties note that freedom of expression may be restricted when an expression seeks to destroy other established rights⁸²⁶ and when the rights and freedoms of others must be protected.⁸²⁷ Any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence should be prohibited by law.⁸²⁸

Defamation

Key Obligations:

● *Freedom of Opinion and Expression*

Claims of defamation were not used to suppress freedom of expression or to stifle the media or public debate and were not used to silence criticism of the government or its institutions.

Interpretive sources provide that defamation laws should not equal de facto suppression of freedom of expression.⁸²⁹ Interpretive sources state that claims of defamation made by political figures and public officials should be subject to greater scrutiny than those made by other citizens.⁸³⁰ The state should not prevent criticism of institutions, such as the army or administration, and laws should not be more severe solely on the basis of the person who may have been impugned.⁸³¹

Political commitments clearly establish that the expression of an opinion or of a true statement may never constitute a valid claim of defamation.⁸³²

Remedies for defamation were proportionate and not excessively punitive.

Interpretive sources say that there should be a range of remedies available in the case of defamation. The application of the criminal law in cases of defamation should only be considered in the

⁸²⁶ U.N., ICCPR, art. 5(1)

⁸²⁷ U.N., ICCPR, art. 19(3); OAS, ACHR, art. 13(2)(a); CoE, ECHR, art. 10(2); CIS, Convention on Human Rights, art. 11(2)

⁸²⁸ U.N., ICCPR, art. 20; OAS, ACHR, art. 13(5)

⁸²⁹ U.N. (CCPR), General Comment 34, paras. 42 and 47

⁸³⁰ U.N. (CCPR), General Comment 34, para. 38

⁸³¹ U.N. (CCPR), General Comment 34, para. 38

⁸³² AU, Principles on Freedom of Expression, art. 12

most serious of cases, and imprisonment is never an appropriate penalty.⁸³³ All remedies provided for defamation should be proportional and not excessively punitive.⁸³⁴

Opinion Polls

Key Obligations:

- *Freedom of Opinion and Expression*

The release of opinion polls was subject only to reasonable restrictions.

Interpretive sources state that the restrictions on the publication of opinion polls for a limited period until polling is complete do not constitute a violation of freedom of expression.⁸³⁵

Campaign Silence Period

Key Obligations:

- *Freedom of Opinion and Expression*

If there was a campaign silence period, it was of reasonable duration.

Political commitments suggest that a silent period may be instituted immediately in advance of polling day, allowing voters to exercise their franchise freely and without undue pressure.⁸³⁶

Voter Education and Debates

Key Obligations:

- *Freedom of Opinion and Expression*

The media aired debates between candidates and provided voter education.

State practice sources indicate that reasonable limitations may be imposed on the media's right to free expression in order to ensure the fulfillment of other rights. For example, the media may be required to provide voter education and to air debates between candidates.⁸³⁷

! Refer to the Voter Education section of this handbook for more information.

833 U.N. (CCPR), General Comment 34, paras. 42 and 47

834 U.N. (CCPR), General Comment 34, para. 42

835 U.N. (CCPR), *Kim Jong-Cheol v. Republic of Korea* (2001), para. 8.3

836 CoE (Committee of Ministers), Recommendation on media coverage of election campaigns, para. III

837 EU, Handbook (Ed. 2), p. 54



Access to Electoral Information

Key Obligations:

- *Transparency and Access to Information*

The right of access to information was respected throughout the electoral process, including its relation to the media.

International treaties protect a right of transparency and access to information that is born from the guarantee that the right to free expression includes the ability for everyone to seek and receive information and ideas.⁸³⁸ Only certain limited restrictions may be placed on transparency and access to information.

The state proactively put in the public domain government information of public interest.

International treaties indicate that states should proactively put in the public domain government information of public interest.⁸³⁹ This should include information regarding the electoral process.

! Refer to the Framework section of this handbook for more information regarding permissible restrictions on the right of access to information.

Protection of Sources

Key Obligations:

- *Transparency and Access to Information*
- *Prevention of Corruption*

The media was able to report on electoral issues, including from confidential sources without government interference.

International treaties oblige states to consider measures aimed at protecting whistle-blowers.⁸⁴⁰

Interpretive sources further indicate that the right of the media to gather information—including information from confidential sources—without government interference should be assured.⁸⁴¹

The media was given access to information, particularly with regard to allegations of corruption and related offenses.

Regional treaties state that given the important role media plays in providing information to the electorate, the media should be given access to information, particularly in cases of corruption and related offenses.⁸⁴² This should include information regarding the electoral process.

838 U.N., ICCPR, art. 19; AU, Convention on Corruption, art. 9; OAS, ACHR, art. 13

839 U.N., UNCAC, art. 10

840 U.N., UNCAC, art. 33

841 U.N. (CCPR), General Comment 34, para. 45

842 AU, Convention on Corruption, art. 12

Freedom From Discrimination and the Media

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Equality Between Men and Women*

The regulation of the media promoted equality and absence of discrimination.

International treaties prohibit discrimination on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, physical or mental ability, sexual orientation or gender identity, birth, or other status at any time.⁸⁴³ In addition, international law is clear that all are equal before the law and should enjoy the equal protection of the law.⁸⁴⁴

Interpretive sources clarify that the state is obligated to perform both its “negative duty” to refrain from discrimination and its “positive duty” to prevent discrimination.⁸⁴⁵ This presumably includes ensuring freedom from discrimination in regulation of the media.

Political parties and candidates had access to the public media on a nondiscriminatory basis.

Interpretive sources indicate that in order to promote equality political parties and candidates must have access to the public media on a nondiscriminatory basis and that airtime should be fairly distributed.⁸⁴⁶

Female and male candidates received equal coverage.

Interpretive sources further note that female and male candidates should receive equal visibility in the media, especially during election periods.⁸⁴⁷

The media took steps to reach all segments of society, including those who speak minority languages or live in rural areas.

Political commitments recommend media outlets take steps to provide access to marginalized groups. Such steps may include the consideration of transmitting in minority languages and assuring broad coverage of rural areas.⁸⁴⁸

News coverage of incumbents in the public media was not abused so that it constituted additional free airtime or print coverage.

843 U.N., ICCPR, art. 25; U.N., CRPD, art. 2; AU, AfCHPR, art. 2; OAS, ACHR, art. 1; LAS, Arab Charter, art. 3; CoE, ECHR, art. 14; EU, Charter on Fundamental Rights, art. 21(1); CIS, Convention on Human Rights, art. 20(2); U.N. (CESCR), General Comment 20, para. 32

844 U.N., ICCPR, art. 26; AU, AfCHPR, art. 19; OAS, ACHR, art. 24; EU, Charter on Fundamental

Rights, art. 20; CIS, Convention on Human Rights, art. 20(1)

845 U.N. (CCPR), General Comment 28, para. 21

846 U.N. (CCPR), Concluding Observations, Togo (2002), para. 17

847 U.N. (CEDAW), Concluding Observations, Switzerland (2009), para. 34

848 AU, Principles on Freedom of Expression, art. 3



Political commitments suggest that news coverage of incumbents in public media, while permitted during the campaign period, should not be abused so that it constitutes additional free airtime or print coverage.⁸⁴⁹

Private Media Regulations

Key Obligations:

- *Freedom of Opinion and Expression*

Private media, while not subject to the same regulation as public media, was generally fair and balanced in their coverage of the candidates and provided an equal opportunity for access to all candidates.

Political commitments recognize that private media, while not subject to the same regulation as public media, may be subject to some restrictions. These include ensuring media outlets are fair and balanced in their coverage⁸⁵⁰ and providing equal opportunity for access for all candidates.⁸⁵¹

Free Airtime and Paid Advertising

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Transparency and Access to Information*

Free airtime was distributed equally (amount of space and also the timing and location of the media space).

Political commitments suggest that free airtime, if offered, should be distributed equally.⁸⁵²

State practice sources build on this, saying that equality refers not only to the amount of space provided but to the timing and location of such space.⁸⁵³

Free airtime for candidates and parties was granted during peak viewing or listening hours.

In addition, state practice sources suggest that free broadcasts should be aired during peak viewing and listening periods.⁸⁵⁴

Paid advertising on public media was identified as such, and the costs and conditions involved were reasonable and equally applied to all candidates and parties.

! Refer to the Candidacy and Campaigning section of this publication for more information.

849 CoE (Committee of Ministers), Recommendation 99(15) on media coverage of election campaigns, para. 11.2

850 CoE (Committee of Ministers), Recommendation (99)15 on media coverage of election campaigns, para. 3.1

851 CoE (Committee of Ministers), Recommendation 99(15) on media coverage of election campaigns, para. 11.1

852 CoE (Committee of Ministers), Recommendation (99)15 on media coverage of election campaigns, para. 11.4

853 U.N., Human Rights and Elections, para. 120

854 EU, Handbook (Ed. 2), p. 54

Political commitments note it is important that paid advertising in the public media should be identified as such. Also, the costs and conditions involved should be reasonable and equally applied to all candidates and parties.⁸⁵⁵ If private media accepts paid advertising, the costs and conditions for advertising should be equally applied to all candidates.⁸⁵⁶

Limits on advertising spending (as political speech) were instituted only in the interests of promoting equality between candidates or parties.

State practice sources also suggest limits on advertising spending may be instituted to ensure equality of opportunity.⁸⁵⁷

Freedom of Movement and the Media

Key Obligations:

● *Freedom of Movement*

Freedom of movement was guaranteed to all electoral stakeholders, including the media.

International and regional treaties protect the right of everyone to freedom of movement within the borders of each state.⁸⁵⁸ The right of freedom of movement may only be restricted when provided by law, necessary in a democratic society and consistent with other rights.⁸⁵⁹

Safety, Security, and the Media

Key Obligations:

● *Right to Security of the Person*

Security of the person was guaranteed for all election stakeholders, including the members of the media.

International treaties state that everyone has the right to security of the person without arbitrary arrest or detention.⁸⁶⁰ It requires that individuals be free from physical and emotional violence at all times.

Interpretive sources extend the right of security of the person specifically to members of the media.⁸⁶¹

! Refer to the Framework section of this handbook for more information regarding permissible restrictions on freedom of movement.

855 CoE (Committee of Ministers), Recommendation (99)15 on media coverage of election campaigns, para. 1.2

856 OSCE (ODIHR), Handbook (Ed. 6), p. 65

857 CoE (Venice Commission), Code of Good Practice, sec. I.2.3.ee

858 U.N., ICCPR, art. 12; AU, AfCHPR, art. 12; OAS, ACHR art. 22

859 U.N., ICCPR, art. 12

860 U.N., ICCPR, art. 9; AU, AfCHPR, art. 6; OAS, ACHR, art. 7(1)

861 U.N. (CCPR), General Comment 34, para. 23



Right to an Effective Remedy and the Media

Key Obligations:

● *Right to an Effective Remedy*

A system to file complaints related to the media was available for all citizens.

International treaties provide that everyone has the right to an effective (timely and enforceable)⁸⁶² remedy before a competent national tribunal for acts that violate his/her rights or freedoms.⁸⁶³ Remedy should be available for complaints that arise throughout the electoral process.⁸⁶⁴

Political commitments regarding the right to an effective remedy, when considered in the context of the media environment, indicate that a system to file complaints for media should be available to all citizens.⁸⁶⁵

! Refer to the Electoral Dispute Resolution section of this handbook for more information.

⁸⁶² U.N., ICCPR, art. 2; AU, AfCHPR, art. 7

⁸⁶³ U.N., ICCPR, art. 2; OAS, ACHR, art. 25; CoE, ECHR, art. 13

⁸⁶⁴ ECOWAS, Protocol, art. 7

⁸⁶⁵ AU, Principles on Freedom of Expression, Principle. 9.2



Section 8

Voting Operations

Relevant Obligations


- Genuine Elections That Reflect the Free Expression of the Will of the People
- Right and Opportunity to Vote
- Right and Opportunity to Be Elected
- Right and Opportunity to Participate in Public Affairs
- Freedom of Association
- Freedom of Movement
- Transparency and Access to Information
- Right to Security of the Person
- Freedom From Discrimination and Equality Before the Law
- Equality Between Men and Women
- Right to an Effective Remedy
- Universal Suffrage
- Equal Suffrage
- Secret Ballot
- Periodic Elections
- Prevention of Corruption
- State Must Take Necessary Steps to Give Effect to Rights
- Rule of Law

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- Macro-Level Obligation
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 - Process-Focused Obligations
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 Refer to the ACE Electoral Knowledge Network for more information on voting operations.

The effective process of recording votes on polling day(s) is a key component of a democratic election. The manner in which voting operations are conducted, and the degree to which they are transparent, can help ensure public confidence in the electoral process and acceptance of results. Although the enjoyment of electoral rights is dependent on the implementation of detailed processes and procedures, international law does not provide a great deal of guidance on how the voting process should unfold, and the process varies from country to country.

Assessment of voting operations is a common focus of both international and citizen observation organizations, both of which will deploy large numbers of short-term observers to polling stations around the country. While observation methods of each may vary, it is good practice to capture observation data in detailed questionnaires or checklists.

The following section refers not only to the activities that take place on polling day(s) but also to the administrative steps leading up to and immediately following voting. It also provides guidance on a range of issues, including:

- The legal framework for voting operations
- Facilitation of the right to vote
- Discrimination in voting operations
- Election officials
- Transparency, access to information, and observation of voting operations
- Electoral safeguards
- The right to an effective remedy

A nonexhaustive list of illustrative questions for data collection on the assessment criteria outlined below is included in Appendix C.



Legal Framework for Voting Operations

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*
- *Rule of Law*

The principles of rule of law were promoted.

Treaty sources provide that states should take measures to promote the principles of the rule of law.⁸⁶⁶ The rule of law is widely recognized as an essential condition for the fulfillment of human rights and representative democracy.⁸⁶⁷

The laws regulating elections were equally enforced and were not arbitrarily applied.

International treaties state that the rule of law requires that all are equal before the law⁸⁶⁸ and laws are equally enforced.⁸⁶⁹ Respect for the rule of law ensures a political and legal environment conducive to the conduct of a genuine electoral process and the fulfillment of electoral rights.

Interpretive sources have further stated that rule of law requires that laws and procedures are not arbitrarily applied.⁸⁷⁰

The legal framework for elections was consistent with international human rights.

International treaties require that the legal framework be consistent with international human rights obligations.⁸⁷¹

Citizenship

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Equality Between Men and Women*
- *Rule of Law*

The rules regarding citizenship were clear and nondiscriminatory.

While everyone has the right to a nationality,⁸⁷² the details of citizenship are generally not addressed in great detail in international law. Citizenship has traditionally been considered within the state's remit to regulate. The link between citizenship and the enjoyment

! Refer to the Legal Framework section of this handbook for more information.

⁸⁶⁶ U.N., UNCAC, art. 5(1); AU, ACDEG, art. 32(8); CoE, ECHR, Preamble; CIS, Convention on Human Rights, Preamble.

⁸⁶⁷ UNGA, Millennium Declaration; UNGA, Resolutions on the Rule of Law; OAS, IADC, arts. 3 and 4; and OSCE, Copenhagen Document, para. 3

⁸⁶⁸ U.N., ICCPR, art. 26; AU, AfCHPR, art. 19; OAS, ACHR, art. 24; EU, Charter on Fundamental

Rights, art. 20; CIS, Convention on Human Rights, art. 20(1)

⁸⁶⁹ U.N., ICCPR, art. 26

⁸⁷⁰ U.N. (CCPR), General Comment 25, para. 4

⁸⁷¹ U.N., ICCPR, art. 2

⁸⁷² U.N., UDHR, art. 15

⁸⁷³ U.N., ICCPR, art. 25

of participatory rights is made explicit in international treaties.⁸⁷³ Although states may regulate the law concerning nationality, citizenship, or naturalization, they may not discriminate against any particular nationality in doing so.⁸⁷⁴

Interpretive sources note that distinctions between those who attain citizenship by birth or by naturalization may be discriminatory.⁸⁷⁵

Other sources support the requirement that the process for attaining citizenship should be clearly defined and nondiscriminatory.⁸⁷⁶

The Right to Vote, and Voting Operations

Key Obligations:

- *Right and Opportunity to Vote*
- *Freedom From Discrimination and Equality Before the Law*

The right to vote was guaranteed by law and was subject only to reasonable and objective restrictions.

Treaty sources establish the right of every citizen to vote.⁸⁷⁷ The right to vote may only be subject to reasonable restrictions. Unreasonable restrictions include those based on excessive residency requirements;⁸⁷⁸ naturalized citizenship;⁸⁷⁹ criminal conviction (disproportionate to the severity of the crime or blanket disenfranchisement provisions);⁸⁸⁰ status as a remanded prisoner yet to be convicted of an offense;⁸⁸¹ surpassing the legal age of majority;⁸⁸² race;⁸⁸³ sex;⁸⁸⁴ religion;⁸⁸⁵ physical disability;⁸⁸⁶ mental, intellectual or psychosocial disability (that is disproportionate or has no reasonable or objective relationship to the person's ability to vote);⁸⁸⁷ political or other opinion;⁸⁸⁸ national or social origin;⁸⁸⁹ sexual orientation or gender identity;⁸⁹⁰ language;⁸⁹¹ birth or other status;⁸⁹² literacy;⁸⁹³

874 U.N., ICERD, art. 1(3)

875 U.N. (CCPR), General Comment 25, para. 3

876 U.N., Recommendations of the second session of the Forum on Minority Issues on minorities and effective political participation, para. 26

877 U.N., ICCPR, art. 25; AU, AfCHPR, art. 13(1); AU, Protocol to the AfCHPR, art. 9; OAS, ACHR, art. 23(1)(b); CIS, Convention on Democratic Elections, art. 2(a); EU, Charter on Fundamental Rights, art. 40

878 See OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 11 with regard to reasonable residency requirements.

879 U.N., ICCPR, art. 25(b); U.N. (CCPR), General Comment 25, para. 3

880 OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 14; U.N. (CCPR), Concluding Observations on the United Kingdom and Northern Ireland (2008), para. 28

881 U.N. (CCPR), Fongum Gorji-Dinka v Cameroon, Communication No. 1134/2002 (2005), p. 6

882 OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 10; U.N., CRC, art. 1

883 U.N., ICCPR, arts. 2 and 25

884 U.N., ICCPR, arts. 2 and 25

885 U.N., ICCPR, arts. 2 and 25

886 U.N., CRPD, art. 29

887 U.N. (CCPR), Concluding Observations, Belize (2013), para. 24

888 U.N., ICCPR, arts. 2 and 25

889 U.N., ICCPR, arts. 2 and 25

890 EU, Charter on Fundamental Rights, art. 21(2); U.N. (CCPR), Toonen v. Australia (1994); U.N. (CESCR), General Comment 20, para. 32

891 U.N., ICCPR, art. 2

892 U.N., ICCPR, arts. 2 and 25

893 U.N. (CCPR), General Comment 25, para. 10

894 U.N. (CCPR), General Comment 25, para. 10

895 U.N. (CCPR), General Comment 25, para. 10

896 U.N. (CCPR), General Comment 25, para. 10



education;⁸⁹⁴ property ownership;⁸⁹⁵ party membership;⁸⁹⁶ naturalized citizenship;⁸⁹⁷ status as an internally displaced person;⁸⁹⁸ and economic circumstances.⁸⁹⁹

Any restrictions on the right to vote were established in advance of election day, and any loss of that right was only imposed after adjudication by a court.

State practice sources make it clear that any restrictions on the right to vote must be established in advance of election day⁹⁰⁰ and that the loss of this right imposed only after adjudication by a court.⁹⁰¹

Poll workers were adequately trained in the determination of eligible voters.

State practice sources stress the importance of polling personnel receiving clear guidance with respect to identifying and admitting eligible voters.⁹⁰²

Facilitation of Voting

Key Obligations:

- *Right and Opportunity to Vote*
- *Freedom of Movement*
- *Universal Suffrage*

Voting operations facilitated broad participation.

Treaty obligations require that elections be held by universal suffrage.⁹⁰³ Universal suffrage may be subject only to reasonable and objective restrictions such as residency,⁹⁰⁴ citizenship,⁹⁰⁵ or reaching a minimum age.⁹⁰⁶ Voting operations should uphold universal suffrage by promoting participation by the broadest possible pool of eligible voters.

State practice sources indicate that the state may facilitate voting through a variety of methods. These include:

- Early voting⁹⁰⁷
- Postal voting⁹⁰⁸
- Electronic voting⁹⁰⁹ or assistive technologies for people with disabilities⁹¹⁰

! Refer to the Framework section of this handbook for more information regarding unreasonable restrictions on universal suffrage.

897 U.N. (CCPR), General Comment 25, para. 3

898 UNGA, Guiding Principles on Internal Displacement, Principle 4.1

899 U.N., Human Rights and Elections, p. 65

900 Goodwin Gill, *Free and Fair* (2006), p.127

901 OSCE, Moscow Document, para. 18

902 U.N., Human Rights and Elections, para. 111

903 U.N., ICCPR, art. 25(b); AU, ACDEG, art. 4(2); OAS, ACHR, art. 23(1)(b); CIS, Convention on Human Rights, art. 29(b)

904 OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 11

905 U.N., ICCPR, art. 25(b)

906 OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 10

907 OSCE (ODIHR), Handbook (Ed. 6), p. 76

908 CoE (Venice Commission), Code of Good Practice, sec. 1.3.2.2.1.38-39 (explanatory report)

909 CoE (Venice Commission), Code of Good Practice, sec. 1.3.2.iv

910 U.N., CRPD, art. 29

911 CoE (Venice Commission), Code of Good Practice, sec. i.1.1.c.v

- Mobile voting⁹¹¹
- Out-of-country voting⁹¹²
- Establishing polling facilities in hospitals and institutions⁹¹³
- Establishing polling facilities in prisons⁹¹⁴
- Military voting.⁹¹⁵

The need to facilitate voting by people with disabilities extends to e-voting systems⁹¹⁶ and the use of Braille.⁹¹⁷

Sufficient resources, human and material, were available at each polling station.

State practice sources indicate the importance of ensuring that sufficient staffing⁹¹⁸ and voting materials are available at every polling site to facilitate voting.⁹¹⁹

There were an adequate number of polling places to accommodate voters.

State practice suggests that steps should be taken to ensure that there are enough polling places to accommodate the number of registered voters.⁹²⁰

Polling places were located in public places that were easy to access.

State practice sources suggest that polling stations should be located in public places to ensure ease of access.⁹²¹

Polls opened on time and did not close early. People in line to vote at poll closing were able to cast their ballot.

Sources evident of state practice suggest that late opening or early closing of the polls undermines the right to vote.⁹²² All people waiting in line when the polls close should be permitted to vote.⁹²³

Polling Places Accessible to Voters with Disabilities

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*

Polling places were accessible, including to those with disabilities.

912 EISA and ECF of SADC Countries, PEMMO, p. 23

913 Norwegian Helsinki Committee, Human Rights Monitoring, p. 13

914 OSCE (ODIHR), Handbook (Ed. 6), p. 76

915 CoE (Venice Commission), Code of Good Practice, sec. i.3.2.xi

916 CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 3

917 U.N. (CCPR), Concluding Observations, Paraguay (2013), para. 11

918 OSCE (ODIHR), Existing Commitments, p. 71

919 U.N. (CCPR), Concluding Observations, Former Yugoslav Republic of Macedonia, (2008), para. 18

920 EISA and ECF of SADC Countries, PEMMO, p. 24

921 SADC PF, Norms and Standards, p. 16

922 EU, Handbook (Ed. 2), p. 75

923 EU, Handbook (Ed. 2), p. 82



Treaty sources obligate the state to ensure that accommodations be made for people with disabilities so that they may vote. Polling stations must be accessible to people with disabilities.⁹²⁴

Assisted Voting

Key Obligations:

- *Right and Opportunity to Vote*
- *Secret Ballot*

Impartial assistance for voters unable to vote independently was provided.

International treaties state that voters with disabilities should have access to assistance in voting from the person of their choice.⁹²⁵

Interpretive sources add that any assistance provided to those who are unable to vote should be independent.⁹²⁶

State practice sources explain that care should be taken to protect the right to secrecy of the vote for voters with special needs.⁹²⁷ Except in cases where a voter is being lawfully assisted, a voter cannot waive his/her right to secrecy of the ballot.⁹²⁸

Voters were made aware of their right to impartial assistance if needed.

Interpretive sources indicate that electors who are unable to vote independently should be made aware of the guarantee of impartial assistance.⁹²⁹

Proxy Voting

Key Obligations:

- *Universal Suffrage*
- *Equal Suffrage*
- *Secret Ballot*

Proxy voting, if allowed, was strictly regulated.

State practice sources discourage proxy voting but emphasize that if allowed, it must be strictly regulated to protect secrecy of the vote.⁹³⁰

924 U.N., CRPD, art. 29

925 U.N., CRPD, art. 29

926 U.N. (CCPR), General Comment 25, para. 20

927 EISA and ECF of SADC Countries, PEMMO, p. 24

928 EU, Handbook (Ed. 2.), p. 79

929 U.N. (CCPR), General Comment 25, para. 20

930 CoE (Venice Commission), Code of Good Practice, sec. 1.3.2.v

Secrecy of the Ballot

Key Obligations:

● Secret Ballot

The legal framework offered clear guidance with regard to the secrecy of the ballot.

International and regional treaties state that elections must be held by secret ballot⁹³¹ and that this right extends to those with disabilities.⁹³²

Interpretive sources reinforce the importance of secrecy of the ballot through the entire voting process.⁹³³

Political commitments suggest that the system for balloting (paper, electronic, or otherwise) should ensure the secrecy of a voter's choice.⁹³⁴

State practice sources say that electoral legislation and its regulations should offer clear guidance with respect to the secrecy of the ballot.⁹³⁵

Family and group voting were prohibited.

Interpretive sources indicate that family and group voting should be prohibited.⁹³⁶ These practices violate voter secrecy and generally discriminate against women.

Polling stations were set up to ensure secrecy of the ballot.

Other sources, evident of state practice, urge that care be taken to ensure that the setup and location of the polling station do not undermine the secrecy of the ballot.⁹³⁷

Voting Technologies

Key Obligations:

● Right and Opportunity to Vote

● State Must Take Necessary Steps to Give Effect to Rights

Electronic voting technologies operated correctly, and their functioning was ensured by the state through an independent body.

Political commitments make clear that voting technologies should work correctly.⁹³⁸ This includes a necessity for voters to be able to tell when their vote has been cast.⁹³⁹ These sources further specify

931 U.N., ICCPR, art. 25; OAS, ACHR, art. 23; U.N., UDHR, art. 23

932 U.N., CRPD, art. 29

933 U.N. (CCPR), General Comment 25, para. 20

934 CoE (Committee of Ministers) Recommendation (2004)11 on e-voting, art. 35

935 U.N., Human Rights and Elections, para. 109

936 U.N. (CEDAW), Concluding Observations, Tajikistan (2007), para. 26

937 SADC PF, Norms and Standards, para. 16

938 CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 30

939 CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 14



that the correct functioning of e-voting systems should be ensured by the state through an independent body.⁹⁴⁰

Voting technologies were usable by voters and secure from interference.

Political commitments suggest that the voting system, including electronic systems, should be sufficiently secure against fraud.⁹⁴¹

Freedom From Discrimination in Voting Operations

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*

The voting process did not discriminate against anyone on the basis of prohibited grounds.

Treaty obligations prohibit discrimination on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, physical or mental ability, sexual orientation or gender identity, birth, or other status at any time.⁹⁴² Further, treaties state that all are equal before the law and should enjoy equal protection of the law.⁹⁴³

Special Measures

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Equality Between Men and Women*

The state took steps to ensure de facto equality between men and women.

Treaty sources make clear that women should enjoy equal rights to men⁹⁴⁴ and that in some cases, states should take temporary special measures to achieve de facto equality for women.⁹⁴⁵

Interpretive sources indicate that temporary special measures to achieve de facto equality for women can include financially assisting and training women candidates, amending electoral procedures, developing campaigns directed at equal participation, and targeting women for appointment to public positions or the use of quotas to ensure female participation in public affairs.⁹⁴⁶ Interpretive sources

⁹⁴⁰ CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 28

⁹⁴¹ CoE (Committee of Ministers), Declaration on Human Rights and Rule of Law in the Information Society, para. 7

⁹⁴² U.N., ICCPR, art. 25; U.N., CRPD, art. 2; AU, AfCHPR, art. 2; OAS, ACHR, art. 1; LAS, Arab Charter, art. 3; CoE, ECHR, art. 14; EU,

Charter on Fundamental Rights, art. 21(1); CIS, Convention on Human Rights, art. 20(2)

⁹⁴³ U.N., ICCPR, art. 26

⁹⁴⁴ U.N., ICCPR, art. 3; AU, AfCHPR, art. 2(1)(a); CoE, ECHR, art. 23

⁹⁴⁵ U.N., CEDAW, art. 3

⁹⁴⁶ U.N. (CEDAW), General Recommendation 23, para.15

also indicate that measures taken to ensure equitable representation of women should not be considered discriminatory.⁹⁴⁷

Special measures were taken, as necessary, to promote equality for minorities.

International treaties state that temporary special measures for advancing ethnic minorities or groups that have suffered past discrimination may also be taken when the circumstances warrant. Such measures should not be considered discriminatory,⁹⁴⁸ should not be maintained after the objectives for which they were taken are met, and should not result in the maintenance of unequal rights for different groups.⁹⁴⁹

Special measures were taken to ensure de facto equality for people with disabilities.

International treaties obligate states to ensure and promote human rights and fundamental freedoms without any discrimination on the basis of disability.⁹⁵⁰ Specific measures aimed at ensuring de facto equality for people with disabilities should not be considered discriminatory.⁹⁵¹ Other treaty sources also call on states to recognize that women and girls with disabilities are subject to multiple discrimination.⁹⁵²

Interpretive sources further indicate the legal framework should provide people with disabilities with the opportunity to vote and be elected.⁹⁵³

Ballot Design and Voter Choice

Key Obligations:

● *Right and Opportunity to Vote*

Voters were able to verify their choice on their ballot and could alter their choice before casting their ballot.

Political commitments suggest that voting systems should ensure that votes are accurately represented⁹⁵⁴ and that voters should be able to alter their choice before casting their ballot.⁹⁵⁵

Ballots were understandable and user-friendly.

Political commitments and state practice sources establish that ballots, including electronic ones, should:

- Be understandable⁹⁵⁶

947 U.N. (CCPR), General Comment 28, para. 29

948 U.N., ICERD, art. 1

949 U.N., ICERD, art. 1

950 U.N., CRPD, art. 4

951 U.N., CRPD, art. 5

952 U.N., CRPD, art. 6 (1)

953 U.N. (CRPD), Concluding Observations, Hungary (2012), para. 26

954 CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 90

955 CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 11

956 CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, para. A.I.1



- Account for different levels of literacy⁹⁵⁷
- Be available in the principal languages in multilingual societies⁹⁵⁸
- Be identical in all languages⁹⁵⁹

Freedom of Movement and Voting Operations

Key Obligations:

- *Freedom of Movement*

Freedom of movement was respected throughout the electoral process.

Treaty sources establish the fundamental right to freedom of movement within the borders of each state.⁹⁶⁰ This right ensures that everyone, including candidates, voters, observers, and poll workers, are able to move throughout the territory. This includes during election days and voting operations.

Voters displaced in advance of election day had the possibility of returning on election day to cast their ballots.

Treaty obligations grant everyone the right to leave and return to his own country.⁹⁶¹

Political commitments establish that voters displaced in advance of voting should be able to return on election day to cast their ballots.⁹⁶²

State practice sources assert the importance of voter access to polling stations.⁹⁶³

! Refer to the Framework section at the beginning of this handbook for more information regarding permissible restrictions on freedom of movement.

Partisan and Nonpartisan Observation of Voting Operations

Key Obligations:

- *Right and Opportunity to Be Elected*
- *Right and Opportunity to Participate in Public Affairs*
- *Freedom of Association*

The state accredited citizen observer organizations and facilitated their ability to conduct their activities.

Regional treaties are clear that the participation of observers, both citizen and international, may enhance all aspects of the electoral process.⁹⁶⁴

957 U.N., Human Rights and Elections, para. 110

958 OSCE (ODIHR), Handbook (Ed. 6), p. 54

959 U.N., Human Rights and Elections, para. 110

960 U.N., ICCPR, art. 12(1); AU, AfCHPR, art. 12(1); OAS, ACHR, art. 22(1); LAS, Arab Charter, art. 26(1); EU, Charter of Fundamental Rights, art. 45(1) CIS, Convention on Human Rights, art. 22(1)

961 U.N., ICCPR, art. 12(2); AU, AfCHPR, art. 12(2); CIS, Convention on Human Rights, art. 22(2)

962 UNGA, Guiding Principles on Internal Displacement, Principle 22

963 EU, Handbook (Ed. 2), p. 75

964 AU, ACDEG, arts. 19-22; CIS, Convention on Democratic Elections, art. 1(2); OSCE, Copenhagen Document, para. 8; OAS, IADC, arts. 23-25

Political commitments add that states should recognize accredited nongovernmental organizations and facilitate their ability to conduct their activities,⁹⁶⁵ including those related to observation of voting operations.

Candidates and their representatives were able to observe polling and counting as means of protecting their right to be elected.

! Refer to the Framework section of this handbook for more information regarding unreasonable restrictions on the right to be elected.

Treaty obligations establish the right of every citizen to be elected.⁹⁶⁶ This right may only be subject to reasonable and objective restrictions.⁹⁶⁷

In the context of voting operations, political commitments indicate that the right to be elected includes the right of political party and candidate representatives to be allowed in the polling station to observe polling.⁹⁶⁸

Observers were able to access places used for voting.

Everyone has the right of equal access to any place or service intended for use by the public.⁹⁶⁹ This includes observers requiring access to the facilities used for voting.

Access to Information and Electoral Documents

Key Obligations:

● *Transparency and Access to Information*

The right to access to information was respected throughout the voting process.

International and regional treaties state the right to free expression includes the ability for all to seek and receive information and ideas.⁹⁷⁰ While an important right itself, access to information is also a critical means of ensuring transparency and accountability throughout the electoral process. Taken together with the state's obligation to take necessary steps to ensure rights and with the transparency-related elements of the obligation to prevent corruption, a strong argument can be made for an obligation for transparency in the electoral process. Certain limited restrictions may be placed on access to information.

Documents regarding the electoral process, including voting operations, were publicly accessible and accurate.

! Refer to the Framework section of this handbook for more information regarding permissible restrictions on the right to access information.

965 OSCE, Moscow Document, para. 43

966 U.N., ICCPR, art. 25; AU, AfCHPR, art. 13; OAS, ACHR, art. 23; LAS, Arab Charter on Human Rights, art. 24; CIS, Convention on Democratic Elections, art. 3; OSCE, Copenhagen Document, para. 7.5

967 U.N. (CCPR), General Comment 25, para. 4

968 AU, Declaration on the Principles Governing Democratic Elections in Africa, art. 7

969 U.N., ICERD, art. 5; U.N., CRPD, art. 9

970 U.N., ICCPR, art. 19(2); AU, Convention on Corruption, art. 9; OAS, ACHR, art. 13(1); CoE, ECHR, art. 10(1); CIS, Convention on Human Rights, art. 11(1)



International treaties state that states should proactively put government information of public interest in the public domain.⁹⁷¹ This includes information regarding the electoral process.

Election Calendar and the Enjoyment of Rights

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*

The electoral calendar provided adequate time to prepare for and implement all aspects of the election process, including voting operations and election-day procedures.

International and regional treaties obligate states to give effect to human rights,⁹⁷² including when planning the electoral process.

State practice sources emphasize the importance of allowing adequate time, when scheduling elections, to successfully implement other necessary parts of the election, including those related to voting operations.⁹⁷³

Deterrence of Fraud

Key Obligations:

- *Equal Suffrage*
- *Secret Ballot*
- *State Must Take Necessary Steps to Give Effect to Rights*

Procedures did not diminish the value of the votes of particular individuals, groups, or geographic areas.

Treaty obligations require that elections be held by equal suffrage.⁹⁷⁴

State practice sources suggest that states should take steps to prevent actions that diminish the value of the votes of particular individuals, groups, or geographic areas.⁹⁷⁵

Safeguards were in place to prevent multiple voting and other forms of ballot fraud.

State practice sources recommend that states put in place safeguards to ensure that voters are unable to register or vote more than once.⁹⁷⁶ Sources prohibit ballot box “stuffing” as an example of the infringement of equal suffrage.⁹⁷⁷ Examples of specific measures states may take to deter fraud include:

- Marking voters’ fingers to prevent duplicate voting⁹⁷⁸

971 U.N., UNCAC, art. 10

972 U.N., ICCPR, art. 2(2); AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CoE, ECHR, art. 1; CIS, Convention on Human Rights, art. 1

973 U.N., Human Rights and Elections, para. 75

974 U.N., ICCPR, art. 25(b); OAS, ACHR, art. 23(1)(b); CIS, Convention on Human Rights, art. 29(b)

975 U.N., Human Rights and Elections, para. 68

976 U.N., Human Rights and Elections, para. 68

977 CoE, Handbook for Observers of Elections, para. 2.5.3

978 EU, Handbook (Ed. 2), p. 97

- Showing ballot boxes to be empty at the commencement of voting⁹⁷⁹
- Sealing ballot boxes properly at the beginning of the vote⁹⁸⁰
- Accounting for all ballots, including unused ballots, throughout election day⁹⁸¹

Safeguards were in place to prevent removal of evidence of how a voter voted from the polling station.

Political commitments call for the implementation of safeguards to prevent removal of evidence of how a voter has voted from the polling station.⁹⁸² Sensitive election materials should be stored securely throughout the voting process.⁹⁸³

Prevention of Corruption and Voting Operations

Key Obligations:

● Prevention of Corruption

The electoral management body maintained and implemented policies to prevent, address, and penalize acts of corruption, including during the voting process.

Treaty obligations require states to take measures to prevent corruption in various forms,⁹⁸⁴ including during the election management process, campaign period, voter registration, voting, and counting. Treaties indicate that states should promote transparency in public decision making and procurement and should encourage public participation as a means of combating corruption.⁹⁸⁵ Treaty sources define as corruption:

- The solicitation or acceptance of something of value in exchange for an advantage⁹⁸⁶
- The offering or granting of something of value in exchange for an act or omission in the performance of a public function⁹⁸⁷
- Fraudulent use or concealment of property derived from corrupt activities⁹⁸⁸
- Participation or conspiracy to commit corrupt activities⁹⁸⁹
- Any act or omission of official functions by a public official to gain illicit benefits⁹⁹⁰

979 OSCE (ODIHR), Handbook (Ed. 6), p. 73

980 EISA and ECF of SADC Countries, PEMMO, p. 25

981 CoE (Venice Commission), Code of Good Practice, sec. 1.3.2.2.33 (explanatory report)

982 CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 51–52

983 CoE (Venice Commission), Code of Good Practice, sec. 13.2.2.33–5 (explanatory report)

984 U.N., UNCAC, art. 18; AU, Convention on Corruption, art. 7

985 U.N., UNCAC, art. 13(a); AU, Convention on Corruption, art. 3(3)

986 AU, Convention on Corruption, art. 4

987 U.N., UNCAC, art. 19

988 AU, Convention on Corruption, art. 4

989 AU, Convention on Corruption, art. 4

990 AU, Convention on Corruption, art. 4



- The use of state property for purposes other than those for which they were intended for the benefit of the public official or a third party⁹⁹¹
- Improper influence⁹⁹²

! Refer to the Election Management section of this handbook for more information regarding prevention of corruption and election management policies.

Training for Election Officials

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*

The state educated officials and citizens on the voting process.

Interpretive sources make clear that public officials and citizens should be trained on human rights. Presumably this includes training members of election management bodies on issues related to elections.⁹⁹³

Safety, Security, and Voting Operations

Key Obligations:

- *Right to Security of the Person*

Potential voters were able to vote without intimidation or coercion.

Treaty obligations establish the right of all to security of the person without arbitrary arrest or detention.⁹⁹⁴ Individuals must be free from physical and emotional violence at all times.

Interpretive sources indicate that states must ensure that interference with voting and intimidation or coercion of potential voters is prohibited.⁹⁹⁵

Safeguards were in place to prevent coercion of voters.

Political commitments expand on interpretive sources to require that safeguards be in place to prevent removal of evidence of how a voter has voted from the polling station.⁹⁹⁶

Security personnel played a positive role during the electoral process, providing protection for voters, candidates, and electoral management body personnel without interfering in the process.

State practice sources indicate that voters have a right to security provided by police and security forces in polling stations but without

⁹⁹¹ AU, Convention on Corruption, art. 4

⁹⁹² U.N., UNCAC, art. 18

⁹⁹³ U.N. (CCPR), General Comment 31, para. 3

⁹⁹⁴ U.N., ICCPR, art. 9; AU, AfCHPR, art. 6; OAS, ACHR, art. 7(1); LAS, Arab Charter, art. 14(1-2);

CoE, ECHR, art. 5(1); CIS, Convention on Human Rights, art. 5(1)

⁹⁹⁵ U.N. (CCPR), General Comment 25, para. 11

⁹⁹⁶ CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 51-52

interference from them.⁹⁹⁷ Other state practice sources expand this obligation to include a requirement that law enforcement behave in a neutral manner during the electoral process.⁹⁹⁸

Election officials were able to maintain order at the polling station.

State practice sources suggest that the highest election official at the polling site should have authority to maintain order.⁹⁹⁹

Right to an Effective Remedy and Voting Operations

Key Obligations:

● *Right to an Effective Remedy*

● *State Must Take Necessary Steps to Give Effect to Rights*

The state provided an effective (timely and enforceable) remedy to all citizens for violations of their rights, including in the context of voting operations.

Treaty obligations make clear that every person has a right to an effective (timely and enforceable)¹⁰⁰⁰ remedy before a competent national tribunal for acts that violate his/her rights or freedoms.¹⁰⁰¹


The right to an effective remedy is fundamental to ensuring the fulfillment of other human rights. A remedy should be available for complaints arising throughout the electoral process.¹⁰⁰²

Political commitments and state practice sources suggest that individuals must have the right to a remedy for violations of their participatory rights relating to the election process.¹⁰⁰³

Steps were taken to prevent and punish fraud and electoral offenses.

Treaty sources obligate states to take the steps necessary to give effect to human rights.¹⁰⁰⁴ This applies to the entire electoral process and all electoral rights.

Interpretive sources indicate that this obligation is unqualified and of immediate effect¹⁰⁰⁵ and includes a need to take various positive measures. These include informing the population and state officials

 Refer to the Electoral Dispute Resolution section of this handbook for more information.

997 U.N., Human Rights and Elections, para. 94-97

998 EU, Handbook (Ed. 2.), p. 52

999 Merloe, Promoting Legal Frameworks, p. 50

1000 U.N., ICCPR, art. 2; AU, AfCHPR, art. 7

1001 U.N., ICCPR, art. 2; AU, AfCHPR, art. 7; OAS, ACHR, art. 25; CoE, ECHR, art. 13

1002 ECOWAS, Protocol, art. 7

1003 CoE (Committee of Ministers), Declaration on the Code of Good Practice, p. 1

1004 U.N., ICCPR, art. 2(2); AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CoE, ECHR, art. 1; CIS, Convention on Human Rights, art. 1

1005 U.N. (CCPR), General Comment 31, para. 14



of human rights¹⁰⁰⁶ and the prevention, punishment, investigation, and/or redress of violations of human rights by nonstate actors.¹⁰⁰⁷ All branches of the government and other public authorities are responsible for meeting this obligation.¹⁰⁰⁸

In relation to voting operations, examples of state practice specify that states should take steps to prevent and punish voter fraud as an infringement upon suffrage.¹⁰⁰⁹

1006 U.N. (CCPR), General Comment 31, para. 17

1007 U.N. (CCPR), General Comment 31, para. 8

1008 U.N. (CCPR), General Comment 31, para. 4

1009 CoE (Venice Commission), Code of Good Practice, sec. I.3.26



Section 9

Vote Counting and Tabulation

Relevant Obligations

- Genuine Elections That Reflect the Free Expression of the Will of the People
- Equality Between Men and Women
- Right and Opportunity to Vote
- Right to an Effective Remedy
- Right and Opportunity to Be Elected
- Universal Suffrage
- Right and Opportunity to Participate in Public Affairs
- Equal Suffrage
- Freedom of Association
- Secret Ballot
- Freedom of Movement
- Periodic Elections
- Transparency and Access to Information
- Prevention of Corruption
- Right to Security of the Person
- State Must Take Necessary Steps to Give Effect to Rights
- Freedom From Discrimination and Equality Before the Law
- Rule of Law


-
- Macro-Level Obligation
 - Individual Rights and Freedoms
 - Process-Focused Obligations
 - Foundational Obligations



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The accurate and honest counting of votes plays an indispensable role in protecting individuals' rights to vote and be elected. Regardless of the credibility of other parts of the electoral process, a flawed vote count can undermine the integrity of the electoral process and decrease public confidence and public acceptance of the results. While vote counting and tabulation processes vary in detail from country to country, accuracy, honesty, and transparency are universal principles that guide the process.

 Refer to the ACE Electoral Knowledge Network for more information on vote counting and tabulation.

Both international and citizen observer groups generally rely on short-term observers to collect data regarding the vote counting process. Long-term observers are often better suited to collecting information regarding higher-level aggregation due to its more protracted timeline.

The following section provides guidance on a number of electoral issues, including:

- The legal framework for vote counting and tabulation
- Transparency, access to information, and observation of vote counting and tabulation
- Safeguards for vote counting and tabulation
- The right to an effective remedy

A nonexhaustive list of illustrative questions for data collection on the assessment criteria outlined below is included in Appendix C.



Legal Framework and Vote Counting and Tabulation

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*
- *Rule of Law*

The principles of rule of law were promoted.

Treaty sources provide that states should take measures to promote the principles of the rule of law.¹⁰¹⁰ The rule of law is widely recognized as an essential condition for the fulfillment of human rights and representative democracy.¹⁰¹¹

! Refer to the Legal Framework section of this handbook for more information.

The laws regulating elections were equally enforced and were not arbitrarily applied.

International treaties state that the rule of law requires that all are equal before the law¹⁰¹² and that laws are equally enforced.¹⁰¹³ Respect for the rule of law ensures a political and legal environment conducive to the conduct of a genuine electoral process and the fulfillment of electoral rights.

Interpretive sources further state that rule of law requires that laws and procedures are not arbitrarily applied.¹⁰¹⁴

State practice sources suggest that closing and counting procedures should be established by law.¹⁰¹⁵

The legal framework for elections was consistent with international human rights.

International treaties require that the legal framework be consistent with international human rights obligations.¹⁰¹⁶

The Election Calendar and Enjoyment of Rights

Key Obligations:

- *Periodic Elections*
- *State Must Take Necessary Steps to Give Effect to Rights*

The electoral calendar allowed sufficient time for all aspects of the electoral process to take place, including vote counting.

International and regional treaties obligate states to give effect to human rights,¹⁰¹⁷ including when planning the electoral process.

¹⁰¹⁰ U.N., UNCAC, art. 5(1); AU, ACDEG, art. 32(8); CoE, ECHR, Preamble; CIS, Convention on Human Rights, Preamble

¹⁰¹¹ UNGA, Millennium Declaration; UNGA, Resolutions on the Rule of Law; OAS, IADC, arts. 3 and 4; and OSCE, Copenhagen Document, para. 3

¹⁰¹² U.N., ICCPR, art. 26; AU, AfCHPR, art. 19; OAS, ACHR, art. 24; EU, Charter on Fundamental Rights, art. 20; CIS, Convention on Human Rights, art. 20(1)

¹⁰¹³ U.N., ICCPR, art. 26

¹⁰¹⁴ U.N. (CCPR), General Comment 25, para. 4

¹⁰¹⁵ EU, Handbook (Ed. 2), p. 82

¹⁰¹⁶ U.N., ICCPR, art. 2(2); AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CoE, ECHR, art. 1; CIS, Convention on Human Rights, art. 1

¹⁰¹⁷ U.N., ICCPR, art. 2(2); AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CoE, ECHR, art. 1; CIS, Convention on Human Rights, art. 1

State practice sources suggest that the will of the people can only be expressed through genuine and periodic elections. It is also important when scheduling elections to allow adequate time to successfully implement other necessary parts of the election such as vote counting and tabulation.¹⁰¹⁸

Counting Cast Ballots

Key Obligations:

- *Right and the Opportunity to Be Elected*
- *Universal Suffrage*

The state took proactive measures to promote voting by the broadest pool of eligible voters and ensure votes cast were counted.

International and regional treaties state that elections must be held by universal suffrage.¹⁰¹⁹ In the context of vote counting and tabulation, universal suffrage requires that all votes cast are counted.

Vote counting and tabulation processes protected the right to be elected.

International and regional treaties indicate that every citizen has the right to be elected.¹⁰²⁰ The right to be elected includes the right to have ballots counted.

The vote counting and tabulation process did not discriminate against anyone on the basis of prohibited grounds.

International and regional treaties prohibit discrimination on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, physical or mental ability, sexual orientation or gender identity, birth, or other status at any time.¹⁰²¹ In addition, international treaties are clear that all are equal before the law and should enjoy the equal protection of the law.¹⁰²²

Determining Voter Intent

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*

The state took the steps necessary to give effect to rights during the vote counting process.

¹⁰¹⁸ U.N., Human Rights and Elections, para. 75

¹⁰¹⁹ U.N., ICCPR, art. 25(b); AU, ACDEG, art. 4(2); OAS, ACHR, art. 23(1)(b); CIS, Convention on Human Rights, art. 29(b)

¹⁰²⁰ U.N., ICCPR, art. 25(b); AU, AfCHPR, art. 13(1); OAS, ACHR, art. 23(1)(a); LAS, Arab Charter, art. 24(3–4); CIS, Convention on Human Rights, art. 29(b)

¹⁰²¹ U.N., ICCPR, art. 25; U.N., CRPD, art. 2; AU, AfCHPR, art. 2; OAS, ACHR, art. 1; LAS, Arab Charter, art. 3; CoE, ECHR, art. 14; EU, Charter on Fundamental Rights, art. 21(1); CIS, Convention on Human Rights, art. 20(2); U.N. (CESCR), General Comment 20, para. 32

¹⁰²² U.N., ICCPR, art. 26



International treaties obligate states to take the steps necessary to give effect to human rights.¹⁰²³ The obligation applies to the entire electoral process, including ensuring the validity of votes.

The intent of the voter was taken into consideration when determining ballot validity.

Political commitments mention that the intent of the voter should be taken into consideration when determining the validity of ballots.¹⁰²⁴

Safeguards to Prevent Falsification of Ballots

Key Obligations:

- *Equal Suffrage*
- *State Must Take Necessary Steps to Give Effect to Rights*

Equal suffrage was respected throughout the electoral process, including vote counting, consistent with the concept of “one person, one vote.”

International and regional treaties state that elections must be held by equal suffrage.¹⁰²⁵

Safeguards were put in place to ensure that there existed no opportunity to falsify or substitute ballots, including during the vote counting and tabulation process.

State practice sources recommend that states put in place safeguards to ensure the accuracy of the vote count, no matter the form of balloting or counting used (manual, mechanical, or electronic).¹⁰²⁶ They add that equal suffrage and the “one person, one vote” rule requires that no opportunity should exist to falsify or to substitute ballot papers,¹⁰²⁷ including after the completion of voting when ballots are counted.

Prevention of Corruption in Vote Counting

Key Obligations:

- *Prevention of Corruption*

The electoral management body maintained and implemented policies to prevent, address, and penalize acts of corruption, including during the voting process.

¹⁰²³ U.N., ICCPR, art. 2(2); AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CoE, ECHR, art. 1; CIS, Convention on Human Rights, art. 1

¹⁰²⁴ CoE, Council of Europe Handbook for Observers of Elections, para. 4.3

¹⁰²⁵ U.N., ICCPR, art. 25(b); OAS, ACHR, art. 23(1)(b); CIS, Convention on Human Rights, art. 29(b)

¹⁰²⁶ OSCE (ODIHR), Legal Framework (Ed. 1), p. 28

¹⁰²⁷ CoE, Handbook for Election Observers, para. 4.6

Treaty obligations require states to take measures to prevent corruption in various forms,¹⁰²⁸ including during the election management process, campaign period, voter registration, voting, counting, and other phases of the electoral process. Treaties indicate that states should promote transparency in public decision making and procurement and should encourage public participation as a means of combating corruption.¹⁰²⁹

Treaty sources define as corruption:

- The solicitation or acceptance of something of value in exchange for an advantage¹⁰³⁰
- The offering or granting of something of value in exchange for an act or omission in the performance of a public function¹⁰³¹
- Fraudulent use or concealment of property derived from corrupt activities¹⁰³²
- Participation or conspiracy to commit corrupt activities¹⁰³³
- Any act or omission of official functions by a public official to gain illicit benefits¹⁰³⁴
- The use of state property for purposes other than those for which they were intended for the benefit of the public official or a third party¹⁰³⁵
- Improper influence¹⁰³⁶

State practice sources indicate that electoral legislation should include procedures and penalties aimed at preventing corruption.¹⁰³⁷ Presumably this would include prevention of corruption during the vote counting and tabulation processes.

Transparency in the Reporting, Transmission, and Publishing of Election Results

Key Obligations:

- *Transparency and Access to Information*
- *Prevention of Corruption*

Access to information was guaranteed throughout the electoral process, including during the counting and tabulation process.

International and regional treaties state that everyone has the right to receive and impart information and ideas of all kinds, regardless

¹⁰²⁸ U.N., UNCAC, art. 18; AU, Convention on Corruption, art. 7; AU, ACDEG, art. 7(1); OAS, Convention Against Corruption, art. 11(2); CIS, Convention on Democratic Elections, art. 3(6)

¹⁰²⁹ U.N., UNCAC, art. 13

¹⁰³⁰ AU, Convention on Corruption, art. 4

¹⁰³¹ U.N., UNCAC, art. 19

¹⁰³² AU, Convention on Corruption, art. 4

¹⁰³³ AU, Convention on Corruption, art. 4

¹⁰³⁴ AU, Convention on Corruption, art. 4

¹⁰³⁵ AU, Convention on Corruption, art. 4

¹⁰³⁶ U.N., UNCAC, art. 18

¹⁰³⁷ U.N., Human Rights and Elections, para. 118



of frontier. The right of transparency and access to information is born from the guarantee that the right to free expression includes the ability of everyone to seek and receive information and ideas.¹⁰³⁸ Only certain limited restrictions may be placed on transparency and access to information.

The state proactively put in the public domain government information of public interest.

International treaties establish that states should proactively put in the public domain government information of public interest,¹⁰³⁹ including information regarding the electoral process.

Votes were counted and reported honestly.

International treaties are clear that states should promote honesty and responsibility among public officials.

Political commitments support this, suggesting that votes should be counted honestly and accurately.¹⁰⁴⁰

The counting process was verifiable and the ballots preserved for later review.

Political commitments suggest that counting procedures should be verifiable and that votes must be preserved for review in order to ensure all individuals have adequate access to information in the context of the vote counting process.¹⁰⁴¹

Results were published in a timely manner, were publicly announced, and were posted at the counting station.

State practice sources suggest that the results of the count should be published in a timely manner,¹⁰⁴² be publicly announced, and be posted at the counting station.¹⁰⁴³

Tallies were transmitted to higher levels of tabulation in a transparent and open manner.

State practice sources recommend that ballot tallies be transmitted to higher levels in an open manner.¹⁰⁴⁴

! Refer to the Framework section of this handbook for more information about permissible restrictions on the right of access to information.

1038 U.N., ICCPR, art. 19(2); AU, Convention on Corruption, art. 9; OAS, ACHR, art. 13(1); CoE, ECHR, art. 10(1); CIS, Convention on Human Rights, art. 11(1)

1039 U.N., UNCAC, art. 10

1040 OSCE, Copenhagen Document, para. 7.4

1041 CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 98

1042 OSCE (ODIHR), Existing Commitments, p. 73

1043 CoE (Venice Commission), Code of Good Practice, sec. 3.2.2.4.46 (explanatory report)

1044 CoE (Venice Commission), Code of Good Practice, sec. 1.3.2.xiv

Partisan and Nonpartisan Observation of Vote Counting and Tabulation

Key Obligations:

- *Right and Opportunity to Be Elected*
- *Right and Opportunity to Participate in Public Affairs*
- *Freedom of Association*
- *Prevention of Corruption*

Candidates and their representatives, as well as observers, were able to observe polling and counting.

Regional treaties are clear that the participation of observers, both citizen and international, may enhance all aspects of the electoral process.¹⁰⁴⁵

Interpretive sources indicate that candidates or their agents and accredited observers should be allowed to observe the counting and tabulation of votes.¹⁰⁴⁶

Political commitments also suggest that the participation of citizen observers may enhance all aspects of the electoral process.¹⁰⁴⁷ In addition, they suggest that the state should facilitate the ability of nongovernmental organizations to conduct their activities,¹⁰⁴⁸ presumably including observation of the vote counting and tabulation process.

The vote-counting process was transparent and observable.

Interpretive sources indicate that the vote counting and tabulation process should be a transparent and observable process.¹⁰⁴⁹

Party agents and accredited observers were given copies of the protocols and tabulation sheets from the results center.

State practice sources suggest a number of steps to prevent corruption. These include that all party agents and accredited observers should be given copies of all protocols and tabulation sheets from results centers¹⁰⁵⁰ and that the locations of results centers are established and centers are easily accessible.¹⁰⁵¹

¹⁰⁴⁵ AU, ACDEG, arts. 19–22; CIS, Convention on Democratic Elections, art. 1(2); OSCE, Copenhagen Document, para. 8; OAS, IADC, arts. 23–25

¹⁰⁴⁶ U.N. (CCPR), General Comment 25, para. 20

¹⁰⁴⁷ OSCE, Copenhagen Document, para. 8

¹⁰⁴⁸ OSCE, Moscow Document, para. 43

¹⁰⁴⁹ U.N. (CCPR), General Comment 25, para. 20

¹⁰⁵⁰ Norwegian Helsinki Committee, Human Rights Monitoring, p. 14

¹⁰⁵¹ EISA and ECF of SADC Countries, PEMMO, p. 27



Observers were able to access places used for vote counting and tabulation.

International treaties state that everyone has the right of equal access to any place or service intended for use by the public.¹⁰⁵² This includes observers requiring access to the facilities used for vote counting and tabulation.

If electronic voting systems were used, there was an open and comprehensive audit.

Political commitments suggest that the postelection audit system for electronic voting should be open and comprehensive.¹⁰⁵³

Protection of Ballot Secrecy

Key Obligations:

● Secret Ballot

Regardless of the balloting method used, secrecy of the ballot was maintained throughout the electoral process, including during voting and tabulation. It was not possible to link cast ballots to specific voters during counting and tabulation.

International and regional treaties state that elections should be held by secret ballot.¹⁰⁵⁴ This requires that ballots cannot be linked with the voters who cast them so that voters can cast their ballot without fear of intimidation.

Interpretive sources elaborate on this, adding that it is important in the context of vote counting that the system for balloting (paper, electronic, or otherwise) should ensure the secrecy of a voter's choice and that secrecy be maintained throughout the process.¹⁰⁵⁵

The legal framework offered clear guidance on secrecy of the ballot throughout the election.

State practice sources suggest that electoral legislation and its regulations should offer clear guidance with respect to the secrecy of the ballot.¹⁰⁵⁶

¹⁰⁵² U.N., ICERD, art. 5; U.N., CRPD, art. 9

¹⁰⁵³ CoE (Committee of Ministers)

Recommendation (2004)11 on e-voting, art. 102

¹⁰⁵⁴ U.N., ICCPR, art. 25; OAS, ACHR, art. 23;

U.N., UDHR, art. 23

¹⁰⁵⁵ U.N. (CCPR), General Comment 25, para. 20

¹⁰⁵⁶ U.N., Human Rights and Elections, para. 109

Freedom of Movement and Vote Counting and Tabulation

Key Obligations:

● Freedom of Movement

Freedom of movement was respected throughout the electoral process, including the immediate election period.

International and regional treaties state that everyone has the right to freedom of movement within the borders of each state.¹⁰⁵⁷ Freedom of movement is a fundamental right that ensures that everyone, including candidates, voters, citizen observers, and poll workers, is able to move throughout the territory during vote counting and tabulation.

Safety, Security, and Vote Counting and Tabulation

Key Obligations:

● Right to Security of the Person

Vote counting took place in an environment free of intimidation.

International treaties state that everyone has the right to security of the person without arbitrary arrest or detention.¹⁰⁵⁸ It requires that individuals be free from physical and emotional violence at all times.

State practice sources suggest that vote counting should take place in an environment free from intimidation.¹⁰⁵⁹

Security personnel played a positive role during the electoral process, providing protection for voters, candidates, and electoral management body personnel without interfering in the process.

State practice sources indicate that voters have a right to security provided by police and security forces in polling stations but without interference from them.¹⁰⁶⁰ Other sources elaborate on this obligation to include a requirement that law enforcement behave in a neutral manner during the electoral process.¹⁰⁶¹

Other sources indicate that the highest election official at the counting site should have authority to maintain order.¹⁰⁶²

¹⁰⁵⁷ U.N., ICCPR, art. 12(1); AU, AfCHPR, art. 12(1); OAS, ACHR, art. 22(1); LAS, Arab Charter, art. 26(1); EU, Charter of Fundamental Rights, art. 45(1); CIS, Convention on Human Rights, art. 22(1)

¹⁰⁵⁸ U.N., ICCPR, art. 9; AU, AfCHPR, art. 6; OAS, ACHR, art. 7(1); LAS, Arab Charter, art. 14(1-2); COE, ECHR, art. 5(1); CIS, Convention on Human Rights, art. 5(1)

¹⁰⁵⁹ EU, Handbook (Ed. 1), p. 82

¹⁰⁶⁰ U.N., Human Rights and Elections, paras. 94–97

¹⁰⁶¹ EU, Handbook (Ed. 2), p. 52

¹⁰⁶² Merloe, Promoting Legal Frameworks, p. 50



Training of Polling and Counting Workers

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*

The state educated officials and citizens on the vote counting and tabulation process.

International treaties are clear that the state took the steps necessary to train officials on human rights.¹⁰⁶³ This includes training on the vote counting and tabulation process since it directly impacts the enjoyment of various fundamental rights.

Right to an Effective Remedy and Vote Counting and Tabulation

Key Obligations:

- *Right to an Effective Remedy*

The right to remedy was protected throughout the process.

Treaty obligations make clear that every person has a right to an effective (timely and enforceable)¹⁰⁶⁴ remedy before a competent national tribunal for acts that violate his/her rights or freedoms.¹⁰⁶⁵ The right to an effective remedy is fundamental to ensuring all other human rights may be fulfilled.

The right to challenge the election results was guaranteed by law.

Regional treaties state that arrangements should be made to hear petitions related to the announcement of results.¹⁰⁶⁶

There was impartial scrutiny of the counting and tabulation process, and it was subject to judicial review.

Interpretive sources state that in order to ensure that effective remedies are available for violations of rights, there should be impartial scrutiny of the counting process and access to judicial review or other equivalent processes.¹⁰⁶⁷

Political commitments suggest further that vote-counting procedures should be verifiable and that votes should be preserved for review to ensure necessary evidence is available in case of complaints.¹⁰⁶⁸

! Refer to the Electoral Dispute Resolution section of this handbook for more information.

¹⁰⁶³ U.N. (CCPR), General Comment 31, para. 3

¹⁰⁶⁴ U.N., ICCPR, art. 2; AU, AfCHPR, art. 7

¹⁰⁶⁵ U.N., ICCPR, art. 2; AU, AfCHPR, art. 7; OAS, ACHR, art 25; CoE, ECHR, art. 13

¹⁰⁶⁶ ECOWAS, Protocol, art. 7

¹⁰⁶⁷ U.N. (CCPR), General Comment 25, para. 20

¹⁰⁶⁸ CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 98

The legal framework provided clear guidance on the grounds for complaints and appeals as well as the processes for demanding a recount.

Political commitments and state practice sources suggest that the right to challenge election results should be provided for by law.¹⁰⁶⁹ Fair rules should:

- Provide clear grounds upon which complaints and appeals are allowable¹⁰⁷⁰
- Define and govern the right to demand a recount¹⁰⁷¹
- Provide an opportunity to challenge and invalidate all or part of the election results¹⁰⁷²

Respect for the Results of Genuine Elections

Key Obligations:

- *Right and Opportunity to Vote*
- *Right and Opportunity to Be Elected*

The results of the election, if genuine, were respected by all parties and the international community.

Interpretive sources are clear that the results of genuine elections, in which citizens participate in the conduct of public affairs through freely chosen representatives, should be respected and implemented.¹⁰⁷³

¹⁰⁶⁹ SADC, Principles and Guidelines, para. 2.1.10

¹⁰⁷⁰ OSCE (ODIHR), Legal Framework, p. 36

¹⁰⁷¹ CoE, Handbook, para. 4.8

¹⁰⁷² CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 27

¹⁰⁷³ U.N. (CCPR), General Comment 25, para. 19



Section 10

Electoral Dispute Resolution

Relevant Obligations

- Genuine Elections That Reflect the Free Expression of the Will of the People
- Transparency and Access to Information
- Right to Security of the Person
- Freedom From Discrimination and Equality Before the Law
- Equality Between Men and Women
- Right to a Fair and Public Hearing
- Right to an Effective Remedy
- Periodic Elections
- State Must Take Necessary Steps to Give Effect to Rights
- Rule of Law

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- Macro-Level Obligation
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! Refer to the ACE Electoral Knowledge Network for more information on electoral dispute resolution and electoral justice.

The credibility of the electoral process is determined to a large degree by the capacity of the state to effectively resolve electoral disputes. Challenges to election results, or the conduct of elections, should not be considered a weakness of the electoral system but a sign of its resilience.¹⁰⁷⁴ Electoral dispute resolution mechanisms vary greatly country by country, based largely on historical and political context. They can include formal judicial proceedings or more informal alternative dispute resolution procedures.

Given the importance of the dispute resolution process to the enjoyment of rights and the fulfillment of obligations, an assessment of dispute resolution mechanisms is critical to an overall evaluation of the election process. Assessments of dispute resolution processes should take place throughout the electoral cycle. However, because dispute resolution processes sometimes become especially important after election day, assessment requires a longer-term presence. Increasingly, election observation organizations that are able to deploy long-term missions include a focus on dispute resolution mechanisms. Citizen observers are particularly well-placed to monitor electoral dispute resolution processes.

While this section addresses obligations related to electoral dispute resolution processes, it is important to note that dispute resolution and the right to remedy regarding other parts of the electoral process are included in previous sections. Therefore, to get a full picture of the obligations and issues related to dispute resolution it is necessary to cross-reference this chapter with other sections of the manual.

The following paragraphs provide guidance on a range of electoral issues regarding electoral dispute resolution, including:

- The legal framework for electoral dispute resolution
- Transparency, access to information, and dispute resolution
- Discrimination and dispute resolution
- Fair and impartial hearings
- The right to an effective remedy

A nonexhaustive list of illustrative questions for data collection on the assessment criteria is included in Appendix C.

¹⁰⁷⁴ Petit (2000), p. 5



The Legal Framework and Dispute Resolution

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*
- *Rule of Law*

Electoral dispute resolution took place in accordance with the principles of the rule of law.

International treaties establish that states should take measures to promote the principles of the rule of law, keeping in mind that all people are equal before the law¹⁰⁷⁵ and that laws should be equally enforced.¹⁰⁷⁶ Laws must also be consistent with international human rights.¹⁰⁷⁷

! Refer to the Legal Framework section of this handbook for more information.

Laws and procedures were not arbitrarily applied.

Interpretive sources indicate that laws and procedures must not be arbitrarily applied.¹⁰⁷⁸ Suspension or exclusion of participatory rights is prohibited except on grounds established by law that are objective and reasonable.¹⁰⁷⁹

The state implemented sanctions against those who violated the electoral law.

Interpretive sources indicate that where a violation of rights is found to have occurred, states have a duty to punish those guilty of the violation.¹⁰⁸⁰

State practice sources indicate that effective implementation of the electoral law requires sanctions against the infringements of the electoral law,¹⁰⁸¹ including cases of electoral fraud.¹⁰⁸²

The law was clear regarding legal standing for electoral disputes.

Political commitments indicate that the duty to protect the fundamental human rights of all includes a requirement that states ensure that all individuals, groups of individuals, and nongovernmental organizations have standing before judicial bodies in cases of human rights violations.¹⁰⁸³

State practice sources elaborate on this, stipulating that the law should clearly state who has standing to file an election dispute.¹⁰⁸⁴

1075 U.N., ICCPR, art. 26; AU, AfCHPR, art. 19; OAS, ACHR, art. 24; EU, Charter on Fundamental Rights, art. 20; CIS, Convention on Human Rights, art. 20(1)

1076 U.N., ICCPR, art. 26

1077 U.N., ICCPR, art. 2

1078 U.N. (CCPR), General Comment 25, para. 4

1079 U.N. (CCPR), General Comment 25, para. 4

1080 U.N. (CCPR), General Comment 31, para. 18

1081 CoE (Venice Commission), Code of Good Practice, sec. I.2.3.19

1082 CoE (Venice Commission), Code of Good Practice, sec. 1.3.2.xv

1083 AComHPR, Principles and Guidelines, art. E

1084 OSCE (ODIHR), Legal Framework (Ed. 1), p. 81

The Election Calendar and Enjoyment of Rights

Key Obligations:

- *State Must Take Necessary Steps to Give Effect to Rights*

The electoral calendar included adequate time to implement all parts of the electoral process, including the electoral dispute resolution processes.

International and regional treaties obligate states to give effect to human rights,¹⁰⁸⁵ including when planning the electoral process.

State practice sources elaborate on this, highlighting that it is also important when scheduling elections to allow adequate time to successfully implement other necessary parts of the election,¹⁰⁸⁶ presumably including dispute resolution processes.

Freedom From Discrimination and Electoral Dispute Resolution

Key Obligations:

- *Freedom From Discrimination and Equality Before the Law*
- *Equality Between Men and Women*

The electoral dispute resolution process did not discriminate on the basis of prohibited grounds.

International and regional treaties prohibit discrimination on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, physical or mental ability, sexual orientation or gender identity, birth, or other status at any time.¹⁰⁸⁷

In addition, international treaties are clear that all are equal before the law and should enjoy the equal protection of the law.¹⁰⁸⁸

Interpretive sources indicate that the state is obligated to perform both its “negative duty” to refrain from discrimination and its “positive duty” to prevent discrimination.¹⁰⁸⁹

Everyone was treated equally before the law and courts.

In the context of dispute resolution, interpretive sources suggest that equality before the courts is essential and that this includes equality in arms and equal access to the courts.¹⁰⁹⁰ Fees that de facto prevent access to the courts may violate the obligation of equal

¹⁰⁸⁵ U.N., ICCPR, art. 2(2); AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CoE, ECHR, art. 1; CIS, Convention on Human Rights, art. 1

¹⁰⁸⁶ U.N., Human Rights and Elections, para. 75

¹⁰⁸⁷ U.N., ICCPR, art. 25; U.N., CRPD, art. 2; AU, AfCHPR, art. 2; OAS, ACHR, art. 1; LAS, Arab Charter, art. 3; CoE, ECHR, art. 14; EU, Charter on Fundamental Rights, art. 21(1); CIS,

Convention on Human Rights, art. 20(2); U.N. (CESCR), General Comment 20, para. 32

¹⁰⁸⁸ U.N., ICCPR, art. 26; AU, AfCHPR, art. 19; OAS, ACHR, art. 24; EU, Charter on Fundamental Rights, art. 20; CIS, Convention on Human Rights, art. 20(1)

¹⁰⁸⁹ U.N. (CCPR), General Comment 28, para. 21

¹⁰⁹⁰ U.N. (CCPR), General Comment 32, para. 8



access to the courts.¹⁰⁹¹ This guarantee extends to judicial bodies entrusted with any judicial task.

Political commitments add that procedures for the filing and adjudication of disputes must be understandable and easily accessible to all parties.¹⁰⁹²

Transparent Dispute Resolution Processes

Key Obligations:

- *Transparency and Access to Information*
- *Right to a Fair and Public Hearing*

Transparency and access to information were respected during the dispute resolution process.

International treaties establish the obligation of transparency and right to access information. Only certain limited restrictions may be placed on transparency and access to information.¹⁰⁹³

The judgments, findings, and evidence of judicial proceedings, and legal reasoning for judgments, were made public.

International treaties require that the judgment, findings, evidence of judicial proceedings, and legal reasoning of the judgment be made public in all cases (except those involving juveniles and/or matrimonial disputes).¹⁰⁹⁴

The state proactively put in the public domain government information of public interest.

International treaties indicate that states should proactively put in the public domain government information of public interest.¹⁰⁹⁵ This would include information regarding the electoral process.

Potential complainants were informed of the means of filing a complaint and the timeframe of its resolution.

Political commitments recommend that all potential complainants be informed of the means by which to file a complaint and the timeframe for its resolution.¹⁰⁹⁶

Parties to the complaints had access to factual information regarding the alleged violations.

Political commitments sources suggest that effective remedy requires access to the factual information concerning the alleged violations.¹⁰⁹⁷

! Refer to the Framework section of this handbook for more information regarding permissible restrictions on the right of access to information.

¹⁰⁹¹ U.N. (CCPR), General Comment 32, para. 11

¹⁰⁹² CoE (Committee of Ministers), Annex to Recommendation (81)7, para. B.5

¹⁰⁹³ U.N., ICCPR, art. 19(2); AU, Convention on Corruption, art. 9; OAS, ACHR, art. 13(1); CoE, ECHR, art. 10(1); CIS, Convention on Human Rights, art. 11(1)

¹⁰⁹⁴ U.N., ICCPR, art. 14(1); CoE, ECHR, art. 6(1)

¹⁰⁹⁵ U.N., UNCAC, art. 10

¹⁰⁹⁶ U.N. Economic and Social Council; U.N. document E/CN.4/2000/62, para. VIII.12.a

¹⁰⁹⁷ AcomHPR, Principles and Guidelines, art. C(b)(iii)

Complaints processes were transparent, and the opportunity to present evidence in support of a complaint existed.

State practice sources suggest that proceedings on complaints and appeals should be transparent¹⁰⁹⁸ and that the opportunity should exist to present evidence in support of a complaint.¹⁰⁹⁹

Right to a Fair and Public Hearing by an Impartial and Independent Tribunal

Key Obligations:

- *Right to a Fair and Public Hearing*
- *State Must Take Necessary Steps to Give Effect to Rights*

The legal framework provided the right for a fair and public hearing by a competent, impartial, and independent tribunal in the determination of rights.

International treaties state that everyone is entitled to a fair and public hearing by a competent, impartial, and independent tribunal in determination of his/her rights.^{1100,1101} The right to a public hearing must be protected except for specific and objective reasons as determined by law.¹¹⁰² The independence and impartiality of tribunals are absolute rights.¹¹⁰³

International treaties state that in the determination of suits at law, the independence and impartiality of tribunals must be promoted.¹¹⁰⁴

Regional treaties state that independence of the tribunal requires proper procedures detailing appointment, term limits, security, and remuneration of tribunal members.¹¹⁰⁵ They also explain that states should take steps to protect the independence of the judiciary to ensure the proper functioning of dispute resolution processes.¹¹⁰⁶

Interpretive sources indicate that the notion of a fair trial includes the guarantee of a fair and public hearing, absent of influence,¹¹⁰⁷ and further indicate that impartiality requires that judges act without bias and that the tribunal appears unbiased to the reasonable observer.¹¹⁰⁸

Interpretive sources indicate that the notion of an independent tribunal is incompatible with a situation in which the functions

1098 OSCE, Copenhagen Document, para. 12

1099 OSCE (ODIHR), Existing Commitments, p. 75

1100 U.N., ICCPR, art. 14(1); OAS, ACHR, art. 8(1); CoE, ECHR, art. 6(1); CIS, Convention on Human Rights, art. 6(1)

1101 U.N., ICCPR, art. 14; OAS, ACHR, art. 8

1102 U.N., ICCPR, art. 14(1); CoE, ECHR, art. 6(1)

1103 U.N., ICCPR, art. 14

1104 U.N., ICCPR, art. 14

1105 AU, AfCHPR, art. 26

1106 ECOWAS, Protocol, art. 1(a)

1107 U.N. (CCPR), General Comment 32, para. 25

1108 U.N. (CCPR), General Comment 32, para. 21



and competencies of the judiciary and the executive are not clearly distinguishable or in which the executive is able to control or direct the judiciary.¹¹⁰⁹ Many electoral management bodies cannot be considered independent tribunals according to the ICCPR because they bear executive functions. In such cases, a hearing by a body that meets the criteria of a tribunal should be available.¹¹¹⁰

Right to an Effective Remedy, Including Challenging Results

Key Obligations:

- *Right to a Fair and Public Hearing*
- *Right to an Effective Remedy*
- *State Must Take Necessary Steps to Give Effect to Rights*

The state took the steps necessary to give effect to rights during the electoral process, including through the dispute resolution process.

International treaties obligate states to take the steps necessary to give effect to human rights.¹¹¹¹ The obligation upon states to take the steps necessary to give effect to human rights applies to the entire electoral process and all electoral rights.

Interpretive sources indicate that this obligation is unqualified and of immediate effect¹¹¹² and that states should take positive measures that may include educating the population and state officials in human rights¹¹¹³ and the prevention, punishment, investigation, and/or redress of violations of human rights by nonstate actors.¹¹¹⁴ States are required to give effect within their domestic law to internationally recognized human rights for all within their jurisdiction. All branches of the government and other public or governmental authorities are responsible for meeting this obligation.¹¹¹⁵

An effective and timely remedy was available for all citizens for violations of their rights throughout the electoral process.

International treaties establish that everyone has the right to an effective (timely and enforceable)¹¹¹⁶ remedy for acts that violate their rights or freedoms,¹¹¹⁷ including during the electoral process.¹¹¹⁸

1109 U.N. (CCPR), General Comment 32, para. 19

1110 U.N. (CCPR), Leonid Sinitsin v. Belarus, Communication no. 1047/2002 (2006), para. 7.3

1111 U.N., ICCPR, art. 2(2); AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CoE, ECHR, art. 1; CIS, Convention on Human Rights, art. 1

1112 U.N. (CCPR), General Comment 31, para. 14

1113 U.N. (CCPR), General Comment 31, para. 3

1114 U.N. (CCPR), General Comment 31, para. 8

1115 U.N. (CCPR), General Comment 31, para. 4

1116 U.N., ICCPR, art. 2; AU, AfCHPR, art. 7

1117 U.N., ICCPR, art. 2; AU, AfCHPR, art. 7; OAS, ACHR, art. 25; CoE, ECHR, art. 13

1118 AU, ACDEG, art. 17 (2)

Regional treaties state that remedy should be available throughout the electoral process.¹¹¹⁹

Interpretive sources elaborate on the treaties, stating that an effective remedy requires reparation and, at times, may require states to take interim measures.¹¹²⁰

A remedy was available for violations of the right to a fair and public hearing.

Interpretive sources indicate that a remedy must also be available for violations of the right to a fair and public hearing itself.¹¹²¹

The state acted to investigate and address violations of rights. It provided appropriate judicial and administrative means for addressing claims of rights violations, including allegations of electoral fraud.

Interpretive sources note that the right to an effective remedy requires prevention of a recurrence of the violation of the covenant.¹¹²² Cessation of a violation is also noted as an essential element of an effective remedy.¹¹²³

Interpretive sources are clear that states have a duty to investigate alleged rights violations and provide appropriate judicial and administrative means for addressing claims of rights violations.¹¹²⁴ They add that this duty includes the investigation of acts by private people and entities.¹¹²⁵

The ability to challenge the results of the election was provided by law and was available to complainants as appropriate.

Regional treaties highlight that the ability to challenge election results should be provided for by law.¹¹²⁶

“Forum shopping” was discouraged.

State practice sources indicate that appeal channels, when available, should be narrowly constructed so that neither the appellants nor the authorities can choose the appeal body.¹¹²⁷

1119 AU, ACDEG, art. 17(2); ECOWAS, Protocol, art. 7

1120 U.N. (CCPR), General Comment 31, paras. 16, 19

1121 U.N. (CCPR), General Comment 32, para. 58

1122 U.N. (CCPR), General Comment 31, para. 17

1123 U.N. (CCPR), General Comment 31, para. 15

1124 U.N. (CCPR), General Comment 31, para. 15

1125 U.N. (CCPR), General Comment 31, para. 8

1126 ECOWAS, Protocol, art. 7

1127 CoE (Venice Commission), Code of Good Practice, sec II.3.3.b



Safety, Security, and Electoral Dispute Resolution

Key Obligations:

● *Right to Security of the Person*

Electoral stakeholders were free from arbitrary arrest and detention as well as intimidation and coercion.

International treaties protect the right to security of the person without arbitrary arrest or detention.¹¹²⁸ This right requires that individuals be free from physical and emotional violence at all times, including those involved in dispute processes.

Law enforcement bodies were neutral in their work.

State practice sources suggest this includes a requirement that law enforcement behave in a neutral manner during the electoral process.¹¹²⁹

¹¹²⁸ U.N., ICCPR, art. 9; AU, AfCHPR, art. 6; ACHR, art. 7(1)

¹¹²⁹ EU, Handbook (Ed. 2.), p. 52

Appendix A

Public International Law: Sources and Background on Authoring Organizations

The Carter Center's Election Obligations and Standards (EOS) database and this companion manual draw heavily on public international law sources to create a framework for election assessment. This appendix provides an overview of the sources of international law as outlined in Article 38 of the Statute of the International Court of Justice and describes the rationale behind the choice of sources used in the EOS database and this handbook.

Why Public International Law?

Public international law is the system of laws that govern interactions between nation states. Following World War II, public international law came to include human rights law, and for the first time the relationship between each nation state and its citizenry became subject to international debate. Public international law now includes an array of instruments focused on economic and social rights, as well as civil and political rights, such as the right to vote and be elected in genuine periodic elections. From the outset, the Carter Center's efforts to articulate criteria for democratic elections have been rooted in public international law.

Public international law provides a sound foundation for election assessment criteria for several reasons. First, public international law creates a framework of standards for democratic elections that states have already accepted voluntarily. That is, states have obligated themselves, through the signature and ratification of treaties and membership in the community of states, to standards of behavior and respect for human rights.

Second, because many of the states' obligations are documented in publicly available international treaties and other instruments, public international law provides an objective and transparent set of standards or criteria for assessing elections. These obligations represent a common agreement among states themselves and a commitment to the citizenry of each state, which is documented and publicly available for review.

Third, the use of obligations found in public international law as the basis of election assessments recognizes that genuine elections and

democratic processes more broadly require that all states continuously strive to improve and more fully meet obligations. Discussion about the quality of elections and the content of election standards, therefore, reflects a recognition that all democracies are inherently imperfect and require vigilance and constant efforts to maintain and improve them.

Finally, public international law provides the most credible and objective foundation for fostering dialogue among election professionals, human rights bodies, states, election observers, and others on common measures of election quality that are applicable to all nations.

Sources of Public International Law

Public international law, evidenced by the International Covenant on Civil and Political Rights (ICCPR)¹¹³⁰ and subsequent international and regional treaties,¹¹³¹ clearly establishes an obligation for states to hold genuine elections. Article 25 of the ICCPR states:

“Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the voters;
- c) To have access, on general terms of equality, to public service in his country.”

These obligations, along with a handful of other obligations, such as freedom of expression, freedom of assembly and association, and freedom of movement, are widely recognized as inherently relevant to elections and, as such, are core benchmarks for election assessments.

In addition to treaties and instruments, evidence of international legal obligations also can be found in international customary law, general principles of law that are recognized by all nations, judicial decisions, and also “the teachings of highly qualified publicists.”

***** An obligation is “a legal... duty to do or not do something” (Black’s Law Dictionary, abridged, 7th Edition). In the case of public international law, the obligations are those to which states parties have committed by acceding to a convention.

¹¹³⁰ International Covenant on Civil and Political Rights (adopted 16 December, 1966, entered into force 23 March, 1973), 999 UNTS 171

¹¹³¹ U.N., UDHR, art. 21; CoE, ECHR, art. 3 of protocol 11; OAS, ACHR, Art 23(1)(b); CIS,

Convention on Human Rights, art. 29 (b); OSCE, Copenhagen Document, para. 6; African Union, Declaration on the Principles Governing Democratic Elections in Africa, art. II (1); OAS, IADC, art. 3

¹¹³² In addition to providing a substantive basis of public international law, many of these sources provide additional definition to or explanation of other sources of international law. In the following paragraphs we provide greater detail on these sources of international law.

Treaties

A treaty is an international agreement, generally concluded between two or more states in writing and governed by international law. Treaties also may be concluded between states and international organizations and between international organizations. The precise designation may vary, and some treaties are called *conventions*, *covenants*, or *protocols*, among other terms.¹¹³³

Treaties in force are binding upon the ratifying parties and must be adhered to in good faith. In addition, the provisions of a state's domestic law cannot be used as a justification for failure to meet obligations enshrined in a treaty. While treaties do not directly bind third parties, they may form the basis of customary international law obligations, which are binding on third parties. This is particularly pertinent when considering the wider implications of obligations codified in regional treaties on countries outside their geographic area. In general, to become part of customary international law, the treaty provision in question must be of a "fundamentally norm-creating character," be widely (but not universally) accepted, and be recognized as binding (*opinio juris*).¹¹³⁴

Treaties are to be interpreted by state parties in good faith in accordance with the ordinary meaning to be given to the terms of the treaty.¹¹³⁵ If the meaning is not clear, the *travaux préparatoires* (the negotiating history) may be used as a supplementary means of interpretation.¹¹³⁶ (See also the section on interpretation below.)

Signature, Ratification, and Accession of Treaties, and Entry into Force

Consent by a state to be bound by a treaty is generally a multistep process that begins with signature of the treaty. Signatures that are

¹¹³² Art. 38 of the Statute of the International Court of Justice states that "The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

- a) International conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
- b) International custom, as evidence of a general practice accepted by law;
- c) The general principles of law recognized by all nations
- d) Subject to the provisions of Article 59, judicial decisions and the teaching of the most highly-qualified publicists of the

various nations, as subsidiary means for the determination of the rules of law."

¹¹³³ The law relating to treaties, including procedures for ratification, entry into force, and interpretation, has been codified in the 1969 Vienna Convention on the Law of Treaties.

¹¹³⁴ International Court of Justice (ICJ), North Sea Continental Shelf (Federal Republic of Germany/Netherlands and Federal Republic of Germany/Denmark), (1969)

¹¹³⁵ Vienna Convention on the Law of Treaties, art. 31(1)

¹¹³⁶ Vienna Convention on the Law of Treaties, art. 32

subject to ratification do not in themselves legally bind the state to the content of the treaty. Rather, the process of signature expresses the willingness of the state to proceed to ratification and creates an obligation to refrain, in good faith, from acts that would defeat the object and the purpose of the treaty.¹¹³⁷

Ratification is the act whereby a state indicates its consent to be bound by a treaty. In the case of multilateral human rights treaties, this is generally accomplished through a depository mechanism outlined in the treaty itself.¹¹³⁸ In the case of the United Nations, for example, states may deposit their ratifications with the secretary-general.

States may also accede to a treaty, accepting an offer or opportunity to become a party to a treaty negotiated and signed by other states (usually after the treaty has already entered into force), with the same legal effect as ratification. The processes and procedures for accession are usually defined in the treaty itself.¹¹³⁹ Most often, accession to treaties takes place after a political transition.

It is important to note that states may declare reservations to one or more provisions of a treaty at the time of signature, ratification, or accession. A reservation is a declaration made by a state that allows it to change the legal effect of provisions of a treaty in their application to the state. Any reservations made should not undermine the object and purpose of the treaty, and, in some cases, a treaty may actually prohibit or limit the reservations that can be applied.¹¹⁴⁰

The date that a treaty “enters into force,” or is fully binding, is typically outlined in the treaty itself. In the case of multilateral human rights treaties, entry into force is commonly defined as occurring after a specified number of ratifications have been deposited, or a specific period of time has elapsed after the deposit of the required number of ratifications.¹¹⁴¹

Domestication of Treaties

The process by which international treaties and agreements become binding national law varies among countries. In some cases the constitutional framework is such that international agreements become binding national law through the process of treaty ratification. In other countries, international treaty provisions must be translated into legislation that is promulgated through legislative channels. In all cases, agreement to be bound by treaty requires

1137 Vienna Convention on the Law of Treaties, arts. 10 and 18

1138 Vienna Convention on the Law of Treaties, arts. 2(1)(b), 14(1), and 16

1139 Vienna Convention on the Law of Treaties, arts. 2(1)(b) and 15

1140 Vienna Convention on the Law of Treaties, arts. 2(1)(d) and 19–23,

1141 Vienna Convention on the Law of Treaties, art. 24

that the necessary steps be taken to give effect to the treaty in national law.

Judicial Decisions and Interpretation of Treaties

The decisions of judicial bodies, such as the International Court of Justice, European Court of Human Rights, the Inter-American Court of Human Rights, and African Court of Human and Peoples' Rights, can provide general interpretations of the meaning of treaty obligations. But given the nature of judicial proceedings, interpretation will be closely linked to the specificities of the facts of the case in question.

! More information on treaty-monitoring bodies and regional courts is included in Appendix B.

* An optional protocol is an instrument that complements or adds to the content of a treaty.

* *Concluding Observations or Concluding Comments* are the assessment of implementation of human rights treaties by a state, published by treaty-monitoring bodies in response to state reports.

In some circumstances, treaty supervisory bodies act in an adjudicative capacity and hear individual cases. The United Nations Human Rights Committee, for example, receives and considers communications from individuals who claim to be victims of a violation of covenant rights by a state party that has ratified the optional protocol of the ICCPR. The committee's decisions (strictly speaking, its "views") inform the overall interpretation of the treaty. In addition, the committee has adopted a number of General Comments, setting forth its interpretation of particular provisions of the covenant. In the context of elections, the most notable of these is General Comment No. 25. The practice of making such general recommendations has been adopted by a number of other treaty supervisory bodies such as the Committee on the Convention on Elimination of Discrimination Against Women (CEDAW) and the Committee on the International Convention on the Elimination of Racial Discrimination (CERD). General Comments, responses to individual complaints, and Concluding Observations on state reports of U.N. treaty-monitoring bodies have normative and legal significance and are widely referenced by international and national courts, as well as by experts and practitioners.

Customary International Law

Also identified as a source of law is international custom, evidenced by a general practice accepted as law. Whereas treaties establish rules expressly recognized by states (and which, by definition, are set down in writing, signed, and ratified), custom as a source of law takes account of the practice of states in their relations with each other and in matters subject to international legal regulation. State practice can become the basis of binding customary international law when it is followed consistently over time (the period of time can be relatively short), where it is widely followed (but not necessarily universally), and where there is evidence (which may be a

matter of inference) that the practice is considered obligatory as a matter of law.¹¹⁴² Once accepted as customary international law, all states are bound by it unless they have expressed a valid objection to the norm, irrespective of any formal consent.

In considering whether a practice has become binding as a matter of general international law (and also irrespective of whether a treaty-based norm has emerged to become generally binding, even on nonparties), the evidence of what states actually do is particularly important. In this context, national legislation, national practices, administrative arrangements, and national judicial decisions are relevant. In addition, the views of states, for example, as expressed in international forums on the adoption of otherwise nonbinding declarations and resolutions, or in official correspondence with concerned parties, such as regional organizations or other nongovernmental actors, may confirm the sense of legal obligation.

Other Instruments

Other instruments such as declarations, guidelines, or statements of principles, particularly where adopted in international forums with wide or significant state participation, outline points of agreement between parties. These instruments can be extremely influential in the creation of customary law, both in terms of impacting state practice and as a means of demonstrating the acceptance of a practice as law. The Universal Declaration of Human Rights, for example, was drafted and adopted as a nonbinding instrument, but many of its provisions have since become binding as a matter of customary international law.

Particularly in the context of human rights, these instruments often precede the passage and ratification of more formal codification of international obligations in international treaties.

Other Sources of Evidence of State Practice: “Teachings of Highly Qualified Publicists” and Organizations

A final category of evidence of obligation in international law is the “teachings of highly qualified publicists.” This is generally understood to mean the writings and work of legal scholars. However, it is also increasingly understood to include the work of intergovernmental and nongovernmental organizations whose “factual investigations into state practice and beliefs can provide important evidence of *opinio juris*.... NGOs can be viewed as engaged in an important debate about current *opinio juris* and about the desirability of recognizing new norms of international law.”¹¹⁴³

1142 For ICJ interpretation of the creation of custom from state practice, please see International Court of Justice (ICJ), North Sea Continental Shelf (Federal Republic of Germany/Netherlands and Federal Republic of Germany/Denmark), (1969).

1143 Leppard, Brian D., Customary International Law: A New Theory with Practical Applications. Cambridge University Press, 2010, p. 187

Appendix B

Background Information on Select Authoring Organizations, Treaty Monitoring, and Enforcement Mechanisms

A number of intergovernmental organizations have a mandate regarding the creation of international human rights treaties. The organizations differ from each other in composition and structure and have different mechanisms for monitoring and enforcing treaty obligations. Understanding the role and legal status of the instruments created by these organizations is helpful in making electoral assessments. The section that follows provides a brief overview of the organizations whose instruments are included in the database and this handbook, their monitoring and enforcement mechanisms, and examples of important treaties and instruments. A full list of sources contained in the EOS database and referenced in previous sections of this handbook is included in Appendix D.

! See Appendix D for a full reference list.

The United Nations (U.N.)

Since the middle of the 20th century, international human rights mechanisms within the U.N. system have developed along two parallel tracks: the treaty-based system and the charter-based system.

Treaty-Based System and Treaty-Monitoring Bodies

The treaty-based system stems from the promulgation of various international treaties. Particularly relevant to elections and democratic governance are seven treaties: (1) International Covenant on Civil and Political Rights (ICCPR); (2) International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); (3) International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); (4) Convention on the Rights of the Child (CRC); (5) Convention on the Rights of Migrant Workers (CRMW); (6) Convention Against Corruption (UNCAC); and (7) Convention on the Rights of People with Disabilities (CRPD). Six of these also have a treaty-monitoring body with a mandate to interpret and apply the convention as part of a regular review of state reports. In addition, these treaty bodies may receive and respond to

individual complaints.¹¹⁴⁴ They also draft General Comments, which serve as authoritative interpretations of their respective treaties.

Each committee is composed of independent experts who, while nominated by their state, serve in a personal capacity. Committee members are independent and objective, and the committees themselves are autonomous, not part of the political or intergovernmental organs of the United Nations. Committee members are elected, and there is no limit on the number of re-elections that may take place. The selection of members to these bodies is conducted so as to encourage equitable geographic representation. Table 2 offers a summary of the treaty-monitoring bodies most relevant to election-related issues.

Table 2: Election-Related Treaties and Their Monitoring Bodies

Treaty	Monitoring Body	Can Receive Individual Complaints?	No. of Members
International Convention on Civil and Political Rights (ICCPR)	United Nations Human Rights Committee (CCPR)	Yes	18
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	Committee on the Elimination of Racial Discrimination (CERD)	Yes	18
International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	Committee on the Elimination of Discrimination Against Women (CEDAW)	Yes	23
Convention on the Rights of the Child (CRC)	Committee on the Rights of the Child (CRC)	No	18
Convention on the Rights of People with Disabilities (CRPD)	Committee on the Rights of People with Disabilities (CRPD)	Yes	18
Convention on the Rights of Migrant Workers (CMW)	Committee on the Rights of Migrant Workers (CMW)	No	10

While General Comments, responses to individual complaints, and Concluding Observations on state reports of U.N. treaty-monitoring bodies are not legally binding, they do have normative and legal significance and are widely referenced by international and national courts and by experts and practitioners.

¹¹⁴⁴ Individual complaints mechanisms are codified in art. 14 of ICERD, and the optional protocols of the ICCPR, CEDAW, and CRPD. The optional protocols to the CRC and the CMW, which include individual complaints mechanisms as well, have not yet entered into force. It should

be noted that the legal significance of findings of violations expressed by committees that can receive individual complaints is greater than the expressions of concern or recommendations in Concluding Observations on states' reports.

The Charter-Based System

The charter-based system includes the U.N. organs and mechanisms that have been developed to implement human rights provisions as initially laid out in the U.N. charter of 1945 and in support of the Universal Declaration of Human Rights. These include the Security Council and the General Assembly, whose resolutions directly reference human rights issues related to elections. They also include the Office of the High Commissioner for Human Rights, the Human Rights Council and its subsidiary bodies, and the Special Procedures (such as Special Rapporteurs, independent experts, or working groups on specific issues).

Office of the High Commissioner for Human Rights.¹¹⁴⁵

The Office of the High Commissioner for Human Rights (OHCHR), the highest human rights official in the U.N. system, provides assistance to states in the protection and fulfillment of human rights. In addition, the office works to mainstream human rights within the United Nations, serves as the secretariat of the Human Rights Council, and supports the work for Special Procedures or Special Mandate holders. In addition, as part of its standard-setting, monitoring, and implementation responsibilities, the OHCHR provides support to treaty-monitoring bodies.¹¹⁴⁶

Human Rights Council¹¹⁴⁷

The Human Rights Council is an intergovernmental body within the United Nations that has a mandate to strengthen the protection of human rights globally. Forty-seven member states are elected by the U.N. General Assembly to serve on the council. Prominent among the responsibilities of the Human Rights Council is the Universal Periodic Review mechanism, through which the council assesses the human rights situation of member states on a state-to-state level. In addition, the Human Rights Council can receive individual complaints regarding systematic and gross human rights violations. Complaints can be submitted by individuals, groups, or NGOs that claim to be victims of the violations or have reliable information regarding alleged violations.

The Human Rights Council issues recommendations and resolutions on human rights issues. These political commitments generally indicate points of agreement of member states of the Human Rights Council. The council may request additional action be taken by the OHCHR through this process.

¹¹⁴⁵ Website of the Office of the High Commissioner for Human Rights, <http://www.ohchr.org/EN/Pages/WelcomePage.aspx>, accessed Jan. 17, 2014

¹¹⁴⁶ Website of the Office of the High Commissioner for Human Rights,

<http://www.ohchr.org/EN/AboutUs/Pages/WhatWeDo.aspx>, accessed Jan. 17, 2014

¹¹⁴⁷ Website of the Office of the High Commissioner for Human Rights, <http://www.ohchr.org/EN/HRBodies/HRC/Pages/HRCIndex.aspx>, accessed Jan. 17, 2014

Special Procedures of the Human Rights Council

Special Procedures of the council are independent human rights experts who report and advise on specific issues of concern. In 2013 there were 37 thematic and 14 country-focused mandates.

The Special Procedures may be individuals (Special Rapporteurs or independent experts) or may be working groups of experts on a specific topic. Special Procedures conduct country visits, act on individual cases or concerns, and conduct thematic studies. They report annually on their findings to the Human Rights Council and often also to the General Assembly. While their reports contribute to the creation of international law and are influential, they are not legally binding.

Notable U.N. instruments relevant to electoral processes include the following:

Treaties

- International Covenant on Civil and Political Rights (adopted, 1966; entered into force, 1976)
- Convention on the Elimination of All Forms of Discrimination Against Women (adopted, 1979; entered into force, 1981)
- International Convention on the Elimination of All Forms of Racial Discrimination (adopted, 1965; entered into force, 1969)
- Convention on the Rights of People with Disabilities (adopted, 2006; entered into force, 2008)
- United Nations Convention Against Corruption (adopted, 2003; entered into force, 2005)

Other International Instruments

- Universal Declaration of Human Rights (1948)
- Guiding Principles on Internal Displacement (1998)

Interpretive Documents

- CEDAW Committee, General Recommendation No. 5 on Temporary Special Measures (1988)
- CEDAW Committee, General Recommendation No. 23 on Public and Political Life (1997)
- United Nations Human Rights Committee, General Comment No. 18, Nondiscrimination (1989)
- United Nations Human Rights Committee, General Comment No. 25 on "The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service," (1996)
- United Nations Human Rights Committee, General Comment No. 27 on Freedom of Movement (Art. 12) (1999)
- United Nations Human Rights Committee, General Comment No. 31 on the Nature of the General Legal Obligation of States Parties under Article 40 of the Covenant (2002)

- United Nations Human Rights Committee, General Comment No. 32 on Article 14: Right to Equality before Courts and Tribunals and to Fair Trial (2008)
- United Nations Human Rights Committee, General Comment No. 34 on Article 19: Freedom of Opinion and Expression (2011)

African Union (AU)

The African Union (AU) is an intergovernmental organization whose membership includes all of the independent countries in Africa or in African waters, except Morocco, which has unilaterally withdrawn from the AU, and one country that is currently suspended.¹¹⁴⁸ Established in 2002 as a successor to the Organization of African Unity (OAU), the AU works to ensure democracy, human rights, and a sustainable economy throughout Africa. Treaties of the African Union, once entered into force, are binding upon all member states. The AU is made up of a number of official organs, including the Assembly of the African Union, the organization's supreme governing body composed of the heads of member states and governments; the Pan-African Parliament, the organization's legislative body; and the African Court on Human and People's Rights, the organization's principal judicial body on human rights issues.

The African Court of Human and Peoples' Rights (ACHPR) was established by a 1998 protocol that entered into force in 2004 following ratification by the required 15 states. In advancing the African Charter on Human and Peoples' Rights, the ACHPR works in cooperation with the African Commission on Human and Peoples' Rights, an adjudicatory body with no binding powers that is limited in function to examining state reports, considering alleged violations, and interpreting the charter upon request by a state, the AU, or organization recognized by the AU. While the ACHPR handles cases related to international human rights commitments, particularly those arising from the African Charter and international treaties or instruments ratified by state parties, the court has no criminal jurisdiction and will only work with issues related to human rights violations. In July 2005, the AU decided to create the African Court of Justice and Human Rights, which is anticipated to replace the ACHPR. It will have two organs—one focused on general legal disputes and the other on human rights. However, the protocol to merge the two courts has yet to enter into force.

The ACHPR has 11 judges who are nationals of member states. They are elected for a six-year term and are eligible for re-election once. Recognized NGOs, as well as member states and AU organs, may request opinions of the ACHPR. In addition, individuals

¹¹⁴⁸ The Central African Republic was suspended as of Aug. 29, 2014.

from states that have signed a declaration that permits individual complaints have standing before the court.¹¹⁴⁹ The AFHPR has been actively hearing cases, including those related to election matters, since 2010.

NEPAD

As an economic development program under the AU, the New Economic Partnership for African Development (NEPAD) aims to eradicate poverty, increase sustainable growth development, integrate Africa into the global economy, and accelerate the empowerment of women. NEPAD has its own secretariat, which is based in South Africa.

Notable AU instruments relevant to electoral processes include the following:

Treaties

- African Charter on Human and Peoples' Rights (adopted, 1981; entered into force, 1986)
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (adopted, 2003; entered into force, 2005)
- African Charter on Democracy, Elections, and Governance (adopted, 2007; entered into force, 2012)
- African Union Convention on Preventing and Combating Corruption (adopted 2003; entered into force, 2006)

Other Regional Instruments

- African Union Declaration on the Principles Governing Democratic Elections in Africa (2002)
- NEPAD Declaration on Democracy, Political, Economic and Corporate Governance (2003)

Commonwealth of Independent States (CIS)

The Commonwealth of Independent States (CIS) is an international organization composed of the nine full-member states of Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, and Uzbekistan. Turkmenistan and Ukraine are participating members.¹¹⁵⁰ Created in 1991 during the final dissolution of the Soviet Union, the CIS was established to increase economic integration and promote democratization throughout its member states. The CIS is based in Minsk, Belarus. The CIS Convention of Human Rights and Fundamental Freedoms, which came into force in 1998, provides for the establishment of a Human

¹¹⁴⁹ At the time of writing, this is limited to seven states: Burkina Faso, Ghana, Malawi, Mali, Rwanda, Tanzania, and Cote d'Ivoire.

¹¹⁵⁰ Georgia is a former member state at the time of writing.

Rights Commission of the CIS to act as a control mechanism focused on monitoring state execution of the convention.

Treaties

- Commonwealth of Independent States Convention on Human Rights and Fundamental Freedoms (adopted, 1995; entered into force, 1998)
- Commonwealth of Independent States Convention on Standards for Democratic Elections (adopted, 2002; entered into force, 2003)

Council of Europe (COE)

Based in Strasbourg, France, the Council of Europe (COE) is an international organization composed of 47 European states. The COE was founded in 1949 to increase economic integration, improve human rights, and strengthen the rule of law throughout Europe. It does this through a number of official organs, including the Committee of Ministers, the organization's highest decision-making body, composed of the foreign ministers of all member states; the Parliamentary Assembly, one of the organization's statutory bodies, which is composed of 636 national parliamentarians from member states; and the European Court of Human Rights, the organization's judicial body, which primarily monitors state compliance with the 1950 European Convention of Human Rights.

The court is composed of 47 judges (one per state party to the convention). They are elected by the Parliamentary Assembly of the Council of Europe (PACE) from nominees proposed by the member state. Each judge is elected for a nonrenewable nine-year term.¹¹⁵¹

Contracting states and individuals, NGOs, companies, and groups can bring cases to the court, alleging violation by a contracting state of the convention. Domestic remedies must be exhausted, and an application to the court generally must be made within six months of the final decision of the national court. Decisions rendered by the court on such matters are final and binding on concerned states. The Committee of Ministers of the Council of Europe ensures compliance with court judgments.

The Venice Commission

The European Commission for Democracy Through Law, or Venice Commission, was established in 1990 as an advisory body to the Council of Europe. Membership is composed of 59 states, including the 47 members of the Council of Europe. The commission is formed from eminent experts in the fields of law, political science, and democratic governance, appointed by participating countries

¹¹⁵¹ The ECHR in 50 Questions, <http://www.echr.coe.int/Documents/50QuestionsENG.pdf>, accessed Jan. 16, 2014

for terms of four years. Commission experts issue reports and recommendations in four key areas: constitutional assistance; elections and referendums; cooperation with constitutional courts; and transitional studies, reports, and seminars.¹¹⁵²

Treaties

- Convention for the Protection of Human Rights and Fundamental Freedoms (adopted, 1950; entered into force, 1953)

Other Regional Instruments

- Venice Commission (European Commission for Democracy Through Law) Code of Good Practice in Electoral Matters (2002)
- Venice Commission (European Commission for Democracy Through Law) Guidelines on Media Analysis During Election Observation Missions (2005)
- Venice Commission (European Commission for Democracy Through Law) and OSCE (ODIHR), Guidelines on Political Party Regulation (2010)

Economic Community of West African States (ECOWAS)

The Economic Community of West African States (ECOWAS) is an international organization of 15 states: Benin, Burkina Faso, Cape Verde, Cote d'Ivoire, the Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Togo. It was established in 1975 to further regional integration of economic development. It works toward this goal through a number of official organs, including a commission, community parliament, the Bank for Investment and Development, and the Community Court of Justice.

The ECOWAS Community Court of Justice is composed of seven judges who are nationals of member states. They each serve a four-year term. Of all the regional courts, the ECOWAS Court of Justice has the least restrictive rules regarding *locus standi*. Member states and NGOs have standing before the Community Court of Justice. In addition, private citizens have direct access to the court. Unlike other regional courts, it is not necessary for a complaint to be referred by an organ of the intergovernmental organization such as the African Commission on Human and Peoples' Rights, and member states do not have to have agreed to citizen access to the court by signing a declaration. Finally, it is important to note that domestic remedies do not have to be exhausted for a complaint

¹¹⁵² The Venice Commission often works with the Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions

and Human Rights (ODIHR) in conducting legal reviews of participating states.

! See the Framework section of this handbook for more information on evidence of international law.

to be brought to the court. The only requirements are that the complaint not be anonymous and that the case not be pending before another international court.¹¹⁵³

Because ECOWAS does not have a human rights protocol or bill of rights, the ECOWAS Community Court applies the international human rights instruments that the state has ratified (U.N., AU, and other treaties) as well as other sources of law outlined in Article 38 of the Statute of the International Court of Justice (see section above) when issuing opinions.¹¹⁵⁴ In addition, reference is made to the jurisprudence of other regional courts and treaty-monitoring and enforcement bodies.

Examples of ECOWAS instruments included in the database and handbook include the following:

Regional Instruments

- Declaration of Political Principles of the Economic Community of West African States (1991)
- Economic Community of West African States, Protocol A/SP1/12/01 on Democracy and Good Governance, Supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping, and Security (2001)

League of Arab States (LAS)

The League of Arab States (LAS) is an international organization composed of 22 Arab states in the Middle East and Africa. Established in 1945, the LAS works to “draw closer the relations between member states and coordinate collaboration between them, to safeguard their independence and sovereignty, and to consider in a general way the affairs and interests of the Arab countries.” The LAS works to accomplish these goals through a number of official organs, including a council, special committees, and a permanent secretariat based in Cairo, Egypt.

In 2004, a revised version of the Arab Charter was drafted to align human rights standards more closely with prevailing international law and to improve upon the 1994 charter by guaranteeing a number of basic freedoms and protections. In conjunction with the revised charter, a modernization package for the league provided for the establishment of an Arab Court of Justice (ACJ) in 2002, which has yet to come into existence.

1153 Economic Community of West African States Court of Justice, <http://www.ijrcenter.org/ihr-reading-room/regional-communities/economic-community-of-west-african-states-court-of-justice/>. See also, Alter, Helfer, and McAlister, A New International Human Rights Court for West Africa, The ECOWAS Community

Court, American Journal of International Law, vol. 107:737, (2013)

1154 ECOWAS Court of Justice website, <http://www.courtecowas.org/site2012/index.php?option=comcontent&view=article&id=2&Itemid=51.16.14>, accessed Jan. 17, 2014

The Arab Human Rights Committee (AHRC) was created in 2009 and is charged with monitoring signatory state commitment to the new Arab Charter. It is composed of seven members elected by secret ballot. Nomination for election to the committee is based on experience in human rights and personal integrity.¹¹⁵⁵ The AHRC is responsible for interpreting and commenting on Arab Charter provisions with respect to international human rights standards and has received and provided comments on a number of states' reports.

League of Arab states instruments included in the database and handbook include the following:

Treaties

- Arab Charter on Human Rights (adopted, 2004; entered into force, 2008)

Organization of American States (OAS)

The Organization of American States (OAS) has its seat in Washington, D.C., and is composed of 35 member states representing the nations of North America, South America, and Central America. Nations outside the Western Hemisphere are allowed to participate as "permanent observers." The purpose of the OAS is to promote regional cooperation throughout the Americas, focusing on democratization, human rights, and the eradication of poverty and the drug trade. Major bodies of the OAS include the General Assembly, which is the supreme body composed of state delegations, and the Permanent Council, which is composed of one ambassador from each member state. Additionally, the OAS maintains an inter-American system for promoting and protecting human rights as enshrined in the American Declaration of the Rights and Duties of Man and the American Convention on Human Rights. The main organs are the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.

An autonomous, permanent body of the OAS, the commission is charged with promoting human rights observance and defense and advances several functions in fulfilling its mandate, including receiving, analyzing, and investigating individual petitions alleging human rights violations; observing the general human rights situation in member states and publishing special reports; recommending that members adopt specific measures to protect human rights; requesting that members adopt "precautionary measures" or requesting that the court order "provisional" measures; submitting

¹¹⁵⁵ League of Arab States Portal, <http://www.lasportal.org>, accessed on Jan. 17, 2014

cases to the court and appearing in litigation proceedings; and requesting advisory opinion from the court on interpretation of the American Convention.

Established in 1979, the court acts as an autonomous judicial institution aimed at the application and interpretation of the convention and other treaties concerning the rights outlined in the convention. Composed of seven judges, the court has contentious jurisdiction that must be accepted by member states as a function of state commitment to either the convention or the declaration. Although the court hears petitions brought by individuals against member states who have accepted the jurisdiction of the court, such individuals must present a case to the commission, which then recommends and submits cases for review by the court. Decisions of the court are binding only upon the 22 states that have accepted the court's jurisdiction.

Examples of OAS instruments included in the database and handbook are as follows:

Treaties

- American Convention on Human Rights (adopted, 1969; entered into force, 1978)
- Inter-American Convention on the Granting of Political Rights to Women (entered into force, 1949)
- Inter-American Convention Against Corruption (adopted, 1996; entered into force, 1997)

Other Regional Instruments

- Inter-American Democratic Charter (2001)

Organization for Security and Cooperation in Europe (OSCE)

With 57 participating states from Europe, Central Asia, and North America, the Organization for Security and Cooperation in Europe (OSCE) forms the largest regional security organization in the world. The OSCE is a primary instrument for early warning, conflict prevention, crisis management, and post-conflict rehabilitation in its area.

The organization deals with three dimensions of security: politico-military, economic and environmental, and human. It therefore addresses a wide range of security-related concerns, including arms control, confidence- and security-building measures, human rights, national minorities, democratization, policing strategies, counterterrorism, and economic and environmental activities. All 57 participating states enjoy equal status, and decisions are taken by consensus on a political, but not legally binding, basis.

The OSCE's Office for Democratic Institutions and Human Rights (ODIHR) provides support, assistance, and expertise to participating states and civil society to promote democracy, rule of law, human rights and tolerance, and nondiscrimination. ODIHR is specifically mandated to observe elections within the 57 participating states. The office also supports authorities in their efforts to improve electoral processes and to follow up on recommendations by ODIHR election observation missions by reviewing election-related legislation, providing technical expertise, and supporting the activities of citizen observer groups.

Examples of OSCE instruments included in the database and handbook are as follows:

Other Regional Instruments

- Final Act of the Conference on Security and Cooperation in Europe (Helsinki Document) (1975)
- Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (Copenhagen Document) (1990)
- Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE (Moscow Document) (1991)
- Istanbul Document (1999)

Southern African Development Community (SADC)

The Southern African Development Community is comprised of 14 member states: Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia, Zimbabwe, Namibia, South Africa, Mauritius, the Democratic Republic of the Congo, and Madagascar. SADC is seated in Gaborone, Botswana, and operates with a goal of ensuring economic stability, improved standards of living, social justice, and security for all member states. SADC has the ability to create treaties to which all member states are bound, as well as publishing nonbinding guidelines and principles for SADC.

The SADC Tribunal became operational in 2005; however, it was disbanded in 2012. At the time of writing, there was no functioning SADC judicial body.

Examples of SADC instruments included in the database and handbook are as follows:

Treaties

- SADC, Protocol Against Corruption (adopted 2001; entered into force 2005)

Other Regional Instruments

- SADC Principles and Guidelines Governing Democratic Elections (2004)

Illustrative Questions for Data Collection



1. Legal Framework

ASSESSMENT CRITERIA		ILLUSTRATIVE QUESTIONS FOR DATA COLLECTION
International Human Rights Obligations in the Legal Framework		
State Must Take Necessary Steps to Give Effect to Rights	The legal framework for elections included the protection of fundamental rights and made international obligations domestically binding.	<ul style="list-style-type: none">• Does the legal framework provide for the conduct of elections that are in accordance with international standards and political rights?• Are relevant provisions from international/regional treaties incorporated into the national legal framework?• Do any legal provisions contradict international obligations of the state?
	Any restrictions placed on fundamental rights were reasonable and objective.	<ul style="list-style-type: none">• What, if any, restrictions on fundamental human rights and freedoms are in place?• Are any groups particularly impacted by any restrictions?
	Key aspects of the election process were enshrined in law at the highest level (e.g., the electoral system was enshrined in the constitution).	<ul style="list-style-type: none">• Which aspects of the electoral process are enshrined in the constitution and which are left to legislative or administrative discretion?
	Participatory rights were protected at the highest level of the law (the constitution).	<ul style="list-style-type: none">• How do the country's international obligations impact the legal framework for elections?• Does the constitution incorporate human rights and/or treaty obligations?
Derogation of Obligations		
State Must Take Necessary Steps to Give Effect to Rights	When derogating obligations or restricting human rights, the least restrictive measures were taken, and no limitations were placed on nonderogable rights.	<ul style="list-style-type: none">• Have any limitations been placed on nonderogable rights (i.e., discrimination on the basis of race, color, sex, language, religion, or social origin)?• If any limitations are placed on derogable rights, are they the least restrictive measures possible in order to achieve the necessary outcome? Are they temporary?• Who is affected by any limitations?
	Prior to the derogation of human rights and electoral obligations, a state of emergency was publicly announced.	<ul style="list-style-type: none">• Did authorities publicly declare a state of emergency prior to any derogation of human rights?
	Any restrictions on rights were justified by law and subject to review.	<ul style="list-style-type: none">• Have authorities based their justification of any limitations on rights in law?• Are the restrictions subject to judicial review?



Rule of Law and the Legal Framework		
State Must Take Necessary Steps to Give Effect to Rights	The principles of rule of law were promoted.	<ul style="list-style-type: none"> • Are all decisions related to the electoral process subject to the rule of law?
	The legal framework for elections was stable.	<ul style="list-style-type: none"> • Have any late changes been made to laws or regulations? If so, is there adequate publicity to ensure that stakeholders are aware of the changes? • Are there valid reasons and a general consensus behind any late changes?
	The laws regulating elections were equally enforced and were not arbitrarily applied.	<ul style="list-style-type: none"> • Are laws enforced consistently? • Is the law publicly promulgated and available in the official languages of the country?
	Sanctions for violations of the electoral law were proportionate, appropriate, and effectively enforced.	<ul style="list-style-type: none"> • Is the law publicly promulgated and available in the official languages of the country? Who prosecutes violations of the electoral law, and who provides redress for violations? • Are sanctions provided by law proportionate to the severity of the offense? • How are sanctions enforced?
State Authorities Responsible for Upholding Rights		
State Must Take Necessary Steps to Give Effect to Rights	All branches of the government are responsible for protecting human rights, including those responsible for administering election processes.	<ul style="list-style-type: none"> • Under the legal framework, who is responsible for protecting human rights during electoral processes? • Are there other, independent mechanisms to promote the protection of human rights? (e.g., ombudswoman) • Does the legal framework provide for civic education to inform people of their electoral rights?
Authority and Responsibility of the Electoral Management Body in Interpreting the Law		
Rule of Law	The role of the electoral management body in interpreting and administering the election law was clearly defined in the legal framework.	<ul style="list-style-type: none"> • What body has the legal power to promulgate electoral regulations? • What is the EMB's role in administering and interpreting the law? • Is the EMB's interpretation subject to additional review by another body (e.g., the supreme or constitutional court, legislature, or other)?
Regularity of Elections		
Periodic Elections	Elections have been held periodically.	<ul style="list-style-type: none"> • How often does the legal framework require that elections for each office take place? • How often have elections taken place?
State Must Take Necessary Steps to Give Effect to Rights	The period between elections was not unduly long.	<ul style="list-style-type: none"> • Has the time between elections been so long as to suggest that elected officials no longer represent the will of the voters?
Postponement of Elections		
Periodic Elections	The legal framework only allowed for temporary postponement of the election in times of declared state of emergency.	<ul style="list-style-type: none"> • Does the legal framework permit a delay to elections? Under what conditions?

Election Calendar and the Enjoyment of Rights		
Periodic Elections State Must Take Necessary Steps to Give Effect to Rights	<p>The legal framework included a realistic electoral calendar that allowed states adequate time to give effect to rights and successfully implement all aspects of the election.</p>	<ul style="list-style-type: none"> • Does the calendar allow adequate time for boundary delimitation, voter registration, electoral dispute resolution, etc.? • Does the legal framework contain steps to follow in the event the calendar is not observed?
	<p>The legislative calendar related to the development of electoral laws was published well in advance of deadlines.</p>	<ul style="list-style-type: none"> • How long in advance of the elections was electoral legislation finalized and promulgated? • Is the legislative calendar published far enough in advance to provide all stakeholders an opportunity to represent their positions and to promote legal certainty?
Freedom From Discrimination in the Legal Framework		
Freedom From Discrimination and Equality Before the Law	<p>The legal framework for elections did not discriminate on the basis of prohibited grounds.</p>	<ul style="list-style-type: none"> • Are there any legal provisions that directly or indirectly discriminate on the basis of race, color, sex, language, political or other opinion, national or social origin, property, birth or other status, sexual orientation or gender identity, or physical or mental ability?
	<p>Minorities were able to use their own languages.</p>	<ul style="list-style-type: none"> • Does the law allow for the use of minority languages throughout the electoral process, including in campaigning, media, and voter education materials? • Is the legal framework available in minority languages?
	<p>The legal framework for elections included guarantees of equality before the law.</p>	<ul style="list-style-type: none"> • Does the legal framework explicitly guarantee equality before the law? If so, for whom?
	<p>The legal framework provided equal access to any place or service intended for use by the public.</p>	<ul style="list-style-type: none"> • What restrictions does the legal framework place on access to public places? Are these time- or context-bound? • Were citizen observers denied access to polling stations or other public facilities in use during the electoral process? Why? • Does the legal framework provide equal access to public service positions (e.g., within the electoral management body)?
Citizenship		
Freedom From Discrimination and Equality Before the Law Equality Between Men and Women	<p>The rules regarding citizenship were clear and nondiscriminatory.</p>	<ul style="list-style-type: none"> • What are the criteria for citizenship? Are they clear and understandable? • Do citizenship criteria discriminate against particular groups of people? If so, whom? • Are there restrictions on who can acquire or confer citizenship? • With respect to the enjoyment of rights, are distinctions made between those who attained citizenship by birth and those who attained it through naturalization?
	<p>Citizenship rules did not discriminate directly or indirectly against women.</p>	<ul style="list-style-type: none"> • Are women discriminated against in terms of acquiring or conferring citizenship?



The Legal Framework and Equality Between Men and Women		
Equality Between Men and Women	The legal framework for elections included guarantees of equality before the law for men and women.	<ul style="list-style-type: none"> • Does the legal framework include guarantees of equality between men and women? • Are there any legal provisions that directly or indirectly discriminate against women?
Special Measures		
Freedom From Discrimination and Equality Before the Law	The state took steps to ensure de facto equality between men and women.	<ul style="list-style-type: none"> • Are there special mechanisms in place to promote women's participation, candidacy, and election to office (e.g., through electoral quotas, provision of funding, training, or mandating the number of women and/or special party lists)? • Are there legal measures in place to promote women to decision-making positions within government structures such as the EMB? • If quotas are used, do they achieve the desired outcome? • Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?
Equality Between Men and Women	Special measures were taken, as necessary, to promote equality for minorities.	<ul style="list-style-type: none"> • Are there legal provisions ensuring the right to vote and/or be elected for minorities? • Does the legal framework contain any affirmative measures to offset past or current discrimination? • If quotas are used, do they achieve the desired outcome? • Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?
State Must Take Necessary Steps to Give Effect to Rights	Special measures were taken to ensure de facto equality for people with disabilities.	<ul style="list-style-type: none"> • Are there provisions in place to ensure that people with disabilities can fully participate in the electoral process? • Is there a recognized need for special measures for people with disabilities? • Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?
The Right to an Effective Remedy, Including Challenging Election Results		
Right to an Effective Remedy	The legal framework provided citizens with an effective (timely and enforceable) remedy throughout the electoral process.	<ul style="list-style-type: none"> • Does the legal framework provide clear guidance on the process of seeking a remedy? • Are the remedies available appropriate to the time-bound nature of the electoral process? • Are remedies provided effective (timely and enforceable)? • Who has the authority to enforce remedies according to the law?
Rule of Law	The legal framework for elections included the right to challenge the election results as necessary.	<ul style="list-style-type: none"> • Who has legal standing to seek a remedy for violations? • In what circumstances are challenges to election results permitted? • What is the legal process for challenging election results? • Who has standing to challenge the election results?



2. Electoral System and Boundary Delimitation

ASSESSMENT CRITERIA		ILLUSTRATIVE QUESTIONS FOR DATA COLLECTION
The Legal Framework for Electoral Systems and Boundary Delimitation		
State Must Take Necessary Steps to Give Effect to Rights Rule of Law	The principles of rule of law were promoted.	<p>Are all decisions related to the electoral system and boundary delimitation subject to the rule of law?</p> <p>Who makes decisions regarding the electoral system and boundary delimitation process? Is this person/body independent and impartial?</p>
	The laws regulating elections were equally enforced and were not arbitrarily applied.	<p>Are laws enforced consistently during the boundary delimitation process?</p> <p>Are laws pertaining to the electoral system and boundary delimitation publicly promulgated and available in the official languages of the country?</p>
	The legal framework for elections was consistent with international human rights.	Does the legal framework ensure that the electoral system and boundary delimitation process are in compliance with international obligations and human rights?
	There were clear legal provisions regarding the electoral system and boundary delimitation.	<p>Where in the legal framework are provisions regarding the electoral system and boundary delimitation enshrined (e.g., the constitution, laws, regulations)?</p> <p>Are provisions on the electoral system and boundary delimitation subject to misinterpretation?</p>
Oversight of Boundary Delimitation		
State Must Take Necessary Steps to Give Effect to Rights	The state took the steps necessary to give effect to rights regarding the boundary delimitation process through effective oversight mechanisms.	<p>How often does boundary delimitation take place?</p> <p>Who has the authority to change the boundaries of electoral districts (e.g., the legislature, the courts, a boundaries commission, or other body)?</p> <p>Is there an independent demarcation body? How are its members chosen? What are its powers? Are its decisions subject to appeal to another body?</p>
Choice of the Electoral System		
State Must Take Necessary Steps to Give Effect to Rights Rule of Law	The electoral system allowed multiparty participation and actual and equal representation.	<ul style="list-style-type: none"> • Does the structure of the electoral system support the participation of multiple parties? How so? • Does the electoral system allow space for new political movements to flourish? • Does the choice of electoral system have the broad support of the key electoral stakeholders? Is there public confidence that it provides for the free expression of the will of the electorate? • Is the choice of system widely understood by the electoral contestants and the public? <p style="text-align: right;"><i>(continues)</i></p>



Choice of the Electoral System (Continued)		
State Must Take Necessary Steps to Give Effect to Rights Rule of Law	The legal framework defined the formulas to be used to convert votes into mandates.	<ul style="list-style-type: none">• What form of representation is used (plural/majority, proportional, or mixed system)?• If a mixed system is used, how many seats are filled using each subsystem?• As appropriate, what system is used for the allocation of “remainders”?• In a proportional system, does the formula for seat allocation risk disproportionate results due to a high legal threshold?• Does the law require a minimum level of voter turnout for the election to be valid? If so, what is it?• Does the electoral law provide for presidential appointment to otherwise elected bodies or offices? If so, how many? Do they enjoy voting rights in the parliament?• Are elections direct or indirect? If indirect, what is the process? Which offices are affected? How is equal suffrage addressed?• Are presidential elections held in one round or two, or are they held by preferential voting?• Are there provisions for runoffs in the parliamentary system?
	The electoral system was enshrined in law at the highest level (e.g., the constitution).	<ul style="list-style-type: none">• What aspects of the electoral system are enshrined in the constitution?
Criteria for Boundary Apportionment		
Freedom From Discrimination and Equality Before the Law Equal Suffrage State Must Take Necessary Steps to Give Effect to Rights	Each vote was of equal weight.	<ul style="list-style-type: none">• Do the criteria used to determine boundaries result in each vote carrying equal weight?• Does the boundary delimitation process protect equal suffrage?• Does the law establish a voter-per-representative ratio for election districts? If so, what is it?
	Where variances occurred between the numbers of voters in various constituencies, they were small.	<ul style="list-style-type: none">• Are there variances between the numbers of voters in various constituencies? What are they?• Does the law establish acceptable variances in voter-per-representative ratios between districts? Are they reasonable? How large are they?
	The apportionment criteria were publicly available and included details such as the number of residents, number of registered voters, number of actual voters, or a combination thereof.	<ul style="list-style-type: none">• What are the criteria upon which electoral districts are drawn (e.g., size of population, size of electorate, effects of geographical constraints, administrative boundaries)?• Are the procedures for the delineation of electoral boundaries based on transparent and justifiable criteria?

Citizen Participation in the Boundary Delimitation Process		
Right and Opportunity to Participate in Public Affairs	The right to participate in public affairs was protected, including during the boundary delimitation process.	<ul style="list-style-type: none">• Is public review of the boundary demarcation process inclusive of all parts of the political spectrum and sectors of society?• Was access to the boundary delimitation process denied to members of civil society? If so, on what basis?• Is there public debate on the boundary delimitation process?
	The boundary delimitation process was subject to independent scrutiny by civil society, candidates, and political parties; or other groups.	<ul style="list-style-type: none">• Do independent stakeholders have access to relevant data required to analyze government decisions regarding the delimitation process?• Does the public or civil society raise particular concerns regarding the process or outcome of boundary delimitation?
Freedom From Discrimination in the Electoral System and Boundary Delimitation Process		
Freedom From Discrimination and Equality Before the Law	The electoral system did not discriminate against citizens on grounds prohibited by international law.	<ul style="list-style-type: none">• Have electoral boundaries been drawn in a discriminatory or distorted manner to favor one group or another? If yes, how so?• Do the rules on delimitation include antidiscrimination provisions?• Do the size and importance of districts afford opportunities for female candidates to be elected?
Equality Between Men and Women		
Special Measures		
Freedom From Discrimination and Equality Before the Law	The state took steps to ensure de facto equality between men and women.	<ul style="list-style-type: none">• Are there special measures in place to ensure women's representation (e.g., quotas)? Are reserved seat measures applied in practice?• If special measures are in place, are they temporary? When will they be removed?• To what extent is there public debate about the representation of women in elected office?
	Special measures were taken, as necessary, to promote equality for minorities.	<ul style="list-style-type: none">• Are there special measures in place to ensure minority representation? What form do they take (e.g., quotas)? Are reserved seat measures applied in practice?• If special measures are in place, are they temporary in nature? When will they be removed?
State Must Take Necessary Steps to Give Effect to Rights	Special measures were taken to ensure de facto equality for people with disabilities.	<ul style="list-style-type: none">• Are there special measures in place to ensure representation of people with disabilities? What form do they take (e.g., quotas or reserved seats)?
	Quotas for groups other than those whose interests are protected by special measures were regulated so as not to promote inequality among voters.	<ul style="list-style-type: none">• Who benefits in practice from quotas intended for these other groups (e.g., business interests, workers, farmers)?• Are these quotas subject to public scrutiny and debate?



The Election Calendar and Enjoyment of Rights		
Equal Suffrage		<ul style="list-style-type: none">• Are voting rights considered during the boundary delimitation process?
State Must Take Necessary Steps to Give Effect to Rights	The election calendar provided sufficient time for a review of the boundaries to take place as necessary.	<ul style="list-style-type: none">• Are electoral districts established on a permanent basis (e.g., in accordance with the constitution), or can district boundaries be changed? If so, when (e.g., prescribed intervals, conduct of a census)?• Are there requirements to review boundary delimitation on a regular basis?
Right to an Effective Remedy		
Right to an Effective Remedy	There was an effective means of seeking redress for violations concerning boundary delimitation and the electoral system.	<ul style="list-style-type: none">• Is there a process by which the drawing or revision of an electoral district or apportionment of seats can be challenged? Does this process produce an effective (timely and enforceable) remedy?• Were remedies enforced prior to the election?



3. Election Management

ASSESSMENT CRITERIA		ILLUSTRATIVE QUESTIONS FOR DATA COLLECTION
The Legal Framework and Election Management		
State Must Take Necessary Steps to Give Effect to Rights	The electoral management body acted in conformity with the law.	<ul style="list-style-type: none"> • Does the EMB act in conformity with the law?
	The laws regulating elections were equally enforced and not arbitrarily applied.	<ul style="list-style-type: none"> • Does the EMB administer the election process consistently? • Are laws publicly promulgated and available in the official languages of the country?
	The legal framework for elections was consistent with international human rights.	<ul style="list-style-type: none"> • Does the legal framework ensure that election management is in compliance with international obligations and human rights?
	The authority of the EMB was recognized by key stakeholders.	<ul style="list-style-type: none"> • Are there challenges to the EMB's authority? If so, by whom?
The Election Calendar and the Enjoyment of Rights		
State Must Take Necessary Steps to Give Effect to Rights	An EMB implemented elections with adequate time to implement all parts of the electoral process.	<ul style="list-style-type: none"> • Are the timelines for election administration established in law and are regulations realistic? • Does the electoral calendar grant the EMB adequate time to administer the elections? • Is sufficient time provided between the calling and holding of elections for all parties/candidates to prepare? • Are decisions issued and communicated effectively to lower-level bodies to ensure timely implementation of the election? • If temporary, how long before scheduled elections is the EMB established?
EMB Responsibility for Protection of Rights		
State Must Take Necessary Steps to Give Effect to Rights	The EMB took steps to implement an electoral process that fulfilled and protected human rights.	<ul style="list-style-type: none"> • Does the EMB demonstrate awareness of human rights as they relate to elections? • What specific steps has the EMB taken to ensure that the electoral process fulfills human rights? • Is the election commission restrictive in its interpretation of laws and regulations? Does this result in the curtailment of rights and freedoms?
	Steps were taken to institutionalize efficient and effective public administration.	<ul style="list-style-type: none"> • What steps were taken to institutionalize efficient and effective public administration?



Independence and Impartiality of the Electoral Management Body		
Freedom From Discrimination and Equality Before the Law	There was an independent and impartial EMB.	<ul style="list-style-type: none">• Is there an independent EMB?• Is the election commission subject to political pressure?• Does the selection process for EMB members ensure the independence and impartiality of staff?• Can EMB members be removed from office? If so, for what reasons and by whom?
Prevention of Corruption	The EMB acted impartially in the administration of the election.	<ul style="list-style-type: none">• Is the EMB acting impartially in the administration of the election?• Do electoral stakeholders express confidence in the impartiality of the EMB?
State Must Take Necessary Steps to Give Effect to Rights	The EMB had sufficient resources to implement all phases of the election process.	<ul style="list-style-type: none">• Does the EMB have adequate funds and staff to administer the election?• Who determines the EMB's budget? Does the body have control over its own resources? To whom is the EMB fiscally responsible?
Rule of Law		<ul style="list-style-type: none">• Do the EMB and its subordinate bodies have the power to enlist needed support from other sectors of the government (e.g., civil servants, teachers, security personnel)?
Recruitment of EMB Staff		
Freedom From Discrimination and Equality Before the Law	The recruitment and appointment of EMB staff were transparent, efficient, and equitable and instilled public confidence in the body.	<ul style="list-style-type: none">• How are EMB commissioners selected? Who selects them?• How is the chair of the EMB selected? What limits exist on the chair's power?• What are the procedures for recruiting technical staff? Is the recruitment process competitive?• Are there any last-minute changes to the membership of the EMB?
Prevention of Corruption	The appointment to and membership of the EMB were regulated by law.	<ul style="list-style-type: none">• Does the law require the EMB to include specific professional categories?• What is the composition of the EMB?• Are there term limits for commissioners?• Are appointment and dismissal procedures clearly articulated and transparently implemented?• Can EMB members be dismissed at will?
State Must Take Necessary Steps to Give Effect to Rights		
Training of EMB Staff		
State Must Take Necessary Steps to Give Effect to Rights	EMB personnel received training on the electoral process and international obligations.	<ul style="list-style-type: none">• Do EMB commissioners, staff, and polling officials receive adequate training on their role in protecting rights? If so, who provides the training?• Is training mandatory?

Access to Information and EMB Documents		
Transparency and Access to Information	The EMB provided citizens with access to information throughout the electoral process.	<ul style="list-style-type: none">• Through what media and how frequently does the EMB provide information to the public?• Is information provided in a timely fashion so as to be useful within the time frame of elections?• Does the EMB provide information in multiple languages as necessary?• Is any denial of access to information based on reasonable and objective criteria?
	The state proactively put in the public domain government information of public interest, including electoral information.	<ul style="list-style-type: none">• Is the EMB engaged in a proactive education campaign?• Are there technical or legal barriers to accessing EMB information?• Are the records of electoral administration available through a regular process at the EMB or other body?• Is information accessible to people with disabilities (e.g., in Braille, through assistive technologies, large font)?
Transparency in EMB Decision Making and Procurement		
Transparency and Access to Information	The EMB ensured transparency in its decision making; for example, through open meetings and the use of public and competitive tenders.	<ul style="list-style-type: none">• Are all or some meetings of the EMB open to the public?• Does the EMB communicate its decisions effectively to lower-level bodies?
Prevention of Corruption		<ul style="list-style-type: none">• Does the EMB make decisions by qualified majority or consensus?• Does the EMB's procurement process entail the use of competitive and public tenders?
Anticorruption Policies Within the EMB		
Prevention of Corruption	The EMB, as an organ of the state, implemented effective policies to discourage acts of corruption.	<ul style="list-style-type: none">• Are there internal anticorruption policies within the EMB?• What sanctions does the EMB maintain and implement for violations of corruption in the election process?• Does the EMB encourage public participation as a means of combating corruption (e.g., open meetings and publicly disseminated notes)?
Freedom From Discrimination and the Election Management Body		
Freedom From Discrimination and Equality Before the Law	The EMB treated all citizens equally.	<ul style="list-style-type: none">• Did the EMB discriminate in administering the elections?• Did the EMB prevent discriminatory actions by others?
Equality Between Men and Women		<ul style="list-style-type: none">• Were materials produced by the EMB designed for use by all citizens, including people with disabilities, illiterate citizens, and minorities?



Special Measures		
Freedom From Discrimination and Equality Before the Law Equality Between Men and Women State Must Take Necessary Steps to Give Effect to Rights	The state took steps to ensure de facto equality between men and women.	<ul style="list-style-type: none">• Has the EMB taken steps beyond promulgating rules and regulations to ensure participation of women in the electoral process?• Is there a secretariat or unit for women or gender within the EMB?• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?
	Special measures were taken, as necessary, to promote equality for minorities.	<ul style="list-style-type: none">• Has the EMB taken steps to promote the participation of minorities in the electoral process?• Does the EMB include minorities among its members or staff? At what level of decision making?• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?
	Special measures were taken to ensure de facto equality for people with disabilities.	<ul style="list-style-type: none">• Has the EMB taken steps to promote the participation of citizens with disabilities in the electoral process?• Does the EMB include people with disabilities among its members or staff? At what level of decision making?• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?
	The EMB included women.	<ul style="list-style-type: none">• Is the composition of the EMB representative of society?• At what level of authority are women represented in the EMB?
		<ul style="list-style-type: none">• Is there gender equality in the distribution of leadership positions?• Are the policies and actions of the EMB designed to promote internal equality?
Safety, Security, and the EMB		
Right to Security of the Person	The right to security of the person for all citizens (including EMB personnel) was protected throughout the election period.	<ul style="list-style-type: none">• What measures is the EMB taking to prevent violence and protect voters, candidates, and others during the campaign period?• Does the EMB have a comprehensive security plan?• How does the EMB respond to electoral violence or intimidation?• Are security personnel accountable to the EMB? How is security information conveyed among security forces and the EMB?• Have EMB members or staff been subject to threats to their safety?
Freedom of Movement for EMB Personnel		
Freedom of Movement	EMB staff and officials were able to move freely throughout the country to administer the election and, at the same time, did not prevent or hinder the free movement of citizens during the election process.	<ul style="list-style-type: none">• Were restrictions of movement placed on EMB officials or staff? Did these restrictions prevent them from carrying out their duties?• Did the EMB restrict the movement of others during the electoral process?

Right to Effective Remedy for EMB Actions		
Right to an Effective Remedy	An effective (timely and enforceable) remedy was available for all violations of their fundamental rights.	<ul style="list-style-type: none"> • Are EMB actions subject to challenge or legal review? • Are effective mechanisms in place to ensure the accountability of electoral officials in the discharge of their duties (e.g., auditor general, ombudswoman, complaint-filing procedures)? • Is the EMB required to release public reports and statistics about accountability procedures?
Hearings by Impartial and Independent Tribunals		
Right to a Fair and Public Hearing	Citizens were granted a fair and public hearing by a competent, impartial, and independent tribunal in the determination of their rights.	<p>Does the EMB meet the criteria of an independent and impartial tribunal according to international law?</p> <p>What role does the EMB play in the arbitration of disputes?</p> <p>If the EMB is not an impartial tribunal, what body is responsible for the arbitration of disputes?</p>
	The tribunal was protected from political influence (e.g., appointment processes, term limits, security, and remuneration).	<p>Is the tribunal perceived as an impartial arbiter?</p> <p>Are term limits, remuneration, or other factors used to influence tribunal members?</p>
	The proceedings of any complaints were transparent, and all parties to the complaint were given an equal opportunity to present evidence.	<p>Did all parties to complaints have equal opportunity to present evidence?</p> <p>Are the findings of the tribunal accessible, and is an explanation of them provided?</p>
	"Forum shopping" was discouraged.	<p>Is there a right of appeal in court?</p> <p>Are there clear procedures for appeals of decisions by administrative, judicial, or legislative bodies concerning electoral-related complaints?</p> <p>Are the appeal channels narrowly constructed so that neither appellants nor the authorities can choose the appeal body?</p>



4. Voter Registration

	ASSESSMENT CRITERIA	ILLUSTRATIVE QUESTIONS FOR DATA COLLECTION
The Legal Framework and Voter Registration		
State Must Take Necessary Steps to Give Effect to Rights Rule of Law	The principles of rule of law were promoted.	<ul style="list-style-type: none"> • Are all decisions related to the voter registration process subject to the rule of law?
	The laws regulating elections were equally enforced and were not arbitrarily applied.	<ul style="list-style-type: none"> • Are laws enforced consistently during the voter registration process? • Are the laws regarding voter registration publicly promulgated and available in the official languages of the country?
	The legal framework for elections was consistent with international human rights.	<ul style="list-style-type: none"> • Does the legal framework ensure that voter registration is in compliance with international obligations and human rights?
	Voter registration procedures were clearly stipulated by law.	<ul style="list-style-type: none"> • Are the voter registration procedures stated in the law? • Does the law clearly define eligibility criteria for voting, and are these criteria reasonable and consistent with international obligations?
Voter Registration and the Fulfillment of Human Rights		
State Must Take Necessary Steps to Give Effect to Rights	The state took the steps necessary to give effect to rights during the voter registration process, including the creation of an effective procedure for voter registration.	<ul style="list-style-type: none"> • Is voter registration state-initiated? If so, is it by enumeration or based on a civil registry? • Is the state actively promoting voter registration? How so?
	There was adequate time for the voter registration process, including exhibition of preliminary lists and opportunities for challenges and corrections.	<ul style="list-style-type: none"> • Are voter registration timelines feasible given available resources? • When is the preliminary voter list made publicly available? Is there adequate time for the exhibition of the preliminary lists? • Are there adequate time and opportunity for challenges and corrections to be made to the list? • Is there sufficient time for the list to be distributed to polling centers?
Citizenship		
Freedom From Discrimination and Equality Before the Law Equality Between Men and Women	The rules regarding citizenship were clear and nondiscriminatory.	<ul style="list-style-type: none"> • What are the criteria for citizenship? Are they clear and understandable? • Do citizenship criteria discriminate against particular groups? • Are there restrictions on who can acquire or confer citizenship? • With respect to the enjoyment of rights, are distinctions made between those who attained citizenship by birth and those who attained it through naturalization?
Rule of Law	Citizenship rules did not discriminate directly or indirectly against women.	<ul style="list-style-type: none"> • Are women discriminated against in terms of acquiring or conferring citizenship?

Voter Eligibility and Barriers to Registration	
Universal Suffrage	<p>Voter registration promoted universal suffrage.</p> <ul style="list-style-type: none"> • Who is eligible to vote, as outlined in the constitution, law, and regulations? • What restrictions, if any, are placed on the right to vote? Are they reasonable and objective? • Are there significant legal hurdles to register to vote? • Is there a way to determine eligibility on election day? • Is there a provision for supplementary registration after the final list is published? Are internally displaced people able to register? Is there a clear process in place for them to do so? Is there a way to determine eligibility on election day? • Are citizens who reach voting age shortly before or on election day allowed to vote? If so, are there separate provisions regarding their registration? • Is the state taking steps to ensure registration for people with disabilities (e.g., through the use of assistive technologies)?
	<p>Limitations on universal suffrage imposed during the voter registration process were reasonable and objective.</p> <ul style="list-style-type: none"> • What, if any, restrictions are placed on the right to vote? Are they reasonable and objective? • Have people been denied registration in practice on unreasonable grounds? • Are voting rights restored to convicted people after they have served a prison sentence? Have people been denied registration in practice on unreasonable grounds? • Are resident noncitizens permitted to vote? If so, how many years must they have been resident in order to be eligible? • Does the inclusion or exclusion of refugees affect the interests of a particular political party?
	<p>Voter registration promoted broad participation, and there were no barriers to participation by otherwise qualified eligible voters.</p> <ul style="list-style-type: none"> • Is the participation of any eligible voters inhibited (e.g., by onerous registration requirements)? • Is the state taking steps to facilitate registration for all eligible people?



Freedom From Discrimination in the Voter Registration Process		
Freedom From Discrimination and Equality Before the Law	Eligibility requirements for voter registration were reasonable and objective and did not discriminate on the basis of prohibited grounds.	<ul style="list-style-type: none"> • What restrictions on registration exist? Are they based on prohibited grounds? • Do restrictions on registration or the right to vote result in de facto discrimination on the basis of prohibited grounds? • What information is required to register? Do the requirements place an undue burden on members of minority groups, women, or people with disabilities? • Are internally displaced people able to register to vote? Where will they vote? • Are refugees able to register to vote? • Compared to men, do women face legal hurdles in obtaining the documents needed to vote?
	Voter registration facilities were accessible to all.	<ul style="list-style-type: none"> • Are registration facilities accessible to those with disabilities? Are provisions in place to assist those with, for example, impaired sight? • Does the location of the registration center, its hours of operation, or its staffing hinder women or any other identifiable group with traditionally limited political participation from registering?
Special Measures		
Freedom From Discrimination and Equality Before the Law	The state took steps to ensure de facto equality between men and women.	<ul style="list-style-type: none"> • Are women and men registered in numbers proportional to their representation in the population? • Have authorities undertaken measures to encourage women's registration? • Are there any instances of cultural or social pressure, such as those felt by women, which the registration system might handle inadequately? • Has the state undertaken any special measure to ensure registration of women? • Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?
	Equality Between Men and Women	
	State Must Take Necessary Steps to Give Effect to Rights	
	Special measures were taken, as necessary, to promote equality for minorities.	<ul style="list-style-type: none"> • Have authorities undertaken measures to encourage minority registration? • Are there any instances of cultural or social pressure, such as those felt by minority groups, which the registration system might handle inadequately? • What special measures have been implemented? • Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?
	Special measures were taken to ensure de facto equality for people with disabilities.	<ul style="list-style-type: none"> • Have authorities undertaken measures to encourage registration of people with disabilities? • What special measures have been implemented? • Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?

Voter Registration in Minority Languages		
<p>Transparency and Access to Information</p> <p>Freedom From Discrimination and Equality Before the Law</p> <p>State Must Take Necessary Steps to Give Effect to Rights</p>	<p>Linguistic minorities were able to use their own language, and voter registration procedures were available in minority languages.</p>	<ul style="list-style-type: none"> • Have any voters been prevented from registering due to their need to use a minority language? Does this disproportionately affect a particular party or candidate? • Are voter registration materials available in minority languages?
Accuracy of the List		
<p>Universal Suffrage</p> <p>Equal Suffrage</p> <p>Periodic Elections</p> <p>State Must Take Necessary Steps to Give Effect to Rights</p>	<p>The voter list was accurate and up-to-date.</p>	<ul style="list-style-type: none"> • Is voter registration periodic or continuous? • Is a new list being used for this election? • Does the voter list include all eligible and interested citizens? • Is the list regularly reviewed for accuracy?
	<p>Voter registration processes prevented multiple registrations.</p>	<ul style="list-style-type: none"> • What sources of identification are required of citizens for registration? • Are measures in place to cross-check data provided by voters? • Is proxy registration permitted? • Are measures in place to remove the names of ineligible or deceased people? • Is technology, such as biometric voter registration, used to prevent multiple registrations?
	<p>The state took steps to facilitate registration.</p>	<ul style="list-style-type: none"> • Is the voter registration system active or passive? • If active registration, does the state create opportunities for voters to register, provide voter education, make locations accessible, and offer simple procedures? • If passive registration, what is the source of data and is it reliable and accurate? How can voters ensure they are included? • What is the format of the list (paper or computerized)? • Who maintains voter data and for what other purposes, if any, is it used? • What is the process for absentee voter registration? • Has the state taken steps to facilitate voting by people with disabilities (e.g., assistive technologies)?



Transparency in Creating and Maintaining the Voter List		
Transparency and Access to Information	There was transparency in the creation and maintenance of the voter list.	<ul style="list-style-type: none"> • Is the voter list available for review by political parties? • Has the state provided information regarding the process of maintaining the voter list and the accuracy of the data it contains? • Did the number of registered voters exceed the number of eligible voters? • Does the EMB conduct an audit of the voter registration process?
Correction of Voter Registration Data		
Right to an Effective Remedy	Citizens that offered proof of identity had the right to rectify information about them that was inaccurate.	<ul style="list-style-type: none"> • What is the process for voters to correct information in the voter list? • Are voters whose eligibility has been challenged notified in a timely manner of their potential removal so they can respond to complaints or correct their information?
State Must Take Necessary Steps to Give Effect to Rights	Voter registration procedures allowed for claims (of unjustified exclusion) and objections (for incorrect inclusion).	<ul style="list-style-type: none"> • Is there a process for claims and objections regarding the voter list? • Have allegations of inaccuracies or duplications in the voter list been widespread? Could such allegations affect confidence in the electoral process? • Are there clear rules for correcting mistakes or omissions in voter registration information? • Is the timeline for public scrutiny sufficient to allow election stakeholders to review lists, to request and process changes, and address appeals?
Voter Access to Registration Information		
Transparency and Access to Information	The state proactively put in the public domain information regarding voter registration.	<ul style="list-style-type: none"> • Is the voter registration process widely known and understood? • How is information regarding the registration process shared (e.g., posters, radio, education campaigns)?
	Citizens had access to information regarding their inclusion on the voter list, and this information was provided to them in an intelligible format.	<ul style="list-style-type: none"> • How can voters find out if they are included on a voter list? • Was information in the list provided in an easily understood format? • Are citizens informed of their status if the voter registry is challenged?
	Voters had the ability to correct errors in the voter list.	<ul style="list-style-type: none"> • What is the process for voters to correct information in the voter list? • Are voters whose eligibility has been challenged notified in a timely manner of their potential removal so they can respond to complaints or correct their information?
Freedom From Discrimination and Equality Before the Law	The voter list was publicly displayed, and there was adequate time for public inspection of the list, including time for objections and the adjudication of disputes.	<ul style="list-style-type: none"> • When and where is the voter list displayed for public inspection? • Are voter lists posted in or around polling stations?

Privacy and Voter Registration		
Transparency and Access to Information	Personal data collected was not used for other purposes.	<ul style="list-style-type: none"> • Have there been indications or complaints that data collected was used for any purpose other than voter registration? • How is personal data protected by the state?
	The voter list did not include information beyond that necessary to identify a voter and establish his or her eligibility.	<ul style="list-style-type: none"> • What information is required during voter registration (e.g., birth certificate, passport or national ID, witnesses who swear under oath)? Is any information required that is not strictly necessary for voter registration processes? • What information is included in lists given to parties, candidates, and civil society? Do they contain unnecessary data?
Freedom of Movement for the Purposes of Voter Registration		
Freedom of Movement	Freedom of movement was respected throughout the voter registration process.	<ul style="list-style-type: none"> • Are EMB staff able to move freely about the country to deliver and receive voter registration materials? • Have security conditions impeded voter registration by hindering free movement within the country? • Are voters able to get to voter registration facilities?
	Citizens were able to return to the country (as necessary) to register to vote.	<ul style="list-style-type: none"> • Are there any barriers to citizens returning to their country or former place of residence to register to vote?
	Citizens displaced against their will had the opportunity to be considered resident in their former place of residence.	<ul style="list-style-type: none"> • Are any provisions in place to ensure that displaced citizens have the opportunity to register in their former place of residence? Did this occur in practice?
Transparency in Decision Making and Procurement in the Voter Registration Process		
Prevention of Corruption	The EMB promoted transparency in its decision-making and procurement processes, including with regard to voter registration processes.	<ul style="list-style-type: none"> • Has the EMB publicly communicated decisions related to voter registration? • What measures does the EMB have in place to prevent corruption at all levels of the election administration? • What information regarding the procurement of voter registration material and equipment is publicly available?
Voter Education on Voter Registration		
Right and Opportunity to Vote Universal Suffrage	Voter education campaigns included information regarding voter registration processes.	<ul style="list-style-type: none"> • What information about voter registration is shared during voter education and with whom? Are all regions and groups included? • Have election administrators made efforts to inform voters and stakeholders about the public scrutiny period and other voter registration activities as appropriate? • Are there plans to educate officials to properly conduct voter registration? • Have adequate training materials been provided to registration officials?



Partisan and Nonpartisan Observation of the Voter Registration Process		
Right and Opportunity to Participate in Public Affairs	Citizen observers were able to access and comment on all parts of the electoral process, including voter registration.	<ul style="list-style-type: none"> • What access are citizen election observers granted to observe the registration process? What access do they have to registration data? Can they use this information for effective, independent scrutiny of the process? • Do political parties, candidates, and ballot initiative groups have access to the registration process or data? • Do political parties and civil society groups have the opportunity to observe the production of the final voter list and verify its authenticity? • Is the voter list computerized? If so, is the software subject to scrutiny by independent experts? How are the experts chosen and do they release a public report of their findings? • Are political parties and civic organizations allowed to review or test the software?
	Candidates and parties were able to monitor the elections and had access to the voter list without undue cost.	<ul style="list-style-type: none"> • Are parties, candidates, and accredited observers provided copies of the final voter list? Are they required to pay a fee? Is the fee prohibitively high? Does this disproportionately affect certain parties or candidates?
Voter Registration Activities by Civil Society		
Freedom of Association	Civil society organizations were permitted to conduct voter registration free from unreasonable restrictions.	<ul style="list-style-type: none"> • Are civil society organizations permitted to conduct voter awareness activities in preparation for voter registration? Are all groups equally permitted to do so? • Are civil society organizations allowed to conduct voter registration? • Are political parties permitted to conduct voter awareness activities in preparation for voter registration? Are all parties equally permitted to do so? • Are political parties allowed to conduct voter registration?
Safety, Security, and Voter Registration		
Right to Security of the Person	The state prohibited interference with registration, intimidation, or coercion of potential voters.	<ul style="list-style-type: none"> • Are voters able to register in a peaceful and secure environment? • Are weapons allowed in the registration facilities? • Are security officials present at registration facilities? How many? Are they affiliated with a particular candidate or party? Are they acting in a neutral manner? • Were there large crowds of unauthorized people at the registration facilities? • Have there been verifiable reports of intimidation or coercion in the registration process? Do they follow a pattern?

Right to an Effective Remedy and Voter Registration		
Right to an Effective Remedy	An effective remedy was available for all citizens for violations of their rights during the voter registration process.	<ul style="list-style-type: none"> • Are there clear procedures for filing claims and objections to add, update, or remove names from the voter list? • How many complaints about the voter registry were filed? What was the basis of the complaints? • Were cases of wrongful disenfranchisement caused by the registration process granted a remedy?
	There was a clear timeline for complaints regarding voter registration that ensured that complaints were resolved prior to election day and in time for the election.	<ul style="list-style-type: none"> • Is the timeline for complaints and remedies clearly stated in law? • Is there sufficient time for all complaints to be resolved prior to election day? • If not, were special procedures in place to allow contested voters to participate in the election (e.g., a provisional ballot)?



5. Voter Education

ASSESSMENT CRITERIA		ILLUSTRATIVE QUESTIONS FOR DATA COLLECTION
The Legal Framework and Voter Education		
State Must Take Necessary Steps to Give Effect to Rights	The principles of rule of law were promoted.	<ul style="list-style-type: none">• Are all decisions related to voter education subject to the rule of law?• Are laws enforced consistently during voter education?• Are the laws regarding voter education publicly promulgated and available in the official languages of the country?
Rule of Law	The legal framework for elections was consistent with international human rights.	<ul style="list-style-type: none">• Does the legal framework ensure that voter education is in compliance with international obligations and human rights?
The Election Calendar and the Enjoyment of Rights		
Periodic Elections	The scheduling of elections granted sufficient time for a complete and comprehensive voter education program.	<ul style="list-style-type: none">• Is voter education provided between and in advance of elections?
State Must Take Necessary Steps to Give Effect to Rights		<ul style="list-style-type: none">• Is there adequate time in the electoral calendar for voter education?
Universal Suffrage, the Right to Vote, and Voter Education		
Right and Opportunity to Vote	The obligations of universal suffrage and the right to vote were advanced through voter education.	<ul style="list-style-type: none">• Are voter education efforts held in appropriate and accessible locations?• Are any regions or groups not receiving voter education? Why?• Are out-of-country voters or those voting by absentee ballot provided with voter education?
Universal Suffrage	All eligible voters were informed of their electoral rights before, during, and after election day.	<ul style="list-style-type: none">• Do voter education materials include information about voter eligibility requirements and universal suffrage?• When did voter education take place?
State Must Take Necessary Steps to Give Effect to Rights		<ul style="list-style-type: none">• Did voter education campaigns explain what constitutes an unreasonable restriction on voting rights?
	Voter education campaigns were responsive to the needs of the electorate.	<ul style="list-style-type: none">• Is voter education appropriately tailored to groups or individuals who often face exclusion from the political process (e.g., women, first-time voters, minorities)?

The Content of Voter Education Campaigns		
Right and Opportunity to Vote	Voter education efforts included information about all electoral rights including equal suffrage, the right to vote and be elected, the right to an effective remedy, and the secret ballot.	<ul style="list-style-type: none"> • Is the principle of “one voter, one vote” included in education campaigns? • Are voters made aware that they may only cast their ballot once?
Right to an Effective Remedy		<ul style="list-style-type: none"> • Is information provided to voters regarding their right to impartial assistance that does not violate the secrecy of the vote? • Are potential voters informed that they may not waive their right to a secret ballot?
Equal Suffrage		<ul style="list-style-type: none"> • Does voter education include information about how to run for office and the steps necessary to register as a candidate? • Does voter education include information on the right to join and participate in civil society organizations?
Secret Ballot		
State Must Take Necessary Steps to Give Effect to Rights	Voter education campaigns included information on restrictions that may be applied to participatory rights.	<ul style="list-style-type: none"> • Do voter education materials explain unreasonable restrictions on the right and opportunity to vote and be elected?
	Voter education campaigns included information about the voting and registration process.	<ul style="list-style-type: none"> • Does voter education include voter registration and encourage citizens to ensure they are registered to vote? • Do voter education campaigns include information on candidates, parties, referenda, and ballot initiatives?
Provision of Voter Education by the Electoral Management Body		
Right and Opportunity to Participate in Public Affairs	The state took the steps necessary to give effect to rights during voter education.	<ul style="list-style-type: none"> • Does the government prioritize the funding of civic and voter education by providing for it in the state budget prior to elections? • Does the EMB have adequate resources (human and financial) to implement the voter education process?
State Must Take Necessary Steps to Give Effect to Rights	Voter education was provided by the EMB and was impartial and responsive to the needs of the electorate.	<ul style="list-style-type: none"> • Does the law establish which entity is responsible for and who else may conduct voter registration? What is the responsibility of the EMB? Of other government agencies? • Do the voter education materials provided by the EMB adequately address the needs of the electorate?
Provision of Voter Education by Civil Society and Political Parties		
Right and Opportunity to Participate in Public Affairs	Civil society organizations participated in voter education.	<ul style="list-style-type: none"> • Are there legal provisions that address the role of civil society organizations in conducting voter education? If so, do they contain unreasonable restrictions? • How is civil society involved in voter education? • Does the EMB facilitate civil society efforts to educate voters?
Freedom of Association	Political parties and/or candidates were permitted to provide voter education.	<ul style="list-style-type: none"> • Do political parties provide their supporters with voter education? Is this information consistent with the information provided by the EMB?



Freedom From Discrimination in Voter Education		
Freedom From Discrimination and Equality Before the Law Equality Between Men and Women	All citizens received voter education regardless of their race, color, sex, language, religion, political or other opinion, national or social origin, physical or mental ability, sexual orientation or gender identity, property, birth, or other status.	<ul style="list-style-type: none">• Did the implementation of voter education programs discriminate against any groups of citizens on the basis of prohibited grounds?• Do voter education efforts include information on what voters can do if their right to freedom from discrimination is violated?• Are efforts made to ensure that rural voters are given special attention and that the participation of women and youth is encouraged?• Are women and men registered in numbers proportional to their representation in the population?• Have authorities undertaken measures to encourage women's registration?• Are there any instances of cultural or social pressure, such as those felt by women, which the registration system might handle inadequately?• Has the state undertaken any special measure to ensure registration of women?• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?
	Locations used for voter education were accessible in a nondiscriminatory manner.	<ul style="list-style-type: none">• Are voter education locations accessible to people with physical disabilities? Those living in rural areas?• If locations are separated by gender, do both genders have equal access to voter education?
	Voter education materials facilitated voting by illiterate voters.	<ul style="list-style-type: none">• Do voter education materials include symbols?• Is voter education conducted by radio or television?

Special Measures		
Freedom From Discrimination and Equality Before the Law Equality Between Men and Women	The state took steps to ensure de facto equality between men and women.	<ul style="list-style-type: none"> • Are women and men registered in numbers proportional to their representation in the population? • Have authorities undertaken measures to encourage women's registration? • Are there any instances of cultural or social pressure, such as those felt by women, which the registration system might handle inadequately? • Has the state undertaken any special measure to ensure registration of women? • Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?
	Special measures were taken, as necessary, to promote equality for minorities.	<ul style="list-style-type: none"> • Have authorities undertaken measures to encourage minority registration? • Are there any instances of cultural or social pressure, such as those felt by minority groups, which the registration system might handle inadequately? • What special measures have been implemented? • Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?
	Special measures were taken to ensure de facto equality for people with disabilities.	<ul style="list-style-type: none"> • Have authorities undertaken measures to encourage registration of people with disabilities? • What special measures have been implemented? • Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?
	Voter education materials were available in all official languages as well as in minority languages.	<ul style="list-style-type: none"> • In what languages are voter education materials available?
Partisan and Nonpartisan Observation of Voter Education		
Right and Opportunity to Participate in Public Affairs	Citizens were able to participate in public affairs through nongovernmental organizations.	<ul style="list-style-type: none"> • Are there active civil society organizations focused on political issues or the electoral process? Are they able to operate freely? Do they have national coverage?
Freedom of Association	Observers, citizen and international, were given access to the voter education process.	<ul style="list-style-type: none"> • Are authorities conducting the voter education process in an observable manner?
Right to an Effective Remedy and Voter Education		
Right to an Effective Remedy	There was a timely and effective means of seeking redress for violations of rights, including regarding voter education.	<ul style="list-style-type: none"> • Does the complaint procedure allow for timely redress? • Have any remedies been granted regarding voter education? Are they enforced? Are they effective?



6. Candidacy and Campaigning

	ASSESSMENT CRITERIA	ILLUSTRATIVE QUESTIONS FOR DATA COLLECTION
The Legal Framework and Candidacy and Campaigning		
State Must Take Necessary Steps to Give Effect to Rights	The principles of rule of law were promoted.	<ul style="list-style-type: none"> • Are all decisions related to candidacy and campaigning subject to the rule of law?
	The laws regulating elections were equally enforced and were not arbitrarily applied.	<ul style="list-style-type: none"> • Are laws regarding candidacy and campaigning enforced consistently? • Are the laws regarding candidacy and campaigning publicly promulgated and available in the official languages of the country?
	The legal framework for elections was consistent with the principles of international human rights.	<ul style="list-style-type: none"> • Does the legal framework ensure that candidacy and campaigning are in compliance with international obligations and human rights?
	Campaign finance regulation was consistent with the principles of the rule of law.	<ul style="list-style-type: none"> • Are campaign finance regulations clearly stipulated in law? Where? • Are campaign finance regulations equally enforced? • Are regulations available to the public?
Establishment of, Regulation of, and Membership in Political Parties		
Right and Opportunity to Be Elected	Citizens were able to establish and participate in political parties and other associations.	<ul style="list-style-type: none"> • Is the right to form or join a political party guaranteed by law? • Are all citizens equally able to join the political party of their choice? • What restrictions are placed on the right to form or join a political party? Are these restrictions reasonable and objective?
	Political organizations were treated equally in being recognized and registering as a party.	<ul style="list-style-type: none"> • Are all groups equally able to form and register political parties? • Have any political organizations been denied the right to form or register parties? On what basis?
Freedom of Association	Individual electoral rights could be enjoyed in community with others.	<ul style="list-style-type: none"> • Are political parties granted rights to peaceful assembly, association, freedom of expression, and opinion?
Freedom From Discrimination and Equality Before the Law	Regulations and deadlines for legal recognition of political parties were clearly specified. Registration requirements were not so stringent that they jeopardized freedom of association.	<ul style="list-style-type: none"> • Does the legal framework contain clear provisions that pertain to political party formation, legal recognition, or functioning? • What are the requirements for a party or other political organization to receive legal recognition? Are these requirements burdensome? • What governmental body receives and decides on applications for legal recognition? • Do requirements for the geographical distribution of members or branches inhibit political representation, in particular of regionally concentrated national minority groups? • Is there sufficient time for political party registration?

Establishment and Regulation of, and Membership in, Political Parties (Continued)

Right and Opportunity to Be Elected		<ul style="list-style-type: none"> • On what grounds can an application for registration as a party be rejected under the law? Are the criteria used objective?
Freedom of Association	The grounds for rejecting registration of a party were based on objective criteria.	<ul style="list-style-type: none"> • Can the legal status of a party or other political organization be suspended or terminated? If so, why and by whom? How can it be reinstated?
Freedom From Discrimination and Equality Before the Law		<ul style="list-style-type: none"> • How are applicants notified of a rejection, suspension, or termination of their legal status?

Internal Party Policies

State Must Take Necessary Steps to Give Effect to Rights	The participatory rights of citizens were protected and fulfilled by parties in their internal management.	<ul style="list-style-type: none"> • What internal measures (e.g., a code of conduct, party primaries) are in place to protect electoral rights?
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Candidature

Right and Opportunity to Be Elected		<ul style="list-style-type: none"> • What are the candidacy requirements? Are thresholds in place (e.g., having received a certain percentage of votes in a previous election or collection of petition signatures)? Are they applied equally and objectively?
Freedom of Association	Every citizen had the right to be elected, subject only to reasonable restrictions.	<ul style="list-style-type: none"> • If there is a signature collection requirement for candidacy, what is the process for verifying the genuineness of signatures? Do political parties, candidates, and ballot initiative groups have the right to observe the signature verification process? • Are people of specific professional categories restricted from running for election (e.g., the military, civil service, judiciary)? • Are candidate fees/deposits reasonable and consistently collected?
Freedom From Discrimination and Equality Before the Law		<ul style="list-style-type: none"> • Are any candidates or parties disqualified from running? If so, on what grounds? • Are any candidates disqualified after they are registered? If so, on what grounds? • Are there requirements for electoral coalitions or alliances, and how do they affect ballot qualification or placement on the ballot?
Rule of Law	Candidacy requirements upheld freedom of association.	<ul style="list-style-type: none"> • What are the requirements for candidacy? Do they uphold fundamental rights, including freedom of association?

(continues)



Candidature (Continued)		
Right and Opportunity to Be Elected	The loss of the right to be elected was only imposed after adjudication by a court.	• Are candidates able to challenge a refusal to register their nomination? Before what body?
Freedom of Association		• If there are technical errors or deficiencies in a candidate's nomination, is the candidate given the opportunity to correct these before a final decision is taken?
Freedom From Discrimination and Equality Before the Law		• Can the participation of parties and other political organizations in an election be terminated during the election campaign period? If so, under what circumstances? Is there an appeals process?
Rule of Law	Citizens were able to support any and all candidates of their choice.	• Are citizens able to sign ballot qualification petitions for one or more candidates?
Independent Candidacy		
Right and Opportunity to Be Elected	Regulations regarding candidacy were the same for independent and partisan actors.	• Are there provisions in place for independent candidates? Do they differ from those of partisan candidates?
Freedom From Discrimination and Equality Before the Law		• Do the regulations in place favor one type of candidate (i.e., independent or partisan) over the others?
Female Candidates		
Equality Between Men and Women	Female candidates participated in the electoral process on an equal basis with men.	<ul style="list-style-type: none">• Are there measures in place to promote female candidature (e.g., quotas, requirements for specific placement on party lists, separate voting, training programs)?• Are there direct or indirect restrictions on the ability of women candidates and their supporters to campaign?• How many female candidates are participating in the election? For which offices are they running? Are they competitive in the election?• Are female candidates able to raise equivalent funding to male candidates?

Equal Treatment of Candidates and Parties		
Freedom From Discrimination and Equality Before the Law	Regulations for candidacy and campaigning were not discriminatory.	<ul style="list-style-type: none"> • Do candidacy regulations discriminate on the basis of prohibited grounds? • Do any candidacy regulations directly or indirectly affect the ability of women or candidates from minority groups to stand for election? • If language tests are applied for candidate registration, are they conducted in a transparent and objective manner? • Where relevant, are there direct or indirect restrictions on the ability of national minority candidates and their supporters to campaign?
	Equality Between Men and Women	<p>No one suffered discrimination or disadvantage of any kind because of their candidacy.</p> <ul style="list-style-type: none"> • Did anyone suffer discrimination or disadvantage of any kind because of their candidacy (e.g., denial of services, job opportunities)? <p>Candidates and political parties were able to compete with each other on an equal basis.</p> <ul style="list-style-type: none"> • Are candidates and/or political parties able to freely register as election contestants regardless of their political persuasion? • Did all candidates have an equal opportunity to campaign?
Special Measures		
Freedom From Discrimination and Equality Before the Law	The state took steps to ensure de facto equality between men and women.	<ul style="list-style-type: none"> • Are there measures in place to promote female candidature (e.g., quotas, requirements for specific placement on party lists, separate voting, training programs)? • Are there special ballot requirements concerning qualification of women candidates? • Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?
	Equality Between Men and Women	<p>Special measures were taken, as necessary, to promote equality for minorities.</p> <ul style="list-style-type: none"> • Are special measures taken to ensure that members of minorities are given an opportunity to stand for office? • Are there special ballot requirements concerning qualification of candidates from minorities? • Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?
	Special measures were taken to ensure de facto equality for people with disabilities.	<ul style="list-style-type: none"> • Are special measures taken to ensure that people with disabilities are given an opportunity to stand for office? • Are there special ballot requirements concerning qualification of candidates with disabilities? • Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?
Equal Access to Public Places		
Freedom From Discrimination and Equality Before the Law	Public places were accessible to all in a nondiscriminatory fashion.	<ul style="list-style-type: none"> • Is the use of state-controlled facilities for meetings, rallies, and other campaign activities allocated equally among electoral contestants? • Are there restrictions on canvassing in public places? Are they equally applied to all parties? • Have electoral contestants or their supporters been denied access to public places? On what basis?



Freedom of Opinion and Expression for Political Candidates and Their Supporters		
Freedom of Opinion and Expression	Freedom of opinion and expression were protected throughout the campaign process.	<ul style="list-style-type: none">• Are all candidates and parties equally able to campaign openly, free from administrative action, violence, or other forms of intimidation?• What, if any, restrictions have been placed on the content of political parties' platforms? What, if any, restrictions have been placed on other forms of expression by candidates or parties? Do such restrictions align with international obligations?
	Political parties were able to communicate their opinions to the electorate.	<ul style="list-style-type: none">• Are parties and candidates able to organize and interact freely with the electorate?• Have restrictions been placed on the use of print, broadcast, or Internet media to disseminate campaign platforms? Do they align with international obligations?
Advocacy of Hatred and Incitement to Violence		
Freedom of Association	Advocacy of national, racial, and religious hatred that constituted incitement to discrimination, hostility, or violence was prohibited by law, and the law was enforced.	<ul style="list-style-type: none">• Are any candidates advocating national, racial, or religious hatred? Are any candidates inciting discrimination, hostility, or violence?
Freedom of Opinion and Expression		<ul style="list-style-type: none">• Does the law allow candidates to be disqualified on the basis of their platform? Are rules invoked in practice?
Campaign Silence Period		
Freedom of Opinion and Expression	If a campaign silence period was imposed, it was reasonable in length.	<ul style="list-style-type: none">• Does the law require a campaign silence period? If so, when and what activities are prohibited?• Is the duration of the campaign silence period reasonable?• Is the campaign silence period enforced consistently?
Campaigning Without Interference		
Freedom of Assembly	Candidates and their supporters were able to assemble freely throughout the campaign period. This included organizing and participating in public rallies and peaceful campaign activities.	<ul style="list-style-type: none">• If electoral contestants are unable to assemble freely, what is the reason (e.g., arbitrary assignment of permits)?
	Restrictions on the campaign activities were nondiscriminatory and subject to prompt independent and impartial judicial review.	<ul style="list-style-type: none">• Are there means for contestants to appeal the restriction of free assembly? Is the ruling timely?• Are restrictions subject to independent and impartial review?
Freedom of Movement for Political Candidates and Their Supporters		
Freedom of Movement	Freedom of movement was respected for all electoral stakeholders, including candidates, parties, and their supporters during the campaign period.	<ul style="list-style-type: none">• Are candidates, parties, and their supporters able to travel freely around the country in order to campaign? If not, do any restrictions align with international obligations?• Are candidates and/or their supporters able to return to the country to campaign?

Observation of the Campaign Period		
Right and Opportunity to Participate in Public Affairs	Citizens were able to participate in public affairs through political parties and nongovernmental organizations.	<ul style="list-style-type: none"> • Are there active civil society organizations focused on political issues or the electoral process? Are they able to operate freely? Do they have national coverage?
	Election observers were able to observe the campaign process.	<ul style="list-style-type: none"> • Are observers accredited in sufficient time to observe the campaign process? • Are any restrictions placed on the ability of observers to operate during the campaign period? On what basis are these restrictions applied? Are any restrictions reasonable and objective?
Transparency and Access to Electoral Documents		
Transparency and Access to Information	The right of access to information was protected for everyone.	<ul style="list-style-type: none"> • Are documents regarding candidates and campaigns accessible to the public? • Are there fees or other hurdles in order to access this information? Are the requirements prohibitive? • Is information accessible to people with disabilities (e.g., in Braille, through assistive technologies, large font)?
	The state proactively put in the public domain government information of public interest.	<ul style="list-style-type: none"> • Is the state proactive in making information publicly available? • Where and in what format is the information available?
Right to an Effective Remedy for Candidates and Parties		
Right to an Effective Remedy	There was a timely and effective means of seeking redress for violations of rights regarding candidacy and campaigning.	<ul style="list-style-type: none"> • Are the procedures for seeking a remedy clear? • Are there fees for or technical barriers to seeking a remedy? • Are remedies timely? Are they enforced?
	Parties were granted an opportunity to challenge state decisions that restrict their formations and activities.	<ul style="list-style-type: none"> • Have any challenges been made to decisions of the state that restricted the formation of parties and their activities? On what grounds? What was their resolution?
Security of the Person for Candidates, Parties, and Their Supporters		
Right to Security of the Person	The right to security of the person was enjoyed by all electoral stakeholders, including candidates, party members, and their supporters.	<ul style="list-style-type: none"> • Has the threat of violence or other security concerns been used to suppress campaigning activities? • Are registered candidates free from interference or pressure to withdraw? • Are candidates provided with security teams? • Are there verifiable instances of violence, intimidation or harassment, or the incitement of such acts against candidates or their supporters? Are such incidents promptly, consistently, and effectively addressed? • Are law enforcement agencies acting in an impartial, restrained, professional, and appropriate manner? • What are the sanctions for disrupting campaign activities or using violence? To whom do they apply?



The Election Calendar and Enjoyment of Rights		
Periodic Elections	The election schedule provided adequate time for the registration of candidates and campaigning as well as the resolution of any complaints prior to election day.	<ul style="list-style-type: none">• Is there a specific campaign period? How long does it last?• Does the timing allow sufficient opportunity for candidate registration and campaigning?• Does the electoral calendar allow adequate time for the resolution of disputes related to candidacy and campaigning?
State Must Take Necessary Steps to Give Effect to Rights		
Regulation of Campaign Contributions		
Right and Opportunity to be Elected	There were clear rules and regulations regarding the acceptable sources of financial donations.	<ul style="list-style-type: none">• Does the law clearly state acceptable and unacceptable sources of campaign funding?
	The state regulated foreign funding of candidates and parties but did not limit contributions by nationals living abroad.	<ul style="list-style-type: none">• Are there limitations on foreign funding?• Are nationals living abroad allowed to contribute to campaigns? If there are limits, do they affect any particular candidate/party?
	Reasonable limitations were imposed on private contributions.	<ul style="list-style-type: none">• Are limitations placed on contributions to political campaigns?• Are there limitations on contributions from a single source?• Are anonymous donations regulated?
Freedom of Opinion and Expression	Candidates could contribute to their own campaigns, subject to reasonable limitations.	<ul style="list-style-type: none">• Are there limits on candidates' contributions to their own campaigns?
Public Funding for Election Campaigns		
Right and Opportunity to be Elected	The state and citizens were able to support candidates and parties, including financial support, and this support did not interfere with the independence of the party.	<ul style="list-style-type: none">• Does the state provide support to candidates? Did state support interfere with the independence of the party?• What form did state support take?
Freedom From Discrimination and Equality Before the Law	State support of candidates was available on an equitable basis and was distributed according to an objective, fair, and reasonable formula.	<ul style="list-style-type: none">• What conditions are there for receipt of public funding? Is it distributed equally among candidates or based on a fair and equitable formula?

Private Funding for Campaigns		
Right and Opportunity to Be Elected	Citizens were able to support candidates and parties, including financial support, and this support did not interfere with the independence of the party.	<ul style="list-style-type: none"> • Can citizens provide financial support to candidates? Does such support interfere with the independence of the party?
Right and Opportunity to Participate in Public Affairs	The system for regulating private financial contributions ensured	<ul style="list-style-type: none"> • Were candidates equally permitted to raise private funds? • Does the legal and regulatory framework limit private contributions?
Freedom of Opinion and Expression	equality of freedom to raise private funds.	<ul style="list-style-type: none"> • What are the mechanisms for enforcing contribution limits? • Do limits apply to in-kind contributions of supplies?
Campaign Expenditures		
Right and Opportunity to Be Elected	There were limits imposed on campaign expenditures.	<ul style="list-style-type: none"> • Are limits imposed on campaign contributions reasonable?
Freedom From Discrimination and Equality Before the Law	All candidates were treated equitably with regard to campaign finance and expenditures.	<ul style="list-style-type: none"> • Do regulations ensure that candidates are treated equitably with regard to campaign finance and expenditures (e.g., imposition of expenditure limits, categories of acceptable expenditures)?
Disclosure of Campaign Finances		
Transparency and Access to Information Prevention of Corruption	The funding received by a political party and/or candidate was disclosed in regular reports.	<ul style="list-style-type: none"> • How often are parties/candidates required to submit reports? • To whom are reports submitted? • Are any parts of financial reports available to the public? • What penalties or accountability measures are in place to help enforce financial reporting requirements?
	Disclosure provisions should clearly identify what counts as campaign expenditure.	<ul style="list-style-type: none"> • Are regulations clear regarding types of campaign expenditure (e.g., distinctions between campaign and regular party finances)? • Is there an established campaign period for the purposes of recording expenditures?
	Campaign finance reporting requirements were realistic, and disclosure requirements struck a balance between transparency and the privacy of donors.	<ul style="list-style-type: none"> • Are reporting requirements onerous? • What information regarding individual donors is included in disclosure reports?



Misuse of State Resources		
Right to Security of the Person Prevention of Corruption	There was a balanced and transparent system for political party financing.	<ul style="list-style-type: none">• Is there a balanced and transparent system for political party financing that guards against corruption?
	Public resources were not abused in support of a particular party or candidate.	<ul style="list-style-type: none">• Do law and regulations clearly prohibit the use of government resources to advance the interests of a particular contestant?• Is there a prohibition against candidates currently in office using the benefits of their positions for electoral gain?• Do law and regulations prohibit government officials, including military officers and police commanders, from pressuring subordinates to support or campaigning for a particular political contestant?
	The law was clear regarding the extent to which public employees could be involved in a campaign. Public employees were not coerced into voting for a particular candidate or party.	<ul style="list-style-type: none">• Is there a clear law regarding the involvement of public employees in campaigns?• Do law and regulations prohibit government employees from campaigning for any electoral contestant during the hours of their employment?• Is there verifiable evidence of coercion or pressure on public employees to campaign for a particular party or candidate?
Independent Body to Monitor Campaign Finances		
State Must Take Necessary Steps to Give Effect to Rights	The state took steps to provide for independent monitoring of campaign and political financing.	<ul style="list-style-type: none">• Is there an independent campaign finance monitoring body?• Who determines the body's membership?• Is the body's mandate laid out in clear regulations?• Does the body release information in a timely manner?
Sanctions for Campaign Finance Violations		
State Must Take Necessary Steps to Give Effect to Rights	Violations of rules regarding political and campaign finance were subject to proportionate and effective sanctions.	<ul style="list-style-type: none">• Who is responsible for enforcing sanctions against those who violate campaign finance regulations?• Are the sanctions effective?



7. The Media

ASSESSMENT CRITERIA		ILLUSTRATIVE QUESTIONS FOR DATA COLLECTION
The Legal Framework and the Media		
State Must Take Necessary Steps to Give Effect to Rights Rule of Law	The principles of rule of law were promoted.	<ul style="list-style-type: none"> • Are all decisions related to the media subject to the rule of law?
	The laws regulating elections were equally enforced and were not arbitrarily applied.	<ul style="list-style-type: none"> • Are all media provisions applied consistently? • Are media laws and regulations accessible to the public (e.g., regarding campaign news coverage, fair and balanced reporting)? • Are media laws publicly promulgated and available in the official languages of the country?
	The legal framework for elections was consistent with international human rights.	<ul style="list-style-type: none"> • Does the legal framework ensure that media regulation is in compliance with international obligations and human rights?
Pluralistic and Balanced Media		
Transparency and Access to Information Freedom From Discrimination and Equality Before the Law	A pluralistic media promoted citizen access to information, and the media was free to play an impartial and objective role in covering electoral issues.	<ul style="list-style-type: none"> • Are there multiple media outlets that cover a range of political views? • Does the government own or control any media outlets? Are there independent boards for such outlets? If so, who is on them and how were they appointed? • Is there a licensing requirement for print media for importing, owning, or operating a printing press or regulations pertaining to the import or pricing of newsprint or distribution of printed materials? • Have media outlets been shut down because of political views expressed? • What role do bloggers or other online media play in this election?
	The structure of media ownership was transparent so that citizens could better understand potential biases in their information sources.	<ul style="list-style-type: none"> • Who owns or controls private media outlets? • Are they identified with certain partisan or other influential individuals or organizations? • What are the government and private sources of income for media outlets? • To what degree are various media outlets dependent on government advertising or subsidies?
	Space in the media existed for political debate.	<ul style="list-style-type: none"> • Do the media cover political issues? Does coverage include both sides of the political debate?



Independence of the Media	
Freedom of Opinion and Expression	<p>There were no restrictions on who may practice journalism by the state, though journalists may have regulated themselves.</p> <ul style="list-style-type: none"> • Do regulations restrict who can practice journalism? If so, on what grounds?
	<p>Editorial independence was protected, and the government did not abuse resources or influence to exert control over media content.</p> <ul style="list-style-type: none"> • Do media outlets include editorial content? Is it clearly identified as such? • Do media outlets face any kind of interference in their editorial policies from the authorities, political parties, or owners? • Do media outlets face negative reactions to their editorial content from the state? • Are there any reports of the government withholding or increasing resources in order to exert control over media?
	<p>The media was able to express criticisms of the government.</p> <ul style="list-style-type: none"> • Have cases been brought against members of the media for criticizing any branch of the government? • Were any media outlets or individual journalists penalized or harassed in any way solely for broadcasting programs or publishing articles critical of the government or other authorities and/or their policies?
	<p>The media was not held liable for the reproduction of untrue statements made by others.</p> <ul style="list-style-type: none"> • Has any member of the media or any media outlet been held liable for the untrue statements of others?
Independent Body to Regulate Broadcasting During Elections	
State Must Take Necessary Steps to Give Effect to Rights	<p>The state took the steps necessary to guarantee rights with regard to the media; for example, through the establishment of an independent body to regulate election broadcasts.</p> <ul style="list-style-type: none"> • Does an independent regulatory body for the media exist? • What is the body's mandate? • Does the body have the authority to implement and enforce its decisions?
	<p>The appointment and functioning of regulatory authorities of the media were transparent, and they were independent and protected from political interference. The media regulatory body acted in a transparent and impartial manner.</p> <ul style="list-style-type: none"> • What is the composition of the body? • How are members of the body selected for and removed from their position? • Does the body have its own budget and ability to recruit its own staff? • Is the body viewed as independent by candidates, parties, and other stakeholders?

Freedom of Expression and the Media		
Freedom of Opinion and Expression	Freedom of opinion and expression by the media was respected throughout the electoral process. In addition, the media respected the freedom of opinion and expression of others.	<ul style="list-style-type: none"> • Do the media face any kind of censorship or obstruction by the authorities? • Are parties or candidates allowed to present their materials unedited or without review by government or broadcast officials? • Are journalists forced to adjust their comments or criticisms so as to be considered acceptable by the authorities? Do journalists engage in self-censorship? • Are any journalists being harassed, incarcerated, or subject to other forms of intimidation that stifle their freedom of expression or have a chilling effect?
	Free communication of information and ideas about public and political issues took place between citizens, candidates, and elected representatives.	<ul style="list-style-type: none"> • Is there a robust campaign in which candidates and parties use the media to convey their political platform? • What forms of media are used by political candidates and parties to communicate with the electorate? • Do candidates and parties have active online presences? Is social media being used to communicate to voters? Are these campaigns effective?
Hate Speech and Incitement to Violence		
Freedom of Opinion and Expression	Advocacy of national, racial, or religious hatred that constituted incitement to discrimination, hostility, or violence was prohibited by law, and the law was enforced.	<ul style="list-style-type: none"> • Does the law prohibit hate speech? If so, how is it defined? Is there any coverage that may be regarded as hate speech? • Is any media outlet disseminating hate speech? Who are the targets? • Is social media being used as a platform for advocating hatred?
Defamation		
Freedom of Opinion and Expression	Claims of defamation were not used to stifle the media or public debate and were not used to silence criticism of the government or its institutions.	<ul style="list-style-type: none"> • If any claims of defamation are filed, what are the grounds? • Are criticisms of state institutions (such as the army or administration) prohibited or subject to legal action?
	Remedies for defamation were not excessively punitive.	<ul style="list-style-type: none"> • What remedies are provided for verified claims of defamation? Are they proportionate? • Can defamation law be considered a de facto suppression of freedom of expression?
Opinion Polls		
Freedom of Opinion and Expression	The release of opinion polls was subject only to reasonable restrictions.	<ul style="list-style-type: none"> • Are there regulations regarding reporting results of public opinion surveys (e.g., disclosing who funded the survey, its dates, sample size, margin of error, and confidence interval)? • Are opinion polls that could favor one party or candidate over others given undue prominence? • Are there regulations regarding reporting results of public opinion surveys (e.g., disclosing who funded the survey, its dates, sample size, margin of error, and confidence interval)? • Are opinion polls given undue prominence that could favor one party or candidate over others?



Campaign Silence Period		
Freedom of Opinion and Expression	If there were a campaign silence period, it was of reasonable duration.	<ul style="list-style-type: none"> Do media outlets respect the provisions for the silence period? If not, what are the major violations and their repercussions? Do campaign silence regulations also pertain to social media?
Voter Education and Debates		
Freedom of Opinion and Expression	The media aired debates between candidates and provided voter education.	<ul style="list-style-type: none"> Does the media provide voters with sufficient information on the administration of the election and on voting procedures? Are voter education programs transmitted to effectively and accurately inform the electorate about the voting process? Do debates take place between electoral contestants? Are they aired on publicly accessible television?
Access to Electoral Information		
Transparency and Access to Information	The right of access to information was respected throughout the electoral process, including as it relates to the media.	<ul style="list-style-type: none"> Are members of the media and media outlets able to access the information they need to effectively report on the electoral process? Is information about the election available to members of the public who actively seek it?
	The state proactively put in the public domain government information of public interest.	<ul style="list-style-type: none"> Is the state/public media providing information to the public on relevant issues regarding the electoral process? Is the state making electoral documents more broadly available to the public through the media? How is information made available by the state (e.g., when, where, and in what format) ? Are there any instances of electoral documents being misrepresented or inaccurately reproduced?
Protection of Sources		
Transparency and Access to Information	The media was able to report on electoral issues, including from confidential sources, without government interference.	<ul style="list-style-type: none"> Do regulations protect “whistle-blowers” or confidential sources? Can the media gather information from confidential sources without fear of reprisal from the state?
Prevention of Corruption	The media was given access to information, particularly with regard to allegations of corruption and related offenses.	<ul style="list-style-type: none"> Can the media access information about the actions of the EMB in order to prevent corruption and promote good practices? Is the media reporting on concerns regarding the policies and practices of the EMB with regard to the administration of the election?

Freedom From Discrimination and the Media		
Freedom From Discrimination and Equality Before the Law Equality Between Men and Women	The regulation of the media promoted equality and absence of discrimination.	<ul style="list-style-type: none"> • Is there any prejudice in reporting based on ethnic, religious, gender, or other status or social issues? • Do election contestants have unimpeded access to the media? Are there legal or administrative obstacles? Does the media reproduce gender stereotypes or sexist language (e.g., excessive focus on a female candidate's wardrobe)?
	Political parties and candidates had access to the public media on a nondiscriminatory basis.	<ul style="list-style-type: none"> • Are parties and candidates given equal opportunity to use government-controlled facilities to produce their messages where alternative facilities are not readily available? • Do public media outlets offer the same fee structure to all political contestants? • Are favored parties given discounts?
	Female and male candidates received equal coverage.	<ul style="list-style-type: none"> • Are all candidates receiving equal coverage, regardless of sex?
	The media took steps to reach all segments of society, including those who speak minority languages or live in rural areas.	<ul style="list-style-type: none"> • What is the footprint of different media outlets? Do all geographic regions of the country have access to the media? • In what languages are election-related materials available?
	News coverage of incumbents in the public media was not abused so that it constituted additional free airtime or print coverage.	<ul style="list-style-type: none"> • Are the incumbent politicians prevented from using coverage of their official activities for campaign purposes? • Does the state-owned media provide equal coverage of all candidates? • Is there any preferential treatment by the media in favor of a particular candidate or political party? Is there preferential treatment of the incumbent? If so, what does this include?
Private Media Regulations		
Freedom of Opinion and Expression	Private media, while not subject to the same regulation as public media, was generally fair and balanced in its coverage of the candidates and provided an equal opportunity for access to all candidates.	<ul style="list-style-type: none"> • Do private media provide impartial and balanced coverage of the campaign and election-related issues? If the private media demonstrates bias in their coverage, whom do they favor? • Are all electoral contestants able to access private media outlets? • Are private media outlets owned by candidates or political parties?



Free Airtime and Paid Advertising		
Transparency and Access to Information Freedom From Discrimination and Equality Before the Law	Free airtime was distributed equally (both amount of space as well as the timing and location of the media space).	<ul style="list-style-type: none"> • Do the laws and regulations provide clear requirements for independent public media and private media to provide unpaid access to electoral contestants on a fair and equitable basis? • Is free airtime allocated equitably (e.g. timing, location of the media space)?
	Free airtime for candidates and parties was granted during peak viewing or listening hours.	<ul style="list-style-type: none"> • Are all candidates and parties granted access to peak airtime?
	Paid advertising on public media was identified as such, and the costs and conditions involved were reasonable and equally applied to all candidates and parties.	<ul style="list-style-type: none"> • What are the fee structures for paid advertisements by candidates?
	Limits on advertising spending (as political speech) were instituted only in the interest of promoting equality between candidates or parties.	<ul style="list-style-type: none"> • What limitations exist on campaign advertising spending? • Are there frameworks in place to ensure transparency in advertising spending? • Can third parties pay for and air political advertisements? • Do regulations require that spending on advertising be disclosed in regular reporting by candidates?
Freedom of Movement and the Media		
Freedom of Movement	Freedom of movement was guaranteed to all electoral stakeholders, including the media.	<ul style="list-style-type: none"> • Are there explicit or implicit restrictions placed on journalists' travel to any part of the country? • Have security conditions impeded media coverage by hindering free movement within the country?
Safety, Security, and the Media		
Right to Security of the Person	Security of the person was guaranteed for all election stakeholders, including members of the media.	<ul style="list-style-type: none"> • Are media personnel subject to harassment by state authorities or nonstate actors? • Are any journalists being harassed, incarcerated, or subject to other forms of intimidation that stifle their freedom of expression or have a chilling effect?
Right to an Effective Remedy and the Media		
Right to an Effective Remedy	A system to file complaints related to the media was available for all citizens.	<ul style="list-style-type: none"> • Is there a complaint mechanism for violations of media regulations? If so, under whose authority is the mechanism? • Does the implementing body act when it identifies a breach of the regulations, regardless of whether a complaint has been filed? • Are sanctions imposed by the supervisory body commensurate with the gravity of the offense committed? Could sanctions encourage self-censorship among journalists? • Are extreme sanctions, such as temporary suspension of broadcasts or a license, adopted for only the most serious and repeated violations? Are they subject to judicial appeal?



8. Voting Operations

ASSESSMENT CRITERIA		ILLUSTRATIVE QUESTIONS FOR DATA COLLECTION
Legal Framework for Voting Operations		
State Must Take Necessary Steps to Give Effect to Rights	The principles of rule of law were promoted.	• Are all decisions related to voting procedures subject to the rule of law?
	The laws regulating elections were equally enforced and were not arbitrarily applied.	• Are laws regarding voting procedures enforced consistently? • Are the laws regarding voting procedures publicly promulgated and available in the official languages of the country?
	The legal framework for elections was consistent with international human rights.	• Does the legal framework ensure that voting is in compliance with international obligations and human rights?
Citizenship		
Freedom From Discrimination and Equality Before the Law	The rules regarding citizenship were clear and nondiscriminatory.	• What are the criteria for citizenship? Are they clear and understandable?
Equality Between Men and Women		• Do citizenship criteria discriminate against particular groups of people? If so, whom?
Rule of Law		• Are there restrictions on who can acquire or confer citizenship? • With respect to the enjoyment of rights, are distinctions made between those who attained citizenship by birth versus those who attained it through naturalization?
The Right to Vote and Voting Operations		
Right and Opportunity to Vote	The right to vote was guaranteed by law and was subject only to reasonable and objective restrictions.	• Is the right to vote restricted in any way? Are these restrictions reasonable and objective?
Freedom From Discrimination and Equality Before the Law		• Are there significant legal or other hurdles to get to a polling station or otherwise cast a vote? Do they disproportionately impact a specific group or the supporters of a specific party or candidate? • Are registered voters prevented from voting because of problems with the electoral rolls, voting hours, or other reasons? If yes, are these problems disproportionately impacting a specific group or the supporters of a specific party or candidate?
	Any restrictions on the right to vote were established in advance of election day, and any loss of that right was only imposed after adjudication by a court.	• Are any restrictions on the right to vote reasonable and objective? Are they established in law in advance of election day? • Is the loss of voting rights imposed only after adjudication by a court or tribunal?
(continues)		

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The Right to Vote and Voting Operations (Continued)		
Right and Opportunity to Vote Freedom From Discrimination and Equality Before the Law	<p>Poll workers were adequately trained in the determination of eligible voters.</p>	<ul style="list-style-type: none"> • Do the law and regulations provide clear and reasonable means for establishing a prospective voter's identity and eligibility to vote (e.g., a voter registration card or other government-issued identification or other document that establishes name, residence, and other criteria)? • Have election workers been training on how to determine eligible voters? Are poll workers assessing eligibility consistently? • If required, are identity documents a reliable means of preventing impersonation of eligible voters?
Facilitation of Voting		
Right and Opportunity to Vote Freedom of Movement Universal Suffrage	<p>Voting operations facilitated broad participation.</p>	<ul style="list-style-type: none"> • Do arrangements for voting facilitate equal opportunities for all voters? • Do voters appear to understand the voting process? • Are there provisions requiring voter education signs or directions at the polling site? • If required/where applicable, are required identity documents easily available to all prospective voters in order to prevent disenfranchisement?
	<p>Sufficient resources, human and material, were available at each polling station.</p>	<ul style="list-style-type: none"> • Are the following materials missing or insufficient: indelible ink, booths, ballot papers, envelopes, voter lists, ballot boxes, stamps, seals/padlocks, light source? • Is the minimum number of polling staff present? Are there enough staff to run the polling station efficiently?
	<p>There were an adequate number of polling places to accommodate voters.</p>	<ul style="list-style-type: none"> • How many voters are assigned to each polling site? • Can voters be processed in the number of voting hours?
	<p>Polling places were located in public places that were easy to access.</p>	<ul style="list-style-type: none"> • What are the requirements for locating polling sites? • Do locations take into consideration the needs of minority groups, people with disabilities, and women? • Is the area surrounding the polling center (including roads and paths) free from obstacles or barricades that could preclude its accessibility for voters? • Do the voters have adequate information about the location of their polling station?
	<p>Polls opened on time and did not close early. People in line to vote at poll closing were able to cast their ballot.</p>	<ul style="list-style-type: none"> • Is the layout of the polling station adequate for voting and ensuring the secrecy of the vote? • If voters are waiting outside for their turn to vote, are they doing so in an orderly manner? • Are there problems with overcrowding, excessive delays, or queues? • Are there indications of disorganization, such as unusually long lines of people or excessive delays? • At closing time, are voters waiting in line allowed to vote?

Polling Places Accessible to Voters with Disabilities		
Freedom From Discrimination and Equality Before the Law	Polling places were accessible, including to those with disabilities.	<ul style="list-style-type: none">• Are polling sites required by law to be accessible to voters with physical challenges and disabilities?• Are the facilities suitable for disabled people to use independently?
Assisted Voting		
Right and Opportunity to Vote	Impartial assistance for voters unable to vote independently was provided.	<ul style="list-style-type: none">• Is impartial assistance provided to voters who require such support? Does assistance given protect the secrecy of the ballot?• Does the ballot contain symbols for the electoral contestants so that illiterate people can easily identify their electoral choice and cast a secret ballot?
Secret Ballot	Voters were made aware of their right to impartial assistance, if needed.	<ul style="list-style-type: none">• Are voters requiring assistance informed of their right to impartial assistance?• Can voters choose who will assist them?
Proxy Voting		
Universal Suffrage	Proxy voting, if allowed, was strictly regulated.	<ul style="list-style-type: none">• Is proxy voting allowed? If so, what rules regulate proxy voting practices? Are any voters attempting to proxy vote? What is the response of polling officials?
Equal Suffrage		<ul style="list-style-type: none">• If cases of proxy voting are observed, do they affect women voters in particular?
Secret Ballot		
Secrecy of the Ballot		
Secret Ballot	The legal framework offered clear guidance with regard to the secrecy of the ballot.	<ul style="list-style-type: none">• Is the right to secrecy of the ballot guaranteed in law and in practice? Are there clear procedures to protect casting a secret ballot?• When voting procedures appear to compromise the secrecy of the ballot, do the voters believe that their votes are secret?• If voting technologies are used, are safeguards in place to prevent votes cast being linked with specific voters (e.g., using time stamps)?• If sequential numbers appear on ballots and ballot counterfoils, is it possible to trace how a person voted?
	Family and group voting was prohibited.	<ul style="list-style-type: none">• What steps are being taken to prevent group voting? Is group voting occurring and, if so, how frequently? What is the response of election officials?• Are cases of family voting observed that affect women voters in particular?
	Polling stations were set up to ensure secrecy of the ballot.	<ul style="list-style-type: none">• Is the layout of the polling station adequate for voting and ensuring the secrecy of the vote?• Is a private place provided for voters to mark a ballot or indicate an electoral choice on a machine? Are any voters voting outside the booth?



Voting Technologies		
Right and Opportunity to Vote State Must Take Necessary Steps to Give Effect to Rights	Electronic voting technologies operated correctly, and their functioning was ensured by the state through an independent body.	<ul style="list-style-type: none">• Do the law and regulations provide for use of electronic voting machines? If so, is a voter-verified paper audit trail required for each vote?• Are election officials required to follow clear and specific procedures during the voting process?• Are clear and secure troubleshooting procedures provided concerning the machines (e.g., having paper ballots on hand in case of machine failure)?• Is staff satisfactorily trained and is sufficient technical assistance available?• Is polling-day testing required of a random sample of electronic voting machines in a manner that protects security of the vote registered on the machines?• Are party/candidate representatives provided access to monitor the design, testing, certification, procurement, election official training, and delivery of voting technologies?
	Voting technologies were usable by voters and secure from interference.	<ul style="list-style-type: none">• Are voting technologies simple and easy to understand? Are voters provided the alternative of using a paper ballot?• Are clear security procedures set concerning the voting hardware, software, and electronic data? Are they implemented?• Are there suitable safeguards against manipulation or interference in the e-voting process? Are they implemented?
Freedom From Discrimination in Voting Operations		
Freedom From Discrimination and Equality Before the Law	The voting process did not discriminate against anyone on the basis of prohibited grounds.	<ul style="list-style-type: none">• Are there reports of voting being prevented on the basis of discriminatory criteria?• Are the facilities suitable for disabled people to use independently?• Is voting occurring across the country in all regions and areas, including those with minority populations or populations that favor a specific party or candidate?• Are women voting in equal numbers to men?• What is the gender of the presiding officer? Are women represented among polling staff?

Special Measures		
Freedom From Discrimination and Equality Before the Law Equality Between Men and Women	The state took steps to ensure de facto equality between men and women.	<ul style="list-style-type: none"> • Is the state taking any special temporary measures to promote de facto equality between men and women in the voting process? What are they? • Is sex-disaggregated data available on the casting of ballots? • Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?
	Special measures were taken, as necessary, to promote equality for minorities.	<ul style="list-style-type: none"> • Is the state taking any special measures to promote voting by minorities? What are they? Are they effective? • Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective? • Is the state meeting its objective for the temporary special measure? If so, has the special measure ceased?
	Special measures were taken to ensure de facto equality for people with disabilities.	<ul style="list-style-type: none"> • Is the state taking any special measures to promote voting by people with disabilities? What are they? • Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?
Ballot Design and Voter Choice		
Right and Opportunity to Vote	Voters were able to verify their choice on their ballot and could alter their choice before casting their ballot.	<ul style="list-style-type: none"> • Are voters able to verify their choice on the ballot? Can they change their choice before the ballot is cast? • Are voters able to cast a blank ballot if they so choose?
	Ballots were understandable and user-friendly.	<ul style="list-style-type: none"> • Do ballots account for all levels of literacy? • Are they available in the principal languages in multilingual societies? • If they are available in more than one language, are ballots identical in all languages?
Freedom of Movement and Voting Operations		
Freedom of Movement	Freedom of movement was respected throughout the electoral process.	<ul style="list-style-type: none"> • Are voters, candidates, observers, and poll workers able to move freely about the country? • Are there impediments to freedom of movement? If yes, what are they and why are they imposed? How are these restrictions addressed by the state?
	Voters displaced in advance of election day had the possibility of returning on election day to cast their ballots.	<ul style="list-style-type: none"> • Are voters displaced before the election able to return to their place of former residence to vote? If no, why not? Are the reasons given for this reasonable and objective? • Are internationally displaced people able to vote in their place of former residence?



Partisan and Nonpartisan Observation of Voting Operations		
Right and Opportunity to be Elected Right and Opportunity to Participate in Public Affairs Freedom of Association	<p>The state accredited citizen observer organizations and facilitated their ability to conduct their activities.</p>	<ul style="list-style-type: none"> • Are citizen observer organizations accredited for the electoral process, including voting operations? How many? • Are there restrictions on who can be accredited to observe the electoral process or on their degree of access? Are the restrictions reasonable and objective? • Are partisan and nonpartisan observers present in polling stations?
	<p>Candidates and their representatives were able to observe polling and counting as means of protecting their right to be elected.</p>	<ul style="list-style-type: none"> • Are party/candidate agents able to observe all aspects of polling? Did the main political parties have representatives present at the polling station? Are they allowed to raise concerns and seek remedies on the spot? Are the representatives allowed to file complaints and seek remedies before, during, and/or after voting takes place? • Are party representatives, candidates, and groups supporting or opposing referenda and other ballot initiatives able to observe the setup and activation of voting technologies?
	<p>Observers were able to access places used for voting.</p>	<ul style="list-style-type: none"> • Is access to the polling stations for observers or party agents restricted? On what grounds?
Access to Information and Electoral Documents		
Transparency and Access to Information	<p>The right to access to information was respected throughout the voting process.</p>	<ul style="list-style-type: none"> • Is information about voting operations publicly available? If so, in what format? • Is the state proactive in publishing information on the electoral process?
	<p>Documents regarding the electoral process, including voting operations, were publicly accessible and accurate.</p>	<ul style="list-style-type: none"> • Are documents regarding the voting process (e.g., protocols, available for review by citizens in advance of the polls)? Are there barriers to accessing electoral documents? • Is the electoral roll on display (subject to protection of personal data)?
Election Calendar and Enjoyment of Rights		
State Must Take Necessary Steps to Give Effect to Rights	<p>The electoral calendar provided adequate time for the state to give effect to rights and to prepare for and implement all aspects of the election process, including voting operations and election-day procedures.</p>	<ul style="list-style-type: none"> • Does the electoral calendar allow enough time for the preparation of and implementation of voting operations? • Does voting take place on a single day or over multiple days? What are the requirements for maintaining ballot security before, during, and following the voting day or days?

Deterrence of Fraud		
Equal Suffrage Secret Ballot State Must Take Necessary Steps to Give Effect to Rights	Procedures did not diminish the value of the votes of particular individuals, groups, or geographic areas.	<ul style="list-style-type: none">• Is there evidence of irregularities in the voting process? If so, what is the scale of the problem, is it isolated or systematic, and what steps are taken to stop it?• Do special voting procedures provide appropriate safeguards to protect the electoral rights of absentee voters? Is there any evidence of irregularities related to the implementation of the special voting procedures?
	Safeguards were in place to prevent multiple voting and other forms of ballot fraud.	<ul style="list-style-type: none">• What processes are in place to prevent multiple voting (e.g., inking fingers, checking for ink, stamping ballot papers, reconciling ballots, showing ballot boxes to be empty at poll opening, sealing ballot boxes)?• Are ballots and other voting materials secured before, during, and after election day?• Are safeguards for ballot security included in provisions concerning ballot design, review, printing, distribution, and collection?• Are voters given more ballot papers than they are entitled to or are there any other indications of multiple voting?• Is there any evidence or indication of ballot-box stuffing (bundles of ballots placed together in the ballot box or a number of ballots in the ballot box that is obviously greater than the number of signatures on the voter list)?
		Safeguards were in place to prevent removal of evidence of how a voter voted from the polling station.
Prevention of Corruption and Voting Operations		
Prevention of Corruption	The EMB maintained and implemented policies to prevent, address, and penalize acts of corruption, including during the voting process.	<ul style="list-style-type: none">• Do polling officials conduct voting efficiently, impartially, and in accordance with the law? Are voting procedures conducive to an efficient and transparent voting process?• Are policies and procedures in place to prevent corruption during voting?
Training for Election Officials		
State Must Take Necessary Steps to Give Effect to Rights	The state educated officials and citizens on the voting process.	<ul style="list-style-type: none">• Are polling-station officials receiving formal training regarding their responsibilities during the voting process?• Is the EMB producing and distributing poll workers' manuals for reference on election day and during counting and tabulation? Are these being used?• Are voter education materials posted in polling stations? Are poll workers correctly explaining the voting process to voters?



Safety, Security, and Voting Operations		
Right to Security of the Person	Potential voters were able to vote without intimidation or coercion.	<ul style="list-style-type: none">• Is there a peaceful atmosphere on election day?• Are there other people in the polling station with no apparent official function? Are they all authorized? Have the proper identification?• Are there prohibited or disruptive circumstances inside or outside the polling center (unauthorized campaign material, indications of vote-buying, violence, intimidation, presence of security personnel beyond regulations, inefficient queue control, chaos)?• Are any cases of external pressure, intimidation, or reprisals observed that are directed at women voters in particular?
	Safeguards were in place to prevent coercion of voters.	<ul style="list-style-type: none">• Is the environment around the polling sites peaceful? Are there regulations to ensure a peaceful voting atmosphere?• Are appropriate steps taken to prevent intimidation or coercion of voters and unlawful interference in polling? Are there police, security forces personnel, or government or local officials in polling stations?• Do security arrangements outside the polls prevent intimidation of voters, vote-buying, and other forms of coercion?• Are only authorized people present in the polling station?
	Security personnel played a positive role during the electoral process, providing protection for voters, candidates, and electoral management body personnel without interfering in the process.	<ul style="list-style-type: none">• Are members of the security forces present in the polling center? Are they authorized to be there?• Are security forces and police behaving in an appropriate manner?
	Election officials were able to maintain order at the polling station.	<ul style="list-style-type: none">• Are electoral officials responsible for maintaining order within the polling station? Do security personnel and police follow instructions of election officials?
Right to an Effective Remedy and Voting Operations		
Right to an Effective Remedy	The state provided an effective (timely and enforceable) remedy to all citizens for violations of their rights, including in the context of voting operations.	<ul style="list-style-type: none">• Are there mechanisms for dispute resolution and/or addressing complaints within the polling station?• Are complaints and disputes dealt with in a fair and timely manner? Are complaints addressed or effectively resolved?• Who is able to file an election-day complaint? What is the process for doing so? Does the process impose onerous operational or technical barriers?
State Must Take Necessary Steps to Give Effect to Rights	Steps were taken to prevent and punish fraud and electoral offenses.	<ul style="list-style-type: none">• What penalties exist for violations of the electoral law (e.g., electoral-related violence, intimidation, coercion, vote-buying, illegal voting, ballot-box stuffing, ballot-box stealing or destroying, and other forms of fraud)? Are they enforced?



9. Vote Counting and Tabulation

ASSESSMENT CRITERIA		ILLUSTRATIVE QUESTIONS FOR DATA COLLECTION
Legal Framework and Vote Counting and Tabulation		
State Must Take Necessary Steps to Give Effect to Rights	The principles of rule of law were promoted.	<ul style="list-style-type: none">• Are all decisions related to counting and tabulation subject to the rule of law?
	The laws regulating elections were equally enforced and were not arbitrarily applied.	<ul style="list-style-type: none">• Are counting and tabulation procedures enforced consistently?• Are the laws regarding counting and tabulation, including poll closing, publicly promulgated and available in the official languages of the country?
Rule of Law	The legal framework for elections was consistent with international human rights.	<ul style="list-style-type: none">• Does the legal framework ensure that counting and tabulation are in compliance with international obligations and human rights?
The Election Calendar and Enjoyment of Rights		
Periodic Elections	The electoral calendar allowed sufficient time for the state to give effect to rights and for all aspects of the electoral process to take place, including vote counting.	<ul style="list-style-type: none">• How much time is allotted to vote counting and tabulation in the electoral timeline?
State Must Take Necessary Steps to Give Effect to Rights		<ul style="list-style-type: none">• Do counting and tabulation take place within the designated time frame?
Counting Cast Ballots		
Right and Opportunity to Be Elected Universal Suffrage	The state took proactive measures to promote voting by the broadest pool of eligible voters and ensured votes cast were counted.	<ul style="list-style-type: none">• What is the process for collecting, counting, and tabulating all votes (including, where relevant, votes cast in special military facilities, prisons, hospitals, by absentee ballot, in early voting centers, or in mobile voting units)?
	Vote counting and tabulation processes protected the right to be elected.	<ul style="list-style-type: none">• Are ballots for each party or candidate separated correctly and counted individually?• Are the votes for any particular party or candidate consistently handled improperly? If so, which party or candidate?• Are any votes counted/not counted despite disagreement on the voters' intent by party/candidate agents?
	The vote counting and tabulation process did not discriminate against anyone on the basis of prohibited grounds.	<ul style="list-style-type: none">• Is there discrimination toward any candidates or parties during the counting and tabulation process? If so, which party/candidate is being discriminated against? How?



Determining Voter Intent		
State Must Take Necessary Steps to Give Effect to Rights	The state took the steps necessary to give effect to rights during the vote counting process.	<ul style="list-style-type: none"> Is each ballot ruled valid or invalid according to clear and specific rules that honor the clear intent of the voter? Are rulings on ballot validity and the choice of the voter made in a manner that allow representatives of electoral contestants, media, and domestic and international election observers to see the basis of the ruling? Are invalid ballots properly identified in a uniform manner? Are they appropriately segregated? Preserved for review? Are ballots invalidated in a reasonable and consistent manner? Are invalid ballots appropriately segregated and preserved for review? Does the number of invalid ballots seem inordinately high?
	The intent of the voter was taken into consideration when determining ballot validity.	<ul style="list-style-type: none"> Are there clear guidelines on determining a voter's intent? Does the counting adhere to the principle that the ballot is deemed valid if the will of the voter is clear? Is there disagreement over voters' intent? How are these votes handled? How often does this occur? Are there intentional acts to alter the expressed preferences of voters during the vote counting?
Safeguards to Prevent Falsification of Ballots		
Equal Suffrage State Must Take Necessary Steps to Give Effect to Rights	Equal suffrage was respected throughout the electoral process, including vote counting, consistent with the concept of "one person, one vote."	<ul style="list-style-type: none"> Are all ballot papers that indicate the will of the voter considered valid? Are there clear procedures for reconciling the number of cast ballots (paper or electronic) with the list of voters? Are there intentional acts to alter the expressed preferences of voters during vote counting?
	Safeguards were put in place to ensure that there existed no opportunity to falsify or substitute ballots, including during the vote counting and tabulation process.	<ul style="list-style-type: none"> Was the ballot box shown to be sealed and free from tampering prior to opening? Are ballots taken from the box in front of observers? Are protocols and tally sheets countersigned by more than one poll worker? Are all sensitive election materials, including voting technologies, stored securely overnight and during transport?
Prevention of Corruption in Vote Counting		
Prevention of Corruption	The EMB maintained and implemented policies to prevent, address, and penalize acts of corruption including during the voting process.	<ul style="list-style-type: none"> Is the results process undertaken in a prompt and fully transparent manner? What precautions are taken to prevent interference with marked ballots? Is the count performed by polling-station officials or are other people involved? Are official records correctly completed at the end of the count and signed by all authorized people? Are the contents of the ballot box observed before ballots are removed in plain view? Are the ballot boxes checked for evidence of tampering? Are unused ballots secured, canceled, or destroyed after being counted? Are there clear procedures for the secure transportation of voting materials?

Transparency in the Reporting, Transmission, and Publishing of Election Results

Transparency and Access to Information Prevention of Corruption

Access to information was guaranteed throughout the electoral process, including during the counting and tabulation process.	<ul style="list-style-type: none"> • What measures were implemented to ensure access to information was guaranteed throughout the process? • Were there any complaints that information was unavailable and/or inaccurate? • Are results, disaggregated by polling station, available on the EMB website?
The state proactively put in the public domain government information of public interest.	<ul style="list-style-type: none"> • Are results published within stipulated time frames, according to procedures? Where are the results published after announcement? • At what levels of the election administration are results published?
Votes were counted and reported honestly.	<ul style="list-style-type: none"> • Are the votes counted and reported accurately and honestly? • Is the counting conducted in an orderly manner? Are ballots for each party or candidate separated correctly and counted individually? • Are official counting records correctly completed at the end of the count and signed by all authorized people? • Are there any discrepancies between the counted votes and the published results? Can the EMB account for them?
The counting process was verifiable, and the ballots preserved for later review.	<ul style="list-style-type: none"> • Does each level of results aggregation include a breakdown of results by polling station or counting center to enable an independent audit to be conducted? • Is the count conducted in a transparent environment? • Are unused ballots secured, cancelled, or destroyed after being counted? • Are documents that record the official vote count for the electoral contestants verified and signed by more than one election official? Are representatives of the electoral contestants allowed to sign the tally sheets? • Are ballot papers and other sensitive election materials preserved for later review (e.g., during a challenge or recount)?
Results were published in a timely manner, were publicly announced, and were posted at the counting station.	<ul style="list-style-type: none"> • Are the results immediately publicly posted at the polling station or counting center upon completion of the count? • Are partial/preliminary results available prior to the announcement of final results? • Is there a specific time frame in which the results must be announced? Is it met?
Tallies were transmitted to higher levels of tabulation in a transparent and open manner.	<ul style="list-style-type: none"> • How are results transmitted to each higher level of tabulation? • Do transmission methods allow for the verification of results at the next level of tabulation regardless of the method of transmission (e.g., phone, fax, or Internet)? • Are all levels of tabulation open to observation and/or verification by observers and candidate/party agents? • Are results publicly posted by polling station at the polling center? Are copies given to observers and agents? • Are there procedures in place for the secure transportation of sensitive election materials? Are they implemented?



Partisan and Nonpartisan Observation of Vote Counting and Tabulation		
Right and Opportunity to Be Elected	Candidates and their representatives, as well as observers, were able to observe polling and counting.	<ul style="list-style-type: none"> • Are representatives of political parties and candidates able to observe all aspects of the vote counting, transmission of results, and tabulation? • Are citizen observers able to observe all aspects of the vote counting, transmission of results, and tabulation? • Are citizen observer organizations accredited for the electoral process, including counting and tabulation? How many? • Are female observers able to access counting centers? In comparison with men, do they face additional barriers to access, including social or cultural barriers? • Are any organizations conducting parallel vote tabulations or exit polling? Are these efforts credible, and what are their results? • Are there any restrictions placed upon the ability of organizations to conduct parallel vote tabulations or exit polling?
	The vote-counting process was transparent and observable.	<ul style="list-style-type: none"> • Do polling officials strive to conduct the counting process in an open, transparent manner?
	Party agents and accredited observers were given copies of the protocols and tabulation sheets from the results center.	<ul style="list-style-type: none"> • Are party/candidate agents and observers issued a copy of the results protocol?
Prevention of Corruption	Observers were able to access places used for vote counting and tabulation.	<ul style="list-style-type: none"> • Do observers have access to the counting process? • Do observers have access to tabulation centers at all levels?
	If electronic voting systems were used, there was an open and comprehensive audit.	<ul style="list-style-type: none"> • Is a postelection audit conducted on a random sample of electronic voting machines, regardless of whether there is a challenge to the official results? • Is there a procedure for reconciling the votes recorded on the machines with the official record of voter turnout at the polling site (e.g., the number of people who signed the voter registry)? Is it implemented?
Protection of Ballot Secrecy		
Secret Ballot	Regardless of the balloting method used, secrecy of the ballot was maintained throughout the electoral process, including during voting and tabulation. It was not possible to link cast ballots to specific voters during counting and tabulation.	<ul style="list-style-type: none"> • Do ballots contain any unusual markings intended to violate the secrecy of the ballot? • Are all ballot papers that reveal the identity of the voter considered invalid?
	The legal framework offered clear guidance on secrecy of the ballot throughout the election.	<ul style="list-style-type: none"> • What guidance does the legal framework offer on secrecy of the ballot during the counting and tabulation processes?

Freedom of Movement and Vote Counting and Tabulation		
Freedom of Movement	Freedom of movement was respected throughout the electoral process, including the immediate election period.	<ul style="list-style-type: none"> • Are polling officials able to move freely about the country to deliver/collect/transmit vote materials? • Are partisan and nonpartisan observers able to move freely about the country to observe vote counting and tabulation processes?
Safety, Security, and Vote Counting and Tabulation		
Right to Security of the Person	Vote counting took place in an environment free of intimidation.	<ul style="list-style-type: none"> • Are there any concerns or reports of intimidation and/or coercion surrounding the counting and tabulation processes? Any reports of intimidation or coercion? Who do they involve? • Is the environment around and within the center secure during vote counting and tabulation? • Are any unauthorized people present at the counting or tabulation? Are they actively involved in the count? • Is anyone participating in the vote counting process that should not be?
	Security personnel played a positive role during the electoral process, providing protection for voters, candidates, and electoral management body personnel without interfering in the process.	<ul style="list-style-type: none"> • Are armed personnel present in the counting/tabulation center? Nearby? Are they acting in accordance with established procedure and not interfering in the counting and tabulation processes? • Are the police and/or security forces personnel engaged in inappropriate activities, such as taking notes and reporting figures or results by telephone?
Training of Polling and Counting Workers		
State Must Take Necessary Steps to Give Effect to Rights	The state educated officials and citizens on the vote counting and tabulation process.	<ul style="list-style-type: none"> • Do election officials appear to understand and adhere to the required procedures? Did they receive training on counting procedures? What did this training include? • Are an adequate number of staff and supervisors trained for the counting and tabulation process? • Are the closing, reconciliation, and counting procedures properly followed? Do counting officials act in an impartial manner and in accordance with the law? • Is there any education on the counting and tabulation process for citizens? Observers? Party agents/candidates?



Right to an Effective Remedy and Vote Counting and Tabulation		
Right to an Effective Remedy	The right to remedy was protected throughout the process.	<ul style="list-style-type: none"> • Is there a complaint mechanism for violations that occur during the counting and tabulation process? Have any complaints been filed? Have they resolved? • Are all complaints resolved in time to appropriately count/discount the vote in question?
	The right to challenge the election results was guaranteed by law.	<ul style="list-style-type: none"> • Are there clear procedures for party agents/candidates to raise concerns regarding the accuracy of the count? Are they followed?
	There was impartial scrutiny of the counting and tabulation process, and it was subject to judicial review.	<ul style="list-style-type: none"> • Is the count and tabulation process subject to judicial review?
	The legal framework provided clear guidance on the grounds for complaints and appeals as well as the processes for demanding a recount.	<ul style="list-style-type: none"> • When can a complaint be filed? • What is the timeline for complaints? Is this timeline clearly communicated to candidates and parties? • Is the timeline for filing a complaint and other requirements (e.g., fees, numbers of copies of complaints to be submitted, etc.) reasonable? • Does the timeline include sufficient time to resolve complaints prior to a determination of results? • Who can request a recount and on what basis?
Respect for the Results of Genuine Elections		
Right and Opportunity to Vote	The results of the election, if genuine, were respected by all parties and the international community.	<ul style="list-style-type: none"> • Are all results announced? If no, why not?
Right and Opportunity to Be Elected		<ul style="list-style-type: none"> • Are results being accepted by all parties, candidates, and other electoral stakeholders? By the international community? • If results are not accepted, why not? Who is refusing to accept them? • Are any rejections of the results challenged in a legal manner?



10. Electoral Dispute Resolution

ASSESSMENT CRITERIA		ILLUSTRATIVE QUESTIONS FOR DATA COLLECTION
The Legal Framework and Dispute Resolution		
State Must Take Necessary Steps to Give Effect to Rights	Electoral dispute resolution took place in accordance with the principles of the rule of law.	<ul style="list-style-type: none"> • Are all decisions related to electoral dispute resolution subject to the rule of law? • Are the electoral dispute resolution procedures clearly stipulated by law?
	Laws and procedures were not arbitrarily applied.	<ul style="list-style-type: none"> • Are electoral dispute resolution procedures enforced consistently? • Are the laws regarding electoral dispute resolution publicly promulgated and available in the official languages of the country?
	The state implemented sanctions against those who violated the electoral law.	<ul style="list-style-type: none"> • Does the state impose sanctions for violations of the electoral law? What sanctions are imposed? Are they proportionate to the offense? • Are any winning candidates disqualified for violations?
	The law was clear regarding legal standing for electoral disputes.	<ul style="list-style-type: none"> • Is it clear who has standing to file each type of complaint, which body has jurisdiction, and which administrative law or court procedures apply, including filing requirements, burdens of proof, rules of evidence, and timelines for processing the legal action and for appeals procedures? • Are any complaints being dismissed due to lack of standing? If so, what complainants are involved?
The Election Calendar and Enjoyment of Rights		
State Must Take Necessary Steps to Give Effect to Rights	The electoral calendar included adequate time for the state to give effect to rights and to implement all parts of the electoral process, including the electoral dispute resolution processes.	<ul style="list-style-type: none"> • Is there sufficient time included in the electoral calendar to allow for electoral dispute resolution processes? How much time does the calendar include for these processes? • Do extremely short deadlines make complaints difficult to file or to adjudicate?
Freedom From Discrimination and Electoral Dispute Resolution		
Freedom From Discrimination and Equality Before the Law	The electoral dispute resolution process did not discriminate on the basis of prohibited grounds.	<ul style="list-style-type: none"> • Are there any complaints of unequal treatment during electoral dispute resolution processes? If so, by whom? Is there a pattern of unequal treatment concerning certain groups? • Is everyone treated equally in any laws, regulations, etc. that contain provisions on electoral dispute resolution? • Does everyone have equal access to electoral dispute resolution?
	Equality Between Men and Women	<ul style="list-style-type: none"> • Are there any fees to access the electoral dispute resolution process? • Is information on electoral dispute resolution available to everyone? Is it provided in languages and formats that are easily understandable by all? If not, are certain groups disproportionately affected? • Is the principle of “equality of arms” respected?



Transparent Dispute Resolution Processes		
Transparency and Access to Information Right to a Fair and Public Hearing	Transparency and access to information were respected during the dispute resolution process.	<ul style="list-style-type: none"> • Are any restrictions placed on the ability of citizens to access information regarding dispute resolution processes? Do the restrictions align with international obligations?
	The judgments, findings, and evidence of judicial proceedings, and legal reasoning for judgments, were made public.	<ul style="list-style-type: none"> • Must electoral complaint proceedings be open to the complainant and the public? • Are written complaints and answers to them part of a public record? • Must decisions on electoral complaints and appeals provide reasons for the decisions? • Must decisions on electoral complaints and appeals be in writing?
	The state proactively put in the public domain government information of public interest.	<ul style="list-style-type: none"> • Are decisions published? Where? How long after they were made? Are they easily accessible by all citizens? • Is any other information about judicial proceedings made public? What? Where?
	Potential complainants were informed of the means of filing a complaint and the time frame of its resolution.	<ul style="list-style-type: none"> • How are potential complainants informed of electoral dispute resolution process? Is information provided in multiple languages? Are any groups not informed? • Is there confusion about the electoral dispute resolution process? If so, does the confusion relate to only specific processes (i.e., filing a complaint or timing of a resolution) or the process as a whole?
	Parties to the complaints had access to factual information regarding the alleged violations.	<ul style="list-style-type: none"> • Are all parties provided with/or have access to information regarding alleged violations? Is all information accurate?
	Complaints processes were transparent, and the opportunity to present evidence in support of a complaint existed.	<ul style="list-style-type: none"> • Are electoral dispute resolution procedures clear and transparent? Are procedures complex or vague? Is it unclear to which body complainants should appeal? • Must electoral complaint proceedings be open to the parties in dispute and the public? • Do procedures include the right of the complainant to present evidence? Is that right protected in practice?

Right to a Fair and Public Hearing by a Fair and Impartial Independent Tribunal		
Right to a Fair and Public Hearing	<p>The legal framework provided the right for a fair and public hearing by a competent, impartial, and independent tribunal in the determination of rights.</p>	<ul style="list-style-type: none"> • Are electoral dispute claims heard by a competent and independent judicial, administrative, or legislative body? Are all matters concerning violations of fundamental rights provided judicial review? • Are there any limitations on the right to a fair and public hearing? What are they, and are they reasonable and objective? • Is the tribunal resolving electoral disputes independent? Is it perceived to be so? • Are decisions on complaints or appeals taken impartially? Do the decisions appear to be reasonable, based on the available evidence? • In cases of alleged criminal acts, are decisions to prosecute taken impartially? Do the decisions appear to be reasonable, based on the available evidence? • Are there particular courts charged with processing electoral related cases? If so, how are the judges appointed or selected?
Right to an Effective Remedy Including Challenging Results		
Right to a Fair and Public Hearing	<p>The state took the steps necessary to give effect to rights during the electoral process, including through the dispute resolution process.</p>	<ul style="list-style-type: none"> • Does the EMB have an internal process by which it can identify actions by electoral officials or other governmental officials that violate electoral-related rights? If so, do the procedures provide administrative penalties for those officials who are determined to be responsible?
Right to an Effective Remedy	<p>An effective and timely remedy was available for all citizens for violations of their rights throughout the electoral process.</p>	<ul style="list-style-type: none"> • Are all hearings conducted in a timely manner? What is the time frame in which hearings are conducted? • What remedies are granted? Are they provided within a realistic time frame? Are they enforced?
State Must Take Necessary Steps to Give Effect to Rights	<p>A remedy was available for violations of the right to a fair and public hearing.</p> <p>The state acted to investigate and address violations of rights. It provided appropriate judicial and administrative means for addressing claims of rights violations, including allegations of electoral fraud.</p>	<ul style="list-style-type: none"> • In cases where the right to a fair and public hearing is violated, was an effective (timely and enforceable) remedy available? • Is the state providing redress for electoral-related complaints, including effective remedies and accountability for violators of electoral rights? • Is the state taking measures to prevent violations of rights? • Once identified, are states taking measures to cease rights violations? If so, what are the measures? • Are rights violators being penalized? How? • Has the state taken any steps to address allegations of fraud? If so, are these steps effective?

(continues)



Right to an Effective Remedy Including Challenging Results (Continued)		
Right to a Fair and Public Hearing	The ability to challenge the results of the election was provided by law and was available to complainants as appropriate.	<ul style="list-style-type: none">• Is it clear when a recount or re-election may be ordered?• What body has jurisdiction concerning recounts and re-elections? Are clear procedures set forth concerning standing, burdens of proof, rules of evidence, and timelines for processing such legal challenges, recounts, and re-elections?
Right to an Effective Remedy		<ul style="list-style-type: none">• Can election commissions refuse to perform recounts? Are any requests for recounts being denied?• Are procedures for recounts and re-elections open and accessible to election stakeholders (e.g., candidates, parties, citizen observer groups, the media, international observers)?
State Must Take Necessary Steps to Give Effect to Rights	"Forum shopping" was discouraged.	<ul style="list-style-type: none">• Is there a right of appeal to a court?• Are there clear procedures for appeals of decisions by administrative, judicial, or legislative bodies concerning electoral-related complaints?• Are appellants and authorities able to choose the appeal body?
Safety, Security, and Electoral Dispute Resolution		
Right to Security of the Person	Electoral stakeholders were free from arbitrary arrest and detention as well as intimidation and coercion.	<ul style="list-style-type: none">• Have there been any arbitrary arrests or detention of electoral stakeholders? If yes, who has been arrested? Are certain parties or groups of people particularly affected?• Are there any reports of coercion? Of intimidation? If so, who do they affect?
	Law enforcement bodies were neutral in their work.	<ul style="list-style-type: none">• Have there been any reports of bias among law enforcement? If so, are specific parties or groups of people particularly affected?

Appendix D

References

(Citations Appear by Organization)

The United Nations

Treaties

- Convention Concerning Indigenous and Tribal Peoples in Independent Countries (ILO No. 169), 72 ILO Official Bull. 59, entered into force Sept. 5, 1991
- Convention on the Elimination of All Forms of Discrimination Against Women (signed Dec. 18, 1979; entered into force Sept. 3, 1981), 1249 UNTS 13
- Convention on the Political Rights of Women (signed March 31, 1953; entered into force July 7, 1954), 193 UNTS 135
- Convention on the Rights of People with Disabilities (adopted on Dec. 13, 2006; opened for signature March 30, 2007; entered into force, May 3, 2008)
- Convention on the Rights of the Child (adopted and opened for signature, ratification, and accession by General Assembly Resolution 44/25 of Nov. 20, 1989; entered into force Sept. 2, 1990)
- International Covenant on Civil and Political Rights (adopted Dec. 16, 1966; entered into force March 23, 1976), 999 UNTS 171 (ICCPR)
- International Covenant on Economic, Social, and Cultural Rights (adopted and opened for signature, ratification, and accession by General Assembly resolution 2200A (XXI) of Dec. 16, 1966; entered into force Jan. 3, 1976)
- International Convention on the Elimination of All Forms of Racial Discrimination (adopted and opened for signature and ratification by General Assembly Res. 2106 A(XX), Dec. 21, 1965; entered into force on Jan. 4, 1969, in accordance with Article 19)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (signed Dec. 18, 1990; entered into force July 1, 2003), U.N. Doc. A/RES/45/158
- United Nations Convention Against Corruption (entered into force Dec. 14, 2005), U.N. Doc. A/58/422

- Vienna Convention on the Law of Treaties (entered into force Jan. 27, 1980), 1155 U.N.T.S. 331, 8 I.L.M. 679

Interpretive Documents

Economic and Social Council

- Economic and Social Council, Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, U.N. Doc. E/CN.4/1985/4, Annex (1985)

Office of the High Commissioner for Human Rights

- Office of the High Commissioner for Human Rights, Basic Principles on the Independence of the Judiciary (adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Aug. 26–Sept. 6, 1985, Milan); (endorsed by General Assembly resolutions 40/32 of Nov. 29, 1985, and 40/146 of Dec. 13, 1985)
- Office of the High Commissioner for Human Rights, The Right to Freedom of Expression and Opinion, (Human Rights Resolution 2005/38) (adopted without a vote at the 57th session April 19, 2005)

U.N. Committee on Economic, Social, and Cultural Rights

- U.N. Committee on Economic, Social, and Cultural Rights, General Comment No. 16 on the equal right of men and women to the enjoyment of all economic, social, and cultural rights, E/C.12/2005/3 (2005)
- U.N. Committee on Economic, Social, and Cultural Rights, General Comment No. 20 on nondiscrimination in economic, social, and cultural rights (art. 2, para. 2 of the International Covenant on Economic, Social, and Cultural Rights), E/C.12/GC/20 (2009)

U.N. Committee on the Elimination of Discrimination Against Women

- U.N. Committee on the Elimination of Discrimination Against Women, concluding comments of the Committee on the Elimination of Discrimination Against Women–China, Aug. 25, 2006, CEDAW/C/CHN/CO/6

- U.N. Committee on the Elimination of Discrimination Against Women, concluding observations of the Committee on the Elimination of Discrimination Against Women–Costa Rica, Aug. 2, 2011, CEDAW/C/CRI/CO/5-6
- U.N. Committee on the Elimination of Discrimination Against Women, concluding observations of the Committee on the Elimination of Discrimination Against Women–Ethiopia, July 27, 2011, CEDAW/C/ETH/CO/6-7
- U.N. Committee on the Elimination of Discrimination Against Women, concluding observations of the Committee on the Elimination of Discrimination Against Women–Jordan, March 9, 2012, CEDAW/C/JOR/CO/5
- U.N. Committee on the Elimination of Discrimination Against Women, concluding observations of the Committee on the Elimination of Discrimination Against Women–Nepal, Aug. 11, 2011, CEDAW/C/NPL/CO/4-5
- U.N. Committee on the Elimination of Discrimination Against Women, concluding observations of the Committee on the Elimination of Discrimination Against Women–Oman, Nov. 4, 2011, CEDAW/C/OMN/CO/1
- U.N. Committee on the Elimination of Discrimination Against Women, U.N. Committee on the Elimination of Discrimination Against Women, concluding comments–Poland; Feb. 2, 2007, CEDAW/C/POL/CO/6
- U.N. Committee on the Elimination of Discrimination Against Women, concluding observations of the Committee on the Elimination of Discrimination Against Women–Switzerland, Aug. 7, 2009, CEDAW/C/CHE/CO/3
- U.N. Committee on the Elimination of Discrimination Against Women, U.N. Committee on the Elimination of Discrimination Against Women concluding comments–Tajikistan, Feb. 2, 2007, CEDAW/C/TJK/CO/3
- U.N. Committee on the Elimination of Discrimination Against Women, concluding observations of the Committee on the Elimination of Discrimination Against Women–Timor Leste, Aug. 7, 2009, CEDAW/C/TLS/CO/1
- U.N. Committee on the Elimination of Discrimination Against Women, General Recommendation No. 5 on temporary special measures, A/43/38 at 109 (1988)
- U.N. Committee on the Elimination of Discrimination Against Women, General Recommendation No. 23 on political and public life; A/52/38/Rev.1 at 61 (1997)

U.N. Committee on the Elimination of Racial Discrimination

- U.N. Committee on the Elimination of Racial Discrimination, General Recommendation No. 32: The meaning and scope of special measures in the International Convention on the Elimination of All Forms [of] Racial Discrimination, Sept. 24, 2009, CERD/C/GC/32

U.N. Committee on Civil and Political Rights

- U.N. Human Rights Committee, Communication No. 500/1992, Jozsef Debreczeny v. The Netherlands, CCPR/C/53/D/500/1992 (1995)
- U.N. Human Rights Committee, Communication No. 923/2000, Istvan Matyas v Slovakia, A/57/40 (Vol. II) (2002)
- U.N. Human Rights Committee, Communication No. 968/2001, Kim Jong-Cheol v. Republic of Korea, CCPR/C/84/D/968/2001 (2005)
- U.N. Human Rights Committee, Communication No. 1047/2002, Leonid Sinitin v. Belarus, CCPR/C/88/D/1047/2002 (2006)
- U.N. Human Rights Committee, Communication No. 1134/2002, Fongum Gorji-Dinka v. Cameroon, CCPR/C/83/D/1134/2002 (2005)
- U.N. Human Rights Committee, Communication No. 1274/2004, Victor Korneenko et al. v Belarus, CCPR/C/88/D/1274/2004 (2006)
- U.N. Human Rights Committee, concluding observations of the Human Rights Committee: Azerbaijan, Aug. 13, 2009, CCPR/C/AZE/CO/3
- U.N. Human Rights Committee, concluding observations of the Human Rights Committee–Belize, April 26, 2013, CCPR/C/BLZ/CO/1
- U.N. Human Rights Committee, concluding observations of the Human Rights Committee–Cyprus, A/49/40
- U.N. Human Rights Committee, concluding observations of the Human Rights Committee–France, July 31, 2008, CCPR/C/FRA/CO/4
- U.N. Human Rights Committee, concluding observations on the third periodic report of Hong Kong, China, adopted by the committee at its 107th session, March 11–28, 2013, Hong Kong, China, April 29, 2013, CCPR/C/CHN-HKG/CO/3
- U.N. Human Rights Committee, concluding observations of the Human Rights Committee–Hungary, April 29, 2003, CCPR/CO/74/HUN/Add. 1
- U.N. Human Rights Committee, concluding observations on the third periodic report of Paraguay, adopted by the committee at its 107th session, March 11–28, 2013, Paraguay, April 29, 2013, CCPR/C/PRY/CO/3

- U.N. Human Rights Committee, concluding observations of the Human Rights Committee–Togo, Jan. 29, 2004, CCPR/CO/76/TGO/Add.1
- U.N. Human Rights Committee, concluding observations of the Human Rights Committee–United States, Dec. 18, 2006, CCPR/C/USA/CO/3/Rev.1
- U.N. Human Rights Committee, concluding observations of the Human Rights Committee–Former Yugoslav Republic of Macedonia, April 17, 2008, CCPR/C/MKD/CO/2
- U.N. Human Rights Committee, General Comment No. 18 on Nondiscrimination, HRI/GEN/1/Rev.1 (1994)
- U.N. Human Rights Committee, General Comment No. 25 on the Right to Participate in Public Affairs, Voting Rights, and the Right to Equal Access to Public Service, CCPR/C/21/Rev.1/Add.7 (1996)
- U.N. Human Rights Committee, General Comment No. 27 on Freedom of Movement, CCPR/C/21/Rev.1/Add.9 (1999)
- U.N. Human Rights Committee, General Comment No. 28 on Equality of Rights Between Men and Women (Article 3), CCPR/C/21/Rev.1/Add.10 (2000)
- U.N. Human Rights Committee, General Comment No. 29 on States of Emergency, CCPR/C/21/Rev.1/Add.11 (2001)
- U.N. Human Rights Committee, General Comment No. 31 on the Nature of the General Legal Obligation on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13 (2004)
- U.N. Human Rights Committee, General Comment No. 32 on the Right to Equality Before Courts and Tribunals and to a Fair Trial, CCPR/C/GC/32 (2007)
- U.N. Human Rights Committee, General Comment No. 34 on Civil and Political Rights, CCPR/C/GC/34/CRP.2 (2010)

Other International Instruments

General Assembly

- Declaration on the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (adopted by General Assembly Resolution 53/144 of Dec. 9, 1998)
- Declaration on the Rights of Mentally Retarded People (Proclaimed by General Assembly Resolution 2856 (XXVI) of Dec. 20, 1971).
- Declaration on the Rights of People With Disabilities, (Proclaimed by General Assembly Resolution 3447 of Dec. 9, 1975)
- Universal Declaration of Human Rights (adopted Dec. 10, 1948, UNGA Res 217A (III) (UDHR))

U.N. Commission on Human Rights

- U.N. Commission on Human Rights, Basic Principles, and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law, Annex to E/CN.4/2000/62, (56th Session Commission on Human Rights)
- U.N. Commission on Human Rights, Guiding Principles on Internal Displacement, U.N. Doc. E/CN.4/1998/53/Add.2 (1998), noted in Committee on Human Rights. Res 1998/50, para 20(1)
- U.N. Commission on Human Rights, Resolution 2003/30: World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance and the Comprehensive Implementation of and Follow-up to the Durban Declaration and Programme of Action, April 23, 2003, E/CN.4/RES/2003/30
- U.N. Commission on Human Rights, Resolution 2002/68: Racism, Racial Discrimination, Xenophobia and Related Intolerance, April 25, 2002, E/CN.4/RES/2002/68

U.N. Human Rights Council

- Human Rights Council, Resolution 7/36: Mandate of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression
- Human Rights Council, Resolution 8/6: Rights of Peasants and Other People Working in Rural Areas
- Human Rights Council, Resolution 9/14: Mandate of the Working Group of Experts on People of African Descent

Other Sources

- Office of the High Commissioner for Human Rights, Recommendations of the Second Session of the Forum on Minority Issues on Minorities and Effective Political Participation, Nov. 12–13, 2009
- Office of the High Commissioner for Human Rights, Report of the Special Rapporteur on Freedom of Assembly, May 21, 2012, A/HR/20/27
- R Lopez-Pintor, Electoral Management Bodies as Institutions of Governance (United Nations Development Program, Bureau for Development Policy New York 2000)
- U.N. Commission on Human Rights, Report of the Special Representative to the Secretary General on Human Rights Defenders, Jan. 23, 2006, E/CN.4/2006/95

- U.N. Human Rights Council, Report of the Independent Expert on Minority Issues, Gay McDougall, Feb. 28, 2008, A/HRC/7/23
- U.N. Human Rights Council, Report of the Special Rapporteur to Cambodia, Aug. 24, 2011
- U.N. Human Rights Council, Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Expression and Opinion, May 16, 2011, A/HRC/17/27
- U.N. Human Rights Council, Report of the Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression, Feb. 4, 1997, E/CN.4/1997/31
- U.N. Human Rights Council, Report of the Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression (Commission on Human Rights E/CN.4/1999/64, Jan. 29, 1999)
- U.N. Human Rights Council, Report of the Special Rapporteur on the Working Group of Experts on People of African Descent, July 14, 2014, A/HRC/27/68
- UNESCO Declaration on Fundamental Principles Concerning the Contribution of the Mass Media to Strengthening the Peace and International Understanding, to the Promotion of Human Rights and to Countering Racism, Apartheid and Incitement to War. (Proclaimed by the General Conference of UNESCO on Nov. 28, 1978; accepted by acclamation 1978)
- United Nations Human Rights and Elections: A Handbook on the Legal, Technical, and Human Rights Aspects of Elections (United Nations Center for Human Rights, New York, 1994)

African Union

Treaties

- African Charter on Human and Peoples' Rights (adopted June 27, 1981; entered into force Oct. 21, 1986) (1982) 21 ILM 58 (Banjul Charter-AfCHPR)
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, adopted by the 2nd Ordinary Session of the Assembly of the Union, Maputo, CAB/LEG/66.6 (Sept. 13, 2000); entered into force Nov. 25, 2005
- African Charter on Democracy, Elections, and Governance, adopted May 2007
- African Union Convention on Preventing and Combating Corruption, adopted 2003; entered into force 2006
- African Union Convention for the Protection and Assistance of Internally Displaced People in Africa ("Kampala Convention"), Oct. 22, 2009

Other Regional Instruments

- African Union Declaration on the Principles Governing Democratic Elections in Africa, (adopted at the 38th Ordinary Session of the Organization of African Unity, July 8, 2002, Durban, South Africa) AHG/Decl.1 (XXXVIII), 2002
- Declaration on Principles on Freedom of Expression in Africa (adopted at the 32nd Session, Oct. 17–23, 2002, Banjul, Gambia) (African Commission on Human and Peoples' Rights)
- New Partnership for Africa's Development (NEPAD) Declaration on Democracy, Political, Economic, and Corporate Governance, AHG/235 (XXXVIII) Annex I, adopted 2002, para. 7

Commonwealth of Independent States

Treaties

- Commonwealth of Independent States Convention on Human Rights and Fundamental Freedoms (adopted May 26, 1995; entered into force Aug. 11, 1998) (CISCHRFF)
- Convention on the Standards of Democratic Elections, Electoral Rights, and Freedoms in the Commonwealth of Independent States (adopted Oct. 7, 2002; entered into force 2003)

The Commonwealth

Regional Instruments

- Harare Commonwealth Declaration (adopted Oct. 20, 1991) (Harare, Zimbabwe)

Council of Europe

Treaties

- Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) (adopted Nov. 4, 1950; entered into force Sept. 3, 1953); amended by Protocol No 11 (ETS. No. 155) (entered into force on Nov. 1, 1998, which replaced Protocols 2, 3, 4, 5, 8, 9, 10 and repealed Articles 25 and 46 of the Convention) (ECHR)
- Convention for the Protection of Individuals With Regard to Automatic Processing of Personal Data, Council of Europe (ETS. No. 108) (adopted in Strasbourg, Jan. 28, 1981)
- Convention on the Legal Status of Migrant Workers (ETS. No. 93) (adopted in Strasbourg, Nov. 24, 1997)
- Convention on the Participation of Foreigners in Public Life at Local Level, Council of Europe (ETS No. 144) (adopted in Strasbourg, Feb. 5, 1992)

- Convention on Transfrontier Television (ETS. No. 132) (adopted in Strasbourg May 5, 1989); amended according to Protocol (ETS No. 171) (adopted in Strasbourg, Oct. 1, 1998)
- Criminal Law Convention on Corruption, Council of Europe (ETS No. 173) (adopted in Strasbourg, Jan. 27, 1999)
- European Charter of Local Self-Government, Council of Europe (ETS. No. 122) (adopted in Strasbourg, Oct. 15, 1985)
- Framework Convention for the Protection of National Minorities (ETS. No. 157) (adopted in Strasbourg, Feb. 1, 1995)
- Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) (ETS. No. 9) as amended by Protocol No. 1 (adopted in Strasbourg, May 6, 1963)
- Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) (ETS. No. 46) as amended by Protocol No. 4 (adopted in Strasbourg, Jan. 20, 1966)
- Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) (ETS. No. 155) as amended by Protocol No. 11 (adopted in Strasbourg, May 11, 1994)

Interpretive Documents

- Ahmad and Others v The United Kingdom, App. No. 65/1997/849/1056 (Decision of Sept. 2, 1998)
- Aziz v Cyprus, App. No. 69949/01 (Decision of June 22, 2004)
- Dichand and others v Austria, App. No. 29271/95 (Decision of Feb. 26, 2002)
- Krone Verlags GmbH & Co KG v Austria, App. No. 72331/01 (Decision of Nov. 9, 2006)
- Liberal Party v. UK, App. No. 8765/79 (Decision of 1982)
- Mouta v. Portugal, App. No. 33290/96 (Decision of Dec. 21, 1999)
- Py v France, App. No. 66289/01 (Decision of June 6, 2005)
- Unabhangige Initiative Informationsvielfalt v Austria, App. No. 28525/95 (Decision of Feb. 26, 2002)
- United Macedonian Organization Ilinden and Ivanov v Bulgaria, App No. 44078/98 (Decision of Sept. 2, 1998)

Other Regional Instruments

Committee of Ministers

- Council of Europe, Committee of Ministers, Declaration on the Code of Good Practice in Electoral Matters (Adopted by the Committee of Ministers on Nov. 27, 2008, at the 1042nd meeting of the Ministers' Deputies)
- Council of Europe, Committee of Ministers, Declaration on the Freedom of Expression and Information, 70th session of the Committee of Ministers, April 29, 1982
- Council of Europe, Committee of Ministers, Declaration on Freedom of Political Debate in the Media, 872nd meeting of the Ministers' Deputies, Feb. 12, 2004
- Council of Europe, Committee of Ministers, Declaration on the Guarantee of Independence of Public Service Broadcasting in the Member States, 974th meeting of the Ministers' Deputies, Sept. 27, 2006
- Council of Europe, Committee of Ministers, Declaration on Human Right and the Rule of Law in the Information Society, May 13, 2005
- Council of Europe, Committee of Ministers, Declaration on the Independence and Functions of Regulatory Authorities for the Broadcast Sector, 1022nd meeting of the Ministers' Deputies, March 26, 2008
- Council of Europe, Committee of Ministers, Declaration on Protecting the Role of Media in Democracy in the Context of Media Concentration, 985th Meeting of the Ministers' Deputies, Jan. 31, 2007
- Council of Europe, Recommendation CM/REC (2007) 15 of the Committee of Ministers to Member States on measures concerning media coverage of election campaigns, 1010th meeting of the Ministers' Deputies, Nov. 7, 2007
- Council of Europe, Recommendation CM/REC(2008)6 of the Committee of Ministers to Member States on measures to promote the respect for freedom of expression and information with regard to internet filters, 1022nd meeting of the Ministers' Deputies, March 26, 2008
- Council of Europe, Recommendation No. R (81) 7 of the Committee of Ministers to Member States of measures facilitating access to justice, (adopted on May 14, 1981; 68th session of the Committee of Ministers)
- Council of Europe, Recommendation No. R (84) 5 of the Committee of Ministers to Member States on principles of civil procedures designed to

- improve the functioning of justice, 367th meeting of the Ministers' Deputies, Feb. 28, 1984
- Council of Europe, Recommendation No. R (99) 15 of the Committee of Ministers to Member States on measures concerning media coverage of election campaigns, 678th meeting of the Ministers' Deputies, Sept. 9, 1999
 - Council of Europe, Recommendation No. R (94) 13 of the Committee of Ministers to Member States on measures to promote media transparency, 521st meeting of the Ministers' Deputies, Nov. 22, 1994
 - Council of Europe, Recommendation No. R (94) 12 of the Committee of Ministers to Member States on the independence, efficiency, and role of judges, 518th meeting of the Ministers' Deputies, Oct., 13 1994
 - Council of Europe, Recommendation R (81) 19 of the Committee of Ministers to Member States on the access to information held by public authorities, 340th meeting of the Ministers' Deputies, Nov. 25, 1981
 - Council of Europe, Recommendation Rec (2003)4 of the Committee of Ministers to Member States on common rules against corruption in the funding of political parties and electoral campaigns, April 8, 2003
 - Council of Europe, Recommendation Rec (2004)16 of the Committee of Ministers to Member States on the right of reply in the new media environment, Dec. 15, 2004
 - Council of Europe, Recommendation 86 (2000) of the Committee of Ministers on the financial transparency of political parties and their democratic functioning at the regional level
 - Council of Europe, Recommendation No. Rec (2004) 20 of the Committee of Ministers to Member States on judicial review of administrative acts, 909th meeting of the Ministers' Deputies, Dec. 15, 2004
 - Council of Europe, Recommendation Rec(2004)11 of the Committee of Ministers to Member States on legal, operational and technical standards for e-voting, 898th meeting of the Ministers' Deputies, Sept. 30, 2004
 - Council of Europe, Recommendation No. R (2000) 7 of the Committee of Ministers to Member States on the right of journalists not to disclose their sources of information, 701st meeting of the Ministers' Deputies, March 8, 2000
 - Council of Europe, Recommendation No. R (2003) 16 of the Committee of Ministers on the execution of administrative and judicial decisions in the field of administrative law, 851st meeting of the Ministers' Deputies, Sept. 9, 2003
 - Council of Europe, Resolution No. (97) 24 on the Twenty Guiding Principles for the Fight Against Corruption, 101th meeting of the Ministers' Deputies, Nov. 6, 1997
 - Council of Europe, Resolution on Journalistic Freedoms and Human Rights; 4th European Ministerial Conference, Prague, Dec. 7–8, 1994
- Congress of Local and Regional Authorities**
- Congress of Local and Regional Authorities of the Council of Europe, Resolution No. 105(2000) on the financial transparency of political parties and their democratic functioning at regional level, (adopted by the Standing Committee of the Congress on May 25, 2000)
- Parliamentary Assembly**
- Parliamentary Assembly of the Council of Europe, Recommendation 1641 (2004), Public Service Broadcasting, Jan. 27, 2004
 - Parliamentary Assembly of the Council of Europe, Recommendation 1516 (2001), Financing of Political Parties, May 22, 2001
- Venice Commission**
- Venice Commission (European Commission for Democracy through Law) Code of Good Practice in Electoral Matters (Opinion no. 190/2002, CDL-AD (2002) 13 Or. fr., adopted by the Venice Commission at its 51st and 52nd sessions, Venice July 5–6 and Oct. 18–19, 2002, Opinion no. 190/2002) (Venice Commission Strasbourg 2002)
 - Venice Commission (European Commission for Democracy through Law) Guidelines on Media Analysis During Election Observation Missions (Study No. 285/2004, CDL-AD (2005)032 adopted by the Council for Democratic Elections at its 14th meeting (Venice, Oct. 20, 2005) and the Venice Commission at its 64th plenary session (Venice, Oct. 21–22, 2005)
 - Venice Commission (European Commission for Democracy through Law) Code of Good Practice in the Field of Political Parties (Study No. 414/2006, CDL-AD (2009)002 adopted by the Venice Commission at its 77th Plenary Session (Venice, Dec. 12–13, 2008)
 - Venice Commission (European Commission for Democracy through Law) Declaration on Women's Participation in Elections (Study No. 324/2004, CDL-AD (2006)020 adopted by the Venice Commission at its 67th Plenary Session (Venice, June 9–10, 2006)

- Venice Commission (European Commission for Democracy through Law) Guidelines and Explanatory Report on Legislation on Political Parties: some specific issues, (Study No. 247/2004, CDL-AD (2004)007 adopted by the Venice Commission at its 58th Plenary Session (Venice, March 12–13, 2004)
- Venice Commission (European Commission for Democracy through Law) Report on the Participation of Political Parties in Elections, (Study No. 329/2004, CDL-AD (2006)025 adopted by the Council for Democratic Elections at its 16th meeting (Venice, March 16, 2006) and the Venice Commission at its 67th Plenary Session (Venice, June 9–10, 2006)
- Venice Commission (European Commission for Democracy through Law), Guidelines and Report on the Financing of Political Parties, adopted March 9–10, 2001

Other Sources

- Council of Europe Handbook for Observers of Elections (Council of Europe Strasbourg 1992)
- Van Biezen, Ingrid, Financing Political Parties and Election Campaigns: Guidelines, Council of Europe, 2003
- Mole, Nuala and Catharina Harby. "The Right to a Fair Trial." Council of Europe Directorate of Human Rights, Human Rights Handbook No. 3, August 2006.

Economic Community of West African States

Treaties

- Declaration of Political Principles of The Economic Community of West African States, A/DCL.1/7/91 (Fourteenth Session of the Authority of Heads of State and Government, Abuja, July 4–6, 1991)
- Economic Community of West African States, Protocol A/SP.1/12/01 on Democracy and Good Governance, Supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping, and Security. Dakar 2001

European Union

Treaties

- Charter of the Fundamental Rights of the European Union (2000/C 364/01), entered into force Dec. 1, 2009

Other Sources

- European Commission Handbook for European Union Election Observation Missions (European Commission, Brussels, 2002)
- Handbook for European Union Election Observation, Second Edition (European Commission, Brussels, 2008)

League of Arab States

Treaties

- Arab Charter on Human Rights, May 22, 2004; entered into force March 15, 2008

Organization of American States

Treaties

- American Convention on Human Rights (adopted Nov. 22, 1969; entered into force July 18, 1978), OAS TS 36 (Pact of San Jose, Costa Rica–AmCHR)
- Inter-American Convention on the Granting of Political Rights to Women, 1428 U.N.T.S. 63, entered into force March 17, 1949
- Inter-American Convention Against Corruption, entered into force March 6, 1997
- Inter-American Convention on the Elimination Of All Forms of Discrimination Against People With Disabilities, entered into force Sept. 14, 2001

Interpretive Documents

- Karen Atala and Daughters v. Chile, Case 1271-04, Report No. 42/08, Inter-Am. C.H.R., OEA/Ser. L/V/II.130, Doc. 22, rev. 1 2008
- Karen Atala and Daughters v. Chile, Inter-Am. C.H.R., Judgment of Feb. 24, 2012, para. 91

Other Regional Instruments

- Inter-American Democratic Charter, Inter-American Democratic Charter, OAS Doc. OEA/Ser.P/AG/Res.1 (2001); 28th Spec. Sess., OAS Doc. OEA/Ser.P/AG/RES.1 (XXVIII-E/01) (OAS General Assembly) (Sept. 11, 2001), 40 I.L.M. 1289 (2001)
- Inter-American Declaration on Principles on Freedom of Expression (adopted at the 108th session on Oct. 19, 2000) (Inter-American Commission on Human Rights, Washington, D.C. 2000)
- Inter-American Program for Universal Civil Registry and the "Right to Identity" (adopted at the 4th plenary session on June 5, 2007), AG/RES. 2286 (XXXVII O/07)

Organization for Security and Cooperation in Europe

Regional Instruments

- Copenhagen Document–Second Conference on the Human Dimension of the CSCE (Copenhagen, June 5–July 29, 1990)
- Final Act of the Conference on Security and Co-operation in Europe, Helsinki, Aug. 1, 1975
- Istanbul Document–Istanbul Summit (Organization for Security and Cooperation in Europe), November 1999
- Concluding Document of Madrid (Organization for Security and Cooperation in Europe), 1983
- Moscow Document–Third Conference of the Human Dimension of the CSCE (Moscow Sept. 10–Oct. 4, 1991) Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE
- Vienna Document of the Negotiations on Confidence and Security–Building Measures, (adopted at the 269th Plenary Meeting the OSCE Forum for Security Co-operation in Istanbul, Nov. 16, 1999)

Other Sources

- OSCE/ODIHR, Existing Commitments For Democratic Elections in OSCE Participating States, (Organization for Security and Cooperation in Europe, Warsaw, 2003)
- OSCE/ODIHR Guidelines for Reviewing a Legal Framework for Elections (Organization for Security and Cooperation in Europe, Warsaw, 2001)
- OSCE Guidelines on Freedom of Peaceful Assembly (Organization for Security and Cooperation in Europe, Warsaw, 2007)
- OSCE/ODIHR Guidelines to Assist National Minority Participation in the Electoral Process (Organization for Security and Cooperation in Europe, Warsaw, 2001)
- OSCE/ODIHR Resolving Election Disputes in the OSCE Area: Toward a Standard Election Dispute Monitoring System (Organization for Security and Cooperation in Europe, Warsaw, 2000)
- OSCE/ODIHR Election Observation Handbook (Fifth Edition) (Organization for Security and Cooperation in Europe, Warsaw, 2005)
- OSCE/ODIHR Handbook for Domestic Election Observers (Organization for Security and Cooperation in Europe/Office for Democratic Institutions and Human Rights, Warsaw, 2003)

- OSCE/ODIHR Handbook for Monitoring Women's Participation in Elections (Organization for Security and Cooperation in Europe, Warsaw, 2004)
- OSCE/ODIHR Handbook for the Observation of Voter Registration (Organization for Security and Cooperation in Europe/Office for Democratic Institutions and Human Rights, Warsaw, 2012)
- OSCE/ODIHR Guidelines for Reviewing a Legal Framework for Elections (Second Edition) (Organization for Security and Cooperation in Europe/Office for Democratic Institutions and Human Rights, Warsaw, 2013)

Southern African Development Community

Treaties

- SADC, Protocol Against Corruption, Adopted 2001; entered into force 2005
- SADC Protocol on Culture, Information, and Sport (adopted by the SADC Summit, Malawi, 2001) (Southern African Development Community 2001)

Other Regional Instruments

- SADC Principles and Guidelines Governing Democratic Elections (adopted by the SADC Summit, Mauritius, August 2004) (Southern Africa Development Community, 2004)

Other Sources

- SADC Parliamentary Forum Norms and Standards for Elections in the SADC Region (March 25, 2001); (SADC Parliamentary Forum Plenary Assembly Windhoek, Namibia, 2001)

Other Sources (by Organization)

ACE Project

- R Carver. (2006). "Allocation of Time to Candidates and Parties," Retrieved April 29, 2008, from ACE: The Electoral Knowledge Network. Website: <http://aceproject.org/ace-en/topics/me/mec/mec04/mec04a/default>
- R Carver. (2006). "Different Obligations of Public and Private Media," Retrieved April 29, 2008, from ACE: The Electoral Knowledge Network. Website: <http://aceproject.org/ace-en/topics/me/mec/mec03/default>
- R Carver. (2006). "Equal Access for All Parties?" Retrieved April 29, 2008, from ACE: The Electoral Knowledge Network. Website: <http://aceproject.org/ace-en/topics/me/mec/mec04/mec04a/mec04a02>

- R Carver. (2006). "Obligations of Pluralism," Retrieved April 29, 2008, from ACE: The Electoral Knowledge Network. Website: <http://aceproject.org/ace-en/topics/me/mea/mea01/mea01b>
- R Carver and R Kennedy. (2006). "Criticism of Politicians and Government," Retrieved April 29, 2008, from ACE: The Electoral Knowledge Network. Website: <http://aceproject.org/ace-en/topics/me/mea/mea01/mea01i>
- R Carver and R Kennedy. (2006). "Publishing Opposition Views," Retrieved April 29, 2008, from ACE: The Electoral Knowledge Network. Website: <http://aceproject.org/ace-en/topics/me/mea/mea01/mea01e>
- R Carver and R Kennedy. (2006). "Right of Access to Government Media," Retrieved April 29, 2008, from ACE: The Electoral Knowledge Network. Website: <http://aceproject.org/ace-en/topics/me/mea/mea01/mea01d>
- R Carver and R Kennedy. (2006). "Right to an Effective Remedy," Retrieved April 29, 2008, from ACE: The Electoral Knowledge Network. Website: <http://aceproject.org/ACE-en/topics/me/mea/mea01/mea01j>
- M Tjernström and L Ederberg. (2005–2006). "Reporting and Public Disclosure of Party Finance," Retrieved Aug. 26, 2008, from ACE: The Electoral Knowledge Network. Website: <http://aceproject.org/ACE-en/topics/pc/pca/pca02/pca02b/default>
- A Hussain, F Duve and S Canton. Joint Declaration by the U.N. Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, and the OAS Special Rapporteur on Freedom of Expression (Nov. 19–20, 2001, London)
- Ligabo, F Duve and E Bertoni. Joint Declaration by the U.N. Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, and the OAS Special Rapporteur on Freedom of Expression (Dec. 9–10, 2002)
- Ligabo, F Duve and E Bertoni. Joint Declaration by the U.N. Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, and the OAS Special Rapporteur on Freedom of Expression (Dec. 18, 2003)
- Ligabo, M Haraszti and E Bertoni. Joint Declaration by the U.N. Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, and the OAS Special Rapporteur on Freedom of Expression (Dec. 6, 2004, London)
- Ligabo, M Haraszti and E Bertoni. Joint Declaration by the U.N. Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, and the OAS Special Rapporteur on Freedom of Expression (Dec. 21, 2005)

Article 19

- S Coliver and P Merloe, "Guidelines for Election Broadcasting in Transitional Democracies," Article 19: The Global Campaign for Free Expression (Article 19, London, August 1994)
- A Hussain, F Duve, and S Canton. Joint Declaration by the U.N. Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, and the OAS Special Rapporteur on Freedom of Expression (Nov. 26, 1999, London)
- A Hussain, F Duve and S Canton. Joint Declaration by the U.N. Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, and the OAS Special Rapporteur on Freedom of Expression. (Nov. 29–30, 2000, London)
- A Hussain, F Duve and S Canton. Joint Statement on Racism and the Media by the U.N. Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, and the OAS Special Rapporteur on Freedom of Expression. (Nov. 27, 2001, London)
- Ligabo, M Haraszti, I Alvarez and F Pansy Tlakula. Joint Declaration by the U.N. Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression, and the ACHPR Special Rapporteur on Freedom of Expression (Dec. 19, 2006)
- Ligabo, M Haraszti, I Alvarez and F Pansy Tlakula. Joint Declaration on Diversity in Broadcasting by the U.N. Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression, and the ACHPR Special Rapporteur on Freedom of Expression and Access to Information. (Dec. 12, 2007)

The Carter Center

- The Carter Center, Statement of the Council of Presidents and Prime Ministers of the Americas, Financing Democracy: Political Parties, Campaigns, and Elections, Atlanta, March 19, 2003

- The Carter Center, Atlanta Declaration and Plan of Action for the Advancement of the Right of Access to Information, Feb. 29, 2008

Commonwealth Secretariat

- Commonwealth Secretariat, Good Commonwealth Electoral Practice: A Working Document (June 1997) (Commonwealth Secretariat, London, 1997)
- CW Dundas, Dimensions of Free and Fair Elections: Frameworks, Integrity, Transparency, Attributes, Monitoring (Commonwealth Secretariat, London, 1994)
- CW Dundas, Organizing Free and Fair Elections at Cost-Effective Levels (Commonwealth Secretariat, Technical Assistance Group, Commonwealth Fund for Technical Cooperation, London, 1993)

Commonwealth Parliamentary Association

- R Gould, Reference Guide for Election Observers (Commonwealth Parliamentary Association, London, 1994)

Electoral Commissions Forum of SADC Countries and EISA

- Electoral Commissions Forum of SADC Countries and Electoral Institute of Southern Africa, Principles for Election Management, Monitoring, and Observation in the SADC Region [as adopted on Nov. 6, 2003, at the Kopanong Hotel and Conference Centre, Benoni, Johannesburg] (Electoral Institute of South Africa Johannesburg, South Africa, 2003) (PEMMO)

IFES

- Dahl, Bob, in Political Finance in Post-Conflict Societies, Ed. Marcin Waleckki, Jeff Fisher, and Jeffery Carls. (2006)

International Human Rights Law Group

- L Garber, Guidelines for International Election Observing (The International Human Rights Law Group, Washington, D.C., 1984)

International IDEA

- International IDEA Code of Conduct: Ethical and Professional Administration of Elections (International Institute for Democracy and Electoral Assistance, Stockholm, 1996)
- International IDEA International Electoral Standards: Guidelines for Reviewing the Legal Framework of Elections (International IDEA, Stockholm, 2002)

- Electoral Management Design: The International IDEA Handbook (International IDEA, Stockholm, 2006)

Inter-Parliamentary Union

- GS Goodwin-Gill, Codes of Conduct for Elections (Inter-Parliamentary Union, Geneva, 1998)
- GS Goodwin-Gill, Free and Fair Elections: International Law and Practice (Inter-Parliamentary Union, Geneva, 1994); 2nd revised and expanded edition, 2006
- Inter-Parliamentary Union Declaration on Criteria for Free and Fair Elections (adopted by the Inter-Parliamentary Council at its 154th session March 26, 1994, Paris) (Inter-Parliamentary Council Geneva)

National Democratic Institute for International Affairs

- RL Klein and P Merloe, Building Confidence in the Voter Registration Process: An NDI Monitoring Guide for Political Parties and Civic Organizations (National Democratic Institute, Washington, D.C., 2001)
- National Democratic Institute for International Affairs, How Domestic Organizations Monitor Elections: An A to Z Guide (An NDI Handbook) (National Democratic Institute, Washington, D.C., 1995)
- P Merloe, Promoting Legal Frameworks for Democratic Elections (National Democratic Institute, Washington, D.C., 2008)

Norwegian Helsinki Committee

- K Hogdahl, "Election Observation" in Manual on Human Rights Monitoring: An Introduction for Human Rights Field Officers (Norwegian Helsinki Committee, Norwegian Institute of Human Rights, Oslo, 2002)
- Norwegian Helsinki Committee Election Observation: An Introduction to the Methodology and Organization (Norwegian Helsinki Committee, Oslo, 2000)

Transparency International

- Transparency International, TI Policy Position, No. 2/2005, Political Finance Regulations: Bridging the Enforcement Gap
- Transparency International, TI Policy Position, No.1/2005, Standards on Political Funding and Favors
- Transparency International, Working Paper No. 1/2008, Accountability and Transparency in Political Finance: Why, How and What For?

Appendix E

Commonly Used Acronyms and Abbreviations

ACDEG	African Charter on Democracy, Elections, and Governance
ACHR	American Convention on Human Rights
ACJ	Arab Court of Justice
AfCHPR	African Court on Human and Peoples' Rights
AHRC	Arab Human Rights Committee
AU	African Union
CCPR	Covenant on Civil and Political Rights
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social, and Cultural Rights
CIS	Commonwealth of Independent States
CMW	Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CoE	Council of Europe
CRPD	Convention on the Rights of People With Disabilities
DES	Democratic Election Standards
ECF	Electoral Commissions Forum of Southern African Development Community (SADC) Countries
ECHR	Convention for the Protection of Human Rights and Fundamental Freedoms
ECOWAS	Economic Community of West African States
EISA	Electoral Institute for Sustainable Democracy in Africa
EOS	Election Obligations and Standards Database
EU	European Union
IADC	Inter-American Democratic Charter
ICCPR	International Covenant on Civil and Political Rights

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICJ	International Court of Justice
IDP	Internally Displaced People
IPU	Inter-Parliamentary Union
LAS	League of Arab States
OAS	Organization of American States
ODIHR	Office for Democratic Institutions and Human Rights
OHCHR	Office of the High Commissioner for Human Rights
OSCE	Organization for Security and Cooperation in Europe
PACE	Parliamentary Assembly of the Council of Europe
PEMMO	Principles for Election Management, Monitoring, and Observation
SADC	Southern African Development Community
SADC PF	Southern African Development Community Parliamentary Forum
UDHR	Universal Declaration of Human Rights
U.N.	United Nations
UNCAC	United Nations Convention Against Corruption
UNGA	United Nations General Assembly

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