

THE  
CARTER CENTER



# ELECTION OBLIGATIONS AND STANDARDS

A CARTER CENTER ASSESSMENT MANUAL  
Second Edition



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This handbook and the Election Obligations and Standards body of work are dedicated to former U.S. President Jimmy Carter, who early on saw the power of election observation to promote peace, equality, and human rights.

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# Foreword

This handbook is a companion to the Carter Center's Election Obligations and Standards database. This publicly accessible resource links human rights obligations and commitments in public international law with key parts of the electoral process.

Since the handbook was first published in 2014, the world has changed dramatically. The global state of democracy has continued to decline, with a growing number of countries experiencing backsliding, stagnation, and erosions in core freedoms of opinion, expression, and assembly. The world also has witnessed a shift in the landscape of elections, especially in the realm of technology and online information.

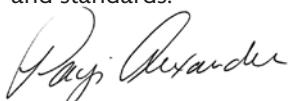
Indeed, technological innovations and increasing internet connectivity have presented new possibilities for citizens to access and share information online. In most countries, voters, candidates, media houses, journalists, election officials, and others increasingly engage on social media and other online platforms.

But technological advances also have been accompanied by a heightened capacity for state authorities, election administrators, and others to collect, store, and process personal data and information. Online spaces have become increasingly fertile ground for mis- and disinformation, harassment, and gender-based violence.

Importantly, international law obligations, state practice, and norms relevant to elections have evolved in response to these changes. In 2018, the United Nations General Assembly affirmed that the rights people exercise offline also must be protected online and called on states to promote online environments that are safe for all to engage freely and without discrimination. A growing number of international law instruments and interpretive sources have similarly called on states to address barriers to participation.

This updated handbook reflects the evolution of international law, state practice, and norms. For example, the handbook highlights several key obligations and positive measures that states must take to equitably protect personal data and the ability for people to access information and exercise their rights in online spaces. In addition, several issues highlighted in the first edition have been expanded to reflect additional sources of obligations, including the impartiality of public officers; the participation of women, youth, people with disabilities; and protections for civil society.

In 2023, as we reflect on the life and legacy of the Carter Center's founder, former U.S. President Jimmy Carter, we see election observation efforts as a central pillar of our ongoing commitment to realizing his values for years to come. The Carter Center's Election Obligations and Standards database will continue to be updated in the years ahead to reflect critical changes in the global landscape and the evolution of international norms and standards.



Paige Alexander  
Chief Executive Officer, The Carter Center

# Introduction

**T**here 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 20 or so 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 initially reviewed close to 200 sources of international law, including treaties and instruments from the United Nations (U.N.), the African Union (AU), the Economic Community of West African States (ECOWAS), the Organization of American States (OAS), the League of Arab States (LAS), the European Union (EU), the Council of Europe (CoE), 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.<sup>1</sup> Following the update of the database in 2021, it now references over 300 sources of public international law related to human rights and elections.

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.

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<sup>1</sup> Additional information about the Democratic Election Standards project at The Carter Center can be found at [electionstandards.cartercenter.org](http://electionstandards.cartercenter.org).

# The Framework: Obligations and Constituent Parts of the Election

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\* 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

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**P**ublic 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.<sup>2</sup> 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 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

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\* 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.

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<sup>2</sup> Statute of the International Court of Justice, art. 38

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.

## Obligations

Through the review of close to 300 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.

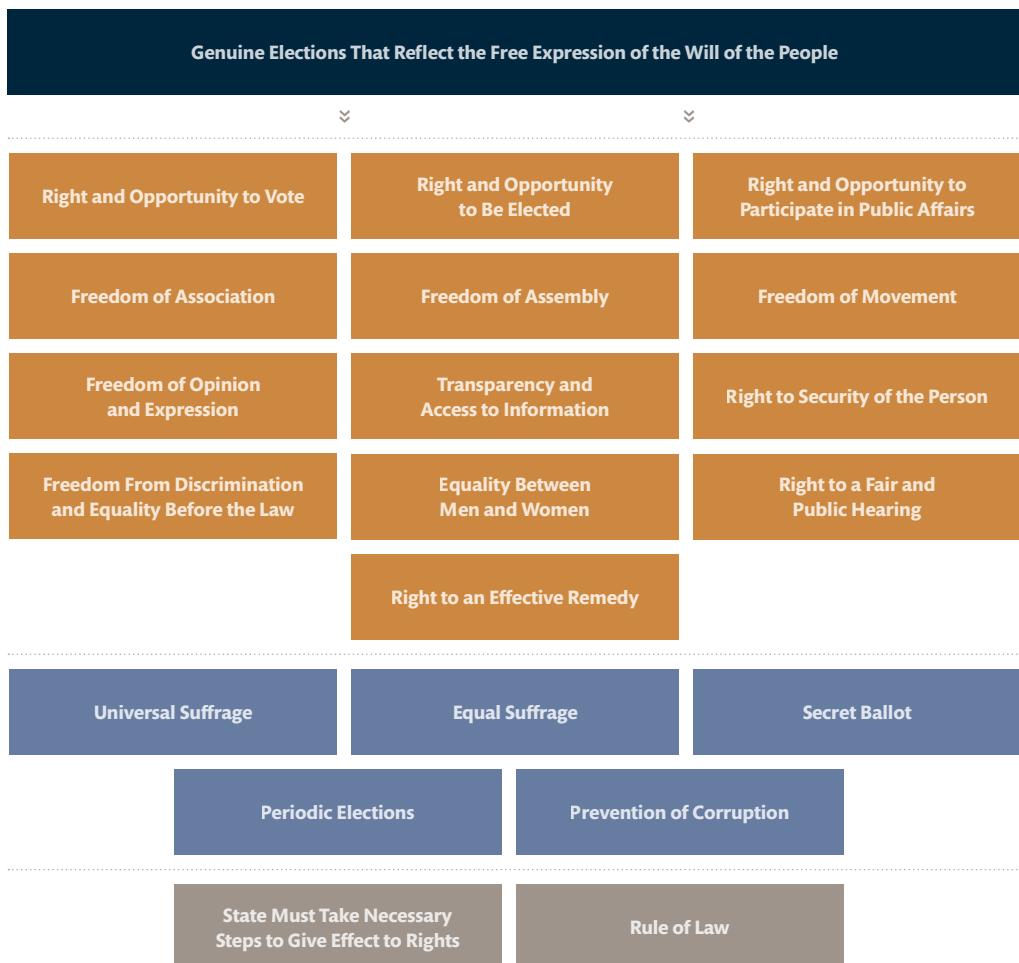
The 21 obligations for democratic elections fall into four main categories: 1) an overarching obligation regarding genuine elections; 2) foundational obligations related to rule of law and the commitment of the state to take necessary steps to fulfill obligations and protect rights and freedoms; 3) process-focused 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.

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★ 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.

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## Obligations for Democratic Elections



■ Macro-Level Obligation

■ Process-Focused Obligation

■ Individual Rights and Freedoms

■ Foundational Obligation

## Overarching Obligation

### Genuine Elections That Reflect the Free Expression of the Will of the People<sup>3</sup>

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 (UDHR) and was subsequently included in article 25 of the International Covenant on Civil and Political Rights (ICCPR). 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 choice<sup>4</sup> 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.

\* A “standard” is a rule, principle, or criterion for measuring acceptability, quality, or accuracy.  
— See, for example, Black’s Law Dictionary or the Oxford English Dictionary.

## 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.<sup>5</sup> This obligation includes ensuring that the national legal framework incorporates the international obligations in treaties agreed to by states.

Interpretive sources add that states should:

- Regulate violations of human rights not only by states themselves but also by nonstate actors and private individuals<sup>6</sup>
- Educate the population and public officials on human rights<sup>7</sup>
- Remove barriers to the electoral process for those with specific difficulties (e.g., illiteracy, language barriers, disability, etc.)<sup>8</sup>
- Prevent, punish, investigate, and/or redress violations of human rights by nonstate actors<sup>9</sup>

<sup>3</sup> 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

<sup>4</sup> CIS, Convention on Democratic Elections, art. 9(2)

<sup>5</sup> 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

<sup>6</sup> U.N. (CCPR) General Comment 31, para. 8

<sup>7</sup> U.N. (CCPR) General Comment 31, para. 7

<sup>8</sup> U.N. (CCPR) General Comment 25, para. 11

<sup>9</sup> U.N. (CCPR) General Comment 31, paras. 8 and 15

Interpretive sources add that this obligation to take necessary steps is unqualified and should have immediate effect,<sup>10</sup> 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.<sup>11</sup>

Political commitments suggest that everyone should have the right to submit criticisms and proposals for improving their functioning to government bodies, agencies, and organizations.<sup>12</sup>

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

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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,<sup>13</sup> and any limitations must respect the nonderogable nature of certain rights.<sup>14</sup>

Political commitments add that the state must publicly announce a state of emergency before any derogation measures are put into place.<sup>15</sup> In applying a limitation to rights, a state must use the least restrictive means required.<sup>16</sup> Derogation measures cannot undermine the exercise of rights protected by other international obligations of the state<sup>17</sup> and must be justified by law and subject to review.<sup>18</sup>

### Rule of Law

International and regional treaties are increasingly making explicit reference to the rule of law.<sup>19</sup> While not explicitly articulated as an obligation in the ICCPR, the rule of law is recognized as an essential condition for the fulfillment of human rights and representative democracy.<sup>20</sup>

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 law<sup>21</sup> and that laws should be equally enforced.<sup>22</sup> Laws must also be consistent with

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

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

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

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

14 U.N. (CESCR), Siracusa Principles, para. A.14

15 U.N. (CESCR), Siracusa Principles, para. B.42-44

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

17 U.N. (CESCR), Siracusa Principles, para. D.58-60

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

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

20 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

21 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); LAS, Arab Charter, art. 3; ASEAN, Human Rights Declaration, art. 3

22 U.N., ICCPR, art. 26; AU, AfCHPR, art. 13(3); CIS, Convention on Human Rights, art. 20(1)

international human rights,<sup>23</sup> and treaty obligations should be implemented in good faith.<sup>24</sup> Conversely, provisions of domestic law may not be used to justify failure to perform treaty obligations.<sup>25</sup>

Interpretive sources indicate that laws and procedures must not be arbitrarily applied.<sup>26</sup> Suspension or exclusion of participatory rights is prohibited except on grounds established by laws that are objective and reasonable.<sup>27</sup>

## Process-Focused Obligations

### Periodic Elections

This obligation is generally understood to mean that elections must take place at reasonable intervals.<sup>28</sup> Any postponement of the election must be necessary because of the unique exigencies of the situation.<sup>29</sup>

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.<sup>30</sup>

Other sources, indicative of state practice, suggest that in most cases elections should be held between two and five years apart.<sup>31</sup>

### Universal Suffrage

The obligation to ensure universal suffrage appears in the International Covenant on Civil and Political Rights and other international treaties<sup>32</sup> and requires that the state guarantee that the broadest pool of eligible voters be allowed to cast ballots. Unreasonable restrictions on universal suffrage include those based on:

- Excessive residency requirements<sup>33</sup>
- Naturalized citizenship<sup>34</sup>

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<sup>23</sup> 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; ECOWAS, Protocol on Democracy and Good Governance, art. 33(1)

<sup>24</sup> U.N., Vienna Convention, art. 27

<sup>25</sup> Id.

<sup>26</sup> U.N. (CCPR), General Comment 25, para. 4

<sup>27</sup> U.N. (CCPR), General Comment 25, para. 4

<sup>28</sup> 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

<sup>29</sup> U.N. (CESCR), Siracusa Principles, para. C.51–53

<sup>30</sup> U.N. (CCPR), General Comment 25, para. 9

<sup>31</sup> CoE (Venice Commission), Code of Good Practice, para. I.1.6

<sup>32</sup> 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

<sup>33</sup> See OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 11, with regard to reasonable residency requirements

<sup>34</sup> U.N., ICCPR, art. 25(b); U.N. (CCPR), General Comment 25, para. 3

- Criminal conviction (disproportionate to the severity of the crime or blanket disenfranchisement provisions)<sup>35</sup>
- Surpassing the legal age of majority<sup>36</sup>
- Race<sup>37</sup>
- Sex<sup>38</sup>
- Religion<sup>39</sup>
- Any form of disability: physical, mental, intellectual, or psychosocial<sup>40</sup>
- Political or other opinion<sup>41</sup>
- National or social origin<sup>42</sup>
- Sexual orientation or gender identity<sup>43</sup>
- Language<sup>44</sup>
- Birth or other status<sup>45</sup>
- Literacy<sup>46</sup>
- Education<sup>47</sup>
- Property ownership<sup>48</sup>
- Party membership<sup>49</sup>
- Status as an internally displaced person<sup>50</sup>
- Economic circumstances<sup>51</sup>

International treaties add that accommodation should be made to facilitate voting by people with disabilities<sup>52</sup> or by those with special needs.<sup>53</sup>

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<sup>35</sup> 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

<sup>36</sup> OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 10; U.N., CRC, art. 1

<sup>37</sup> U.N., ICCPR, arts. 2 and 25

<sup>38</sup> U.N., ICCPR, arts. 2 and 25

<sup>39</sup> U.N., ICCPR, arts. 2 and 25

<sup>40</sup> U.N., CRPD, art. 29; U.N. (CRPD), General Comment 1, para. 6, 16, 26, 48, 49; U.N. (CRPD), General Comment 6, para. 49(a)

<sup>41</sup> U.N., ICCPR, arts. 2 and 25

<sup>42</sup> U.N., ICCPR, arts. 2 and 25

<sup>43</sup> EU, Charter on Fundamental Rights, art. 21(2); U.N. (CCPR), Toonen v. Australia (1994); U.N. (CESCR), General Comment 20, para. 32

<sup>44</sup> U.N., ICCPR, art. 2

<sup>45</sup> U.N., ICCPR, arts. 2 and 25

<sup>46</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>47</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>48</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>49</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>50</sup> UNGA, Guiding Principles on Internal Displacement, Principle 4.1

<sup>51</sup> U.N., Human Rights and Elections, 1st ed., p. 65

<sup>52</sup> U.N., CRPD, art. 29(a); AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 15(2).c-e, 21(2)c; U.N. (CRPD), General Comment 6, para. 24, 42, 70;c; U.N. (CRPD), General Comment 2, para. 26

<sup>53</sup> U.N. (CCPR), General Comment 25, para. 21

## **Equal Suffrage**

International and regional treaties protect the right to an election held by equal suffrage.<sup>54</sup> 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.<sup>55</sup>

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.<sup>56</sup>

## **Secret Ballot**

International and regional treaties state that everyone has the right to cast their ballot in secret.<sup>57</sup> This includes people with disabilities.<sup>58</sup> 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.<sup>59</sup> 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.<sup>60</sup>

## **Prevention of Corruption**

International and regional treaties are clear that states should take measures to prevent corruption.<sup>61</sup> 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.<sup>62</sup> Some treaty sources and political commitments emphasize that civil servants and public officials should be obliged by law to act neutrally and impartially.<sup>63</sup> Treaty sources define corruption as including:

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<sup>54</sup> 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

<sup>55</sup> U.N. (CCPR), General Comment 25, para. 21

<sup>56</sup> EISA and ECF for SADC Countries, PEMMO, 25; OSCE (ODIHR), Election Observation Handbook (Ed. 6), p. 59

<sup>57</sup> 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

<sup>58</sup> U.N., CRPD, art. 29(a)(ii)

<sup>59</sup> U.N. (CCPR), General Comment 25, para. 20

<sup>60</sup> EU, Handbook (Ed. 2), p. 79

<sup>61</sup> U.N., UNCAC, art. 18; AU, ACDEG, art. 7(1); OAC, IACAC, art. 11(2); CIS, Convention on Democratic Elections, art. 3(6)

<sup>62</sup> U.N., UNCAC, art. 8(1)

<sup>63</sup> AU, Charter on Values and Principles of Public Service and Administration, art. 9.1; CoE (Committee of Ministers), Recommendation (2007)<sup>7</sup> on Good Administration, art. 3-5

- The solicitation or acceptance of something of value in exchange for an advantage<sup>64</sup>
- The offering or granting of something of value in exchange for an act or omission in the performance of a public function<sup>65</sup>
- Fraudulent use or concealment of property derived from corrupt activities<sup>66</sup>
- Participation or conspiracy to commit corrupt activities<sup>67</sup>
- Any act or omission of official functions by a public official to gain illicit benefits<sup>68</sup>
- 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 party<sup>69</sup>
- Improper influence<sup>70</sup>

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.<sup>71</sup> 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.<sup>72</sup> Women as well as men have the right to participate in the public affairs of their country.<sup>73</sup> International treaties also explicitly protect the rights of people with disabilities and members of minority groups to participate in public affairs.<sup>74</sup>

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<sup>64</sup> AU, Convention on Corruption, art. 4

<sup>65</sup> U.N., UNCAC, art. 19; AU, Convention on Corruption, art. 4; OAC, IACAC, art. VI; GRECO, Criminal Law Convention, art. 2

<sup>66</sup> AU, Convention on Corruption, art. 4; OAS, IACAC, art. VI

<sup>67</sup> Id.

<sup>68</sup> Id.

<sup>69</sup> Id.

<sup>70</sup> U.N., UNCAC, art. 18; AU, Convention on Corruption, art. 4

<sup>71</sup> 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)

<sup>72</sup> 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)

<sup>73</sup> U.N., CEDAW, art. 7(c)

<sup>74</sup> U.N., ICERD, art. 5(c); U.N., CRPD, art. 29(b)(1)

State practice sources suggest that states have the obligation to respect the right of civil society groups (including citizen observer organizations) to engage in the political and electoral process without any unreasonable restrictions, hindrance, or insecurity, including granting accreditation to allow such activities.<sup>75</sup> States should create, in law and practice, an enabling environment for civil society organizations and facilitate their effective participation in public decision-making processes.<sup>76</sup>

**Observation.** Regional treaties are clear that the participation of observers, both citizen and international, may enhance all aspects of the electoral process<sup>77</sup> and should be facilitated.

### Right and Opportunity to Vote

International and regional treaties protect the right to vote.<sup>78</sup> Unlike most other rights in the ICCPR and other documents, the right to vote is often restricted to citizens, though resident noncitizens also may be entitled to vote.<sup>79</sup> 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 requirements<sup>80</sup>
- Naturalized citizenship<sup>81</sup>
- Criminal conviction (disproportionate to the severity of the crime or blanket disenfranchisement provisions)<sup>82</sup>
- Status as a remanded prisoner yet to be convicted of an offense<sup>83</sup>
- Surpassing the legal age of majority<sup>84</sup>
- Race<sup>85</sup>
- Sex<sup>86</sup>
- Religion<sup>87</sup>

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<sup>75</sup> U.N., Report of the Special Representative to the Secretary General on Human Rights Defenders (2006), para. 106

<sup>76</sup> UN (CRPD), General Comment No. 6, para. 70.d; OIF, Bamako Declaration, para. 2.6; CoE (PACE), Resolution 2226(2018) on New Restrictions on NGO Activities, para. 10.5

<sup>77</sup> AU, ACDEG, arts. 19-22; CIS, Convention on Democratic Elections, art. 1(2); OSCE, Copenhagen Document, para. 8; OAS, IADC, arts. 23-25

<sup>78</sup> 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

<sup>79</sup> CoE, Convention on the Participation of Foreigners, 5.II.1992, art. 6(1)

<sup>80</sup> See OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 11 with regard to reasonable residency requirements.

<sup>81</sup> U.N., ICCPR, art. 25(b); U.N. (CCPR), General Comment 25, para. 3

<sup>82</sup> 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

<sup>83</sup> U.N. (CCPR), Fongum Gorji-Dinka v Cameroon, Communication No. 1134/2002 (2005), p. 6

<sup>84</sup> OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 10; U.N., CRC, art. 1

<sup>85</sup> U.N., ICCPR, arts. 2 and 25

<sup>86</sup> U.N., ICCPR, arts. 2 and 25

<sup>87</sup> U.N., ICCPR, arts. 2 and 25

- Any form of disability: physical, mental, intellectual, or psychosocial<sup>88</sup>
- Political or other opinion<sup>89</sup>
- National or social origin<sup>90</sup>
- Sexual orientation or gender identity<sup>91</sup>
- Language<sup>92</sup>
- Birth or other status<sup>93</sup>
- Literacy<sup>94</sup>
- Education<sup>95</sup>
- Property ownership<sup>96</sup>
- Party membership<sup>97</sup>
- Status as an internally displaced person<sup>98</sup>
- Economic circumstances<sup>99</sup>

Interpretive sources indicate that even reasonable restrictions may have a disproportionate or indirect impact on the enjoyment of rights by women.<sup>100</sup> In addition, they suggest that states should ensure that reasonable restrictions do not disproportionately impact minority groups.<sup>101</sup> The right to vote cannot be restricted on the basis of individualized decisions taken by a judge.<sup>102</sup> To promote as broad voter participation as possible and to give effect to rights, states should pursue policies encouraging the participation of the youth in public affairs and decision-making processes affecting them.<sup>103</sup>

### **Right and Opportunity to Be Elected**

International and regional treaties protect the right of every citizen to be elected,<sup>104</sup> subject only to objective and reasonable restrictions. Unreasonable restrictions include, but are not limited to, those based on:

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<sup>88</sup> U.N., CRPD, art. 29; U.N. (CRPD), General Comment 1, para. 6, 16, 26, 48, 49; U.N. (CRPD), General Comment 6, para. 49(a)

<sup>89</sup> U.N., ICCPR, arts. 2 and 25

<sup>90</sup> U.N., ICCPR, arts. 2 and 25

<sup>91</sup> EU Charter on Fundamental Rights, art. 21(2); U.N. (CCPR), *Toonen v. Australia* (1994); U.N. (CESCR), General Comment 20, para. 32

<sup>92</sup> U.N., ICCPR, art. 2

<sup>93</sup> U.N., ICCPR, arts. 2 and 25

<sup>94</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>95</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>96</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>97</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>98</sup> UNGA, Guiding Principles on Internal Displacement, Principle 4.1

<sup>99</sup> U.N., Human Rights and Elections, p. 65

<sup>100</sup> U.N., CEDAW, General Recommendation 23, para. 18

<sup>101</sup> U.N. (CCPR), Concluding Observations, United States of America (2006), para. 35

<sup>102</sup> U.N. (CRPD), Concluding Observations, Spain (2011), para. 48

<sup>103</sup> AU, African Youth Charter, art. 23.1.b; EU (Council), Resolution on EU Youth Strategy 2019–2027, p. 3–4

<sup>104</sup> 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)

- Excessive residency requirements<sup>105</sup>
- Naturalized citizenship<sup>106</sup>
- Criminal conviction (disproportionate to the severity of the crime or blanket disenfranchisement provisions)<sup>107</sup>
- Surpassing the legal age of majority<sup>108</sup>
- Race<sup>109</sup>
- Sex<sup>110</sup>
- Religion<sup>111</sup>
- Any form of disability<sup>112</sup>
- Political or other opinion<sup>113</sup>
- National or social origin<sup>114</sup>
- Sexual orientation or gender identity<sup>115</sup>
- Language<sup>116</sup>
- Birth or other status<sup>117</sup>
- Literacy<sup>118</sup>
- Education<sup>119</sup>
- Property ownership<sup>120</sup>
- Party membership<sup>121</sup>
- Status as an internally displaced person<sup>122</sup>
- Economic circumstances<sup>123</sup>
- Holding a position that does not constitute a conflict of interest if also holding elective office<sup>124</sup>
- Excessive monetary fees or deposits<sup>125</sup>

Interpretive sources indicate that even reasonable restrictions may have a disproportionate or indirect impact on the enjoyment of

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<sup>105</sup> See OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 11 with regard to reasonable residency requirements. CoE, Convention on the Participation of Foreigners, art. 6.1

<sup>106</sup> U.N., ICCPR, art. 25(b); U.N. (CCPR), General Comment 25, para. 3

<sup>107</sup> 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

<sup>108</sup> OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 10; U.N., CRC, art. 1

<sup>109</sup> U.N., ICCPR, arts. 2 and 25

<sup>110</sup> U.N., ICCPR, arts. 2 and 25

<sup>111</sup> U.N., ICCPR, arts. 2 and 25

<sup>112</sup> U.N., CRPD, art. 29

<sup>113</sup> U.N., ICCPR, arts. 2 and 25

<sup>114</sup> U.N., ICCPR, arts. 2 and 25

<sup>115</sup> EU, Charter on Fundamental Rights, art. 21(2); U.N. (CCPR), Toonen v. Australia (1994); U.N. (CESCR), General Comment 20, para. 32

<sup>116</sup> U.N., ICCPR, art. 2

<sup>117</sup> U.N., ICCPR, arts. 2 and 25

<sup>118</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>119</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>120</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>121</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>122</sup> UNGA, Guiding Principles on Internal Displacement, Principle 4.1

<sup>123</sup> U.N., Human Rights and Elections, 1st ed., p. 65

<sup>124</sup> U.N. (CCPR), General Comment 25, para. 16

<sup>125</sup> U.N. (CCPR), General Comment 25, para. 16

rights by women.<sup>126</sup> In addition, they suggest that states should ensure that reasonable restrictions do not disproportionately impact minority groups.<sup>127</sup>

Other state practice sources indicate that the loss of the right to be elected may only be imposed after adjudication by a court.<sup>128</sup>

As a positive duty to promote as broad electoral participation as possible, states are called upon to pursue policies that encourage the involvement of the youth in public affairs and decision-making processes affecting them, including as candidates.<sup>129</sup>

### **Equality Between Men and Women<sup>130</sup>**

Treaty sources make clear that women should enjoy equal rights to men<sup>131</sup> and that in some cases states should take temporary special measures to achieve de facto equality for women.<sup>132</sup>

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.<sup>133</sup> Interpretive sources also indicate that measures taken to ensure equitable representation of women should not be considered discriminatory.<sup>134</sup> 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.<sup>135</sup>

### **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

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

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

128 OSCE, Moscow Document, para. 18

129 AU, African Youth Charter, art. 23.1.b; EU (Council), Resolution on EU Youth Strategy 2019-2027, p. 3-4

130 U.N., CEDAW, arts. 3-4

131 U.N., ICCPR, art. 3; AU, African Youth Charter, art. 23(1)b; AU, AfCHPR, art. 2(1)(a); AU, Protocol to the AfCHPR on the Rights of Women, art. 8; CoE, ECHR, art. 23; EU, Charter on Fundamental Rights, art. 23; CIS, Convention on Human Rights, art. 20(1)

132 U.N., CEDAW, art. 3, 4(1), 7; AU, Protocol to the AfCHPR on the Rights of Women, art. 2.1.d, 9.1(a-c); AU, ACDEG, art. 29.3

133 OAS, IADC, art. 5; U.N., CEDAW, General Recommendation 23, para.15, 29, 45(a), General Recommendation 28, para. 9, General Recommendation 30, para IV.B.9.72, IV.B.9.73.c-d

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

135 U.N., CEDAW, General Recommendation 25, para. 35; UN Women, Beijing Declaration and Platform for Action, para. 190(e), UN Women, UNDP, Guide on Gender Equality and Women's Participation, p. 49

exercise of human rights and fundamental freedoms.<sup>136</sup> 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,<sup>137</sup> physical or mental ability,<sup>138</sup> birth, or other status at any time.<sup>139</sup> 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.<sup>140</sup> Where linguistic minorities exist, those that belong to such minorities should not be denied the right to use their own language.<sup>141</sup>

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.<sup>142</sup> Everyone has the right of equal access to any place or service intended for use by the public.<sup>143</sup>

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;<sup>144</sup> for example, by promulgating antidiscrimination legislation,<sup>145</sup> amending or repealing any discriminatory laws, and mainstreaming guarantees of rights, including of women and people with disabilities, into broader legislation and policies.<sup>146</sup>

## 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.<sup>147</sup> These measures should not be maintained after the objectives for which they were taken are met and should not result

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<sup>136</sup> 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

<sup>137</sup> EU, Charter on Fundamental Rights, art. 21(2); U.N. (CCPR), Toonen v Australia (1994); U.N. (CESCR), General Comment 20, para. 32

<sup>138</sup> U.N., CRPD, art. 4; OAS, Inter-American Convention on the Rights of People with Disabilities, art. 2(c)

<sup>139</sup> U.N., ICCPR, art. 25; AU, AfCHPR, art. 2; OAS, ACHR, art. 1; CIS, Convention on Human Rights, art. 20

<sup>140</sup> U.N., ICERD, art. 1

<sup>141</sup> 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)

<sup>142</sup> U.N., ICCPR, art. 26; OAS, ACHR, art. 24; AU, AfCHPR, art. 8; CIS, Convention on Human Rights, art. 20(1); ASEAN, Human Rights Declaration, art. 3

<sup>143</sup> U.N., ICERD, art. 5; U.N., CRPD, art. 9; AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 15(1), 21(2c)

<sup>144</sup> U.N. (CCPR), General Comment 28, para. 21

<sup>145</sup> U.N., Report on the Working Group of Experts on People of African Descent, para. 82

<sup>146</sup> U.N. (CRPD), General Comment 6, para. 14

<sup>147</sup> U.N., ICERD, art. 1

in the maintenance of unequal rights for different groups.<sup>148</sup> In order to ensure equal opportunity for people belonging to minority groups, it is recommended that states collect disaggregated data.<sup>149</sup>

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.<sup>150</sup> A growing body of treaty and interpretive sources call on states to introduce reasonable accommodations to the existing voting environment to facilitate effective participation of people with disabilities<sup>151</sup> and to ensure that all new infrastructure, materials, communication, and services intended for public use comply with universal design requirements.<sup>152</sup>

### **Freedom of Assembly**

International and regional treaties recognize freedom of assembly as essential to democratic elections, especially for candidates and political parties.<sup>153</sup> Freedom of assembly may only be restricted under circumstances prescribed by law and necessary in a democratic society.<sup>154</sup> These include:

- National security<sup>155</sup>
- Public safety<sup>156</sup>
- Public order<sup>157</sup>
- Public health and morals
- The protection of the rights and freedoms of others<sup>158</sup>

Interpretive sources emphasize that everyone is entitled to protection under the law when peacefully opposing acts that violate human rights.<sup>159</sup> They also stress, as elaborated upon in state practice documents, that all forms of peaceful assembly are protected,

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148 U.N., ICERD, art. 1

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

150 U.N., CRPD, art. 5

151 AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 15(2)c-e, 21(2)c; U.N. (CRPD), General Comment 6, para. 24, 42, 70;c; U.N. (CRPD), General Comment 2, para. 26

152 AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 15.2.c-e, U.N. (CRPD), General Comment 6, para. 24(a); U.N. (CRPD), General Comment 2, para. 15, 25

153 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); ASEAN, Human Rights Declaration, art. 24

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

155 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)

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

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

159 U.N. (CCPR), General Comment No. 37, para. 5, 17; UNGA, Declaration on the Right and Responsibility, art. 12.3

including online meetings and online activities to plan, organize, and mobilize for assemblies.<sup>160</sup>

Interpretive sources also make it clear that there should be no requirement to obtain a permission to hold an assembly.<sup>161</sup> Where a prior notification of authorities of a planned assembly is necessary, applicable procedures should be clear and simple, and not serve as a hurdle.<sup>162</sup>

## **Freedom of Association**

International and regional treaties protect freedom of association.<sup>163</sup> Freedom of association is critical in the context of political parties and campaign activities and includes the ability to freely establish political parties.<sup>164</sup> Restrictions must be prescribed by law and be necessary in a democratic society.<sup>165</sup> These include those in the interests of:

- National security<sup>166</sup>
- Public safety<sup>167</sup>
- Public order<sup>168</sup>
- Public health and morals<sup>169</sup>
- The protection of the rights and freedoms of others<sup>170</sup>

Restrictions on freedom of association – on the basis that ideas that are not favorable to the government will be promoted – are unreasonable.<sup>171</sup> Lawful restrictions on the freedom of association may be placed on members of the armed forces and police.<sup>172</sup> Political commitments and state practice sources suggest that while some regulation to foster transparency and democratic practices by political parties also may be acceptable, parties should generally be free to determine their internal policies.<sup>173</sup>

Interpretation offered by the U.N. Human Rights Committee makes it clear that some individual rights can also be enjoyed in groups

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<sup>160</sup> U.N. (CCPR), General Comment No. 37, para. 6, 13, 19; CoE (Committee of Ministers), Recommendation (2016)5, para. 3(3), 3(5)

<sup>161</sup> U.N. (CCPR), General Comment No. 37, para. 70, 73

<sup>162</sup> U.N. (CCPR), General Comment No. 37, para. 70, 73; U.N. (CCPR), Concluding Observations on Cyprus (1994), paras. 312–333

<sup>163</sup> 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)

<sup>164</sup> AU, ACDEG, art. 3(11); U.N. (CCPR), General Comment 25, para. 26

<sup>165</sup> 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)

<sup>166</sup> 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

<sup>167</sup> Ibid.

<sup>168</sup> Ibid.

<sup>169</sup> Ibid.

<sup>170</sup> Ibid.

<sup>171</sup> U.N. (CCPR), Victor Korneenko et al. v Belarus (2006), para. 7.3

<sup>172</sup> U.N., ICCPR, art. 22

<sup>173</sup> OIF, Bamako Declaration, art. 2(5); OSCE (ODIHR), CoE (Venice Commission), Guidelines on Political Party Regulation (Ed. 2), para. 22, 28

with others.<sup>174</sup> 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.<sup>175</sup>

Political commitments add that national law should not unjustifiably restrict the ability of any person to join a nongovernmental organization and that states should create an enabling environment, recognize accredited organizations, and facilitate those organizations' ability to conduct their activities free from any hindrance, harassment, or insecurity.<sup>176</sup> Protection also should extend to the ability of civil society organizations to seek, receive, and use resources, including funding.<sup>177</sup> Any act or omission by a governmental organ that affects a nongovernmental organization should be subject to administrative review and open to challenge.<sup>178</sup> While specific documentation may be required to establish a nongovernmental organization, the administrative process for registration should be applied with minimum margin of discretion.<sup>179</sup>

### 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.<sup>180</sup> It includes the ability of citizens who are abroad to return (where the law allows) to their country to participate in elections.<sup>181</sup> Any restriction of the right to freedom of movement must be proportionate to the interests it intends to protect.<sup>182</sup> Restrictions may include those in the interests of:

- National security<sup>183</sup>
- Public order<sup>184</sup>
- Public health or morals<sup>185</sup>

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<sup>174</sup> U.N. (CCPR), General Comment 31, para. 9

<sup>175</sup> U.N., CEDAW, art. 7; U.N., CRPD, art. 29; AU, ACDEG, art. 27

<sup>176</sup> CoE, Fundamental Principles on NGOs, p. 4; OSCE, Moscow Document, para. 43

<sup>177</sup> CoE (PACE), Resolution 2226(2018), para. 10.3-4; EP, Resolution 2016/2324(INI)], para. 3, 6; CoE (Committee of Ministers), Recommendation (2018)11, para. I.c, III.a

<sup>178</sup> CoE, Fundamental Principles on NGOs, p. 2

<sup>179</sup> CoE (Committee of Ministers), Guidelines to Promote the Development of NGOs, paras. 12-13

<sup>180</sup> 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

<sup>181</sup> U.N., ICCPR, art. 12(2); AU, AfCHPR, art. 12(2); CIS, Convention on Human Rights, art. 22(2)

<sup>182</sup> U.N. (CCPR), General Comment 27, para. 14

<sup>183</sup> U.N., ICCPR, art. 12(3); AU, AfCHPR, art. 12(3); OAS, ACHR, art. 22(3); CIS, Convention on Human Rights, art. 22(3)

<sup>184</sup> Id.

<sup>185</sup> U.N., ICCPR, art. 12; AU, AfCHPR, art. 12(3); CIS, Convention on Human Rights, art. 22(3)

- Protection of the rights and freedoms of others<sup>186</sup>
- Prevention of a crime<sup>187</sup>

Political commitments add that those displaced in advance of an election should have the opportunity to return on election day to cast their ballots or to temporarily change residence and be included in voter lists at a place of stay.<sup>188</sup>

### **Freedom of Opinion and Expression**

International and regional treaties protect freedom of opinion and expression.<sup>189</sup> 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,<sup>190</sup> or the internet.<sup>191</sup> Freedom of expression also protects the right to communicate freely with international bodies.<sup>192</sup>

Freedom of expression may only be restricted under certain circumstances as are prescribed by law and are necessary in a democratic society.<sup>193</sup> Such restrictions include those that:

- Are in the interests of national security<sup>194</sup>
- Protect territorial integrity<sup>195</sup>
- Are in the interests of public safety<sup>196</sup>
- Maintain the authority and impartiality of the judiciary<sup>197</sup>
- Prevent disclosure of information received in confidence<sup>198</sup>

Freedom of expression may be restricted when an expression seeks to destroy other established rights<sup>199</sup> or for the protection of the rights and freedoms of others.<sup>200</sup> Any advocacy of national, racial,

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<sup>186</sup> U.N., ICCPR, art. 12; OAS, ACHR, art. 22(3); CIS, Convention on Human Rights, art. 22(3)

<sup>187</sup> OAS, ACHR, art. 22

<sup>188</sup> UNGA, Guidelines on Internal Displacement, para. 22(1)(c-d); CoE (Congress of the Council of Europe), Local Voting Rights for the Integration of Migrants and IDPs, pp. 5-6, 22, 24

<sup>189</sup> U.N., ICCPR, art. 19; AU, AfCHPR, 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

<sup>190</sup> U.N., ICCPR, art. 19

<sup>191</sup> U.N. (CCPR), General Comment 34, para. 12

<sup>192</sup> AU, ACDEG, art. 27(8)

<sup>193</sup> 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

<sup>194</sup> 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)

<sup>195</sup> CoE, ECHR, art. 10

<sup>196</sup> OAS, ACHR, art. 13(2); LAS, Arab Charter, art. 32(2); CoE, ECHR, art. 10(2); CIS, Convention on Human Rights, art. 11(2)

<sup>197</sup> CoE, ECHR, art. 10

<sup>198</sup> CoE, ECHR, art. 10

<sup>199</sup> U.N., ICCPR, art. 5

<sup>200</sup> 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)

or religious hatred that constitutes incitement to discrimination, hostility, or violence should be prohibited by law.<sup>201</sup>

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.<sup>202</sup>

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.<sup>203</sup>

Political commitments state that the right to freedom of expression applies to all forms of media, including the internet.<sup>204</sup> Interpretive and state practice sources elaborate that internet freedom, including access to online resources and digital tools in the context of electoral campaigns, should be protected as essential to the exercise of human rights online.<sup>205</sup> 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.<sup>206</sup>

Freedom of expression also entails a duty for a state to create and protect an enabling environment for the work of the media and journalists. Editorial independence, including of online media, should be safeguarded and free from political or economic interference.<sup>207</sup> Safety and ability of journalists and other media actors to work in full freedom should be protected, with any offline and online harassment and violence promptly investigated and liability imposed.<sup>208</sup>

### **Transparency and Access to Information**

International and regional treaties establish that everyone has the right to seek and receive information.<sup>209</sup> 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

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

202 OAS, ACHR, art. 13

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

204 CoE (Committee of Ministers), Declaration CM(2005)56, para. I.1; CoE (Committee of Ministers): Recommendation (2016)5, para. 2(4); UNHRC, Resolution 38/7, para. 1

205 U.N. (CCPR), General Comment 34, para. 12, General Comment No. 37, para. 34; CoE (PACE), Resolution 2256(2019), para. 3; CoE (Committee of Ministers), Recommendation (2016)5, para. 2-3

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

207 CoE (Committee of Ministers), Declaration on the guarantee of independence of public service broadcasting, para. 7

208 UNHRC: Resolution 39/6 on Safety of Journalists, para. 9.a; CoE (Committee of Ministers), Recommendation (2016)4, para. I.17; U.N. (OHCHR), OAS, ACHPR, OSCE, Joint Declaration on Media Independence and Diversity in the Digital Age, para. 2.a

209 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)

of the obligation to prevent corruption, a strong argument can be made for an obligation for transparency in the electoral process.<sup>210</sup> International treaties and interpretive sources emphasize that states should proactively put government information of public interest in the public domain.<sup>211</sup> This includes information regarding the electoral process.

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

- National security<sup>212</sup>
- Protecting territorial integrity<sup>213</sup>
- Public safety<sup>214</sup>
- Maintaining the authority and impartiality of the judiciary<sup>215</sup>
- The prevention of disclosure of information received in confidence<sup>216</sup>

In addition, access to information may be restricted in order to protect the rights and freedoms of others<sup>217</sup> and when an expression seeks to destroy other established rights.<sup>218</sup> It also may be restricted to protect personal data.<sup>219</sup>

States should take steps to ensure access to information for people with disabilities without additional cost.<sup>220</sup>

As part of an obligation to ensure transparency and to guarantee the right to seek and receive information, states also are bound by personal data protection principles. A growing body of public international law sources emphasize the right of every person to know whether his/her personal data is being processed, to access it in intelligible format,<sup>221</sup> and to correct any wrong data.<sup>222</sup> Data controllers also are called upon to provide clear and accessible information about their data collection policies and practices<sup>223</sup>

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<sup>210</sup> U.N., UNCAC, art. 10(a) and 13(1)(b)(d); AU, Convention on Corruption

<sup>211</sup> U.N., UNCAC, art. 10; CoE, Convention on Access to Official Documents, art. 2(1); U.N. (CCPR), General Comment 34, para. 19

<sup>212</sup> 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)

<sup>213</sup> CoE, ECHR, art. 10

<sup>214</sup> OAS, ACHR, art. 13(2); LAS, Arab Charter, art. 32(2); CoE, ECHR, art. 10(2); CIS, Convention on Human Rights, art. 11(2)

<sup>215</sup> CoE, ECHR, art. 10

<sup>216</sup> CoE, ECHR, art. 10

<sup>217</sup> U.N., ICCPR, art. 25

<sup>218</sup> U.N., ICCPR, art. 25

<sup>219</sup> 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)

<sup>220</sup> U.N., CRPD, art. 9

<sup>221</sup> EU, GDPR, art. 5(1)d; U.N. (CCPR), General Comment 34, para. 18; U.N. (CCPR), General Comment 16, para. 10

<sup>222</sup> EU, GDPR, art. 5(1)d; U.N. (CCPR), General Comment 34, para. 18; U.N. (CCPR), General Comment 16, para. 10

<sup>223</sup> EU, GDPR, art. 5(1)a; OECD, Recommendation Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, para. 12; UNGA, Resolution 73/179 on the Right to Privacy in the Digital Age, para. 7(b); CoE (Committee of Ministers), Recommendation (2018)2 on the Roles and Responsibilities of Internet Intermediaries, para. 2.2.1–3

to ensure that data collection is minimized, relevant, and limited to purposes pursued<sup>224</sup> as well as to protect it from unauthorized disclosure, loss, modification, or other misuses.<sup>225</sup>

With political commitments and state practice sources emphasizing that the obligation to respect and uphold human rights also applies to business enterprises,<sup>226</sup> data protection principles are as important for nonstate actors. This includes, for instance, internet intermediaries.<sup>227</sup>

### **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.<sup>228</sup>

Interpretive sources specifically highlight the need for voters to be protected from interference, coercion, or intimidation.<sup>229</sup>

State practice sources suggest that this obligation also requires law enforcement to behave in a neutral manner during the electoral process.<sup>230</sup> Any security-related restrictions of freedoms and the use of force by public security providers must be based in law, necessary, and proportionate to the objective of maintaining public order.<sup>231</sup> Any malfeasance, unlawful actions, or omissions by public security providers should be promptly investigated and entail appropriate liability set by law.<sup>232</sup>

### **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.<sup>233</sup> 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

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<sup>224</sup> EU, GDPR, art. 5(1)b,c; CoE (Committee of Ministers), Recommendation (2012)3 on the Protection of Human Rights with Regard to Search Engines, para. 7, 10; APEC, Privacy Framework, para. 24; OECD, Recommendation Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, para. 8

<sup>225</sup> EU, GDPR, art. 5.1.d, f

<sup>226</sup> U.N. (OHCHR), Guiding Principles on Business and Human Rights, para. II.A.11-13

<sup>227</sup> CoE (Committee of Ministers), Recommendation (2018)2, para. 2.5.1-3, Recommendation (2016)1, para. 6.1; U.N. (OHCHR), Freedom of Expression and Elections in the Digital Age, p. 13

<sup>228</sup> 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

<sup>229</sup> U.N. (CCPR), General Comment 25, para. 11

<sup>230</sup> EU, Handbook (Ed. 2) p. 52

<sup>231</sup> U.N. (CCPR), General Comment No. 37, para. 78; OSCE (ODIHR), Guidelines for Public Security Providers in Elections, p. 22

<sup>232</sup> U.N. (CCPR), General Comment 37, para 78, 90; UNHRC, Report of the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, Philip Alston: Addendum on Election-Related Violence and Killings, para. 57

<sup>233</sup> U.N., ICCPR, art. 2; OAS, ACHR, art. 25; CoE, ECHR, art. 13

should be available for complaints arising throughout the electoral process, including the ability to challenge results.<sup>234</sup>

Effective redress requires that disputes be dealt with in a timely manner<sup>235</sup> and that states must enforce the remedy when granted.<sup>236</sup>

Interpretive sources expand upon this obligation, stating that a recurrence of a rights violation must be prevented.<sup>237</sup> In addition, cessation of a violation is an essential element of an effective remedy.<sup>238</sup> An effective remedy may require reparation or, at times, may require states to take interim measures.<sup>239</sup>

### **Right to a Fair and Public Hearing<sup>240</sup>**

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.<sup>241</sup> They add that fair trial must be expeditious<sup>242</sup> and that the independence and impartiality of tribunals are absolute rights.<sup>243</sup> This right must be protected except for specific and objective reasons as determined by law.<sup>244</sup>

The right to appeal is not guaranteed in the determination of a suit at law,<sup>245</sup> and the obligation for a public hearing does not necessarily apply to appellate proceedings.<sup>246</sup>

Interpretive sources suggest that the notion of a fair trial includes the guarantee of a fair and public hearing, absent of influence,<sup>247</sup> which requires an independent, impartial, and competent tribunal.<sup>248</sup> While interpretive sources are clear that any body that meets the criteria of impartiality and independence can be considered a tribunal,<sup>249</sup> 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.<sup>250</sup> An electoral management body, with executive powers, would not meet

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234 ECOWAS, Protocol on Democracy and Good Governance, art. 7

235 AU, AfCHPR, art. 7

236 U.N., ICCPR, art. 2

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

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

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

240 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-à-vis his opponent.” (Hentrich v France)

241 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)

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

243 U.N., ICCPR, art. 14

244 U.N., ICCPR, art. 14

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

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

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

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

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

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

 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.

–Henrich v France

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 of arms and equal access to the courts.<sup>251</sup> Fees that de facto prevent access to the courts may violate the obligation of equal access to the courts.<sup>252</sup> 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.<sup>253</sup> Impartiality requires that judges act without bias and that the tribunal appears unbiased to the reasonable observer.<sup>254</sup> While a fair and public hearing is one essential means of promoting an effective remedy for violations of other fundamental rights, remedy also must be available for violations of the right to a fair and public hearing itself.<sup>255</sup>

## 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, 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.

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

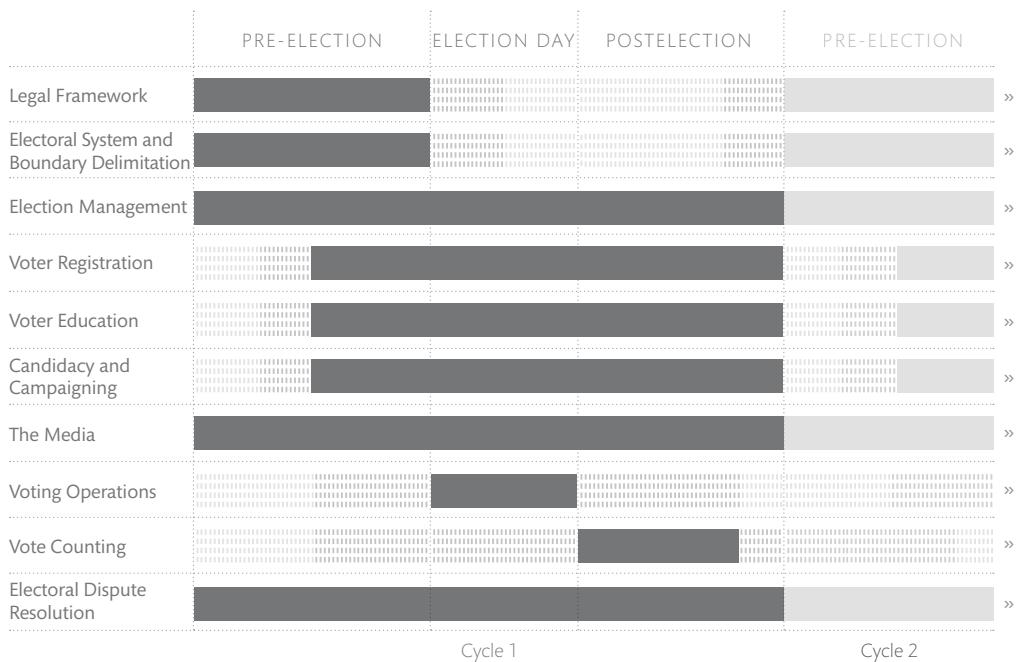
252 U.N. (CCPR), General Comment 32, para. 11

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

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

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

**Chart 2: Parts of the Electoral Process**



- 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.
- 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.

**Chart 3: Relevant Obligations**

	LEGAL FRAMEWORK	ELECTORAL SYSTEM AND BOUNDARY DELIMITATION	ELECTION MANAGEMENT	VOTER REGISTRATION	VOTER EDUCATION	CANDIDACY AND CAMPAIGNING	THE MEDIA	VOTING OPERATIONS	VOICE 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

Based on a close review of nearly 300 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.

# 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.

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 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.

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 **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**

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.

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

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.

Definitions of key terms are included as needed.

A derogation is a relaxation of adherence to an obligation.

operation of the adopted system should be elaborated in the electoral act.<sup>263</sup>

**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.<sup>264</sup> 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.<sup>265</sup>

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

### Derogation of Obligations

#### Key Obligations:

- Periodic Elections
- 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.<sup>266</sup> Dérogation measures cannot undermine the exercise of rights protected to a greater extent by other international obligations of the state.<sup>267</sup>

Political commitments also support a state using the least restrictive means required when applying a limitation to rights.<sup>268</sup>

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

**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.<sup>269</sup> 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

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

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

265 U.N. (CCPR), Gen

266 U.N. (CCPR), Gen

267 U.N., ICCPR, art

268 U.N. (CESCR), Sec

269 U.N., ICCPR, art

**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.**





## 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
- Transparency and Access to Information
- Right to Security of the Person
- Right and Opportunity to Participate in Public Affairs
- Right and Opportunity to Vote
- Freedom of Association
- Freedom of Assembly
- 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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**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 electoral management body (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

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\* 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 non-exhaustive 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.<sup>256</sup> 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.<sup>257</sup>

Interpretation for this obligation, for example, from the Human Rights Committee, has made clear that the state's obligation requires unqualified and immediate action, including taking various positive measures.<sup>258</sup> These include educating the population and state officials in human rights<sup>259</sup> and the prevention, punishment, investigation, and/or redress of violations of human rights by nonstate actors.<sup>260</sup>

**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.<sup>261</sup>

**Key aspects of the election process were enshrined in law at the highest level (i.e., 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.<sup>262</sup>

State practice sources indicate that the electoral system should be entrenched in the constitution, while the form, content, and

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<sup>256</sup> U.N., ICCPR, art. 2; AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CoE, ECHR, art. 1; CIS, Convention on Human Rights, art. 1

<sup>257</sup> U.N., Vienna Convention on Treaties, art. 26

<sup>258</sup> U.N. (CCPR), General Comment 31, para. 14

<sup>259</sup> U.N. (CCPR), General Comment 31, para. 7

<sup>260</sup> U.N. (CCPR), General Comment 31, para. 8

<sup>261</sup> U.N. (CCPR), General Comment 25, para. 4

<sup>262</sup> U.N. (CCPR), General Comment 25, para. 5

operation of the adopted system should be elaborated in the electoral act.<sup>263</sup>

### **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.<sup>264</sup> 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.<sup>265</sup>

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

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### **Derogation of Obligations**

#### **Key Obligations:**

- *Periodic Elections*
- *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.<sup>266</sup> Derogation measures cannot undermine the exercise of rights protected to a greater extent by other international obligations of the state.<sup>267</sup>

Political commitments also support a state using the least restrictive means required when applying a limitation to rights.<sup>268</sup>

#### **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.<sup>269</sup> 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

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

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<sup>263</sup> CoE (Venice Commission), Code of Good Practice, sec. II.2.b

<sup>264</sup> U.N. (CCPR), General Comment 25, para. 5

<sup>265</sup> U.N. (CCPR), General Comment 25, para. 4

<sup>266</sup> U.N. (CCPR), General Comment 29, para. 8

<sup>267</sup> U.N., ICCPR, art. 4(1)

<sup>268</sup> U.N. (CESCR), Siracusa Principles, para. A.11

<sup>269</sup> U.N., ICCPR, art. 4(1)



place.<sup>270</sup> Laws governing states of emergency should provide a prompt and independent review by the legislature of the necessity of derogation measures.<sup>271</sup>

### **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.<sup>272</sup>

## **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.<sup>273</sup>

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.<sup>274</sup> 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.<sup>275</sup>
- Promote public participation in decision making.<sup>276</sup>
- Provide the law for public review in the official languages of the country.<sup>277</sup>

### **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 months prior to the election without the consent of a majority of political actors.<sup>278</sup>

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

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

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

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

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

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

276 OAS, IADC, art. 2

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

278 ECOWAS, Protocol on Democracy and Good Governance, art. 2(1)

## **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,<sup>279</sup> and laws are equally enforced.<sup>280</sup> 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.

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

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

- Laws and procedures are not arbitrarily applied.<sup>281</sup>
- Laws are publicly promulgated and available for review.<sup>282</sup>

## **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.<sup>283</sup>

State practice sources make this explicit for violations of electoral law.<sup>284</sup>

## **Establishment, Regulation of, and Membership in Political Parties/Internal Party Policies**

### ***Key Obligations:***

-  **Freedom of Association**

**Regulations and deadlines for legal recognition of political parties were clearly specified. Registration requirements were not so stringent that they jeopardized freedom of association.**

The legal framework should facilitate the establishment and functioning of political parties. Political commitments and state practice sources suggest that while some regulation to foster transparency and democratic practices by political parties may be acceptable, parties should generally be free to determine their internal policies.<sup>285</sup>

## **State Authorities Responsible for Upholding Rights**

### ***Key Obligations:***

-  **Freedom of Association**

<sup>279</sup> U.N., ICCPR, art. 26; OAS, ACHR, art. 24; AU, AfCHPR, art. 8; CIS, Convention on Human Rights, art. 20(1), EU, Charter on Fundamental Rights, art. 20; LAS, Arab Charter, art. 3; ASEAN, Human Rights Declaration, art. 3

<sup>280</sup> U.N., ICCPR, art. 26; AU, AfCHPR, art. 13(3); CIS, Convention on Human Rights, art. 20(1)

<sup>281</sup> U.N. (CCPR), General Comment 25, para. 4

<sup>282</sup> OSCE (ODIHR), Legal Framework (Ed. 1), p. 6

<sup>283</sup> AU, ACDEG, art. 17; U.N. (CCPR), General Comment 31, para. 4

<sup>284</sup> U.N., Human Rights and Elections, para. 118

<sup>285</sup> OIF, Bamako Declaration, art. 2(5); OSCE (ODIHR), CoE (Venice Commission), Guidelines on Political Party Regulation (Ed. 2), para. 22, 28



- **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.**

Treaty documents and interpretive sources emphasize that states have the duty to protect the fundamental rights of all within their jurisdiction.<sup>286</sup> No distinction should be made based on race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. The duty to protect against illegitimate activities by nonstate actors also should be ensured.<sup>287</sup>

Regional treaties indicate that states should ensure transparency in the management of public affairs.<sup>288</sup>

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.<sup>289</sup> This includes the electoral management body, the government, the police, the security services, etc. Interpretive sources also suggest that states should provide education on human rights among public officials and the population at large.<sup>290</sup>

**Citizens were able to participate in public affairs through nongovernmental organizations.**

Political commitments and state practice sources call on states to safeguard the ability of civil society organizations to operate in full freedom, including to seek, receive, and use resources, including funding.<sup>291</sup>

## **Independence and Impartiality of the Electoral Management Body**

**Key Obligations:**

- **Prevention of Corruption**

**Steps were taken to institutionalize efficient and effective public administration.**

The legal framework should create a basis for public administration bodies and staff to act effectively and efficiently. Some treaty

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<sup>286</sup> U.N., ICCPR, 2(1); AU, Protocol to the AfCHPR on the Rights of Older Persons, art. 5(3); U.N. (CCPR), General Comment 31, para. 8; U.N. (CESCR), General Comment 16, para. 17

<sup>287</sup> U.N. (CCPR), General Comment 37, para. 24, 26

<sup>288</sup> AU, ACDEG, art. 3(8); AU, African Charter on Values and Principles of Public Service and Administration, art. 6(1) and 9(1); ECOWAS, Protocol on Democracy and Good Governance, art. 6 and 34(2)

<sup>289</sup> U.N. (CCPR), General Comment 31, para. 4

<sup>290</sup> U.N. (CCPR), General Comment 31, para. 7; General Comment 28, para. 3; UNGA Declaration on the Right and Responsibility, art. 14

<sup>291</sup> CoE (PACE), Resolution 2226(2018), para. 10.3-4; EP, Resolution 2016/2324(INI)), para. 3, 6; CoE (Committee of Ministers), Recommendation (2018)11, para. I.c, III.a

sources and political commitments emphasize that civil servants and public officials should be obliged by law to act neutrally and impartially.<sup>292</sup> These principles apply to election management bodies as forming part of a state's public administration.

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

## 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.<sup>293</sup> The authority of the election administration should be recognized by everyone participating in the election.<sup>294</sup>

## 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.<sup>295</sup> 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.<sup>296</sup> 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.<sup>297</sup>

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<sup>292</sup> AU, Charter on Values and Principles of Public Service and Administration, art. 9.1; CoE (Committee of Ministers), Recommendation (2007)7 on Good Administration, art. 3–5

<sup>293</sup> OSCE (ODIHR), Legal Framework (Ed.1), p. 6

<sup>294</sup> AU, Declaration on the Principles Governing Democratic Elections, art. IV.13

<sup>295</sup> U.N., ICCPR, art. 25(b); ACHR, art. 23; AU ACDEG, art. 3(4)

<sup>296</sup> U.N. (CCPR), General Comment 25, para. 9

<sup>297</sup> U.N. (CCPR), General Comment 25, para. 9



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 to five years (depending on the office).<sup>298</sup>

## 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.<sup>299</sup> Interpretive sources also emphasize that the severity, duration, and geographic scope of any derogation measure, including the postponement of elections, must be proportionate to the nature and extent of the threat that necessitates the measure.<sup>300</sup> 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:*

- Periodic Elections
- 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,<sup>301</sup> 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.<sup>302</sup> These same sources indicate that the calendar should be made public.

**The legal framework provided for regular elections and required that elections be held within a reasonable time period after they are called.**

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<sup>298</sup> CoE (Venice Commission), Code of Good Practice, sec. I.6

<sup>299</sup> U.N., ICCPR, art. 4

<sup>300</sup> U.N. (CESCR), Siracusa Principles, para. A.39, B.51; OSCE (ODIHR), Guidelines for Public Security Providers in Elections, p. 30

<sup>301</sup> U.N., ICCPR, art. 2; AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CoE, ECHR, art. 1; CIS, Convention on Human Rights, art. 1

<sup>302</sup> U.N., Human Rights and Elections, 1st ed., para. 75

State practice sources emphasize that the scheduling of elections and the electoral calendar should facilitate compliance with the requirement for elections to be held regularly, within a reasonable period after they are called.<sup>303</sup>

**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.<sup>304</sup>

**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.<sup>305</sup> The state must perform both its “negative duty” to refrain from discrimination and its “positive duty” to prevent discrimination.<sup>306</sup> This approach should also apply to the design of the electoral system, which should take into account the needs and facilitate participation and representation of vulnerable groups, including of women, minorities, and people with disabilities.<sup>307</sup>

Interpretive sources note that the legal framework for elections should protect this right and should not itself be discriminatory.<sup>308</sup> Laws and regulations that withdraw suffrage rights based on disability should be amended or repealed. The right to vote should not be restricted based on any perceived or actual disability and mental health status, including pursuant to an individualized assessment.<sup>309</sup> Guarantees of rights of people with disabilities should be mainstreamed into broader legislation and policies.<sup>310</sup>

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303 EISA and ECF of SADC Countries, PEMMO, pp. 7-8

304 Merloe, Promoting Legal Framework, p. 38

305 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

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

307 International IDEA, Electoral System Design, para. 107, 151, 228; OSCE (ODIHR), Handbook on Participation of National Minorities, p. 38-41, 44, 47

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

309 U.N. (CRPD), General Comment 1, para. 6, 16, 26, 48, 49; U.N. (CRPD), General Comment 6, para. 49(a)

310 U.N. (CRPD), General Comment 6, para. 14



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

Treaty sources provide that where linguistic minorities exist, those who belong to such minorities should not be denied the right to use their own language.<sup>311</sup>

### **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.<sup>312</sup>

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.<sup>313</sup>

### **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.<sup>314</sup> 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.

## **Universal Suffrage, the Right to Vote, and Voter Education/The Right to Vote and Voting Operations**

### **Key Obligations:**

- *Right and Opportunity to Vote*
- *Right and Opportunity to Participate in Public Affairs*

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

With regard to guarantees of equality and universality of suffrage rights, interpretive sources emphasize that the right to vote should not be restricted based on any perceived or actual disability and mental health status, including pursuant to an individualized assessment.<sup>315</sup>

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<sup>311</sup> U.N., ICCPR, art. 27

<sup>312</sup> 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, art. 20(1); LAS, Arab Charter, art. 3; ASEAN, Human Rights Declaration, art. 3

<sup>313</sup> U.N. (CCPR), General Comment 28, para. 21

<sup>314</sup> U.N., ICERD, art. 5(f); U.N., CRPD, art. 6.1, 9; AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, arts. 9.1(a-c), 15(1), 21(2)c

<sup>315</sup> U.N. (CRPD), General Comment 1, para. 6, 16, 26, 48, 49; U.N. (CRPD), General Comment 6, para. 49(a)

## Citizenship

### ***Key Obligations:***

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

**The rules regarding citizenship were clear and nondiscriminatory.**

International treaties make an explicit link between citizenship and the enjoyment of participatory rights.<sup>316</sup> While everyone has the right to a nationality,<sup>317</sup> states may regulate the law concerning nationality, citizenship, or naturalization, but they may not discriminate against any particular nationality in doing so.<sup>318</sup>

Interpretive sources note that distinctions between those who attain citizenship by birth or by naturalization may be discriminatory.<sup>319</sup>

Other sources support the requirement that the process for attaining citizenship should be clearly defined and nondiscriminatory.<sup>320</sup>

**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.<sup>321</sup>

## 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.<sup>322</sup> 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.

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

State practice sources suggest that the collection and publication of gender-disaggregated information around electoral processes

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316 U.N., ICCPR, art. 25

317 U.N., UDHR, art. 15

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

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

320 U.N., Recommendations of the second session of the Forum on Minority Issues on minorities and effective political participation, para. 26

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

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



contribute to raising awareness and advancement of women's rights.<sup>323</sup>

## 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 men<sup>324</sup> and that, in some cases, states should take temporary special measures to achieve de facto equality for women.<sup>325</sup>

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.<sup>326</sup> Interpretive sources also indicate that measures taken to ensure equitable representation of women should not be considered discriminatory.<sup>327</sup>

**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 also may be taken and should not be considered discriminatory when the circumstances warrant the measures.<sup>328</sup> State practice sources suggest that special measures may include reduced or waived minimum support, deposit, electoral threshold requirements, and quotas.<sup>329</sup> 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.<sup>330</sup>

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<sup>323</sup> UN Women, Beijing Declaration and Platform for Action, para. 190(e); UN Women, UNDP, Guide on Gender Equality and Women's Participation, p. 49

<sup>324</sup> U.N., ICCPR, art. 3; AU, African Youth Charter, art. 23(1)b; AU, Protocol to the AfCHPR on the Rights of Women, art. 8; CoE, ECHR, art. 23; EU, Charter on Fundamental Rights, art. 23; CIS, Convention on Human Rights, art. 20(1)

<sup>325</sup> U.N., CEDAW, art. 3, 4(1), 7; AU, Protocol to the AfCHPR on the Rights of Women, art. 2.1.d, 9.1(a-c); AU, ACDEG, art. 29.3

<sup>326</sup> U.N. (CEDAW), General Recommendation 23, para. 15, 29, 45(a), General Recommendation 28, para. 9, General Recommendation 30, para IV.B.9.72, IV.B.9.73.c-d

<sup>327</sup> U.N. (CCPR), General Comment 28, para. 29

<sup>328</sup> U.N., ICERD, art. 1(4)

<sup>329</sup> CoE (Venice Commission), Code of Good Practice, para. I.1.6; OSCE (ODIHR), Handbook on Participation of National Minorities, p. 28, OSCE (ODIHR), CoE (Venice Commission), Guidelines on Political Party Regulation (Ed. 2), para. 187

<sup>330</sup> U.N., ICERD, art. 1(4)

## **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.<sup>331</sup> Specific measures aimed at ensuring de facto equality for people with disabilities should not be considered discriminatory.<sup>332</sup> Other treaty sources also call on states to recognize that women and girls with disabilities are subject to multiple discrimination.<sup>333</sup>

Interpretive sources further indicate the legal framework should provide people with disabilities with the opportunity to vote and be elected.<sup>334</sup>

## **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.<sup>335</sup> 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.

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

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Regional treaties link the right to remedy to the conduct of elections and the announcement of results.<sup>336</sup> They also state that remedies, when granted, should be effective. Effective redress requires that disputes must be dealt with in a timely manner<sup>337</sup> and that states must enforce the remedy when granted.<sup>338</sup>

Interpretive sources note that not only is cessation of a violation an essential element of an effective remedy,<sup>339</sup> it also prevents recur-

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<sup>331</sup> U.N., CRPD, art. 2, 4; OAS, IADC, art. 2(a); AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 21.2.e

<sup>332</sup> U.N., CRPD, art. 5(4)

<sup>333</sup> U.N., CRPD, art. 6(1)

<sup>334</sup> U.N. (CRPD), Concluding Observations, Hungary (2012), para. 26

<sup>335</sup> U.N., ICCPR, art. 2(3); OAS, ACHR, art. 25(1); CoE, ECHR, art. 13; AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 25(a-b)

<sup>336</sup> AU, ACDEG, art. 17(2); ECOWAS, Protocol on Democracy and Good Governance, art. 7

<sup>337</sup> AU, ACDEG, art. 17 (2)

<sup>338</sup> U.N., ICCPR, art. 2(3)

<sup>339</sup> U.N. (CCPR), General Comment 31, para. 15



rence of the violation.<sup>340</sup> Such sources also indicate that an effective remedy requires reparation and, at times, may require states to take interim measures.<sup>341</sup>

**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.<sup>342</sup>

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

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

342 SADC, Principles and Guidelines, para. 2.1.10



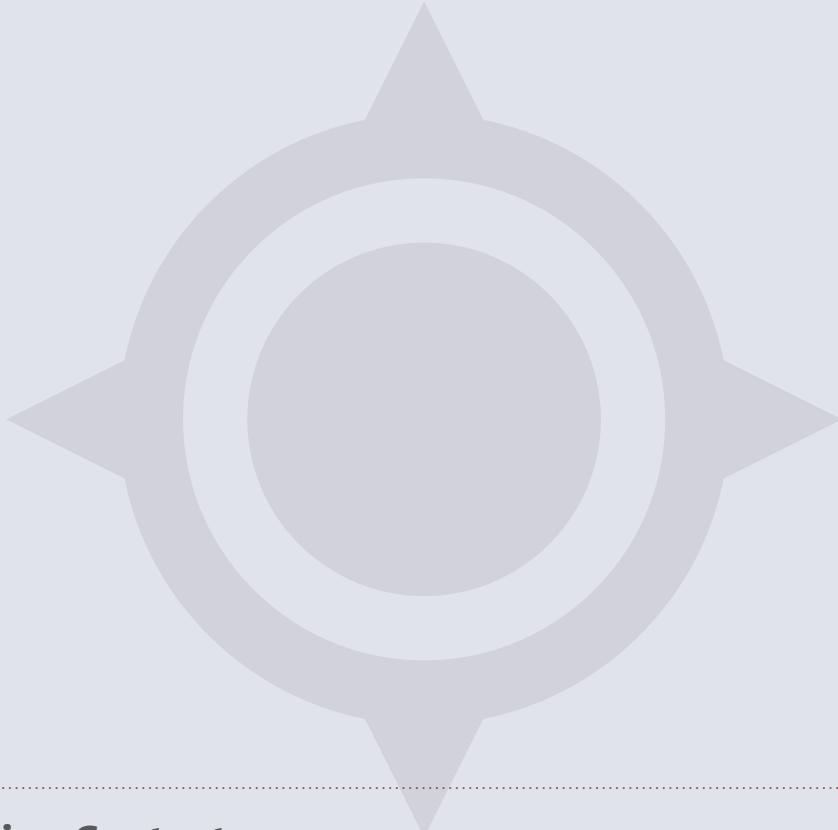
## Section 2

# Electoral System and Boundary Delimitation

## Relevant Obligations

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

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- Macro-level Obligation
  - Individual Rights and Freedoms
  - Process-focused Obligations
  - Foundational Obligations



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**T**he 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 party-list proportional representation (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.

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

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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 is included in Appendix C.

## **The Legal Framework for Electoral Systems and Boundary Delimitation**

### **Key Obligations:**

- Right and Opportunity to Participate in Public Affairs
- State Must Take Necessary Steps to Give Effect to Rights
- Rule of Law

 Refer to the Legal Framework section for more information.

### **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.<sup>343</sup> The rule of law is widely recognized as an essential condition for the fulfillment of human rights and representative democracy.<sup>344</sup>

<sup>343</sup> U.N., UNCAC, art. 5; AU, ACDEG, art. 32(8); AU, Convention on Corruption, Preamble, art. 3(11); CoE, ECHR, Preamble; CIS, Convention on Human Rights, Preamble; ECOWAS, Protocol on Democracy and Good Governance, art. 34(1)

<sup>344</sup> UNGA, Millennium 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 law<sup>345</sup> and that laws are equally enforced.<sup>346</sup>

Interpretive sources add that the rule of law requires that laws and procedures are not arbitrarily applied.<sup>347</sup>

**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.<sup>348</sup>

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 law<sup>349</sup> and enshrined in the constitution or at a level higher than ordinary law.<sup>350</sup> In addition, other state practice sources indicate that electoral legislation should be made widely available to the public for review.<sup>351</sup>

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.<sup>352</sup>

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<sup>345</sup> 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, art. 20(1); LAS, Arab Charter, art. 3; ASEAN, Human Rights Declaration, art. 3

<sup>346</sup> U.N., ICCPR, art. 26; AU, AfCHPR, art. 13(3); CIS, Convention on Human Rights, art. 20(1)

<sup>347</sup> U.N. (CCPR), General Comment 25, para. 4

<sup>348</sup> 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; ECOWAS, Protocol on Democracy and Good Governance, art. 33(1)

<sup>349</sup> CoE (Venice Commission), Code of Good Practice, sec. I.2.2.13

<sup>350</sup> CoE (Venice Commission), Code of Good Practice, sec.II.2.b; U.N., Center for Human Rights, Handbook on the Legal, Technical, and Human Rights Aspects of Elections, para. 129

<sup>351</sup> OSCE (ODIHR), Legal Framework (Ed. 2), p. 9-11; EU, Handbook (Ed. 2), p. 29

<sup>352</sup> U.N., Human Rights and Elections, para. 78



## Oversight of Boundary Delimitation

### **Key Obligations:**

- Freedom from Discrimination and Equality Before the Law
- 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.<sup>353</sup>

Some state practice sources also indicate that boundary delimitation should not be manipulated to favor particular groups,<sup>354</sup> and delimitation techniques designed to discount the votes of particular groups or geographic areas should be prohibited.<sup>355</sup> State practice sources suggest that boundary delimitation should be managed by an independent and impartial body.<sup>356</sup>

## The Election Calendar and Enjoyment of Rights

### **Key Obligations:**

- Periodic Elections

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,<sup>357</sup> including during planning of the electoral process.

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.<sup>358</sup> Other state practice sources highlight the importance of frequent boundary delimitation, ensuring quality of voting rights,<sup>359</sup> and suggest that the review of boundaries should take place sufficiently in advance of the election to avoid instability.<sup>360</sup>

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

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

355 U.N., Human Rights and Elections, 1st ed., para. 103

356 U.N., Report of the Independent Expert on Minorities (2010), p. 78; OSCE (ODIHR), Guidelines to Assist National Minority Participation, p. 42; EISA and ECF of SADC Countries, PEMMO, p. 15

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

358 U.N., Human Rights and Elections, 1st ed., para. 75

359 CoE (Venice Commission), Code of Good Practice, sec. I.2.2.v; OSCE (ODIHR), Legal Framework (Ed. 2), p. 16–17; EU, Handbook (Ed. 2), p. 32

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

## **Choice of the Electoral System**

### **Key Obligations:**

- *Freedom From Discrimination and Equality Before the Law*
- *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.<sup>361</sup> 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.<sup>362</sup>

Interpretive sources also make clear that while no electoral system is prescribed by international law, any system chosen should be consistent with international obligations and should be clearly stated in law.<sup>363</sup> The electoral system should support multiparty participation.<sup>364</sup> Proportionate representation of citizens of all ethnic origins is to be encouraged,<sup>365</sup> and electoral systems should support direct elections.<sup>366</sup>

Interpretive sources also indicate that electoral systems should ensure actual and equal representation in elected bodies.<sup>367</sup> Interpretive sources add that elected representatives should be able to exercise governmental power.<sup>368</sup>

### **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.<sup>369</sup>

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361 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

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

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

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

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

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

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

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

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



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

State practice sources also emphasize that electoral systems should be designed to ensure that citizens are not discriminated against. To that end, electoral system design should take into account the needs and facilitate participation and representation of vulnerable groups, including of women, minorities, and people with disabilities.<sup>370</sup>

## **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.<sup>371</sup>

## **Freedom From Discrimination in the Electoral System, Boundary Delimitation Process, and Electoral Dispute Resolution**

### **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.<sup>372</sup> In addition, international treaties are clear that all are equal before the law and should enjoy the equal protection of the law.<sup>373</sup>

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.<sup>374</sup> This includes state actions affecting the electoral system and boundary delimitation process.

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<sup>370</sup> OSCE (ODIHR), Handbook on Participation of National Minorities, p. 39, 40, 47; UN Women, Beijing Declaration and Platform for Action, para. 190.d; International IDEA, Electoral System Design, para. 107, 151, 228

<sup>371</sup> CoE (Venice Commission), Code of Good Practice, sec.II.2.b; U.N., Center for Human Rights, Handbook on the Legal, Technical, and Human Rights Aspects of Elections, para. 129

<sup>372</sup> 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

<sup>373</sup> U.N., ICCPR, art. 26; AU, AfCHPR, art. 8; OAS, ACHR, art. 24; CIS, Convention on Human Rights, art. 20(1); ASEAN, Human Rights Declaration, art. 3

<sup>374</sup> U.N. (CCPR), General Comment 25, para. 21

## Criteria for Boundary Apportionment

### ***Key Obligations:***

- Equal Suffrage

**Each vote was of equal weight.**

International and regional treaties state that elections must respect equal suffrage.<sup>375</sup> Equal suffrage is an essential element of a genuine election and is recognized as such at the international and regional level. The electoral system should endeavor to ensure equal suffrage by according each voter and vote equal weight.<sup>376</sup> This is best achieved by assigning the same number of voters to each representative to be elected.<sup>377</sup>

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

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**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.<sup>378</sup> Although equal suffrage is best achieved by assigning the same number of voters to each representative,<sup>379</sup> 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%.<sup>380</sup>

**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.<sup>381</sup> Boundary assignment may also take into account geographical criteria or administrative or historical boundary lines.<sup>382</sup> While true equality in delimitation may not always be possible, other sources state that variances should rarely exceed 10%.<sup>383</sup>

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<sup>375</sup> U.N., ICCPR, art. 25; OAS, ACHR, art. 23; CIS, Convention on Democratic Elections, art. 3(1)(a) U.N., UDHR, art. 21(3)

<sup>376</sup> U.N. (CCPR), General Comment 25, para. 21

<sup>377</sup> CoE (Venice Commission), Code of Good Practice, sec. I.2.2.i-ii

<sup>378</sup> U.N. (CCPR), General Comment 25, para. 21; U.N. (CCPR), Istvan Matyas v Slovakia, (2002), 2.2

<sup>379</sup> U.N. (CCPR), General Comment 25, para. 21

<sup>380</sup> CoE (Venice Commission), Code of Good Practice, sec. I.2.2.15

<sup>381</sup> CoE (Venice Commission), Code of Good Practice, sec. I.2.2.13

<sup>382</sup> CoE (Venice Commission), Code of Good Practice, sec. I.2.2.14; EISA and ECF of SADC Countries, PEMMO, p. 13

<sup>383</sup> CoE (Venice Commission), Code of Good Practice, sec. I.2.2.15



## 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.<sup>384</sup> 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 organizations<sup>385</sup> and the ability of citizens to participate in citizen observation organizations. Women as well as men have the right to participate in the public affairs of their country.<sup>386</sup> Treaty documents and political commitments also call on states to pursue policies that encourage the participation of youth in public affairs and decision-making processes affecting them.<sup>387</sup>

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.<sup>388</sup> 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.<sup>389</sup>

## Special Measures

### ***Key Obligations:***

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

<sup>384</sup> U.N., ICCPR, art. 25; U.N., ICERD, art. 5(c); U.N., CEDAW, art. 7(b); AU, AfCHPR, art. 13(1); OAS, ACHR, art. 23(1)(a); ECOWAS, Protocol on Democracy and Good Governance, art. 1(d)

<sup>385</sup> U.N., CEDAW, art. 7(b)

<sup>386</sup> U.N., ICCPR, art. 25(a)

<sup>387</sup> AU, African Youth Charter, art. 23.1.b; EU (Council), Resolution on EU Youth Strategy 2019-2027, p. 3-4

<sup>388</sup> CoE (Venice Commission), Code of Good Practice, sec. i.2.2.vii

<sup>389</sup> SADC, Principles and Guidelines Governing Democratic Elections, para. 7.8

### **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<sup>390</sup> and that, in some cases, states should take temporary special measures to achieve de facto equality for women.<sup>391</sup>

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.<sup>392</sup> 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.<sup>393</sup> Other interpretive sources indicate that measures taken to ensure equitable representation of women should not be considered discriminatory.<sup>394</sup>

Other state practice sources highlight the special responsibility of electoral management bodies to ensure that women participate in the electoral process.<sup>395</sup>

### **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 also may be taken when the circumstances warrant, and they should not necessarily be considered discriminatory.<sup>396</sup> State practice sources suggest that special measures may include reduced or waived minimum support, deposits, electoral threshold requirements, and quotas.<sup>397</sup> 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.<sup>398</sup>

Other state practice sources point out that special measures such as the use of quotas or reserved seats<sup>399</sup> may be used to ensure

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<sup>390</sup> U.N., ICCPR, art. 3; AU, AfCHPR, art. 2(1)(a); AU, African Youth Charter, art. 23(1)b; AU, Protocol to the AfCHPR on the Rights of Women, art. 8; CoE, ECHR, art. 23; EU, Charter on Fundamental Rights, art. 23; CIS, Convention on Human Rights, art. 20(1)

<sup>391</sup> U.N., CEDAW, art. 3, 4(1), 7; AU, Protocol to the AfCHPR on the Rights of Women, art. 2.1.d, 9.1(a-c); AU, ACDEG, art. 29.3

<sup>392</sup> OAS, IADC, art. 5; U.N. (CEDAW), General Recommendation 23, para. 15, 29, 45(a); General Recommendation 28, para. 9, General Recommendation 30, para IV.B.9.72, IV.B.9.73.c-d

<sup>393</sup> U.N. (CEDAW), Concluding Remarks on Costa Rica (2003), para. 59

<sup>394</sup> U.N. (CCPR), General Comment 28, para. 29

<sup>395</sup> International IDEA, Code: Election Administration, para. 6

<sup>396</sup> U.N., ICERD, art. 1(4)

<sup>397</sup> CoE (Venice Commission), Code of Good Practice, para. I.1.6; OSCE (ODIHR), Handbook on Participation of National Minorities, p. 28, OSCE (ODIHR); CoE (Venice Commission), Guidelines on Political Party Regulation (Ed. 2), para. 187

<sup>398</sup> U.N., ICERD, art. 1(4)

<sup>399</sup> U.N. (CCPR), Concluding Observations, Hungary (2010), para. 20



minority participation or representation.<sup>400</sup> 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.<sup>401</sup> State practice sources also state that electoral management bodies should ensure that minorities participate in the electoral process.<sup>402</sup>

### **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.<sup>403</sup> Specific measures aimed at ensuring de facto equality for people with disabilities, which may include voluntary or binding quotas, should not be considered discriminatory.<sup>404</sup> Other treaty sources obligate states to recognize that women and girls with disabilities are subject to multiple discrimination.<sup>405</sup>

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

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Interpretive sources further indicate the legal framework should provide people with disabilities with the opportunity to vote and be elected.<sup>406</sup>

## **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.<sup>407</sup> 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.<sup>408</sup>

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<sup>400</sup> U.N., Report of the Independent Expert on Minority Issues, para. 77

<sup>401</sup> U.N., Report of the Independent Expert on Minority Issues, para. 70

<sup>402</sup> International IDEA, Code: Election Administration, para. 6

<sup>403</sup> U.N., CRPD, art. 2, 4; OAS, IADC, art. 2(a); AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 21.2.e

<sup>404</sup> U.N., CRPD, art. 5(4); OAS, Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities, art. 2(b)

<sup>405</sup> U.N., CRPD, art. 6(1)

<sup>406</sup> U.N. (CRPD), Concluding Observations, Hungary (2012), para. 26

<sup>407</sup> U.N., ICCPR, art. 2(3); AU, ACDEG, art. 17(2); OAS, ACHR, art. 25(1); CoE, ECHR, art. 13

<sup>408</sup> 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 From Discrimination and Equality Before the Law
- Equality Between Men and Women
- Right to a Fair and Public Hearing
- Right to an Effective Remedy
- Transparency and Access to Information
- Freedom of Movement
- Right to Security of the Person
- Right and Opportunity to Participate in Public Affairs
- 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
  - Individual Rights and Freedoms
  - Process-focused Obligations
  - Foundational Obligations



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**A**n 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.

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

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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.

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
- Protection of personal data
- 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 law.<sup>409</sup>

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409 U.N., Declaration on the Right and Responsibility, art. 11



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

International treaty sources state that the rule of law requires that all are equal before the law<sup>410</sup> and laws are equally enforced.<sup>411</sup> 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.<sup>412</sup> 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.<sup>413</sup> The rule of law is widely recognized as an essential condition for the fulfillment of human rights and representative democracy.<sup>414</sup>

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

International treaties require that the legal framework be consistent with international human rights obligations.<sup>415</sup>

## 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.<sup>416</sup>

# The Election Calendar and the Enjoyment of Rights

## **Key Obligations:**

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

<sup>410</sup> 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; LAS, Arab Charter, art. 3; ASEAN, Human Rights Declaration, art. 3

<sup>411</sup> U.N., ICCPR, art. 26; AU, AfCHPR, art. 13(3); CIS, Convention on Human Rights, art. 20(1)

<sup>412</sup> U.N. (CCPR), General Comment 25, para. 4

<sup>413</sup> U.N., UNCAC, art. 5(1); AU, ACDEG, art. 32.8; AU, Convention on Corruption, Preamble, art. 3(1); CoE, ECHR, Preamble; CIS, Convention on Human Rights, Preamble; ECOWAS, Protocol on Democracy and Good Governance, art. 34(1)

<sup>414</sup> UNGA, Millennium Declaration; UNGA, Resolutions on the Rule of Law; OAS, IADC, arts. 3 and 4; OSCE, Copenhagen Document, para. 3

<sup>415</sup> U.N., ICCPR, art. 2; AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CoE, ECHR, art. 1; CIS, Convention on Human Rights, art. 1; ECOWAS, Protocol on Democracy and Good Governance, art. 33(1)

<sup>416</sup> AU, Declaration on the Principles Governing Elections, art. IV(13)

**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.<sup>417</sup> 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 be allowed to successfully administer the electoral process.<sup>418</sup>

## **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.<sup>419</sup>

Interpretive sources add that branches of the government and other public or governmental authorities, including the EMB, are responsible for meeting this obligation.<sup>420</sup>

**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 administration<sup>421</sup> and should ensure transparency in the management of public affairs, including elections.<sup>422</sup> This includes the possibility for everyone to submit to governmental bodies, agencies, and organizations criticisms and proposals for improving their function.<sup>423</sup>

## **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*

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<sup>417</sup> U.N., ICCPR, art. 2; AU, AfCHPR, art. 1; OAS, ACHR, art. 2

<sup>418</sup> U.N., Human Rights and Elections, 1st ed., para. 75

<sup>419</sup> U.N., ICCPR, art. 2; AU, AfCHPR, art. 1; OAS, ACHR, art. 2

<sup>420</sup> U.N. (CCPR), General Comment 31, para. 4

<sup>421</sup> AU, ACDEG, art. 32(1)

<sup>422</sup> ECOWAS, Protocol on Democracy and Good Governance, art. 34(2); CIS, Convention on Democratic Elections, art. 7(1-2)

<sup>423</sup> UNGA, Declaration on the Right and Responsibility, art. 8.2



### **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.<sup>424</sup>

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.<sup>425</sup>

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.<sup>426</sup>

### **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 function<sup>427</sup> and that this encourages public confidence in the body.<sup>428</sup>

### **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.<sup>429</sup>

## **State Authorities Responsible for Upholding Rights**

### **Key Obligations:**

- Transparency and Access to Information

### **An independent, duly resourced body oversaw compliance with data protection principles.**

Regional treaties emphasize that an independent and duly resourced body needs to be vested with authority to oversee compliance with data protection principles, including in the context of election management.<sup>430</sup>

## **Recruitment of Electoral Management Body Staff**

### **Key Obligations:**

- Freedom From Discrimination and Equality Before the Law

<sup>424</sup> CIS, Convention on Democratic Elections, art. 19(j); AU, ACDEG, art. 17(1); ECOWAS, Protocol on Democracy and Good Governance, art. 3; U.N. (CCPR), General Comment 25, para. 20

<sup>425</sup> U.N. (CCPR), General Comment 25, para. 24

<sup>426</sup> CoE (Venice Commission), Code of Good Practice, sec. II.3.1.b

<sup>427</sup> AU, ACDEG, art. 17 (1)

<sup>428</sup> ECOWAS, Protocol on Democracy and Good Governance, art. 3

<sup>429</sup> AU, ACDEG, art. 15 (4)

<sup>430</sup> EU, GDPR, art. 51.1

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

**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.<sup>431</sup> Particularly relevant to the election management process, states must ensure transparency, efficiency, and equity in the recruitment of officials.<sup>432</sup> 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.<sup>433</sup>

Treaties add that affirmative measures may be taken, as appropriate, to ensure that there is equal access to public service for all citizens.<sup>434</sup>

Interpretive sources indicate that transparent recruitment can be a valuable means to ensure public confidence in the management body.<sup>435</sup> 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.<sup>436</sup>

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.<sup>437</sup>

**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.<sup>438</sup>

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.<sup>439</sup>

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

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

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

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

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

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

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

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

439 CoE (Venice Commission), Code of Good Practice, sec. 11, 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.<sup>440</sup>

## Provision of Voter Education by the Electoral Management Body

### **Key Obligations:**

- Transparency and Access to Information

**The state took the steps necessary to give effect to rights during voter education.**

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.<sup>441</sup> Civic (including voter) education is one of the key roles performed by election management bodies. Media and information literacy education should be promoted to enable individuals to access, understand, and critically analyze information, including online.<sup>442</sup>

## Access to Information and Electoral Management Body Documents

### **Key Obligations:**

- Transparency and Access to Information
- Equality Between Men and Women

**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.<sup>443</sup> Freedom of expression and access to information may be subject to certain limited restrictions.

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

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<sup>440</sup> U.N., Declaration on the Right and Responsibility, art. 15

<sup>441</sup> AU, ACDEG, art. 12

<sup>442</sup> U.N., HRC, Resolution 38/7 on the Promotion, Protection and Enjoyment of Human Rights on the Internet, para. 4; CoE (Committee of Ministers), Recommendation (2018)1 on Media Pluralism and Transparency of Media Ownership, para. 5.1; CoE (PACE), Resolution 2254 (2019) on Media Freedom as a Condition for Democratic Elections, para. 9.6

<sup>443</sup> U.N., ICCPR, art. 19(2); AU, Convention on Corruption, art. 9; OAS, ACHR, art. 13(1); CoE, ECHR, art. 10(1)

**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.<sup>444</sup> This would include information regarding the electoral process.

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

International treaties make clear that women should enjoy equal rights to men<sup>445</sup> and that, in some cases, states should take temporary special measures to achieve de facto equality for women.<sup>446</sup> Sources indicative of state practice suggest that collection and publication of gender-disaggregated information around electoral processes, including by election management bodies, contribute to raising awareness and advancement of women's rights.<sup>447</sup>

## **Transparency in Electoral Management Body Decision Making and Procurement**

**Key Obligations:**

- Transparency and Access to Information
- Right and Opportunity to Participate in Public Affairs
- 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.**

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.<sup>448</sup>

Regional treaties suggest that the election management process, including meetings of election bodies, be transparent.<sup>449</sup> This includes the ability of citizen and international observers to access all aspects and stages of the electoral process.<sup>450</sup> States should also involve civil society organizations and facilitate their effective

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<sup>444</sup> U.N., UNCAC, art. 10(a); CoE, Convention on Access to Official Documents, art. 2(1); U.N. (CCPR), General Comment 34, para. 19

<sup>445</sup> U.N., ICCPR, art. 3; AU, AfCHPR, art. 2(1)(a); OAS, ACHR, art. 28; EU, Charter on Fundamental Rights, art. 23

<sup>446</sup> U.N., CEDAW, art. 3

<sup>447</sup> UN Women, Beijing Declaration and Platform for Action, para. 190.e; UN Women, UNDP, Guide on Gender Equality and Women's Participation, p. 49

<sup>448</sup> U.N., UNCAC, art. 13(1)(a); AU, Convention on Corruption, art. 12(2)

<sup>449</sup> CIS, Convention on Democratic Elections, arts. 7 and 13

<sup>450</sup> U.N., Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers, para. 12



participation in public decision-making processes, including in the context of election management.<sup>451</sup>

State practice sources indicate that it is also desirable that EMBs take decisions by a qualified majority or by consensus.<sup>452</sup>

## **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.<sup>453</sup>

Treaty sources define corruption as including:

- The solicitation or acceptance of something of value in exchange for an advantage<sup>454</sup>
- The offering or granting of something of value in exchange for an act or omission in the performance of a public function<sup>455</sup>
- Fraudulent use or concealment of property derived from corrupt activities<sup>456</sup>
- Participation or conspiracy to commit corrupt activities<sup>457</sup>
- Any act or omission of official functions by a public official to gain illicit benefits<sup>458</sup>
- 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 party<sup>459</sup>
- Improper influence<sup>460</sup>

State practice sources indicate that electoral and other legislation should include procedures and penalties aimed at preventing corruption.<sup>461</sup>

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<sup>451</sup> UN (CRPD), General Comment No. 6, para. 70.d; OIF, Bamako Declaration, para. 2.6; CoE (PACE), Resolution 2226(2018) on New Restrictions on NGO Activities, para. 10.5

<sup>452</sup> CoE (Venice Commission), Code of Good Practice, sec. II.3.1.80

<sup>453</sup> U.N., UNCAC, art. 13(1)(a)

<sup>454</sup> AU, Convention on Corruption, art. 4

<sup>455</sup> U.N., UNCAC, art. 19; AU, Convention on Corruption, art. 4(1)(a); OAS, Inter-American Convention Against Corruption, art. VI(1)(b)

<sup>456</sup> AU, Convention on Corruption, art. 4; OAS, Inter-American Convention Against Corruption, art. VI(1)(d)

<sup>457</sup> AU, Convention on Corruption, art. 4; OAS, Inter-American Convention Against Corruption, art. VI(1)(e)

<sup>458</sup> AU, Convention on Corruption, art. 4; OAS, Inter-American Convention Against Corruption, art. VI(1)(c)

<sup>459</sup> AU, Convention on Corruption, art. 4(1)(d)

<sup>460</sup> U.N., UNCAC, art. 18; AU, Convention on Corruption, art. 4(1)(f)

<sup>461</sup> U.N., Human Rights and Elections, para. 1st ed., 118

## **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 status<sup>462</sup> is prohibited. In addition, international treaties are clear that all are equal before the law and should enjoy equal protection under the law.<sup>463</sup>

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.<sup>464</sup>

## **Access to Electoral Information**

### ***Key Obligations:***

- *Equality Between Men and Women*

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

Sources indicative of state practice suggest that collection and publication of gender-disaggregated information around electoral processes, including in the context of election management, contribute to raising awareness and advancement of women’s rights.<sup>465</sup>

## **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*

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<sup>462</sup> 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

<sup>463</sup> 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; LAS, Arab Charter, art. 3; ASEAN, Human Rights Declaration, art. 3

<sup>464</sup> U.N. (CCPR), General Comment 28, para. 21

<sup>465</sup> UN Women, Beijing Declaration and Platform for Action, para. 190.e; UN Women, UNDP, Guide on Gender Equality and Women’s Participation, p. 49



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

International treaties make clear that women should enjoy equal rights to men<sup>466</sup> and that, in some cases, states should take temporary special measures to achieve de facto equality for women.<sup>467</sup>

Interpretive sources indicate that temporary special measures to achieve de facto equality for women can include quotas, 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.<sup>468</sup> Interpretive sources also indicate that measures taken to ensure equitable representation of women should not be considered discriminatory.<sup>469</sup>

## **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,<sup>470</sup> 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.<sup>471</sup>

## **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.<sup>472</sup> Specific measures aimed at ensuring de facto equality for people with disabilities should not be considered discriminatory.<sup>473</sup> Other treaty sources also call on states to recognize that women and girls with disabilities are subject to multiple discrimination.<sup>474</sup>

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

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<sup>466</sup> U.N., ICCPR, art. 3; AU, AfCHPR, art. 2(1)(a); AU, African Youth Charter, art. 23(1)b; AU, Protocol to the AfCHPR on the Rights of Women, art. 8; OAS, ACHR, art. 28; EU, Charter on Fundamental Rights, art. 23; CoE, ECHR, art. 23; CIS, Convention on Human Rights, art. 20(1)

<sup>467</sup> U.N., CEDAW, art. 3, 4(1), 7; AU, Protocol to the AfCHPR on the Rights of Women, art. 2.1.d, 9.1(a-c); AU, ACDEG, art. 29.3

<sup>468</sup> U.N. (CEDAW), General Recommendation 23, para.15, 29, 45(a), General Recommendation 28, para. 9, General Recommendation 30, para IV.B.9.72, IV.B.9.73.c-d

<sup>469</sup> U.N. (CCPR), General Comment 28, para. 29

<sup>470</sup> U.N., ICERD, art. 1

<sup>471</sup> U.N., ICERD, art. 1

<sup>472</sup> U.N., CRPD, art. 2, 4; OAS, IADC, art. 2(a); AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 21.2.e

<sup>473</sup> U.N., CRPD, art. 5(4)

<sup>474</sup> U.N., CRPD, art. 6(1)

elected.<sup>475</sup> Measures to support participation of people with disabilities should be developed in consultation with the civil society, including persons with disability organizations,<sup>476</sup> and should take into account the different needs of persons with various forms of disability.<sup>477</sup> Such measures may include financial incentives to political parties.<sup>478</sup>

State practice sources suggest that electoral management bodies should ensure that minorities and people with disabilities participate in the electoral process.<sup>479</sup>

### **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.<sup>480</sup> They also state that the EMB should include women among its staff,<sup>481</sup> presumably in numbers consistent with principles of equality (i.e., at least 50%).

## **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.<sup>482</sup> It requires that individuals be free from physical and emotional violence at all times. EMB personnel should 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**

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<sup>475</sup> U.N. (CRPD), Concluding Observations, Hungary (2012), para. 26

<sup>476</sup> U.N. (CRPD), General Comment 6, para. 24.a, 70.d; CoE (Committee of Ministers), Recommendation CM/Rec(2011)14, para. 4

<sup>477</sup> U.N. (CRPD), General Comment 2, para. 29; CoE (Committee of Ministers), Recommendation CM/Rec(2011)14, para. 1; OSCE (ODIHR), Handbook on Electoral Participation of Persons with Disabilities, p. 13

<sup>478</sup> CoE (PACE), Resolution 2155(2017), para. 7.4.4

<sup>479</sup> International IDEA, Code, para. 6

<sup>480</sup> Ibid.

<sup>481</sup> EISA and ECF for SADC Countries, PEMMO, p. 12

<sup>482</sup> 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)

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



**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.<sup>483</sup> Freedom of movement is a fundamental right that ensures that everyone—including candidates, voters, citizen observers, EMB personnel (including poll workers), and others—is able to move throughout the territory.

## **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 fundamental rights.**

International treaties are clear that everyone has the right to an effective (timely and enforceable)<sup>484</sup> remedy before a competent tribunal for acts that violate their rights or freedoms.<sup>485</sup>



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

Regional treaties state that individuals should have the right to remedy for violations of their participatory rights relating to the election process<sup>486</sup> and that remedies should be available for complaints arising throughout the electoral process.<sup>487</sup> 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.<sup>488</sup> The right to a public hearing must be protected except for specific and objective reasons as determined

<sup>483</sup> 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)

<sup>484</sup> U.N., ICCPR, art. 2; AU, AfCHPR, art. 7

<sup>485</sup> U.N., ICCPR, art. 2(3); AU, ACDEG, art. 17(2); OAS, ACHR, art. 25(1); CoE, ECHR, art. 13

<sup>486</sup> AU, ACDEG, art. 17(2)

<sup>487</sup> ECOWAS, Protocol on Democracy and Good Governance, art. 7

<sup>488</sup> U.N., ICCPR, art. 14(1); OAS, ACHR, art. 8(1); CIS, Convention on Human Rights, art. 6(1)

by law.<sup>489</sup> The independence and impartiality of tribunals are absolute rights.<sup>490</sup>

Interpretive sources suggest that the notion of a fair trial includes the guarantee of a fair and public hearing, absent of influence.<sup>491</sup> Impartiality requires that judges act without bias and that the tribunal appears unbiased to the reasonable observer.<sup>492</sup>

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.<sup>493</sup> 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.<sup>494</sup>

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.<sup>495</sup>

### **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.<sup>496</sup>

### **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 transparent<sup>497</sup> and that the opportunity should exist to present evidence in support of a complaint.<sup>498</sup>

### **"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.<sup>499</sup>

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489 U.N., ICCPR, art. 14

490 U.N., ICCPR, art. 14

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

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

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

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

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

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

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

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

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



## Protection of Personal Data

### **Key Obligations:**

- Transparency and Access to Information

**Citizens that offered proof of identity had the right to rectify information about them that was inaccurate.**

Some treaty and interpretive sources state in regard to the protection and use of personal data that everyone has a right to reply to incorrect information published about them and, upon proof of identity, to rectify information in case of unlawful or inaccurate entries.<sup>500</sup>

**Personal data collected was not used for other purposes.**

Regional treaties and political commitment sources indicate that personal data should only be collected for specified and legitimate purposes.<sup>501</sup>

**Personal data could be collected and processed based on informed consent.**

Regional treaty and political commitment sources elaborate that unless provided for by law, or necessary to deliver a service or for other legitimate purposes, personal information may only be used based on informed consent.<sup>502</sup>

**Personal data controllers complied with data minimization, accuracy, confidentiality, integrity, and storage limitation obligations.**

Regional treaties and political commitment sources stipulate that the collection of personal data should be minimized, relevant, and limited to the purposes pursued.<sup>503</sup> Personal data should not be stored longer than necessary for the purposes pursued.<sup>504</sup> In addition, personal data controllers should ensure data accuracy and protect personal data from unauthorized disclosure, loss, modification, or other misuses.<sup>505</sup>

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<sup>500</sup> EU, GDPR, art. 5(1)d; U.N. (CCPR), General Comment 34, para. 18; U.N. (CCPR), General Comment 16, para. 10

<sup>501</sup> EU, GDPR, art. 5(1)b; UNGA, Resolution 73/179 on the Right to Privacy in the Digital Age, para. 7.c; CoE (Committee of Ministers), Recommendation (2012)4 on the Protection of Human Rights with Regard to Social Networking Services, para. 6; CoE (Committee of Ministers), Recommendation on Good Administration, art. 9.1-3; OECD, Recommendation Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, para. 8

<sup>502</sup> EU, GDPR, art. 6.1.a; CoE (Committee of Ministers), Recommendation (2018)2, para. 2.4.2; APEC, Privacy Framework, para. 25

<sup>503</sup> EU, GDPR, art. 5(1)b;c; CoE (Committee of Ministers), Recommendation (2012)3, para. 7, 10; APEC, Privacy Framework, para. 24; OECD, Recommendation Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, para. 8

<sup>504</sup> EU, GDPR, art. 5.1.e

<sup>505</sup> EU, GDPR, art. 5.1.d, f

**An independent, duly resourced body oversaw compliance with data protection principles.**

Regional treaties emphasize that an independent and duly resourced body needs to be vested with authority to oversee compliance with data protection principles, including in the context of election management.<sup>506</sup>

**Everyone had the right to know whether information about themselves was processed and to obtain such information in an accessible format.**

International and regional treaties establish that everyone has the right to seek and receive information.<sup>507</sup> Interpretive sources extend the understanding of this obligation by ensuring that people have the right to know whether information concerning them is being processed and to obtain such information in an intelligible form.<sup>508</sup>

**Personal data controllers provided clear and accessible information about their data collection and processing policies and practices.**

The right of access to information is protected by a number of international and regional treaties. To facilitate this right, the state and other entities acting as personal data controllers, including the election administration, should provide clear and easily accessible information to citizens about their data collection and processing policies and practices.<sup>509</sup>

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<sup>506</sup> EU, GDPR, art. 51.1

<sup>507</sup> 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)

<sup>508</sup> EU, GDPR, art. 5(1)d; U.N. (CCPR), General Comment 34, para. 18; U.N. (CCPR), General Comment 16, para. 10

<sup>509</sup> EU, GDPR, art. 5(1)a; OECD, Recommendation Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, para. 12; UNGA, Resolution 73/179 on the Right to Privacy in the Digital Age, para. 7(b); CoE (Committee of Ministers), Recommendation (2018)2 on the Roles and Responsibilities of Internet Intermediaries, para. 2.2.1-3



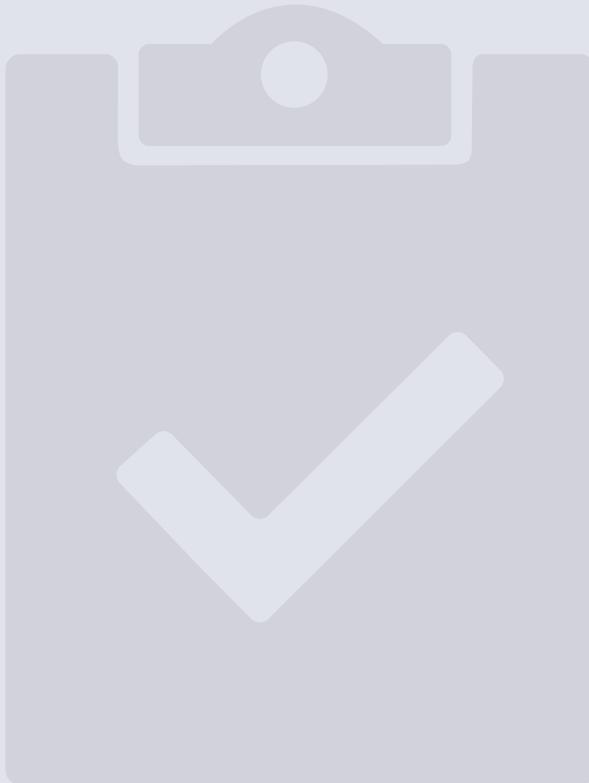


## Section 4

# Voter Registration

## Relevant Obligations

- Genuine Elections That Reflect the Free Expression of the Will of the People
  - Right and Opportunity to Vote
  - Freedom From Discrimination and Equality Before the Law
  - Equality Between Men and Women
  - Right to an Effective Remedy
  - Transparency and Access to Information
  - Right to Security of the Person
  - Right and Opportunity to Participate in Public Affairs
  - Freedom of Movement
  - Freedom of Association
  - Universal Suffrage
  - Equal Suffrage
  - Periodic Elections
  - Secret Ballot
  - 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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**E**ffective 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.

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

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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.

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
- Protection of personal data
- 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:**

- Right and Opportunity to Vote
- 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.<sup>510</sup> The rule of law is widely recognized as an essential condition for the fulfillment of human rights and representative democracy.<sup>511</sup>

! 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 law<sup>512</sup> and laws are equally enforced.<sup>513</sup> 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.<sup>514</sup>

### **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.<sup>515</sup>

### **Voter registration procedures were clearly stipulated by law.**

State practice sources suggest that voter registration procedures should be clearly stipulated in the law and be readily accessible for review by potential voters.<sup>516</sup>

<sup>510</sup> U.N., UNCAC, art. 5; AU, ACDEG, art. 32(8); AU, Convention on Corruption, Preamble, art. 3(11); CoE, ECHR, Preamble; CIS, Convention on Human Rights, Preamble; ECOWAS, Protocol on Democracy and Good Governance, art. 34(1)

<sup>511</sup> UNGA, Millennium Declaration; UNGA, Resolutions on the Rule of Law; OAS, IADC, arts. 3 and 4; and OSCE, Copenhagen Document, para. 3

<sup>512</sup> 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); LAS, Arab Charter, art. 3; ASEAN, Human Rights Declaration, art. 3

<sup>513</sup> U.N., ICCPR, art. 26; AU, AfCHPR, art. 13(3); CIS, Convention on Human Rights, art. 20(1)

<sup>514</sup> U.N. (CCPR), General Comment 25, para. 4

<sup>515</sup> 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; ECOWAS, Protocol on Democracy and Good Governance, art. 33(1)

<sup>516</sup> EU, Handbook (Ed. 2), p. 43; OSCE (ODIHR), Guidelines for Reviewing a Legal Framework for Elections (Ed. 1), p. 13

## **Voter Registration and the Fulfillment of Human Rights**

### ***Key Obligations:***

- *Universal Suffrage*
- *Periodic Elections*
- *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.**

States are obligated by international treaties to take the steps necessary to give effect to human rights.<sup>517</sup>

Interpretive sources amplify this obligation, stating that all branches of the government and other public or governmental authorities are responsible for meeting this obligation.<sup>518</sup> 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.<sup>519</sup>

**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.<sup>520</sup> 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.<sup>521</sup>

## **Universal Suffrage, the Right to Vote, and Voter Education**

### ***Key Obligations:***

- *Right and Opportunity to Vote*

**The right to vote was guaranteed by law and was subject only to reasonable and objective restrictions.**

International treaties state that elections must be held by universal suffrage.<sup>522</sup> The right to vote can be subject only to reasonable and

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<sup>517</sup> 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

<sup>518</sup> U.N. (CCPR), General Comment 31, para. 4

<sup>519</sup> U.N. (CCPR), General Comment 25, para. 12

<sup>520</sup> U.N., Human Rights and Elections, para. 75

<sup>521</sup> EISA and ECF of SADC Countries, PEMMO, p. 15 and 16

<sup>522</sup> 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; CIS, Convention on Human Rights, art. 29(b)



objective restrictions. Interpretive sources indicated that it should not be restricted based on any perceived or actual disability and mental health status, including pursuant to an individualized assessment.<sup>523</sup>

## Citizenship

### ***Key Obligations:***

- *Freedom From Discrimination and Equality Before the Law*

### **The rules regarding citizenship were clear and nondiscriminatory.**

While everyone has the right to a nationality,<sup>524</sup> 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.<sup>525</sup> Although states may regulate the law concerning nationality, citizenship, or naturalization, they may not discriminate against any particular nationality in doing so.<sup>526</sup>

Interpretive sources note that distinctions between those who attain citizenship by birth or by naturalization may be discriminatory.<sup>527</sup>

Other sources support the requirement that the process for attaining citizenship should be clearly defined and nondiscriminatory.<sup>528</sup>

## Voter Eligibility and Barriers to Registration

### ***Key Obligations:***

- *Right and Opportunity to Participate in Public Affairs*
- *Right and Opportunity to Vote*
- *Universal Suffrage*

### **Voter registration promoted universal suffrage.**

International treaties state that elections must be held by universal suffrage.<sup>529</sup>

However, universal suffrage may be subject to objective and reasonable restrictions. These restrictions are particularly important in the context of voter registration.

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**!** Refer to the Framework section of this handbook for more information regarding reasonable and unreasonable restrictions on universal suffrage.

<sup>523</sup> U.N. (CRPD), General Comment 1, para. 6, 16, 26, 48, 49; U.N. (CRPD), General Comment 6, para. 49(a); U.N., (CRPD), Views Concerning Communication No. 4/2011, para. 9.4–5

<sup>524</sup> U.N., UDHR, art. 15

<sup>525</sup> U.N., ICCPR, art. 25

<sup>526</sup> U.N., ICERD, art. 1(3)

<sup>527</sup> U.N. (CCPR), General Comment 25, para. 3

<sup>528</sup> U.N., Recommendations of the second session of the Forum on Minority Issues on minorities and effective political participation, para. 26

<sup>529</sup> U.N., ICCPR, art. 25(b); ICERD, art. 5(c); AU, ACDEG, art. 4(2); OAS, ACHR, art. 23(1)(b); CIS, Convention on Human Rights, art. 29(b); UDHR, art. 21(3)

### **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.<sup>530</sup> These include residency,<sup>531</sup> citizenship,<sup>532</sup> criminal conviction,<sup>533</sup> and reaching a minimum age.<sup>534</sup>

### **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,<sup>535</sup> in cases where voter registration is conducted in order to determine eligibility, universal suffrage requires that broad participation be promoted.<sup>536</sup> Further, participation of eligible voters in the registration process should not be inhibited,<sup>537</sup> and unnecessary technical barriers, including overly short timeframes,<sup>538</sup> to participation by otherwise qualified eligible voters should be removed.<sup>539</sup> There should be no fee charged for registering as a voter.<sup>540</sup> Arrangements should be made for absentee voters.<sup>541</sup>

### **Voters displaced in advance of election day had the possibility to return on election day to cast their ballots or were included in voter lists at a place of stay.**

Political commitments state that people displaced against their will should have the opportunity to be considered resident in their former place of residence.<sup>542</sup>

## **Freedom From Discrimination in the Voter Registration Process**

### ***Key Obligations:***

- *Freedom From Discrimination and Equality Before the Law*
- *Right and Opportunity to Vote*

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<sup>530</sup> U.N. (CCPR), General Comment 25, para. 4

<sup>531</sup> OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 11

<sup>532</sup> U.N., ICCPR, art. 25(b)

<sup>533</sup> OAS, ACHR, art. 23

<sup>534</sup> OAS, ACHR, art. 23

<sup>535</sup> U.N. (CCPR), General Comment 25, para. 11

<sup>536</sup> U.N. (CCPR), General Comment 25, para. 11

<sup>537</sup> U.N. (CCPR), General Comment 25, para. 11

<sup>538</sup> U.N. (CCPR), General Comment 25, para. 11; EISA and ECF of SADC Countries, PEMMO, p. 15 and 16; CoE (Venice Commission), Code of Good Practice, 1.2.iv

<sup>539</sup> U.N. (CCPR), General Comment 25, para. 11

<sup>540</sup> EU, Handbook (Ed. 2), p. 42

<sup>541</sup> CoE (PACE), Resolution 1897(2012) on Ensuring Greater Democracy in Elections, para. 8.1.12

<sup>542</sup> U.N., OCHA, Guiding Principles on Internal Displacement, Principles 22.1(c-d) and 29



## **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.<sup>543</sup>

In addition, international treaties state that all are equal before the law and should enjoy the equal protection of the law.<sup>544</sup> 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 disabilities.<sup>545</sup>

## **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.<sup>546</sup> This includes facilities used for voter registration.

## **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 men<sup>547</sup> and that, in some cases, states should take temporary special measures to achieve de facto equality for women.<sup>548</sup>

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.<sup>549</sup> Interpretive sources

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<sup>543</sup> 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)

<sup>544</sup> 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); ASEAN, Human Rights Declaration, art. 3

<sup>545</sup> U.N., CRPD, art. 29

<sup>546</sup> U.N., ICERD, art. 5; U.N., CRPD, art. 9; AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 15(1), 21(2)c

<sup>547</sup> U.N., ICCPR, art. 3; AU, AfCHPR, art. 2(1)(a); AU, African Youth Charter, art. 23(1)b; AU, Protocol to the AfCHPR on the Rights of Women, art. 8; CoE, ECHR, art. 23; EU, Charter of Fundamental Rights, art. 23; CIS, Convention on Human Rights, art. 20(1)

<sup>548</sup> U.N., CEDAW, art. 3, 4(1), 7; AU, Protocol to the AfCHPR on the Rights of Women, art. 2.1.d, 9.1(a-c); AU, ACDEG, art. 29.3

<sup>549</sup> U.N. (CEDAW), General Recommendation 23, para.15, 29, 45(a), General Recommendation 28, para. 9, General Recommendation 30, para IV.B.9.72, IV.B.9.73.c-d

also indicate that measures taken to ensure equitable representation of women should not be considered discriminatory.<sup>550</sup>

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.<sup>551</sup>

**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,<sup>552</sup> 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.<sup>553</sup>

**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.<sup>554</sup> Specific measures aimed at ensuring de facto equality for people with disabilities should not be considered discriminatory.<sup>555</sup>

Other treaty sources also call on states to recognize that women and girls with disabilities are subject to multiple discrimination.<sup>556</sup>

Interpretive sources further indicate the legal framework should provide people with disabilities with the opportunity to vote and be elected.<sup>557</sup>

## Equal Access to Public Places

### **Key Obligations:**

- Right and Opportunity to Vote

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<sup>550</sup> U.N. (CCPR), General Comment 28, para. 29

<sup>551</sup> OSCE (ODIHR), Women's Participation, p. 25

<sup>552</sup> U.N., ICERD, art. 1

<sup>553</sup> U.N., ICERD, art. 1

<sup>554</sup> U.N., CRPD, art. 2, 4; OAS, IADC, art. 2(a); AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 21.2.e

<sup>555</sup> U.N., CRPD, art. 5; OAS, Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities, art. 2(b)

<sup>556</sup> U.N., CRPD, art. 6 (1)

<sup>557</sup> U.N. (CRPD), Concluding Observations, Hungary (2012), para. 26



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

International treaties are clear that everyone has the right of equal access to any place or service intended for use by the public.<sup>558</sup> Some treaty and interpretive sources indicate that states are obliged to ensure that all new infrastructure, materials, communication, and services intended for public use are accessible for all and comply with universal design requirements.<sup>559</sup> Accessibility requirements apply also to places of voter registration.

## 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

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.<sup>560</sup>

Interpretive sources indicate that information and materials about voting should be available in minority languages of the country.<sup>561</sup>

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.<sup>562</sup>

## Accuracy of the List

### **Key Obligations:**

- Genuine Elections That Reflect the Free Expression of the Will of the People
- Right and Opportunity to Vote
- Universal Suffrage
- Equal Suffrage
- State Must Take Necessary Steps to Give Effect to Rights

<sup>558</sup> U.N., ICERD, art. 5; U.N., CRPD, art. 9; AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 15(1), 21(2)c

<sup>559</sup> AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 15.2.c-e; U.N. (CRPD), General Comment 6, para. 24(a); U.N. (CRPD), General Comment 2, para. 15, 25

<sup>560</sup> U.N., ICCPR, art. 27

<sup>561</sup> U.N. (CCPR), General Comment 25, para. 12

<sup>562</sup> OSCE (ODIHR), National Minorities, sec. 5.1.2, Lund Recommendation 7

### **The voter list was accurate and up-to-date.**

International treaties state that elections must be held by equal suffrage.<sup>563</sup> 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.<sup>564</sup>

State practice sources suggest that fulfillment of universal and equal suffrage requires regular updating or reestablishment of the voter list.<sup>565</sup>

### **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.<sup>566</sup>

### **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 process<sup>567</sup> and suggest that a voter list may be reliably established through a variety of acceptable methods, including periodic list, continuous list, or civil registry,<sup>568</sup> in order to ensure that the data remains current. To ensure broad participation, state practice sources also suggest that states should facilitate absentee registration.<sup>569</sup>

## **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.<sup>570</sup>

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563 U.N., ICCPR, art. 25(b); OAS, ACHR, art. 23(1)(b); CIS, Convention on Human Rights, art. 29(b)

564 UNGA, Guidelines Concerning Personal Data Files, art. 2

565 CoE (Venice Commission), Code of Good Practice, sec. I.1.2.ii

566 OSCE (ODIHR), Election Observation Handbook (Ed. 6), p. 59

567 CoE (Venice Commission), Code of Good Practice, sec. I.1.2.7

568 EISA and ECF of SADC Countries, PEMMO, p. 15

569 CoE (Venice Commission), Code of Good Practice, sec. I.1.1.c

570 ECOWAS, Protocol on Democracy and Good Governance, art. 6



State practice sources suggest that registration procedures should be clearly stated and readily accessible for review by potential voters.<sup>571</sup> Everyone has the right to receive information about his/her inclusion on the voter list.<sup>572</sup>

## 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.**

Some treaty and interpretive sources state that in regard to the protection and use of personal data, everyone has a right to reply for incorrect information published about them and, upon proof of identity, to rectify information in case of unlawful or inaccurate entries.<sup>573</sup>

**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.<sup>574</sup>

## Voter Access to Registration Information

### **Key Obligations:**

- Transparency and Access to Information
- State Must Take Necessary Steps to Give Effect to Rights

**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.<sup>575</sup> 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.

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

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<sup>571</sup> OSCE (ODIHR), Resolving Electoral Disputes, para. II.E.25

<sup>572</sup> EU, Charter on Fundamental Rights, art. 8(2); CIS, Convention on Democratic Elections, art. 2(d)

<sup>573</sup> EU, GDPR, art. 5(1)d; U.N. (CCPR), General Comment 34, para. 18; U.N. (CCPR), General Comment 16, para. 10

<sup>574</sup> EU, Handbook (Ed. 2), p. 44

<sup>575</sup> U.N., UNCAC, art. 10

International treaties suggest that states should proactively put in the public domain, government information of public interest.<sup>576</sup> 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.<sup>577</sup>

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.<sup>578</sup>

**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.<sup>579</sup>

**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 displayed<sup>580</sup> and that there be sufficient time for public inspection of the voter list, including time for objections to be raised and for the adjudication of appeals.<sup>581</sup>

## Privacy and Voter Registration

**Key Obligations:**

- Transparency and Access to Information
- Freedom From Discrimination and Equality Before the Law

**Personal data collected was not used for other purposes.**

Regional treaties and political commitment sources indicate that personal data should only be collected for specified and legitimate

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<sup>576</sup> U.N., UNCAC, art. 10; CoE, Convention on Access to Official Documents, art. 2(1); U.N. (CCPR), General Comment 34, para. 19

<sup>577</sup> CIS, Convention on Democratic Elections, art. 2(d)

<sup>578</sup> EU, GDPR, art. 5(1)d; U.N. (CCPR), General Comment 34, para. 18; U.N. (CCPR), General Comment 16, para. 10

<sup>579</sup> U.N. (CCPR), General Comment 34, para. 18

<sup>580</sup> CoE (Venice Commission), Code of Good Practice, sec. I.1.2.iii

<sup>581</sup> Commonwealth Secretariat, Good Practice, para. 17



purposes.<sup>582</sup> Personal data included in the voter list may only be used for the purposes for which it was collected.<sup>583</sup> Such a balance between the right to privacy<sup>584</sup> 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.<sup>585</sup>

**Personal data controllers complied with data minimization, accuracy, confidentiality, integrity, and storage limitation obligations.**

Regional treaties and political commitment sources indicate that personal data should only be collected for specified and legitimate purposes. They further stipulate that the collection of personal data should be minimized, relevant, and limited to purposes pursued.<sup>586</sup>

## **Protection of Personal Data**

**Key Obligations:**

- Transparency and Access to Information

**Citizens that offered proof of identity had the right to rectify information about them that was inaccurate.**

Some treaty and interpretive sources state in regard to the protection and use of personal data that everyone has a right, upon proof of identity, to rectify information about them in case of unlawful or inaccurate entries.<sup>587</sup>

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<sup>582</sup> EU, GDPR, art. 5(1)b; UNGA, Resolution 73/179 on the Right to Privacy in the Digital Age, para. 7.c; CoE (Committee of Ministers), Recommendation (2012)4 on the Protection of Human Rights with Regard to Social Networking Services, para. 6; CoE (Committee of Ministers), Recommendation on Good Administration, art. 9.1-3; OECD, Recommendation Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, para. 8

<sup>583</sup> CoE, Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data, art. 5; EU, GDPR, art. 5(1)b; APEC, Privacy Framework, para. 25; OECD, Recommendation Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, para. 8

<sup>584</sup> U.N., ICCPR, art. 17

<sup>585</sup> UNGA, Guidelines Concerning Computerized Data Files, art. 3

<sup>586</sup> EU, GDPR, art. 5(1)b,c; CoE (Committee of Ministers), Recommendation (2012)3 on the Protection of Human Rights with Regard to Search Engines, para. 7, 10; APEC, Privacy Framework, para. 24; OECD, Recommendation Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, para. 8

<sup>587</sup> EU, GDPR, art. 5(1)d; U.N. (CCPR), General Comment 34, para. 18; U.N. (CCPR), General Comment 16, para. 10

**Personal data controllers complied with data minimization, accuracy, confidentiality, integrity, and storage limitation obligations.**

Regional treaties and political commitment sources indicate that personal data should only be collected for specified and legitimate purposes. They further stipulate that the collection of personal data should be minimized, relevant, and limited to purposes pursued.<sup>588</sup>

**Everyone had the right to know whether information about themselves was processed and to obtain it in an accessible format.**

International and regional treaties establish that everyone has the right to seek and receive information.<sup>589</sup> Interpretive sources extend the understanding of this obligation by ensuring that anyone has the right to know whether information concerning them is being processed and the right to obtain such information in an intelligible form.<sup>590</sup>

**Personal data controllers provided clear and accessible information about their data collection and processing policies and practices.**

The right of access to information is protected by a number of international and regional treaties. Citizens have the right to know if their data is being processed, to access it, and to rectify in case of any inaccuracies. To facilitate these rights, the state and other entities acting as personal data controllers should provide clear and easily accessible information to citizens about their data collection and processing policies and practices.<sup>591</sup>

## **Freedom of Movement for the Purposes of Voter Registration**

***Key Obligations:***

- *Freedom of Movement*

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<sup>588</sup> EU, GDPR, art. 5(1)b,c; CoE (Committee of Ministers), Recommendation (2012)3 on the Protection of Human Rights with Regard to Search Engines, para. 7, 10; APEC, Privacy Framework, para. 24; OECD, Recommendation Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, para. 8

<sup>589</sup> 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)

<sup>590</sup> EU, GDPR, art. 5(1)d; U.N. (CCPR), General Comment 34, para. 18; U.N. (CCPR), General Comment 16, para. 10

<sup>591</sup> EU, GDPR, art. 5(1)a; OECD, Recommendation Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, para. 12; UNGA, Resolution 73/179 on the Right to Privacy in the Digital Age, para. 7(b); CoE (Committee of Ministers), Recommendation (2018)2 on the Roles and Responsibilities of Internet Intermediaries, para. 2.2.1-3



## **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.<sup>592</sup> 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 the voter registration process. The right of freedom of movement may only be restricted when provided by law, necessary in a democratic society.<sup>593</sup>

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

## **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.<sup>594</sup>

## **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.<sup>595</sup>

## **Transparency and Access to Electoral Documents**

### **Key Obligations:**

- 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 men<sup>596</sup> and that, in some cases, states should take temporary special measures to achieve de facto equality for women.<sup>597</sup> Sources indicative of state practice suggest that collection and publication of gender-disaggregated information around electoral processes contributes to raising awareness and advancement of women's rights.<sup>598</sup>

<sup>592</sup> 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)

<sup>593</sup> U.N., ICCPR, art. 12

<sup>594</sup> U.N., ICCPR, art. 12(2); AU, AfCHPR, art. 12(2); CIS, Convention on Human Rights, art. 22(2)

<sup>595</sup> UNGA, Guiding Principles on Internal Displacement, Principle 22

<sup>596</sup> U.N., ICCPR, art. 3; AU, AfCHPR, art. 2(1)(a); AU, African Youth Charter, art. 23(1)b; AU, Protocol to the AfCHPR on the Rights of Women, art. 8; CoE, ECHR, art. 23; EU, Charter of Fundamental Rights, art. 23; CIS, Convention on Human Rights, art. 20(1)

<sup>597</sup> U.N., CEDAW, art. 3; AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 21.2.d; AU, ACDEG, art. 29.3

<sup>598</sup> UN Women, Beijing Declaration and Platform for Action, para. 190.e; UN Women, UNDP, Guide on Gender Equality and Women's Participation, p. 49

## **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.<sup>599</sup> As a means of combating corruption, states should promote transparency in public decision making and procurement as well as public participation.<sup>600</sup> 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.<sup>601</sup> Voter education should include information on the voter registration process and eligibility requirements.

**Voter education campaigns included information about the voting and registration process.**

To facilitate effective participation, voters should be provided with information on the procedure they need to follow in order to register to vote. Applicable registration procedures should be clearly stated and readily accessible for review by potential voters.<sup>602</sup>

## **Partisan and Nonpartisan Observation of the Voter Registration Process**

### ***Key Obligations:***

- Right and Opportunity to Participate in Public Affairs
- Transparency and Access to Information

**Citizen observers were able to access and comment on all parts of the electoral process, including voter registration.**

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<sup>599</sup> U.N., UNCAC, art. 18; AU, Convention on Corruption, art. 7

<sup>600</sup> U.N., UNCAC, art. 13

<sup>601</sup> U.N. (CCPR), General Comment 25, para. 11

<sup>602</sup> OSCE (ODIHR), Guidelines for Reviewing a Legal Framework for Elections (Ed. 1), p. 13



Regional treaties recognize that the participation of observers, citizen and international, may enhance all aspects of the electoral process. Observers should be permitted to follow all aspects and stages of an electoral process, including voter registration.<sup>603</sup>

**International observers were accredited and were able to access and comment on all parts of the electoral process.**

Citizen and international observers should be permitted to follow all aspects and stages of an electoral process, including voter registration.<sup>604</sup>

**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.<sup>605</sup> They also recommend that parties have access to the voter roll without undue cost.<sup>606</sup>

International treaties state that everyone has the right of equal access to any place or service intended for use by the public.<sup>607</sup> 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.<sup>608</sup> Freedom of association may only be restricted under certain circumstances as are prescribed by law and are necessary in a democratic society.<sup>609</sup> These freedom-of-association rights should extend to civil society organizations conducting voter registration activities.

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! Refer to the Framework section of this handbook for more information on permissible restrictions on freedom of association.

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<sup>603</sup> AU, ACDEG, arts. 19–22; CIS, Convention on Democratic Elections, art. 1(2); OSCE, Copenhagen Document, para. 8; OAS, IADC, arts. 23–25

<sup>604</sup> U.N., Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers, para. 12

<sup>605</sup> U.N., ICERD, art. 5; U.N., CRPD, art. 9

<sup>606</sup> 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)

<sup>607</sup> U.N., ICERD, art. 5; U.N., CRPD, art. 9; AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 15(1), 21(2)c

<sup>608</sup> 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)

<sup>609</sup> U.N., ICCPR, art. 22; OAS, ACHR, art. 16(2); CoE, ECHR, art. 11(2); CIS, Convention on Human Rights, art. 12(2), LAS, Arab Charter, art. 4(a); CoE, AU, AfCHPR, art. 10(1)

Political commitments suggest that states should create, in law and practice, an enabling environment for civil society organizations and recognize accredited nongovernmental organizations. Their ability to conduct activities without any unreasonable restrictions, hindrance or insecurity, including those activities related to voter registration, should be facilitated.<sup>610</sup> States should also involve civil society organizations and facilitate their effective participation in public decision-making processes.<sup>611</sup>

## 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.<sup>612</sup> 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.<sup>613</sup> This should include ensuring that violence, including online, does not undermine women's registration as voters, as well as their political participation and representation.<sup>614</sup>

State practice sources recommend that law enforcement behave in a neutral manner during the electoral process, including voter registration.<sup>615</sup> Any security-related restrictions of freedoms and the use of force by public security providers must be based in law, necessary, and proportionate to the objective of maintaining public order.<sup>616</sup>

## Right to an Effective Remedy and Voter Registration

### *Key Obligations:*

- Right to an Effective Remedy

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<sup>610</sup> OIF, Bamako Declaration, para. 4(c)17; OSCE, Moscow Document, para. 43; U.N., HRC, Resolution 38/12 on Civil Society Space, p. 3; CoE (Committee of Ministers), Recommendation (2018)11 on the Need to Strengthen the Protection and Promotion of Civil Society Space, para. I.a,c, II.a; CoE (PACE), Resolution 2226(2018) on New Restrictions on NGO Activities, para. 10.6; EU, EP, Resolution 2016/2324(INI) on Addressing Shrinking Civil Society Space, para. 3, 6

<sup>611</sup> UN (CRPD), General Comment No. 6, para. 70.d; OIF, Bamako Declaration, para. 2.6; CoE (PACE), Resolution 2226(2018) on New Restrictions on NGO Activities, para. 10.5

<sup>612</sup> U.N., ICCPR, art. 9; AU, AfCHPR, art. 6; OAS, ACHR, art. 7(1)

<sup>613</sup> U.N. (CCPR), General Comment 25, para. 11

<sup>614</sup> OAS, Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, art. 3; U.N. (CEDAW), General Recommendation No. 30, para. IV.B.9.72

<sup>615</sup> EU, Handbook (Ed. 2), p. 52; OSCE (ODIHR), Guidelines for Public Security Providers in Elections, p. 22

<sup>616</sup> U.N. (CCPR), General Comment No. 37, para. 78; OSCE (ODIHR), Guidelines for Public Security Providers in Elections, p. 22



## 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)<sup>617</sup> remedy for acts that violate their rights or freedoms.<sup>618</sup> 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.<sup>619</sup>

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

## 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.<sup>620</sup> 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 election<sup>621</sup> and all complaints relating to the voter list should be resolved prior to election day.<sup>622</sup>

<sup>617</sup> U.N., ICCPR, art. 2; AU, AfCHPR, art. 7; AU, ACDEG, art. 17(2); OAS, ACHR, art. 25(1); CoE, ECHR, art. 13

<sup>618</sup> U.N., ICCPR, art. 2; OAS, ACHR, art. 25; CoE, ECHR, art. 13

<sup>619</sup> ECOWAS, Protocol on Democracy and Good Governance, art. 7

<sup>620</sup> OSCE (ODIHR), Legal Framework, p. 14

<sup>621</sup> OSCE (ODIHR), Resolving Electoral Disputes, para. II.E.2.6

<sup>622</sup> EU, Handbook (Ed. 2), p. 44



## Section 5

# Voter Education

## Relevant Obligations

- Genuine Elections That Reflect the Free Expression of the Will of the People
  - Universal Suffrage
  - Right and Opportunity to Vote
  - Equal Suffrage
  - Freedom From Discrimination and Equality Before the Law
  - Secret Ballot
  - Equality Between Men and Women
  - Periodic Elections
  - Right to an Effective Remedy
  - State Must Take Necessary Steps to Give Effect to Rights
  - Right and Opportunity to Participate in Public Affairs
  - Rule of Law
  - Freedom of Association
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- Macro-level Obligation
  - Individual Rights and Freedoms
  - Process-focused Obligations
  - Foundational Obligations



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**E**ffective 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 actors such as the electoral management body, media, 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.

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**!** Refer to the ACE Electoral Knowledge Network for more information on voter education processes.

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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.

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
- Voter education in the context of the right to access information and documents

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.<sup>623</sup> The rule of law is widely recognized as an essential condition for the fulfillment of human rights and representative democracy.<sup>624</sup>

### **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.<sup>625</sup>

### **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<sup>626</sup> and that laws are equally enforced.<sup>627</sup> 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.<sup>628</sup> Suspension or exclusion of participatory rights is prohibited except on grounds established by law.<sup>629</sup>

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**!** Please also refer to the Media section for more information on the media and voter education.

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<sup>623</sup> U.N., UNCAC, art. 5; AU, ACDEG, art. 32(8); AU, Convention on Corruption, Preamble, art. 3(11); CoE, ECHR, Preamble; CIS, Convention on Human Rights, Preamble; ECOWAS, Protocol on Democracy and Good Governance, art. 34(1)

<sup>624</sup> UNGA, Millennium Declaration; UNGA, Resolutions on the Rule of Law; OAS, IADC, arts. 3 and 4; and OSCE, Copenhagen Document, para. 3

<sup>625</sup> U.N., ICCPR, art. 2; AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CIS, Convention on Human Rights, art. 1; ECOWAS, Protocol on Democracy and Good Governance, art. 33(1); CoE, ECHR, art. 1

<sup>626</sup> 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; LAS, Arab Charter, art. 3; ASEAN, Human Rights Declaration, art. 3

<sup>627</sup> U.N., ICCPR, art. 26; AU, AfCHPR, art. 13(3); CIS, Convention on Human Rights, art. 20(1)

<sup>628</sup> U.N. (CCPR), General Comment 25, para. 4

<sup>629</sup> U.N. (CCPR), General Comment 25, para. 4

## 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<sup>630</sup> including when planning the electoral process.

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.<sup>631</sup>

## Universal Suffrage, the Right to Vote, and Voter Education

### ***Key Obligations:***

- *Right and Opportunity to Participate in Public Affairs*
- *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.<sup>632</sup> In addition, every citizen should have the right and the opportunity to vote.<sup>633</sup> Both universal suffrage and the right to vote can be subject only to reasonable and objective restrictions.<sup>634</sup>

**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 the right to vote.<sup>635</sup>

Political commitments and state practice sources support the interpretive sources, suggesting that the fulfillment of universal

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<sup>630</sup> U.N., ICCPR, art. 2

<sup>631</sup> AU, ACDEG, art. 12(4); CoE (Venice Commission), Code of Good Practice, I.3.1.b.i-iii; U.N., Human Rights and Elections, 1st ed., para. 75

<sup>632</sup> 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; CIS, Convention on Human Rights, art. 29(b)

<sup>633</sup> 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

<sup>634</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>635</sup> U.N. (CCPR), General Comment 25, para. 11



suffrage is partially dependent on the success of an adequate voter education process.<sup>636</sup>

### **Voter education campaigns were responsive to the needs of the electorate.**

Treaties, political commitments, and state practice sources indicate the importance of voter education campaigns that are responsive to the needs of the electorate<sup>637</sup> and are designed with the aim of reaching all eligible voters.<sup>638</sup>

### **The state took proactive measures to promote voting by the broadest pool of eligible voters and to ensure that votes cast were counted.**

In seeking to promote voter participation and to give effect to rights, states should pursue policies that encourage the participation of the youth in public affairs and decision-making processes affecting them.<sup>639</sup>

## **The Content of Voter Education Campaigns**

### **Key Obligations:**

- *Right and Opportunity to Participate in Public Affairs*
- *Transparency and Access to Information*
- *Prevention of Corruption*
- *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.<sup>640</sup>

Interpretive sources make clear that the state's obligation to take steps includes the provision of education on human rights.<sup>641</sup>

State practice sources elaborate, suggesting that this obligation includes the provision of voter education on issues such as equal suffrage, secret ballot, voter registration, and the voting process.<sup>642</sup>

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<sup>636</sup> CoE (PACE), Resolution 2155(2017) on Political Rights of Persons with Disabilities, para. 7.3.3; Norwegian Helsinki Committee, Manual for Election Observation, sec. 5.5

<sup>637</sup> CoE (PACE), Resolution 1897(2012) on Ensuring Greater Democracy in Elections, para. 8.1.12 International IDEA, Code, p. 14

<sup>638</sup> AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 21(2)a; CoE (PACE), Resolution 2155(2017) on Political Rights of Persons with Disabilities, para. 7.3.3; OSCE (ODIHR), Domestic Election Observers, p. 97

<sup>639</sup> AU, African Youth Charter, art. 23.1.b; EU (Council), Resolution on EU Youth Strategy 2019-2027, p. 3-4

<sup>640</sup> U.N., ICCPR, art. 2

<sup>641</sup> U.N. (CCPR), General Comment 31, para. 7

<sup>642</sup> Norwegian Helsinki Committee, Manual for Election Observation, sec. 5.5

Voter education campaigns should be carried out impartially and consistently.<sup>643</sup>

**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 day<sup>644</sup> and that the loss of this right may only be imposed after adjudication by a court.<sup>645</sup> 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.<sup>646</sup>

## **Provision of Voter Education by the Electoral Management Body**

***Key Obligations:***

- State Must Take Necessary Steps to Give Effect to Rights

**The state took the steps necessary to give effect to rights during voter education.**

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.<sup>647</sup>

**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.<sup>648</sup>

Other state practice sources suggest that EMBs, as principal organs of the state responsible for election implementation, bear primary responsibility for voter education<sup>649</sup> and that voter education campaigns should be responsive to the needs to the electorate<sup>650</sup> and materials distributed in a timely manner.<sup>651</sup>

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643 EISA and ECF of SADC Countries, PEMMO, p. 22

644 Goodwin Gill, Free and Fair (2006), p.127

645 OSCE, Moscow Document, para. 18

646 U.N., Human Rights and Elections, 1st ed., para. 88

647 AU, ACDEG, art. 12

648 U.N., Human Rights and Elections, 1st ed., para. 87

649 EISA and ECF of SADC Countries, PEMMO, p. 22

650 U.N., Electoral Management Bodies, p. 102; EU, Handbook (Ed. 2), p. 39

651 EU, Handbook (Ed. 1), p. 65



## 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 organizations<sup>652</sup> 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.<sup>653</sup> It may only be restricted under certain circumstances that are prescribed by law and necessary in a democratic society.<sup>654</sup>

Political commitments note that states should create, in law and practice, an enabling environment for civil society organizations to conduct their activities free from hindrance and insecurity.<sup>655</sup> States should also recognize accredited nongovernmental organizations, facilitate their ability to carry out activities, including voter education,<sup>656</sup> and involve civil society organizations in public decision-making processes.<sup>657</sup>

State practice sources suggest that while the state bears principal responsibility for voter education,<sup>658</sup> the opportunity for civil society and international organizations to contribute to voter education efforts should exist.<sup>659</sup> Media and information literacy education should be promoted to enable individuals to access, understand, and critically analyze information, including online.<sup>660</sup>



Refer to the Framework section of this handbook for more information about restrictions on freedom of association.

<sup>652</sup> U.N., CEDAW, art. 7; AU, AfCHPR, art. 10(1); OAS, ACHR, art. 23 (1)

<sup>653</sup> 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)

<sup>654</sup> U.N., ICCPR, art. 22(1); OAS, ACHR, art. 16(2); CoE, ECHR, art. 11(2); CIS, Convention on Human Rights, art. 12(2); LAS, Arab Charter, art. 4(a); AU, AfCHPR, art. 10(1)

<sup>655</sup> OIF, Bamako Declaration, para. 4(c)17; U.N., HRC, Resolution 38/12 on Civil Society Space, p. 3; CoE (Committee of Ministers), Recommendation (2018)11 on the Need to Strengthen the Protection and Promotion of Civil Society Space, para. I.a,c, II.a; CoE (PACE), Resolution 2226(2018) on New Restrictions on NGO Activities, para. 10.6; EU, EP, Resolution 2016/2324(INI) on Addressing Shrinking Civil Society Space, para. 3, 6

<sup>656</sup> OSCE, Moscow Document, para. 43

<sup>657</sup> UN (CRPD), General Comment No. 6, para. 70.d; OIF, Bamako Declaration, para. 2.6; CoE (PACE), Resolution 2226(2018) on New Restrictions on NGO Activities, para. 10.5

<sup>658</sup> AU, ACDEG, art. 12

<sup>659</sup> EISA and ECF of SADC Countries, PEMMO, p. 22

<sup>660</sup> U.N., HRC, Resolution 38/7 on the Promotion, Protection and Enjoyment of Human Rights on the Internet, para. 4; CoE (Committee of Ministers), Recommendation (2018)1 on Media Pluralism and Transparency of Media Ownership, para. 5.1; CoE (PACE), Resolution 2254(2019) on Media Freedom as a Condition for Democratic Elections, para. 9.6

**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.<sup>661</sup>

**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.<sup>662</sup> In addition, treaties state that all are equal before the law and should enjoy the equal protection of the law.<sup>663</sup>

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.<sup>664</sup>

**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.<sup>665</sup> 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.

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<sup>661</sup> EISA and ECF of SADC Countries, PEMMO, p. 22

<sup>662</sup> 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

<sup>663</sup> U.N., ICCPR, art. 26; OAS, ACHR, art. 24; AU, AfCHPR, art. 8; CIS, Convention on Human Rights, art. 20(1); ASEAN, Human Rights Declaration, art. 3

<sup>664</sup> U.N. (CCPR), General Comment 28, para. 21

<sup>665</sup> U.N., ICERD, art. 5; U.N., CRPD, art. 9, AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 15(1), 21(2)c



## Voter education materials facilitated voting by illiterate voters.

Interpretive sources state that voter education campaigns should be accessible to all voters, including those with special needs.<sup>666</sup> To this end, interpretive sources suggest that specific methods, such as the use of photographs and symbols, should be adopted to facilitate participation by illiterate voters.<sup>667</sup>

## 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 men<sup>668</sup> and that, in some cases, states should take temporary special measures to achieve de facto equality for women.<sup>669</sup>

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.<sup>670</sup> Interpretive sources also indicate that measures taken to ensure equitable representation of women should not be considered discriminatory.<sup>671</sup>

### **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,<sup>672</sup> 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.<sup>673</sup>

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<sup>666</sup> AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 21.2.a; U.N. (CCPR), General Comment 25, para. 12; CoE (PACE), Resolution 2155(2017) on Political Rights of Persons with Disabilities, para. 7.3.3

<sup>667</sup> U.N. (CCPR), General Comment 25, para. 12

<sup>668</sup> U.N., ICCPR, art. 3; AU, AfCHPR, art. 2(1)(a); AU, African Youth Charter, art. 23(1)b; AU, Protocol to the AfCHPR on the Rights of Women, art. 8; CoE, ECHR, art. 23; EU, Charter of Fundamental Rights, art. 23; CIS, Convention on Human Rights, art. 20(1)

<sup>669</sup> U.N., CEDAW, art. 3; AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 21.2.d; AU, ACDEG, art. 29.3

<sup>670</sup> U.N. (CEDAW), General Recommendation 23, para. 45

<sup>671</sup> U.N. (CCPR), General Comment 28, para. 29

<sup>672</sup> U.N., ICERD, art. 1(4)

<sup>673</sup> U.N., ICERD, art. 1(4)

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.<sup>674</sup>

**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.<sup>675</sup> Specific measures aimed at ensuring de facto equality for people with disabilities should not be considered discriminatory.<sup>676</sup> Other treaty sources also call on states to recognize that women and girls with disabilities are subject to multiple discrimination.<sup>677</sup>

Treaty sources further state that education campaigns to facilitate the participation of people with disabilities should be provided.<sup>678</sup>

Interpretive sources further indicate the legal framework should provide people with disabilities with the opportunity to vote and be elected.<sup>679</sup>

**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.<sup>680</sup>

Interpretive sources support this, adding that information and materials about voting should be available in minority languages.<sup>681</sup>

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<sup>674</sup> U.N. (CERD), Concluding Observations, Nepal (2004), para. 17

<sup>675</sup> U.N., CRPD, art. 2, 4; OAS, IADC, art. 2(a); AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 21.2.e

<sup>676</sup> U.N., CRPD, art. 5(4); OAS, Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities, art. 2(b)

<sup>677</sup> U.N., CRPD, art. 6(1)

<sup>678</sup> U.N., CRPD, arts. 24(1)(c) and 29; AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 21.2.a

<sup>679</sup> U.N. (CRPD), Concluding Observations, Hungary (2012), para. 26

<sup>680</sup> U.N., ICCPR, art. 27

<sup>681</sup> U.N. (CCPR), General Comment 25, para. 12



## Partisan and Nonpartisan Observation of Voter Education

### ***Key Obligations:***

- Right and Opportunity to Participate in Public Affairs

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.<sup>682</sup> Regional treaties are clear that the participation of observers, both citizen and international, may enhance all aspects of the electoral process.<sup>683</sup>

**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.<sup>684</sup> This includes observer access to the voter education process.

## 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)<sup>685</sup> remedy before a competent national tribunal for acts that violate their rights or freedoms.<sup>686</sup> 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.<sup>687</sup>

Political commitment sources indicate that individuals must have the right to a remedy for violations of their participatory rights relating to the election process.<sup>688</sup>

<sup>682</sup> U.N., ICCPR, art. 25; AU, AfCHPR, art. 13; AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 21.1; OAS, ACHR, art. 23; ECOWAS, Protocol on Democracy and Good Governance, art. 1(d)

<sup>683</sup> AU, ACDEG, arts. 19–22; CIS, Convention on Democratic Elections, art. 1(2); OSCE, Copenhagen Document, para. 8; OAS, IADC, arts. 23–25

<sup>684</sup> OSCE, Copenhagen Document, para. 8

<sup>685</sup> U.N., ICCPR, art. 2; AfCHPR, art. 7

<sup>686</sup> U.N., ICCPR, art. 2; OAS, ACHR, art. 25; CoE, ECHR, art. 13

<sup>687</sup> ECOWAS, Protocol on Democracy and Good Governance, art. 7

<sup>688</sup> CoE, Declaration on the Code of Good Practice, p. 1

## **Access to Information and Electoral Documents**

### **Key Obligations:**

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

**The media took steps to reach all segments of society, including those who speak minority languages or live in rural areas.**

Media, public and private, play an important role in supporting electoral participation by providing voter education. Political commitments emphasize that effective participation by voters with special needs, including people with disabilities, should be facilitated by providing political reporting and information in accessible formats.<sup>689</sup>

**The state took the steps necessary to give effect to rights during voter education.**

Political commitments stress that to give effect to rights, states should promote media and information literacy education in order to enable individuals to access, understand, and critically analyze information, including online.<sup>690</sup> Political commitments and state practice sources also emphasize the role of media literacy campaigns, public education, independent fact-checking, as well as self-regulation by internet intermediaries in tackling disinformation. These measures could be prioritized over criminalization.<sup>691</sup>

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<sup>689</sup> CoE (PACE), Resolution 2155(2017) on Political Rights of Persons with Disabilities, para. 7.3.2; CoE (Committee of Ministers), Recommendation (2012)3 on the Protection of Human Rights with Regard to Search Engines, para. 7

<sup>690</sup> U.N., HRC, Resolution 38/7 on the Promotion, Protection and Enjoyment of Human Rights on the Internet, para. 4; CoE (Committee of Ministers), Declaration on the Manipulative Capabilities of Algorithmic Processes, para. 9.e; CoE (Committee of Ministers), Recommendation (2018)1 on Media Pluralism and Transparency of Media Ownership, para. 5.1; Recommendation (2012)3 on the Protection of Human Rights with Regard to Search Engines, para. 8; Recommendation (2018)2 on the Roles and Responsibilities of Internet Intermediaries, para. 8

<sup>691</sup> CoE (PACE), Resolution 2254(2019) on Media Freedom as a Condition for Democratic Elections, para. 9.2; EU (EC), Communication on Tackling Online Disinformation, p. 7; Communication, Guidance on Strengthening the Code of Practice on Disinformation, p. 1, 13; U.N. (OHCHR), OAS, OSCE, Joint Declaration on Freedom of Expression and Elections in the Digital Age, para. 1.c.i





## Section 6

# Candidacy and Campaigning

## Relevant Obligations

- Genuine Elections That Reflect the Free Expression of the Will of the People
  - Right and Opportunity to Be Elected
  - Freedom From Discrimination and Equality Before the Law
  - Equality Between Men and Women
  - Right to an Effective Remedy
  - Transparency and Access to Information
  - Right to Security of the Person
  - Right and Opportunity to Participate in Public Affairs
  - Freedom of Movement
  - Freedom of Association
  - Freedom of Assembly
  - Freedom of Opinion and Expression
  - Periodic Elections
  - Prevention of Corruption
  - Rule of Law
  - State Must Take Necessary Steps to Give Effect to Rights
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- Macro-level Obligation
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**C**andidates 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.

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**!** Refer to the ACE Electoral Knowledge Network for more information on candidates, political parties, and campaigns.

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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.

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
- Guarantees against misuse of public resources and official position
- 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.<sup>692</sup> The rule of law is widely recognized as an essential condition for the fulfillment of human rights and representative democracy.<sup>693</sup>

### **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 law<sup>694</sup> and that laws are equally enforced.<sup>695</sup>

Interpretive sources have further stated that rule of law requires that laws and procedures are not arbitrarily applied.<sup>696</sup>

### **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.<sup>697</sup>

### **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.<sup>698</sup> Such legislation on political party and campaign finance should:

<sup>692</sup> U.N., UNCAC, art. 5; AU, ACDEG, art. 32 (4); AU, Convention on Corruption, Preamble, art. 3(11); CoE, ECHR, Preamble; CIS, Convention on Human Rights, Preamble; CIS, Convention on Human Rights, Preamble; ECOWAS, Protocol on Democracy and Good Governance, art. 34(1)

<sup>693</sup> UNGA, Millennium Declaration; UNGA Resolutions on the Rule of Law; OAS, IADC, art. 3 and 4; and OSCE, Copenhagen Document, para. 3

<sup>694</sup> 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; LAS, Arab Charter, art. 3; ASEAN, Human Rights Declaration, art. 3

<sup>695</sup> U.N., ICCPR, art. 26; AU, AfCHPR, art. 13(3); CIS, Convention on Human Rights, art. 20(1)

<sup>696</sup> U.N. (CCPR), General Comment 25, para. 4

<sup>697</sup> U.N., ICCPR, art. 2; AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CIS, Convention on Human Rights, art. 1; ECOWAS, Protocol on Democracy and Good Governance, art. 33(1); CoE, ECHR, art. 1

<sup>698</sup> van Biezen, Guidelines, p. 14

- Be clear, unambiguous,<sup>699</sup> and publicly available<sup>700</sup>
- Avoid conflicting provisions governing the activities of political parties and their financial activities<sup>701</sup>
- Avoid conflicting provisions between laws governing the financing of national and subnational parties<sup>702</sup>
- 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.<sup>703</sup>

## **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,<sup>704</sup> 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).<sup>705</sup> Freedom of association may only be restricted under certain circumstances as are prescribed by law and are necessary in a democratic society.<sup>706</sup> Lawful restrictions on this freedom may also be placed on members of the armed forces and police.<sup>707</sup>

Regional treaties, supported by political commitments, state that all individuals and groups should have the right to establish their own political parties or political organizations<sup>708</sup> on equal terms<sup>709</sup> and that such association must be voluntary.<sup>710</sup>

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<sup>699</sup> OSCE (ODIHR), Handbook for the Observation of Campaign Finance, p. 27; IFES, Political Finance in Post-Conflict Societies, p. 129

<sup>700</sup> van Biezen, Guidelines, p. 15; OSCE (ODIHR), Handbook for the Observation of Campaign Finance, p. 27

<sup>701</sup> van Biezen, Guidelines, p. 15

<sup>702</sup> van Biezen, Guidelines, p. 15

<sup>703</sup> van Biezen, Guidelines, p. 15

<sup>704</sup> U.N., ICCPR, art. 22; AU, AfCHPR, art. 10; 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)

<sup>705</sup> AU, ACDEG, art. 3 (11); CIS, Convention on Democratic Elections, art. 19 (1)(g)

<sup>706</sup> U.N., ICCPR, art. 22(2); OAS, ACHR, art. 16(2); CoE, ECHR, art. 11(2); CIS, Convention on Human Rights, art. 12(2); LAS, Arab Charter, art. 4(a); CoE, AU, AfCHPR, art. 10(1)

<sup>707</sup> U.N., ICCPR, art. 22(2)

<sup>708</sup> AU, AfCHPR, art. 10; U.N. (CCPR), General Comment 25, para. 27

<sup>709</sup> OSCE, Copenhagen Document, para. 7.6

<sup>710</sup> U.N., UDHR, art. 20



International treaties also state that this right must be enjoyed free from discrimination on the basis of prohibited grounds.<sup>711</sup>

### **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 organizations<sup>712</sup> on equal terms<sup>713</sup> and that such association must be voluntary.<sup>714</sup>

Regional treaties provide that regardless of their ideological position, political parties should be treated equally in being recognized and registering as a party.<sup>715</sup>

Interpretive sources emphasize that party registration should not be used as a means of silencing political movements that are opposed to the current government.<sup>716</sup>

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.<sup>717</sup>

### **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.<sup>718</sup>

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**!** Refer to the Framework section at the beginning of this handbook for more information on unreasonable restrictions on the right to be elected.

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### **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.<sup>719</sup> Requirements for legal recognition should be clearly specified and realistic,<sup>720</sup> and deadlines for applications for legal recognition should be clear.<sup>721</sup> Further, state practice sources also

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711 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)

712 AU, AfCHPR, art. 10; U.N. (CCPR), General Comment 25, para. 27

713 OSCE, Copenhagen Document, para. 7.6

714 U.N., UDHR, art. 20

715 CIS, Convention on Democratic Elections, art. 9(6)

716 U.N. (CCPR), Concluding Observations on Azerbaijan (2001), p. 23

717 OSCE, Copenhagen Document, art. 7.6

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

719 OSCE, Copenhagen Document, para. 7.6

720 Ibid.

721 Ibid.

indicate that any requirements should not be too burdensome,<sup>722</sup> and they should be proportionate to its objective.<sup>723</sup>

### **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.<sup>724</sup> Parties must be granted an opportunity to challenge state decisions that restrict their activities or formation.<sup>725</sup>

## **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.<sup>726</sup> This can be interpreted to require that there are procedures in place to ensure internal democratic processes.

## **The Election Calendar and Enjoyment of Rights**

### ***Key Obligations:***

- *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.**

State practice sources indicate that provisions on candidate registration should leave adequate time for campaigning and public information efforts.<sup>727</sup>

## **Candidature**

### ***Key Obligations:***

- *Right and Opportunity to Be Elected*
- *Right and Opportunity to Participate in Public Affairs*

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722 CoE (Venice Commission), Parties in Elections, para. 15

723 CoE (Venice Commission), Legislation on Political Parties, para. B

724 CoE (Venice Commission), Guidelines on Legislation on Political Parties, para. B

725 OSCE (ODIHR), CoE (Venice Commission), Guidelines on Political Party Regulation (Ed. 2), para. 53

726 U.N. (CCPR), General Comment 25, para. 27

727 U.N., Center for Human Rights, Handbook on the Legal, Technical, and Human Rights Aspects of Elections, para. 75



- *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.<sup>728</sup> The right to be elected may only be subject to objective and reasonable restrictions. Unreasonable restrictions include those based on excessive residency requirements;<sup>729</sup> naturalized citizenship;<sup>730</sup> criminal conviction (disproportionate to the severity of the crime or blanket disenfranchisement provisions);<sup>731</sup> excessive age requirements;<sup>732</sup> race,<sup>733</sup> sex;<sup>734</sup> religion;<sup>735</sup> any form of disability;<sup>736</sup> political or other opinion;<sup>737</sup> national or social origin;<sup>738</sup> sexual orientation or gender identity;<sup>739</sup> language;<sup>740</sup> birth or other status;<sup>741</sup> literacy;<sup>742</sup> education;<sup>743</sup> property ownership;<sup>744</sup> party membership;<sup>745</sup> status as an internally displaced person;<sup>746</sup> economic circumstances;<sup>747</sup> holding a position that does not constitute a conflict of interest if also holding elective office;<sup>748</sup> and excessive monetary fees or deposits.<sup>749</sup>

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.<sup>750</sup>

Other state practice sources underscore the importance of a clear deadline after which the validity of candidatures cannot be challenged.<sup>751</sup>

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**!** Refer to the Framework section of this handbook for more information on unreasonable restrictions on the right to be elected.

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<sup>728</sup> 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

<sup>729</sup> OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 11; CoE, Convention on the Participation of Foreigners, art. 6.1

<sup>730</sup> U.N., ICCPR, art. 25(b); U.N. (CCPR), General Comment 25, para. 3

<sup>731</sup> 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

<sup>732</sup> OAS, ACHR, art. 23; U.N., CRC, art. 1; CIS, Convention on Democratic Elections, art. 2(a); U.N. (CCPR), General Comment 25, para. 4, 10, 15

<sup>733</sup> U.N., ICCPR, arts. 2 and 25

<sup>734</sup> U.N., ICCPR, arts. 2 and 25

<sup>735</sup> U.N., ICCPR, arts. 2 and 25

<sup>736</sup> U.N., CRPD, art. 29; AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 21(2)b

<sup>737</sup> U.N., ICCPR, arts. 2 and 25

<sup>738</sup> U.N., ICCPR, arts. 2 and 25

<sup>739</sup> EU, Charter on Fundamental Rights, art. 21(2); U.N. (CCPR), Toonen v. Australia (1994); U.N. (CESCR), General Comment 20, para. 32

<sup>740</sup> U.N., ICCPR, art. 2

<sup>741</sup> U.N., ICCPR, arts. 2 and 25

<sup>742</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>743</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>744</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>745</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>746</sup> UNGA, Guiding Principles on Internal Displacement, Principle 4.1

<sup>747</sup> U.N., Human Rights and Elections, 1st ed., p. 65

<sup>748</sup> U.N. (CCPR), General Comment 25, para. 16

<sup>749</sup> U.N. (CCPR), General Comment 25, para. 16

<sup>750</sup> U.N. (CCPR), General Comment 25, para. 4

<sup>751</sup> Petit, Resolving Election Disputes, para. II.F.28

### **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.<sup>752</sup>

### **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.<sup>753</sup>

### **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.<sup>754</sup>

## **Independent Candidacy**

### ***Key Obligations:***

- *Freedom From Discrimination and Equality Before the Law*

### **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.<sup>755</sup> Individuals should not suffer discrimination because they are not affiliated with a political party.<sup>756</sup>

## **Female Candidates**

### ***Key Obligations:***

- *Equality Between Men and Women*
- *Right to Security of the Person*

### **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.<sup>757</sup>

Interpretive sources state that women should be able to compete in electoral processes on an equal basis with men and that political

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752 CoE (Venice Commission), Guidelines on Political Parties, para. II(5)

753 OSCE, Moscow Document, para. 18

754 OSCE (ODIHR), Existing Commitments, p. 63

755 U.N. (CCPR), General Comment 25, para. 15

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

757 U.N., ICCPR, art. 3; AU, AfCHPR, art. 2(1)(a); AU, African Youth Charter, art. 23(1)b; AU, Protocol to the AfCHPR on the Rights of Women, art. 8; CoE, ECHR, art. 23; EU, Charter on Fundamental Rights, art. 23; CIS, Convention on Human Rights, art. 20(1)



parties should embrace the principles of equal opportunity for female candidates.<sup>758</sup> Female candidates should receive adequate funds to campaign, which may require allocation of public funds.<sup>759</sup> 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.<sup>760</sup>

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

Sources indicative of state practice suggest that the collection and publication of gender-disaggregated information around electoral processes contributes to raising awareness and advancement of women's rights.<sup>761</sup>

### **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.**

Interpretive and state practice sources suggest that measures to promote the participation and representation of women could include gender-targeted public funding of political parties.<sup>762</sup>

### **Intimidation, coercion or violence against politically active women was prohibited in law and in practice.**

International treaties state that everyone has the right to security of the person<sup>763</sup> and should be free from physical and emotional violence at all times. As part of this obligation, states should ensure that violence, including online, does not undermine women's rights, including political participation and representation.<sup>764</sup>

## **Equal Treatment of Candidates and Parties**

### **Key Obligations:**

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

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758 U.N. (CEDAW), General Recommendation 23, para. 22

759 U.N. (CEDAW), Concluding Observations, Ethiopia (2011), para. 27

760 U.N. (CEDAW), Concluding Observations, Oman (2011), para. 32

761 UN Women, Beijing Declaration and Platform for Action, para. 190.e; UN Women, UNDP, Guide on Gender Equality and Women's Participation, p. 49

762 U.N. (CEDAW), General Recommendation 25, para. 22; U.N. (Security Council), Resolution 2242(2015), para. 3; International IDEA, Gender-Targeted Public Funding for Political Parties, p. 11

763 U.N., ICCPR, art. 9; AU, AfCHPR, art. 6; OAS, ACHR, art. 7(1)

764 OAS, Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, art. 3; U.N. (CEDAW), General Recommendation No. 30, para. IV.B.9.72

### **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.<sup>765</sup> In addition, international law is clear that all are equal before the law and should enjoy the equal protection of the law.<sup>766</sup>

### **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.<sup>767</sup>

### **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.<sup>768</sup>
- All political contestants should have an equal period of time in which to campaign.<sup>769</sup>
- Procedures for ballot access should be nondiscriminatory.<sup>770</sup>
- The legal framework should provide clear guidance with regard to the placement of candidates on the ballot.<sup>771</sup>
- 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 better-established parties.<sup>772</sup>

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.<sup>773</sup>

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<sup>765</sup> 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)

<sup>766</sup> 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); LAS, Arab Charter, art. 3; ASEAN, Human Rights Declaration, art. 3

<sup>767</sup> U.N. (CCPR), General Comment 25, para. 15

<sup>768</sup> OSCE, Copenhagen Document, art. 7.6

<sup>769</sup> OSCE (ODIHR), Observation Handbook (Ed. 5), p. 47

<sup>770</sup> OSCE (ODIHR), Existing Commitments, p. 63

<sup>771</sup> OSCE (ODIHR), Legal Framework (Ed. 1), p. 16

<sup>772</sup> CoE (Committee of Ministers), Rec. 1516(2001) on Financing Political Parties, para. 8(A)(iii)

<sup>773</sup> OSCE, Copenhagen Document, para. 7.6



## Campaign Silence Period

### **Key Obligations:**

- Freedom of Opinion and Expression

If a campaign silence period was imposed, it was reasonable in length.

Political commitment sources 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.<sup>774</sup> This is not to be considered a violation of freedom of expression but should not be imposed for overly long periods of time.

## 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 men<sup>775</sup> and that in some cases states should take temporary special measures to achieve de facto equality for women.<sup>776</sup>

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 using quotas to ensure female participation in public affairs.<sup>777</sup> Interpretive and state practice sources suggest that measures to promote the participation and representation of women could include gender-targeted public funding of political parties.<sup>778</sup>

Interpretive sources also indicate that measures taken to ensure equitable representation of women should not be considered discriminatory.<sup>779</sup>

In the context of candidates and campaigning, this may require that parties take active steps to ensure women are included on party

<sup>774</sup> CoE (Committee of Ministers), Rec R99(15) on Measures Concerning Media Coverage During Elections, para. 3.1

<sup>775</sup> U.N., ICCPR, art. 3; AU, AfCHPR, art. 2(1)(a); AU, African Youth Charter, art. 23(1)b; AU, Protocol to the AfCHPR on the Rights of Women, art. 8; CoE, ECHR, art. 23; EU, Charter of Fundamental Rights, art. 23; CIS, Convention on Human Rights, art. 20(1)

<sup>776</sup> U.N., CEDAW, art. 3, 4(1), 7; AU, Protocol to the AfCHPR on the Rights of Women, art. 2.1.d, 9.1(a-c); AU, ACDEG, art. 29.3

<sup>777</sup> OAS, IADC, art. 5; U.N., CEDAW, General Recommendation 23, para.15, 29, 45(a), General Recommendation 28, para. 9, General Recommendation 30, para IV.B.9.72, IV.B.9.73.c-d

<sup>778</sup> U.N. (CEDAW), General Recommendation 25, para. 22; U.N. (Security Council), Resolution 2242(2015), para. 3; International IDEA, Gender-Targeted Public Funding for Political Parties, p. 11

<sup>779</sup> U.N. (CCPR), General Comment 28, para. 29

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.<sup>780</sup>

### **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,<sup>781</sup> 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.<sup>782</sup> 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.<sup>783</sup> Specific measures aimed at ensuring de facto equality for people with disabilities should not be considered discriminatory.<sup>784</sup> Other treaty sources also call on states to recognize that women and girls with disabilities are subject to multiple discrimination.<sup>785</sup>

Interpretive sources further indicate the legal framework should provide people with disabilities with the opportunity to vote and be elected.<sup>786</sup> Treaties and political commitments suggest that political parties could support the participation of people with disabilities by involving them as members, nominating them to electable positions on candidate lists, targeted financial support, and making campaign events and programs accessible.<sup>787</sup>

## **Equal Access to Public Places**

### **Key Obligations:**

- *Freedom From Discrimination and Equality Before the Law*

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<sup>780</sup> U.N. (CEDAW), Concluding Remarks on Costa Rica (2003)

<sup>781</sup> U.N., ICERD, art. 1

<sup>782</sup> U.N., ICERD, art. 1

<sup>783</sup> U.N., CRPD, art. 2, 4; OAS, IADC, art. 2(a); AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 21.2.e

<sup>784</sup> U.N., CRPD, art. 5(4); OAS, Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities, art. 2(b)

<sup>785</sup> U.N., CRPD, art. 6 (1)

<sup>786</sup> U.N. (CRPD), Concluding Observations, Hungary (2012), para. 26

<sup>787</sup> AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 21.2.b; CoE (PACE), Resolution 2155(2017) on Political Rights of Persons with Disabilities, para. 5, 7(6)3, 10



## 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,<sup>788</sup> 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.<sup>789</sup>

## 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.<sup>790</sup> Freedom of expression may only be restricted under certain circumstances that are prescribed by law and are necessary in a democratic society.<sup>791</sup> 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).<sup>792</sup>

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.<sup>793</sup> They also extend freedom of expression to include unhindered communication with international bodies, such as those providing electoral assistance, on matters of human rights.<sup>794</sup> Political commitments and state practice sources also recommend that in an effort to address disinformation online, positive measures, including media literacy campaigns, public education, and independent fact-checking, as well as self-regulation by internet intermediaries could be prioritized over criminalization.<sup>795</sup>



Refer to the Framework section of this handbook for more information on permissible restrictions on freedom of association.

<sup>788</sup> U.N., ICERD, art. 5; U.N., CPRD, art. 9; AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 15(1), 21(2)c

<sup>789</sup> EU, Handbook (Ed. 2), p. 52

<sup>790</sup> U.N., ICCPR, art. 19(2); OAS, ACHR, art. 13(1); CoE, ECHR, art. 10(1); CIS, Convention on Human Rights, art. 11(1); EU, Charter on Fundamental Rights, art. 11(1)

<sup>791</sup> 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)

<sup>792</sup> OAS, ACHR, art. 13

<sup>793</sup> CoE (Committee of Ministers), Declaration on the Rule of Law in the Information Society, art. 1

<sup>794</sup> UNGA, Declaration on the Right and Responsibility, art. 4

<sup>795</sup> CoE (PACE), Resolution 2254(2019) on Media Freedom as a Condition for Democratic Elections, para. 9.2; EU (EC), Communication on Tackling Online Disinformation, p. 7; Communication, Guidance on Strengthening the Code of Practice on Disinformation, p. 1, 13; U.N. (OHCHR), OAS, OSCE, Joint Declaration on Freedom of Expression and Elections in the Digital Age, para. 1.c.i

**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.<sup>796</sup>

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.<sup>797</sup>

## **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 rights<sup>798</sup> and when the rights and freedoms of others should be protected.<sup>799</sup> 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.<sup>800</sup>

State practice sources further provide that states may prohibit political parties that advocate the use of violence.<sup>801</sup> This would not necessarily constitute a violation or unreasonable restriction on the freedom of association.

## **Internet and Exercise of Rights Online**

***Key Obligations:***

- *Freedom of Assembly*

**Internet freedom and the exercise of human rights online were protected. Restrictions imposed were based in law, proportionate, and necessary in a democratic society.**

Political commitments state that the right to freedom of expression applies to all forms of media, including the internet.<sup>802</sup> Interpretive and state practice elaborate that internet freedom, including access to online resources and digital tools in the context of electoral campaigns, should be protected as essential to the exercise of

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<sup>796</sup> CIS, Convention on Democratic Elections, art. 19(2)(g)

<sup>797</sup> U.N. (CCPR), General Comment 25, para. 25

<sup>798</sup> U.N., ICCPR, art. 5(1); OAS, ACHR, art. 29(a-b)

<sup>799</sup> U.N., ICCPR, art. 25

<sup>800</sup> U.N., ICCPR, art. 20(2); OAS, ACHR, art. 13(5)

<sup>801</sup> CoE (Venice Commission), Guidelines on Prohibition, para. II(3)

<sup>802</sup> CoE (Committee of Ministers), Declaration CM(2005)56, para. I.1; CoE (Committee of Ministers); Recommendation (2016)5, para. 2(4); UNHRC, Resolution 38/7, para. 1

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**1** See also the Framework section of this handbook for more information on permissible restrictions on freedom of assembly.



human rights online.<sup>803</sup> Any related restrictions should be based in law, proportionate, and necessary in a democratic society.

## Campaigning Without Interference

### **Key Obligations:**

- *Freedom of Assembly*
- *Right and Opportunity to Participate in Public Affairs*

**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.<sup>804</sup> Interpretive sources emphasize that everyone is entitled to protection under the law when peacefully opposing acts that violate human rights.<sup>805</sup> They also stress, as emphasized in state practice documents, that all forms of peaceful assembly are protected, including online meetings and online activities to plan, organize, and mobilize for assemblies.<sup>806</sup>

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.<sup>807</sup>

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.<sup>808</sup>

**Restrictions on the campaign activities were proportionate, nondiscriminatory, and subject to prompt, independent, and impartial judicial review.**

Interpretive sources provide that restrictions on the right to assemble should be nondiscriminatory. They further elaborate that there should be no requirement to obtain permission to hold an assembly.<sup>809</sup> Where regulatory measures such as those requiring prior notification of assemblies are used, respective procedures should be clear and simple, and their application must not go beyond the

<sup>803</sup> U.N. (CCPR), General Comment No. 37, para. 34; CoE (PACE), Resolution 2256(2019), para. 3; CoE (Committee of Ministers), Recommendation (2016)5, para. 2-3

<sup>804</sup> 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); ASEAN, Human Rights Declaration, art. 24

<sup>805</sup> U.N. (CCPR), General Comment No. 37, para. 5, 17; UNGA, Declaration on the Right and Responsibility, art. 12.3

<sup>806</sup> U.N. (CCPR), General Comment No. 37, para. 6, 13, 19; CoE (Committee of Ministers), Recommendation (2016)5, para. 3(3), 3(5)

<sup>807</sup> OSCE, Copenhagen Document, para. 9.2; IPU, Declaration on Criteria for Free and Fair Elections, art. 4

<sup>808</sup> OSCE (ODIHR), Guidelines on Freedom of Peaceful Assembly, para. 1.1.5

<sup>809</sup> U.N. (CCPR), General Comment No. 37, para. 70, 73

mentioned measures.<sup>810</sup> The state is obliged to provide and to cover costs related to the holding of assemblies in public spaces, including security, medical care, and cleaning.<sup>811</sup>

This is supported by sources indicative of state practice, which suggest that any restrictions must be subject to independent, impartial, and prompt judicial review.<sup>812</sup>

### **Citizens were able to participate in public affairs through political parties and nongovernmental organizations.**

International and regional treaties protect the right of all people to participate in the public affairs of their country.<sup>813</sup> Treaty documents and political commitments also call on states to pursue policies to encourage the participation of the youth in public affairs and decision-making processes affecting them.<sup>814</sup> This applies to the involvement of the youth as candidates and in campaign-related activities, including through political parties or engagement with nongovernmental organizations. Reasonable age requirements may be applicable.<sup>815</sup>

## **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.<sup>816</sup> The right of freedom of movement may only be restricted when provided by law, necessary in a democratic society and consistent with other rights.<sup>817</sup>

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<sup>810</sup> U.N. (CCPR), General Comment No. 37, para. 70, 73; U.N. (CCPR), Concluding Observations on Cyprus (1994), paras. 312–333

<sup>811</sup> U.N. (CCPR), General Comment No. 37, para. 64; CoE (Venice Commission), OSCE (ODIHR), Guidelines on Freedom of Peaceful Assembly (Ed. 3), para. 89

<sup>812</sup> U.N., Report of the Special Rapporteur on Freedom of Assembly (2012), p. 20

<sup>813</sup> U.N., ICCPR, art. 25; U.N., ICERD, art. 5(c); U.N., CEDAW, art. 7(b); AU, AfCHPR, art. 13(1); OAS, ACHR, art. 23(1)(a); ECOWAS, Protocol on Democracy and Good Governance, art. 1(d)

<sup>814</sup> AU, African Youth Charter, art. 23.1.b; EU (Council), Resolution on EU Youth Strategy 2019–2027, p. 3–4

<sup>815</sup> OAS, ACHR, art. 23; U.N., CRC, art. 1; CIS, Convention on Democratic Elections, art. 2(a); U.N. (CCPR), General Comment, 25, para. 4, 10, 15

<sup>816</sup> 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)

<sup>817</sup> 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)



State practice sources indicate that freedom of movement must be respected in the context of candidacy and campaigning, including political rallies and meetings.<sup>818</sup>

## Observation of the Campaign Period

### **Key Obligations:**

- Right and Opportunity to Participate in Public Affairs
- Transparency and Access to Information

**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.<sup>819</sup> 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, and should have access to all its stages.<sup>820</sup>

**International observers were accredited and were able to access and comment on all parts of the electoral process.**

State practice documents emphasize that similarly to citizen observers, international observers should also be permitted to access all aspects and stages of an electoral process.<sup>821</sup>

## Protection of Personal Data

### **Key Obligations:**

- Transparency and Access to Information

**Personal data collected was not used for other purposes.**

Regional treaties and political commitment sources indicate that personal data should only be collected for specified and legitimate purposes.<sup>822</sup>

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<sup>818</sup> IPU, Declaration on Criteria for Free and Fair Elections, art. 4(3)

<sup>819</sup> U.N., ICCPR, art. 25(a); U.N., ICERD, art. 5(c); U.N., CEDAW, art. 7(b); AU, AfCHPR, art. 13(1); OAS, ACHR, art. 23(1); ECOWAS, Protocol on Democracy and Good Governance, art. 1(d)

<sup>820</sup> AU, ACDEG, arts. 19–22; CIS, Convention on Democratic Elections, art. 1(2); OSCE, Copenhagen Document, para. 8; OAS, IADC, arts. 23–25

<sup>821</sup> U.N., Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers, para. 12

<sup>822</sup> EU, GDPR, art. 5(1); UNGA, Resolution 73/179, para. 7.c; CoE (Committee of Ministers), Recommendation (2012)4, para. 6; CoE (Committee of Ministers), Recommendation on Good Administration, art. 9.1–3; OECD, Recommendation Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, para. 8

**Personal data could be collected and processed based on informed consent.**

Regional treaty and political commitment sources elaborate that unless provided for by law, or necessary to deliver a service or for other legitimate purposes, personal information may only be used based on informed consent.<sup>823</sup>

**Personal data controllers complied with data minimization, accuracy, confidentiality, integrity, and storage limitation obligations.**

Regional treaties and political commitment sources indicate that personal data should only be collected for specified and legitimate purposes. They further stipulate that the collection of personal data should be minimized, relevant, and limited to purposes pursued.<sup>824</sup>

**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.<sup>825</sup> Access to information is subject to reasonable and objective restrictions. States should take steps to ensure access to information for people with disabilities without additional cost.<sup>826</sup> An applicant for an official document should not be obliged to give reasons for requesting an official document.<sup>827</sup>

**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.<sup>828</sup> This should include information regarding candidates and campaigning.

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<sup>823</sup> EU, GDPR, art. 6.1.a; CoE (Committee of Ministers), Recommendation (2018)2, para. 2.4.2; APEC, Privacy Framework, para. 25

<sup>824</sup> EU, GDPR, art. 5(1)b,c; CoE (Committee of Ministers), Recommendation (2012)3, para. 7, 10; APEC, Privacy Framework, para. 24; OECD, Recommendation Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, para. 8

<sup>825</sup> 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)

<sup>826</sup> U.N., CRPD, art. 9(f)

<sup>827</sup> CoE, Convention on Access to Official Documents, art. 4.1

<sup>828</sup> U.N., UNCAC, art. 10; CoE, Convention on Access to Official Documents, art. 2(1); U.N. (CCPR), General Comment 34, para. 19



## 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)<sup>829</sup> remedy before a competent tribunal for acts that violate their rights or freedoms.<sup>830</sup> 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.<sup>831</sup>

## Security of the Person for Candidates, Parties, and Their Supporters

### **Key Obligations:**

- Right to Security of the Person
- State Must Take Necessary Steps to Give Effect to Rights

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.<sup>832</sup> Clearly, this right includes the campaign period and the activities of campaigns.

Interpretive sources note that female candidates can be subject to greater intimidation and coercion than their male counterparts.<sup>833</sup>

State practice sources indicate that candidates should not engage in violence<sup>834</sup> and that law enforcement should behave in a neutral manner.<sup>835</sup>

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

As part of the obligation to guarantee the security of the person for all citizens, states should ensure that violence, including online, does

<sup>829</sup> U.N., ICCPR, art. 2; AU, AfCHPR, art. 7

<sup>830</sup> U.N., ICCPR, art. 2(3); OAS, ACHR, art. 25(1); CoE, ECHR, art. 13

<sup>831</sup> U.N. (CCPR), General Comment 31, para. 15

<sup>832</sup> 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)

<sup>833</sup> U.N. (CEDAW), Concluding Remarks on Timor Leste (2009), para. 39

<sup>834</sup> IPU, Declaration on Free and Fair Elections, art. 3(9)

<sup>835</sup> EU, Handbook (Ed. 2), p. 52; OSCE (ODIHR), Guidelines for Public Security Providers in Elections, p. 22

not undermine women's rights to participation as candidates and to representation.<sup>836</sup>

**Electoral stakeholders were free from arbitrary arrest and detention as well as intimidation and coercion. 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.**

Any security-related restrictions of freedoms and the use of force by public security providers must be based in law, necessary, and proportionate to the objective of maintaining public order.<sup>837</sup>

## **Regulation of Campaign Contributions**

### ***Key Obligations:***

- *Freedom of Opinion and Expression*
- *Prevention of Corruption*

**There was a balanced and transparent system for political party financing.**

International treaties identify the importance of preventing corruption in the context of campaign financing and note that states should foster a balanced and transparent system of political party financing.<sup>838</sup> In this context, state practice sources suggest that campaigning and spending by third parties may be regulated especially to ensure transparency and accountability.<sup>839</sup>

**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 interest<sup>840</sup>
- Ensure transparency of donations<sup>841</sup>
- Avoid prejudice to the activities of parties<sup>842</sup>
- Ensure the independence of the party<sup>843</sup>

They add that the state can regulate the contributions of legal entities<sup>844</sup> and that the rules concerning donations to political parties

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<sup>836</sup> OAS, Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, art. 3; U.N. (CEDAW), General Recommendation No. 30, para. IV.B.9.7.2

<sup>837</sup> U.N. (CCPR), General Comment No. 37, para. 78; OSCE (ODIHR), Guidelines for Public Security Providers in Elections, p. 22

<sup>838</sup> U.N., UNCAC, art. 7

<sup>839</sup> OSCE (ODIHR), CoE (Venice Commission), Guidelines on Political Party Regulation (Ed. 2), para. 220, 256; OSCE (ODIHR), Handbook for the Observation of Campaign Finance, p. 37

<sup>840</sup> CoE (Committee of Ministers), Recommendation (2003)4, art. 3(a)

<sup>841</sup> CoE (Committee of Ministers), Recommendation (2003)4, art. 3(b)

<sup>842</sup> CoE (Committee of Ministers), Recommendation (2003)4, art. 3(a)

<sup>843</sup> CoE (Committee of Ministers), Recommendation (2003)4, art. 3(a)

<sup>844</sup> CoE (Committee of Ministers), Recommendation (2003)4, art. 5(b)



should apply, as appropriate, to other entities associated with political parties.<sup>845</sup> State practice sources suggest that campaigning and spending by third parties may be regulated, in particular to ensure transparency and accountability.<sup>846</sup>

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.<sup>847</sup>

### **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.<sup>848</sup>

### **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.<sup>849</sup>

### **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.<sup>850</sup> Additionally, states should consider limiting or prohibiting donations from anonymous sources.<sup>851</sup>

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 source<sup>852</sup> and a limit on the total sum of acceptable private donations.<sup>853</sup>

State practice sources add that cash donations should be prohibited.<sup>854</sup> States should consider introducing rules that define acceptable sources of donations to political parties and/or candidates.<sup>855</sup> Low-value donations may be excluded from the obligation to refuse anonymous donations.<sup>856</sup>

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<sup>845</sup> CoE (Committee of Ministers), Recommendation (2003)4, art. 6

<sup>846</sup> OSCE (ODIHR), CoE (Venice Commission), Guidelines on Political Party Regulation (Ed. 2), para. 220, 256; OSCE (ODIHR), Handbook for the Observation of Campaign Finance, p. 37

<sup>847</sup> van Biezen, Guidelines, p. 70

<sup>848</sup> CIS, Convention on Democratic Elections, art. 12(3)

<sup>849</sup> CoE (Venice Commission), Parties in Elections, para. 31

<sup>850</sup> CoE (Committee of Ministers), Recommendation (2003)4, art. 3(b)

<sup>851</sup> CoE (Congress of Local and Regional Authorities), Resolution 105(2000) on Financial Transparency of Political Parties, para. 16

<sup>852</sup> van Biezen, Guidelines, p. 22

<sup>853</sup> van Biezen, Guidelines, p. 22

<sup>854</sup> van Biezen, Guidelines, p. 59

<sup>855</sup> van Biezen, Guidelines, p. 22

<sup>856</sup> van Biezen, Guidelines, p. 26

## Public Funding for Election Campaigns

### ***Key Obligations:***

- *Right and Opportunity to Be Elected*
- *Equality Between Men and Women*

**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.<sup>857</sup> However, state and citizen support should not interfere with the independence of the political party.<sup>858</sup> State support may be financial,<sup>859</sup> and the state may contribute, directly or indirectly, to the operational costs of party activities, election campaigns, and the functioning of parliamentary party groups.<sup>860</sup> However, state support should be limited to reasonable contributions.<sup>861</sup> Interpretive and state practice sources suggest that measures to promote the participation and representation of women as candidates could include gender-targeted public funding of political parties.<sup>862</sup>

**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.<sup>863</sup> 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.<sup>864</sup>

State practice sources suggest that if public funds are distributed to political parties and candidates, those funds should be available on an equitable basis.<sup>865</sup>

## Private Funding for Campaigns

### ***Key Obligations:***

- *Right and Opportunity to Be Elected*
- *Freedom of Opinion and Expression*

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<sup>857</sup> CoE (Committee of Ministers), Recommendation (2003)4, art. 1

<sup>858</sup> CoE (Committee of Ministers), Recommendation (2003)4, art. 1

<sup>859</sup> CoE, (Committee of Ministers), Recommendation (2003)4, art. 1

<sup>860</sup> PACE, Recommendation 1516 (2001), para. 8(A)(iv)

<sup>861</sup> CoE (Committee of Ministers), Recommendation (2003)4, art. 1

<sup>862</sup> U.N. (CEDAW), General Recommendation 25, para. 22; U.N. (Security Council), Resolution 2242(2015), para. 3; International IDEA, Gender-Targeted Public Funding for Political Parties, p. 11

<sup>863</sup> CoE, (Committee of Ministers), Recommendation (2003)4, art. 1

<sup>864</sup> CoE (Congress of Local and Regional Authorities), Resolution 105 (2000), para. 13

<sup>865</sup> CoE (Venice Commission), Code of Good Practice, sec. 1.2.3.aa.iii



**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.<sup>866</sup> 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.<sup>867</sup>

## **Campaign Expenditures**

**Key Obligations:**

- Right and Opportunity to Be Elected
- Prevention of Corruption

**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.<sup>868</sup> Campaigning and spending by third parties may be regulated, in particular to ensure transparency and accountability.<sup>869</sup>

**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.<sup>870</sup>

## **Disclosure of Campaign Finances**

**Key Obligations:**

- Transparency and Access to Information
- Prevention of Corruption

<sup>866</sup> CoE (Committee of Ministers), Recommendation (2003)4, art. 1

<sup>867</sup> International IDEA, Legal Framework, p. 67

<sup>868</sup> U.N. (CCPR), General Comment 25, para. 19

<sup>869</sup> OSCE (ODIHR), CoE (Venice Commission), Guidelines on Political Party Regulation (Ed. 2), para. 220, 256; OSCE (ODIHR), Handbook for the Observation of Campaign Finance, p. 37

<sup>870</sup> Commonwealth Secretariat, Reference Guide for Election Observers, p. 24

## **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 disclosed<sup>871</sup> in reports submitted at regular intervals.<sup>872</sup>

State practice sources suggest that campaign finance reports be timely, public, detailed and comprehensive, and understandable to the public at large.<sup>873</sup> To ensure timeliness, states should require that election campaign reporting schedules allow release of the report in advance of election day.<sup>874</sup>

In addition, political commitments suggest that states should require records of expenditure;<sup>875</sup> that parties present and make public their accounts;<sup>876</sup> that the accounts of political parties specify all donations received by the party, including the nature and value of the donation;<sup>877</sup> 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.<sup>878</sup>

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 activities<sup>879</sup> as well as a requirement to keep special records for direct and indirect contributions to campaigns.<sup>880</sup> Campaigning and spending by third parties may be regulated, in particular to ensure transparency and accountability.<sup>881</sup> Parties should also offer access to their foundational documents, procedures, and accounts.<sup>882</sup>

## **Disclosure provisions should clearly identify what counts as campaign expenditure.**

These state practice sources provide that legislation should distinguish between income and expenditure,<sup>883</sup> require disclosure of all donations exceeding a certain minimum threshold,<sup>884</sup> and require itemization of donations into standardized categories.<sup>885</sup>

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<sup>871</sup> CIS, Convention on Democratic Elections, art. 12(4)

<sup>872</sup> CIS, Convention on Democratic Elections, art. 12(5)

<sup>873</sup> TI, Reporting and Public Disclosure, p. 2

<sup>874</sup> van Biezen, Guidelines, p.61

<sup>875</sup> CoE (Committee of Ministers), Recommendation (2003)4, para. 10

<sup>876</sup> CoE (Committee of Ministers), Recommendation (2003)4, para. 13

<sup>877</sup> CoE (Committee of Ministers), Recommendation (2003)4, para. 12(a)

<sup>878</sup> CoE (Committee of Ministers), Recommendation (2003)4, para. 11

<sup>879</sup> CoE (Venice Commission), Report on the Participation of Political Parties, para. 30

<sup>880</sup> van Biezen, Guidelines, p. 61

<sup>881</sup> OSCE (ODIHR), CoE (Venice Commission), Guidelines on Political Party Regulation (Ed. 2),

para. 220, 256; OSCE (ODIHR), Handbook for the Observation of Campaign Finance, p. 37

<sup>882</sup> CoE (Venice Commission), Good Practice in the Field of Political Parties, para. 2.20

<sup>883</sup> van Biezen, Guidelines, p. 55

<sup>884</sup> van Biezen, Guidelines, p. 55

<sup>885</sup> van Biezen, Guidelines, p. 55



In addition, disclosure provisions should distinguish between the financing of political parties and the financing of candidates<sup>886</sup> as well as between routine party finances and electoral finances.<sup>887</sup> Disclosure rules should also include both national and local party finances.<sup>888</sup>

In addition, state practice sources also indicate that regulations should clearly identify a campaign expenditure<sup>889</sup> and an established campaign period for the purposes of recording expenditure.<sup>890</sup>

**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.<sup>891</sup> In all cases, disclosure regulations should strike a balance between transparency and privacy.<sup>892</sup>

**Limits on advertising spending (as political speech) were instituted only in the interests of promoting equality between candidates or parties.**

Laws should address the applicability of regulations on paid political advertising in traditional media, including rules on placement, financing, and transparency, to such advertising online.<sup>893</sup>

## 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.<sup>894</sup>

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<sup>886</sup> van Biezen, Guidelines, p. 55

<sup>887</sup> van Biezen, Guidelines, p. 55

<sup>888</sup> van Biezen, Guidelines, p. 55

<sup>889</sup> van Biezen, Guidelines, p. 31

<sup>890</sup> van Biezen, Guidelines, p. 31

<sup>891</sup> Dahl, Bob, in Political Finance in Postconflict Societies, IFES, p. 129

<sup>892</sup> International IDEA, Funding of Political Parties, p. 16

<sup>893</sup> CoE (Venice Commission), Principles for a Rights-Compliant Use of Digital Technologies, para. 24, 35, 73; TI, Paying for Views: Solving Transparency and Accountability Risks in Online Political Advertising, p. 1; U.N. (OHCHR), OAS, OSCE, Joint Declaration on Freedom of Expression and Elections in the Digital Age, para. 1.b.iv

<sup>894</sup> U.N., UNCAC, art. 7

**Public resources were not abused in support of a particular party or candidate.**

Political commitment sources make clear that public resources should not be abused in support of a particular political party or candidate<sup>895</sup> and that parties may not receive clandestine or fraudulently obtained financial aid.<sup>896</sup>

**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.<sup>897</sup> Regulations against misuse of public resources and of official position may include a prohibition for public officials to campaign while on duty.<sup>898</sup> Public employees should not be coerced to vote for a particular party or candidate.<sup>899</sup> Additionally, electoral legislation should include procedures and penalties aimed at preventing corruption.<sup>900</sup>

## **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.<sup>901</sup>

State practice sources suggest that legislation on an independent monitoring body should define:

- The procedure for appointing members to the monitoring body<sup>902</sup>
- The definition of their specific powers and activities<sup>903</sup>
- The types of breaches of the law to be sanctioned<sup>904</sup>
- Procedures for appeal against decisions of the agency<sup>905</sup>

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<sup>895</sup> CoE (Venice Commission), Code of Good Practice in the Field of Political Parties, para. 41

<sup>896</sup> CoE (Venice Commission), Good Practice in the Field of Political Parties, para. 42

<sup>897</sup> OSCE (ODIHR), Election Observation Handbook (Ed. 6), p. 60

<sup>898</sup> CoE (Venice Commission), OSCE (ODIHR), Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources, para. II.A.4.2

<sup>899</sup> U.N. (CPPR), General Comment 25, para. 20

<sup>900</sup> U.N., Human Rights and Elections, 1st ed., para. 118

<sup>901</sup> CoE (Congress of Local and Regional Authorities), Res. 105(2000), para. 11

<sup>902</sup> van Biezen, Guidelines, p. 64

<sup>903</sup> van Biezen, Guidelines, p. 64

<sup>904</sup> van Biezen, Guidelines, p. 64

<sup>905</sup> TI, Policy Position No. 2/2005, p. 4



Other state practice sources add that the monitoring body should have security of funding, be free from political pressure,<sup>906</sup> and should have autonomous capacity to seek out violations.<sup>907</sup> Further, state practice sources indicate that it is important that the monitoring body provide accessible and timely information<sup>908</sup> and respect human rights.<sup>909</sup> As one concrete measure to ensure freedom from political influence, members should not be eligible for reappointment.<sup>910</sup>

## 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.<sup>911</sup> One way states can facilitate this requirement is to promote specialization of branches of the government in the fight against illegal campaign funding.<sup>912</sup>

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906 TI, Policy Position No. 2/2005, p. 3

907 TI, Policy Position No. 2/2005, p. 3

908 TI, Policy Position No. 2/2005, p. 4

909 TI, Policy Position No. 2/2005, p. 4

910 van Biezen, Guidelines, p. 66

911 CoE (Committee of Ministers), Recommendation (2003)4, art. 16

912 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
- Freedom of Opinion and Expression
- Freedom From Discrimination and Equality Before the Law
- Transparency and Access to Information
- Equality Between Men and Women
- Right to an Effective Remedy
- Freedom of Movement
- Right to Security of the Person
- Prevention of Corruption
- Rule of Law
- State Must Take Necessary Steps to Give Effect to Rights

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- Macro-level Obligation
  - Individual Rights and Freedoms
  - Process-focused Obligations
  - Foundational Obligations



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**T**he 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.

**!** Refer to the ACE Electoral Knowledge Network for more information on the media and elections.

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.<sup>913</sup> The rule of law is widely recognized as an essential condition for the fulfillment of human rights and representative democracy.<sup>914</sup>

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

<sup>913</sup> U.N., UNCAC, art. 5(1); AU, ACDEG, art. 32(8); AU, Convention on Corruption, Preamble, art. 3(11); CoE, ECHR, Preamble; CIS, Convention on Human Rights, Preamble; ECOWAS, Protocol on Democracy and Good Governance, art. 34(1)

<sup>914</sup> UNGA, Millennium Declaration; UNGA, Resolutions on the Rule of Law; OAS, IADC, arts. 3 and 4; and OSCE, Copenhagen Document, para. 3.



## **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<sup>915</sup> and that laws are equally enforced.<sup>916</sup> 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.<sup>917</sup>

## **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.<sup>918</sup>

## **International Human Rights Obligations and the Legal Framework**

### ***Key Obligations:***

- *Freedom From Discrimination and Equality Before the Law*

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

Political commitments and state practice sources emphasize that the obligation to respect and uphold human rights also applies to business enterprises.<sup>919</sup> In this context and in order to duly protect the freedom of expression and other fundamental rights, internet intermediaries should recognize and protect human rights online, including through accessible and effective complaint and redress mechanisms.<sup>920</sup>

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<sup>915</sup> 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); LAS, Arab Charter, art. 3; ASEAN, Human Rights Declaration, art. 3

<sup>916</sup> U.N., ICCPR, art. 26; AU, AfCHPR, art. 13(3); CIS, Convention on Human Rights, art. 20(1)

<sup>917</sup> U.N. (CCPR), General Comment 25, para. 4

<sup>918</sup> 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; ECOWAS, Protocol on Democracy and Good Governance, art. 33(1)

<sup>919</sup> U.N. (OHCHR), Guiding Principles on Business and Human Rights, para. II.A.11-13

<sup>920</sup> CoE (Committee of Ministers), Recommendation (2018)2, para. 2.5.1-3, Recommendation (2016)1, para. 6.1; U.N. (OHCHR), Freedom of Expression and Elections in the Digital Age, p. 13

## **Pluralistic and Balanced Media**

### ***Key Obligations:***

- Transparency and Access to Information
- Freedom From Discrimination and Equality Before the Law
- Freedom of Opinion and Expression

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.<sup>921</sup>

Interpretive sources further note that the state should promote media pluralism and be prevented from having a monopoly on media<sup>922</sup> and that licensing regulations should not be used as a means of stifling freedom of expression or access to information.<sup>923</sup>

Political commitments suggest that public service media should ensure that the public receive adequate and politically balanced information during election periods.<sup>924</sup>

**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.<sup>925</sup>

**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.<sup>926</sup>

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<sup>921</sup> EU, Charter on Fundamental Rights, art. 11(2)

<sup>922</sup> U.N. (CCPR), Concluding Observations, Russian Federation (2003), para. 18

<sup>923</sup> U.N. (CCPR), Concluding Observations, Ukraine (2001), para. 22

<sup>924</sup> AU, Principles on Freedom of Expression, art. 3

<sup>925</sup> CoE (Committee of Ministers), Recommendation 94(13), Guideline 1, Recommendation (2018)1, para. 4.1; CoE (PACE), Resolution 2035(2015), para. 16, Resolution 2254(2019), para. 8.2

<sup>926</sup> U.N. (OHCHR), Resolution 2005/38 on The Right to Freedom of Opinion and Expression, para. 4p



## 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.<sup>927</sup> These schemes should be nondiscriminatory and should use reasonable and objective criteria.<sup>928</sup>

State practice sources further recommend that restrictions on who may practice journalism should be unlawful.<sup>929</sup>

**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.<sup>930</sup>

Political commitments indicate that editorial independence should be protected from political or economic interference.<sup>931</sup> Political commitments dictate that government officials should not abuse resources or influence to exert control over media content.<sup>932</sup>

**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.<sup>933</sup>

**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.<sup>934</sup>

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927 U.N. (CCPR), General Comment 34, para. 44

928 U.N. (CCPR), General Comment 34, para. 44

929 OAS, Inter-American Principles on Freedom of Expression, Principle 6

930 U.N. (CCPR), General Comment 34, para. 16

931 CoE (Committee of Ministers), Declaration on the guarantee of independence of public service broadcasting, para. li

932 OAS, Inter-American Principles on Freedom of Expression, Principle 13; CoE (Committee of Ministers), Recommendation (2018)1, para. 2.10; AU, AFCHPR, Declaration on Principles on Freedom of Expression, art. 14.2

933 U.N. (CCPR), General Comment 34, para. 38

934 CoE (Venice Commission), Guidelines on Media Analysis, p. 8

## **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.<sup>935</sup> 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.<sup>936</sup>

**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 are transparent<sup>937</sup> and that such authorities are independent and protected from interference.<sup>938</sup>

State practice sources also suggest that creating a media regulatory body that acts in an impartial and transparent manner can be beneficial during elections.<sup>939</sup>

## **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,<sup>940</sup> or the

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<sup>935</sup> 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

<sup>936</sup> U.N. (CCPR), General Comment 34, para. 39

<sup>937</sup> AU, Principles on Freedom of Expression, art. 7.2

<sup>938</sup> AU, Principles on Freedom of Expression, art. 7

<sup>939</sup> EU, Handbook (Ed. 2), p. 56

<sup>940</sup> 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)



internet. Freedom of expression may only be restricted under certain circumstances prescribed by law and necessary in a democratic society.<sup>941</sup> Such restrictions include those that:

- Are in the interests of national security<sup>942</sup>
- Protect territorial integrity<sup>943</sup>
- Are in the interests of public safety<sup>944</sup>
- Maintain the authority and impartiality of the judiciary<sup>945</sup>
- Prevent disclosure of information received in confidence<sup>946</sup>

Regional treaties state that freedom of expression should not be limited by the imposition of prior censorship,<sup>947</sup> abuse of government, or private control over the media.<sup>948</sup>

**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.<sup>949</sup>

**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.**

Political commitments and state practice sources stress that safety and ability of journalists and other media actors to work in full freedom should be protected, with any harassment and violence, offline and online, promptly investigated and liability imposed.<sup>950</sup>

**Paid content in media and other information sources, including online, was clearly marked and distinguishable from editorial and user-generated content.**

To be able to make informed decisions, voters should have access to diverse and pluralistic information and have a clear understanding about their sources. Political commitments and state practice documents state that media and other information sources, including

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<sup>941</sup> U.N., ICCPR, art. 19; OAS, ACHR, art. 13(2)(b); CoE, ECHR, art. 10(2); CIS, Convention on Human Rights, art. 11(2)

<sup>942</sup> U.N., ICCPR, art. 19

<sup>943</sup> CoE, ECHR, art. 10(2)

<sup>944</sup> CoE, ECHR, art. 10(2)

<sup>945</sup> CoE, ECHR, art. 10(2)

<sup>946</sup> CoE, ECHR, art. 10(2)

<sup>947</sup> OAS, ACHR, art. 13(3)(b)

<sup>948</sup> OAS, ACHR, art. 13(3)

<sup>949</sup> U.N. (CCPR), General Comment 25, para. 25

<sup>950</sup> UNHRC, Resolution 39/6 on Safety of Journalists, para. 9.a; CoE (Committee of Ministers), Recommendation (2016)4, para. I.17; U.N. (OHCHR), OAS, ACHPR, OSCE, Joint Declaration on Media Independence and Diversity in the Digital Age, para. 2.a

online, should enable the audience to clearly distinguish between paid and editorial or user-generated content.<sup>951</sup>

## The Content of Voter Education Campaigns

### ***Key Obligations:***

- *Freedom of Opinion and Expression*

**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.**

Interpretive sources make clear that the state's duty to take steps to give effect to rights includes the obligation to provide education on human rights.<sup>952</sup> In this context, media and information literacy education should be promoted to enable individuals to access, understand, and critically analyze information, including online.<sup>953</sup>

## 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 rights<sup>954</sup> and when the rights and freedoms of others must be protected.<sup>955</sup> Any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence should be prohibited by law.<sup>956</sup>

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<sup>951</sup> CoE (PACE), Resolution 2254(2019), para. 8.6-8; CoE (Venice Commission), Principles for a Fundamental Rights-Compliant Use of Digital Technologies, para. 24; TI, Paying for Views: Solving Transparency and Accountability Risks in Online Political Advertising, p. 2

<sup>952</sup> U.N. (CCPR), General Comment 31, para. 7

<sup>953</sup> UNHRC, Resolution 38/7, para. 4; CoE (Committee of Ministers), Recommendation (2018)1, para. 5.1; CoE (Committee of Ministers), Declaration on the Manipulative Capabilities of Algorithmic Processes, para. 9.e

<sup>954</sup> U.N., ICCPR, art. 5(1)

<sup>955</sup> 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)

<sup>956</sup> U.N., ICCPR, art. 20; OAS, ACHR, art. 13(5)



## 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.<sup>957</sup> 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.<sup>958</sup> 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.<sup>959</sup>

Political commitments clearly establish that the expression of an opinion or of a true statement may never constitute a valid claim of defamation.<sup>960</sup>

**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 most serious of cases, and imprisonment is never an appropriate penalty.<sup>961</sup> All remedies provided for defamation should be proportional and not excessively punitive.<sup>962</sup>

## 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.<sup>963</sup>

957 U.N. (CCPR), General Comment 34, paras. 42 and 47

958 U.N. (CCPR), General Comment 34, para. 38

959 U.N. (CCPR), General Comment 34, para. 38

960 AU, Principles on Freedom of Expression, art. 12

961 U.N. (CCPR), General Comment 34, paras. 42 and 47

962 U.N. (CCPR), General Comment 34, para. 42

963 U.N. (CCPR), *Kim Jong-Cheol v. Republic of Korea* (2001), para. 8.3

## 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.<sup>964</sup>

## 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.<sup>965</sup>

! Refer to the Voter Education section of this handbook for more information.

## Access to Electoral Information

### **Key Obligations:**

- Transparency and Access to Information
- Freedom of Opinion and Expression

**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.<sup>966</sup> Only certain limited restrictions may be placed on transparency and access to information.

! Refer to the Framework section of this handbook for more information regarding permissible restrictions on the right of 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.<sup>967</sup> This should include information regarding the electoral process.

<sup>964</sup> CoE (Committee of Ministers), Recommendation on media coverage of election campaigns, para. III

<sup>965</sup> EU, Handbook (Ed. 2), p. 54

<sup>966</sup> U.N., ICCPR, art. 19; AU, Convention on Corruption, art. 9; OAS, ACHR, art. 13

<sup>967</sup> U.N., UNCAC, art. 10; CoE, Convention on Access to Official Documents, art. 2(1); U.N. (CCPR), General Comment 34, para. 19



**Voters were able to form opinions independently, on the basis of information from a plurality of sources and free from any manipulative interference.**

Media and information literacy education should be promoted to enable individuals to access, understand, and critically analyze information, including online.<sup>968</sup>

## **Protection of Sources**

**Key Obligations:**

- Transparency and Access to Information

**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.<sup>969</sup>

Interpretive sources further indicate that the right of the media to gather information – including information from confidential sources – without government interference should be assured.<sup>970</sup>

**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.<sup>971</sup> This should include information regarding the electoral process.

## **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.<sup>972</sup> In addition,

<sup>968</sup> UNHRC, Resolution 38/7 on the Promotion, Protection and Enjoyment of Human Rights on the Internet, para. 4; CoE (Committee of Ministers), Recommendation (2018)1 on Media Pluralism and Transparency of Media Ownership, para. 5.1; CoE (PACE), Resolution 2254(2019) on Media Freedom as a Condition for Democratic Elections, para. 9.6

<sup>969</sup> U.N., UNCAC, art. 33

<sup>970</sup> U.N. (CCPR), General Comment 34, para. 45

<sup>971</sup> AU, Convention on Corruption, art. 12

<sup>972</sup> 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

international law is clear that all are equal before the law and should enjoy the equal protection of the law.<sup>973</sup>

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.<sup>974</sup> 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.<sup>975</sup>

**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.<sup>976</sup>

**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.<sup>977</sup>

**News coverage of incumbents in the public media was not abused so that it constituted additional free airtime or print coverage.**

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.<sup>978</sup>

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<sup>973</sup> 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); LAS, Arab Charter, art. 3; ASEAN, Human Rights Declaration, art. 3

<sup>974</sup> U.N. (CCPR), General Comment 28, para. 21

<sup>975</sup> U.N. (CCPR), Concluding Observations, Togo (2002), para. 17

<sup>976</sup> U.N. (CEDAW), Concluding Observations, Switzerland (2009), para. 34

<sup>977</sup> AU, Principles on Freedom of Expression, art. 3

<sup>978</sup> CoE (Committee of Ministers), Recommendation 99(15) on media coverage of election campaigns, para. 11.2



## 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 coverage<sup>979</sup> and providing equal opportunity for access for all candidates.<sup>980</sup>

## 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.<sup>981</sup>

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.<sup>982</sup>



Refer to the Candidacy and Campaigning section of this publication for more information.

**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.<sup>983</sup>

**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.**

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

<sup>979</sup> CoE (Committee of Ministers), Recommendation (99)15 on media coverage of election campaigns, para. 3.1

<sup>980</sup> CoE (Committee of Ministers), Recommendation 99(15) on media coverage of election campaigns, para. 11.1

<sup>981</sup> CoE (Committee of Ministers), Recommendation (99)15 on media coverage of election campaigns, para. 11.4

<sup>982</sup> U.N., Human Rights and Elections, 1st ed., para. 120

<sup>983</sup> EU, Handbook (Ed. 2), p. 54

all candidates and parties.<sup>984</sup> If private media accepts paid advertising, the costs and conditions for advertising should be equally applied to all candidates.<sup>985</sup> Laws should address the applicability of regulations on paid political advertising in traditional media, including rules on placement, financing, and transparency, to such advertising online.<sup>986</sup>

**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.<sup>987</sup>

**Paid content in media and other information sources, including online, was clearly marked and distinguishable from editorial and user-generated content.**

To be able to make informed decisions, voters should have access to diverse and pluralistic information and have a clear understanding about their sources. Political commitments and state practice documents state that media and other information sources, including online, should enable the audience to clearly distinguish between paid and editorial or user-generated content.<sup>988</sup>

## **Internet and Exercise of Rights Online**

***Key Obligations:***

 ***Freedom of Assembly***

**Internet freedom and the exercise of human rights online were protected. Restrictions imposed were based in law, proportionate, and necessary in a democratic society.**

Political commitments state that the right to freedom of expression applies to all forms of media, including the internet.<sup>989</sup> Interpretive and state practice elaborate that internet freedom, including access to online resources and digital tools in the context of electoral campaigns, should be protected as essential to the exercise of

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<sup>984</sup> CoE (Committee of Ministers), Recommendation (99)15 on media coverage of election campaigns, para. 1.2

<sup>985</sup> OSCE (ODIHR), Election Observation Handbook (Ed. 6), p. 65

<sup>986</sup> CoE (Venice Commission), Principles for a Rights-Compliant Use of Digital Technologies, para. 24, 35, 73; TI, Paying for Views: Solving Transparency and Accountability Risks in Online Political Advertising, p. 1; U.N. (OHCHR), OAS, OSCE, Joint Declaration on Freedom of Expression and Elections in the Digital Age, para. 1.b.iv

<sup>987</sup> CoE (Venice Commission), Code of Good Practice, sec. I.2.3.ee

<sup>988</sup> CoE (PACE), Resolution 2254(2019), para. 8.6-8; CoE (Venice Commission), Principles for a Fundamental Rights-Compliant Use of Digital Technologies, para. 24; TI, Paying for Views: Solving Transparency and Accountability Risks in Online Political Advertising, p. 2

<sup>989</sup> CoE (Committee of Ministers), Declaration CM(2005)56, para. I.1; CoE (Committee of Ministers); Recommendation (2016)5, para. 2(4); UNHRC, Resolution 38/7, para. 1



human rights online.<sup>990</sup> Any related restrictions should be based in law, proportionate, and necessary in a democratic society.

### **Internet intermediaries were transparent and provided easy access to their policies and practice on online content management, distribution, and automated processing.**

Political commitments and state practice sources emphasize that the obligation to respect and uphold human rights also applies to business enterprises.<sup>991</sup> This includes obligations to ensure privacy and to comply with personal data protection principles. In this context, internet intermediaries should ensure transparency and easy access to their policies and practices regarding online content management, strategic dissemination, and automated processing.<sup>992</sup>

## **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.<sup>993</sup> The right of freedom of movement may only be restricted when provided by law, necessary in a democratic society and consistent with other rights.<sup>994</sup> Political commitments and state practice sources stress that safety and ability of journalists and other media actors to work in full freedom should be protected, with any harassment and violence, offline and online, promptly investigated and liability imposed.<sup>995</sup>

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

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<sup>990</sup> U.N. (CCPR), General Comment No. 37, para. 34; CoE (PACE), Resolution 2256(2019), para. 3; CoE (Committee of Ministers), Recommendation (2016)5, para. 2–3

<sup>991</sup> U.N. (OHCHR), Guiding Principles on Business and Human Rights, para. II.A.11-13

<sup>992</sup> CoE (Committee of Ministers), Recommendation (2012)3, para. 7, Recommendation (2016)1, para. 5.1, Recommendation (2018)2, para. 2.2.3; EU (European Commission), Recommendation on Measures to Effectively Tackle Illegal Content Online, para. 16

<sup>993</sup> U.N., ICCPR, art. 12; AU, AfCHPR, art. 12; OAS, ACHR art. 22

<sup>994</sup> U.N., ICCPR, art. 12

<sup>995</sup> UNHRC, Resolution 39/6 on Safety of Journalists, para. 9.a; CoE (Committee of Ministers), Recommendation (2016)4, para. I.17; U.N. (OHCHR), OAS, ACHPR, OSCE, Joint Declaration on Media Independence and Diversity in the Digital Age, para. 2.a

## **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.<sup>996</sup> 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.<sup>997</sup> Political commitments and state practice sources stress that the safety and ability of journalists as well as other media actors to work in full freedom should be protected, and that harassments and violence, both offline and online, should be promptly investigated and liability imposed.<sup>998</sup>

## **Protection of Personal Data**

### ***Key Obligations:***

- Transparency and Access to Information

**Personal data could be collected and processed based on informed consent.**

Regional treaty and political commitment sources indicate that personal data should only be collected for specified and legitimate purposes.<sup>999</sup> They further elaborate that unless provided for by law, or necessary to deliver a service or for other legitimate purposes, personal information may only be used based on informed consent.<sup>1000</sup>

**Personal data controllers complied with data minimization, accuracy, confidentiality, integrity, and storage limitation obligations.**

Regional treaties and political commitment sources stipulate that the collection of personal data should be minimized, relevant, and limited to purposes pursued.<sup>1001</sup> Personal data should not be stored

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<sup>996</sup> U.N., ICCPR, art. 9; AU, AfCHPR, art. 6; OAS, ACHR, art. 7(1)

<sup>997</sup> U.N. (CCPR), General Comment 34, para. 23

<sup>998</sup> UNHRC, Resolution 39/6 on Safety of Journalists, para. 9.a; CoE (Committee of Ministers), Recommendation (2016)4, para. I.17; U.N. (OHCHR), OAS, ACHPR, OSCE, Joint Declaration on Media Independence and Diversity in the Digital Age, para. 2.a

<sup>999</sup> EU, GDPR, art. 5(1)b; UNGA, Resolution 73/179, para. 7.c; CoE (Committee of Ministers), Recommendation (2012)4, para. 6; CoE (Committee of Ministers), Recommendation on Good Administration, art. 9.1–3; OECD, Recommendation Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, para. 8

<sup>1000</sup> EU, GDPR, art. 6.1.a; CoE (Committee of Ministers), Recommendation (2018)2, para. 2.4.2; APEC, Privacy Framework, para. 25

<sup>1001</sup> EU, GDPR, art. 5(1)b,c; CoE (Committee of Ministers), Recommendation (2012)3, para. 7, 10; APEC, Privacy Framework, para. 24; OECD, Recommendation Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, para. 8



longer than necessary for the purposes pursued.<sup>1002</sup> Furthermore, personal data controllers should ensure data accuracy and protect personal data from unauthorized disclosure, loss, modification, or other misuses.<sup>1003</sup> Internet intermediaries should recognize and protect human rights online, including through accessible and effective complaint and redress mechanisms.<sup>1004</sup>

**Personal data controllers provided clear and accessible information about their data collection and processing policies and practices.**

The right of access to information is protected by a number of international and regional treaties. Citizens have the right to know if their data is being processed, to access it, and to rectify any inaccuracies in such data. To facilitate these rights, the state and other entities acting as personal data controllers should provide clear and easily accessible information to citizens about their data collection and processing policies and practices.<sup>1005</sup>

**Internet intermediaries were transparent and provided easy access to their policies and practice on online content management, distribution, and automated processing.**

Political commitments and state practice sources emphasize that the obligation to respect and uphold human rights also applies to business enterprises.<sup>1006</sup> This includes obligations to ensure privacy and to comply with personal data protection principles. In this context, internet intermediaries should ensure transparency and easy access to their policies and practices regarding online content management, strategic dissemination, and automated processing.<sup>1007</sup>

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1002 EU, GDPR, art. 5.1.e

1003 EU, GDPR, art. 5.1.d, f

1004 CoE (Committee of Ministers), Recommendation (2018)2, para. 2.5.1-3; Recommendation (2016)1, para. 6.1; U.N. (OHCHR), Freedom of Expression and Elections in the Digital Age, p. 13

1005 EU, GDPR, art. 5(1)a; OECD, Recommendation Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, para. 12; UNGA, Resolution 73/179 on the Right to Privacy in the Digital Age, para. 7(b); CoE (Committee of Ministers), Recommendation (2018)2 on the Roles and Responsibilities of Internet Intermediaries, para. 2.2.1-3

1006 U.N. (OHCHR), Guiding Principles on Business and Human Rights, para. II.A.11-13

1007 CoE (Committee of Ministers), Recommendation (2012)3, para. 7; Recommendation (2016)1, para. 5.1; Recommendation (2018)2, para. 2.2.3; EU (European Commission), Recommendation on Measures to Effectively Tackle Illegal Content Online, para. 16

## **Disclosure of Campaign Finances**

### ***Key Obligations:***

- Prevention of Corruption

**Paid content in media and other information sources, including online, was clearly marked and distinguishable from editorial and user-generated content.**

Laws should address the applicability of regulations on paid political advertising in traditional media, including rules on placement, financing, and transparency, to such advertising online.<sup>1008</sup>

## **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.**

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

International treaties provide that everyone has the right to an effective (timely and enforceable)<sup>1009</sup> remedy before a competent national tribunal for acts that violate his/her rights or freedoms.<sup>1010</sup> Remedy should be available for complaints that arise throughout the electoral process.<sup>1011</sup>

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.<sup>1012</sup>

## **Business and Protection of Human Rights**

### ***Key Obligations:***

- Transparency and Access to Information
- Freedom From Discrimination and Equality Before the Law

**Personal data controllers provided clear and accessible information about their data collection and processing policies and practices.**

**Internet intermediaries were transparent and provided easy access to their policies and practice on online content management, distribution, and automated processing.**

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<sup>1008</sup> CoE (Venice Commission), Principles for a Rights-Compliant Use of Digital Technologies, para. 24, 35, 73; TI, Paying for Views: Solving Transparency and Accountability Risks in Online Political Advertising, p. 1; U.N. (OHCHR), OAS, OSCE, Joint Declaration on Freedom of Expression and Elections in the Digital Age, para. 1.b.iv

<sup>1009</sup> U.N., ICCPR, art. 2; AU, AfCHPR, art. 7

<sup>1010</sup> U.N., ICCPR, art. 2; OAS, ACHR, art. 25; CoE, ECHR, art. 13

<sup>1011</sup> ECOWAS, Protocol on Democracy and Good Governance, art. 7

<sup>1012</sup> AU, Principles on Freedom of Expression, Principle. 9.2



**Business enterprises embraced, in policy and practice, their international and/or national human rights obligations.**

**Accessible and effective complaint and redress mechanisms were established to protect these rights.**

The right of access to information is protected by a number of international and regional treaties. Citizens have the right to know if their data is being processed, to access it, and to rectify in case of any inaccuracies. To facilitate the exercise of this right, internet intermediaries should ensure transparency and easy access to their policies and practices regarding online content management, strategic dissemination, and automated processing.<sup>1013</sup>

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<sup>1013</sup> CoE (Committee of Ministers), Recommendation (2012)3, para. 7, Recommendation (2016)1, para. 5.1, Recommendation (2018)2, para. 2.2.3; EU (European Commission), Recommendation on Measures to Effectively Tackle Illegal Content Online, para. 16



## 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
  - Freedom From Discrimination and Equality Before the Law
  - Equality Between Men and Women
  - Right to an Effective Remedy
  - Transparency and Access to Information
  - Right to Security of the Person
  - Right and Opportunity to Participate in Public Affairs
  - Freedom of Movement
  - Freedom of Association
  - Periodic Elections
  - Universal Suffrage
  - Equal Suffrage
  - Secret Ballot
  - 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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**T**he 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.

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**!** Refer to the ACE Electoral Knowledge Network for more information on voting operations.

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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
- Protection of personal data
- Use of voting technologies
- 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.<sup>1014</sup> The rule of law is widely recognized as an essential condition for the fulfillment of human rights and representative democracy.<sup>1015</sup>

! 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 law<sup>1016</sup> and laws are equally enforced.<sup>1017</sup> 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.<sup>1018</sup>

### **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.<sup>1019</sup>

## Election Calendar and the Enjoyment of Rights

### **Key Obligations:**

- Periodic Elections

### **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,<sup>1020</sup> including when planning the electoral process.

<sup>1014</sup> U.N., UNCAC, art. 5(1); AU, ACDEG, art. 32(8); AU, Convention on Corruption, Preamble, art. 3(1); CoE, ECHR, Preamble; CIS, Convention on Human Rights, Preamble; ECOWAS, Protocol on Democracy and Good Governance, art. 34(1)

<sup>1015</sup> UNGA, Millennium Declaration; UNGA, Resolutions on the Rule of Law; OAS, IADC, arts. 3 and 4; and OSCE, Copenhagen Document, para. 3

<sup>1016</sup> 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); LAS, Arab Charter, art. 3; ASEAN, Human Rights Declaration, art. 3

<sup>1017</sup> U.N., ICCPR, art. 26; AU, AfCHPR, art. 13(3); CIS, Convention on Human Rights, art. 20(1)

<sup>1018</sup> U.N. (CCPR), General Comment 25, para. 4

<sup>1019</sup> U.N., ICCPR, art. 2; AU, AfCHPR, art. 1; OAS, ACHR, art. 2; CIS, Convention on Human Rights, art. 1; ECOWAS, Protocol on Democracy and Good Governance, art. 33(1); CoE, ECHR, art. 1

<sup>1020</sup> 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 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.<sup>1021</sup>

## **Freedom from Discrimination in the Legal Framework**

### ***Key Obligations:***

- *Freedom From Discrimination and Equality Before the Law*

### **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.<sup>1022</sup> Measures aimed at supporting participation should take into account the different needs of persons with various forms of disability.<sup>1023</sup>

## **Citizenship**

### ***Key Obligations:***

- *Freedom From Discrimination and Equality Before the Law*

### **The rules regarding citizenship were clear and nondiscriminatory.**

While everyone has the right to a nationality,<sup>1024</sup> 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 of participatory rights is made explicit in international treaties.<sup>1025</sup> Although states may regulate the law concerning nationality, citizenship, or naturalization, they may not discriminate against any particular nationality in doing so.<sup>1026</sup>

Interpretive sources note that distinctions between those who attain citizenship by birth or by naturalization may be discriminatory.<sup>1027</sup>

Other sources support the requirement that the process for attaining citizenship should be clearly defined and nondiscriminatory.<sup>1028</sup>

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1021 U.N., Human Rights and Elections, 1st ed., para. 75

1022 U.N., CRPD, art. 4

1023 U.N. (CRPD), General Comment 2, para. 29; CoE (Committee of Ministers), Recommendation CM/Rec (2011)14, para. 1; OSCE (ODIHR), Handbook on Electoral Participation of Persons with Disabilities, p. 13

1024 U.N., UDHR, art. 15

1025 U.N., ICCPR, art. 25

1026 U.N., ICERD, art. 1(3)

1027 U.N. (CCPR), General Comment 25, para. 3

1028 U.N., Recommendations of the second session of the Forum on Minority Issues on minorities and effective political participation, para. 26



## 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 men<sup>1029</sup> and that, in some cases, states should take temporary special measures to achieve de facto equality for women.<sup>1030</sup>

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.<sup>1031</sup> Interpretive sources also indicate that measures taken to ensure equitable representation of women should not be considered discriminatory.<sup>1032</sup>

**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 also may be taken when the circumstances warrant. State practice sources suggest that special measures may include reduced or waived minimum support, deposits, electoral threshold requirements, and quotas.<sup>1033</sup> Such measures should not be considered discriminatory,<sup>1034</sup> 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.<sup>1035</sup>

**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

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<sup>1029</sup> U.N., ICCPR, art. 3; AU, AfCHPR, art. 2(1)(a); AU, African Youth Charter, art. 23(1)b; AU, Protocol to the AfCHPR on the Rights of Women, art. 8; CoE, ECHR, art. 23; EU, Charter on Fundamental Rights, art. 23; CIS, Convention on Human Rights, art. 20(1)

<sup>1030</sup> U.N., CEDAW, art. 3, 4(1), 7; AU, Protocol to the AfCHPR on the Rights of Women, art. 2.1.d, 9.1(a-c); AU, ACDEG, art. 29.3

<sup>1031</sup> U.N. (CEDAW), General Recommendation 23, para. 15, 29, 45(a), General Recommendation 28, para. 9, General Recommendation 30, para IV.B.9.72, IV.B.9.73.c-d

<sup>1032</sup> U.N. (CCPR), General Comment 28, para. 29

<sup>1033</sup> CoE (Venice Commission), Code of Good Practice, para. I.1.6; OSCE (ODIHR), Handbook on Participation of National Minorities, p. 28; OSCE (ODIHR), CoE (Venice Commission), Guidelines on Political Party Regulation, Second Edition, para. 187

<sup>1034</sup> U.N., ICERD, art. 1

<sup>1035</sup> U.N., ICERD, art. 1

the basis of disability.<sup>1036</sup> Specific measures aimed at ensuring de facto equality for people with disabilities should not be considered discriminatory.<sup>1037</sup>

## 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.<sup>1038</sup> The right to vote may only be subject to reasonable restrictions. Unreasonable restrictions include those based on excessive residency requirements;<sup>1039</sup> naturalized citizenship;<sup>1040</sup> criminal conviction (disproportionate to the severity of the crime or blanket disenfranchisement provisions);<sup>1041</sup> status as a remanded prisoner yet to be convicted of an offense;<sup>1042</sup> excessive age requirements;<sup>1043</sup> race;<sup>1044</sup> sex;<sup>1045</sup> religion;<sup>1046</sup> any form of disability;<sup>1047</sup> political or other opinion;<sup>1048</sup> national or social origin;<sup>1049</sup> sexual orientation or gender identity;<sup>1050</sup> language;<sup>1051</sup> birth or other status;<sup>1052</sup> literacy;<sup>1053</sup> education;<sup>1054</sup> property ownership;<sup>1055</sup> party membership;<sup>1056</sup> status as an internally displaced person;<sup>1057</sup> and economic circumstances.<sup>1058</sup>

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<sup>1036</sup> U.N., CRPD, art. 2, 4; OAS, IADC, art. 2(a); AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 21.2.e

<sup>1037</sup> U.N., CRPD, art. 5(4); OAS, Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities, art. 2(b)

<sup>1038</sup> 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

<sup>1039</sup> OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 11

<sup>1040</sup> U.N., ICCPR, art. 25(b); U.N. (CCPR), General Comment 25, para. 3

<sup>1041</sup> 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

<sup>1042</sup> U.N. (CCPR), *Fongum Gorji-Dinka v Cameroon*, Communication No. 1134/2002 (2005), p. 6

<sup>1043</sup> OAS, ACHR, art. 23; U.N. CRC, art. 1; CIS, Convention on Democratic Elections, art. 2(a); U.N. (CCPR), General Comment 25, para. 4, 10, 15

<sup>1044</sup> U.N., ICCPR, arts. 2 and 25

<sup>1045</sup> U.N., ICCPR, arts. 2 and 25

<sup>1046</sup> U.N., ICCPR, arts. 2 and 25

<sup>1047</sup> U.N., CRPD, art. 29; AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 21(2)b

<sup>1048</sup> U.N., ICCPR, arts. 2 and 25

<sup>1049</sup> U.N., ICCPR, arts. 2 and 25

<sup>1050</sup> EU, Charter on Fundamental Rights, art. 21(2); U.N. (CCPR), *Toonen v. Australia* (1994); U.N. (CESCR), General Comment 20, para. 32

<sup>1051</sup> U.N., ICCPR, art. 2

<sup>1052</sup> U.N., ICCPR, arts. 2 and 25

<sup>1053</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>1054</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>1055</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>1056</sup> U.N. (CCPR), General Comment 25, para. 10

<sup>1057</sup> UNGA, Guiding Principles on Internal Displacement, Principle 4.1

<sup>1058</sup> U.N., Human Rights and Elections, 1st ed., p. 65



## **Any restrictions on the right to vote were established in advance of election day.**

State practice sources make it clear that any restrictions on the right to vote must be established in advance of election day<sup>1059</sup> and that the loss of this right may be imposed only after adjudication by a court.<sup>1060</sup>

## **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.<sup>1061</sup>

## **Facilitation of Voting**

### **Key Obligations:**

- Right and Opportunity to Vote
- Universal Suffrage

### **Voting operations facilitated broad participation.**

Treaty obligations require that elections be held by universal suffrage.<sup>1062</sup> Universal suffrage may be subject only to reasonable and objective restrictions such as residency,<sup>1063</sup> citizenship,<sup>1064</sup> or reaching a minimum age.<sup>1065</sup> 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 voting<sup>1066</sup>
- Postal voting<sup>1067</sup>
- Electronic voting<sup>1068</sup> or assistive technologies for people with disabilities<sup>1069</sup>
- Mobile voting<sup>1070</sup>
- Out-of-country voting<sup>1071</sup>

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**!** Refer to the Framework section of this handbook for more information regarding unreasonable restrictions on universal suffrage."

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1059 Goodwin Gill, Free and Fair (2006), p.127

1060 OSCE, Moscow Document, para. 18

1061 U.N., Human Rights and Elections, 1st ed., para. 111

1062 U.N., ICCPR, art. 25(b); U.N., ICERD, art. 5(c); AU, ACDEG, art. 4(2); OAS, ACHR, art. 23(1)(b); CIS, Convention on Human Rights, art. 29(b); UDHR, art. 21(3)

1063 OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 11

1064 U.N., ICCPR, art. 25(b)

1065 OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 10

1066 OSCE (ODIHR), Election Observation Handbook (Ed. 6), p. 76

1067 CoE (Venice Commission), Code of Good Practice, sec. 1.3.2.2.1.38-39 (explanatory report)

1068 CoE (Venice Commission), Code of Good Practice, sec. 1.3.2.iv

1069 U.N., CRPD, art. 29

1070 CoE (Venice Commission), Code of Good Practice, sec. i.1.1.c.v

1071 EISA and ECF of SADC Countries, PEMMO, p. 23

- Establishing polling facilities in hospitals and institutions<sup>1072</sup>
- Establishing polling facilities in prisons<sup>1073</sup>
- Military voting<sup>1074</sup>
- Accommodations for illiterate voters<sup>1075</sup>
- Accommodations for migrants and migrant workers out of the country.<sup>1076</sup>

The need to facilitate voting by people with disabilities extends to e-voting systems<sup>1077</sup> and the use of Braille.<sup>1078</sup> With respect to electoral processes involving technologies, state practice sources emphasize that such processes should meet the same requirements of universality, equality, integrity, transparency, and accountability as traditional voting.<sup>1079</sup>

**Sufficient resources, human and material, were available at each polling station.**

State practice sources indicate the importance of ensuring that sufficient staffing<sup>1080</sup> and voting materials are available at every polling site to facilitate voting.<sup>1081</sup>

**There was 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.<sup>1082</sup>

**Polling places were located in public places that were easy to access.**

Treaty documents emphasize that polling stations must be accessible.<sup>1083</sup> State practice sources suggest that polling stations should be located in public places to ensure ease of access.<sup>1084</sup>

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1072 Norwegian Helsinki Committee, Human Rights Monitoring, p. 13

1073 OSCE (ODIHR), Election Observation Handbook (Ed. 6), p. 76

1074 CoE (Venice Commission), Code of Good Practice, sec. i.3.2.xi

1075 CoE (PACE), Resolution 1897(2012), para. 8.1.12

1076 U.N., Center for Human Rights, Handbook on the Legal, Technical, and Human Rights Aspects of Elections, para. 110

1077 CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 3; CoE (Committee of Ministers), Recommendation (2011)14, para. 2.3

1078 U.N. (CCPR), Concluding Observations, Paraguay (2013), para. 11

1079 OSCE (ODIHR), Election Observation Handbook (Ed. 6), p. 68; OSCE (ODIHR), Handbook for the Observation of New Voting Technologies, p. 8

1080 OSCE (ODIHR), Existing Commitments, p. 71

1081 U.N. (CCPR), Concluding Observations, Former Yugoslav Republic of Macedonia, (2008), para. 18

1082 EISA and ECF of SADC Countries, PEMMO, p. 24

1083 U.N., CRPD, art. 29(a); AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 21(2)c

1084 SADC PF, Norms and Standards, p. 16



**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.<sup>1085</sup> All people waiting in line when the polls close should be permitted to vote.<sup>1086</sup>

## **Polling Places Accessible to Voters with Disabilities**

### ***Key Obligations:***

- *Freedom From Discrimination and Equality Before the Law*
- *Right and Opportunity to Vote*

**Polling places were accessible.**

International treaties are clear that everyone has the right of equal access to any place or service intended for use by the public.<sup>1087</sup>

**Voting operations facilitated broad participation.**

To uphold the principle of universal suffrage, voting operations should promote and facilitate the participation by the broadest possible pool of eligible voters. This should include reasonable accommodations to all existing infrastructure, materials, communication, and services to enable the participation of people with disabilities on an equal basis with others.<sup>1088</sup>

## **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.<sup>1089</sup>

Interpretive sources add that any assistance provided to those who are unable to vote should be impartial.<sup>1090</sup>

State practice sources explain that care should be taken to protect the right to secrecy of the vote for voters with special needs.<sup>1091</sup>

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1085 EU, Handbook (Ed. 2), p. 75

1086 EU, Handbook (Ed. 2), p. 82

1087 U.N., ICERD, art. 5; U.N., CRPD, art. 9; AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 15(1), 21(2)c

1088 AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 15(2).c-e, 21(2)c; U.N. (CRPD), General Comment 6, para. 24, 42, 70.c; U.N. (CRPD), General Comment 2, para. 26

1089 U.N., CRPD, art. 29

1090 U.N. (CCPR), General Comment 25, para. 20

1091 EISA and ECF of SADC Countries, PEMMO, p. 24

Except in cases where a voter is being lawfully assisted, a voter cannot waive his/her right to secrecy of the ballot.<sup>1092</sup>

**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.<sup>1093</sup>

## Proxy Voting

**Key Obligations:**

- Universal 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.<sup>1094</sup>

## 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 ballot<sup>1095</sup> and that this right extends to those with disabilities.<sup>1096</sup>

Interpretive sources reinforce the importance of secrecy of the ballot through the entire voting process.<sup>1097</sup>

Political commitments suggest that the system for balloting (paper, electronic, or otherwise) should ensure the secrecy of a voter's choice.<sup>1098</sup>

State practice sources say that electoral legislation and its regulations should offer clear guidance with respect to the secrecy of the ballot.<sup>1099</sup>

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1092 EU, Handbook (Ed. 2.), p. 79

1093 U.N. (CCPR), General Comment 25, para. 20

1094 CoE (Venice Commission), Code of Good Practice, sec. 1.3.2.v

1095 U.N., ICCPR, art. 25; OAS, ACHR, art. 23; U.N., UDHR, art. 23

1096 U.N., CRPD, art. 29

1097 U.N. (CCPR), General Comment 25, para. 20

1098 CoE (Committee of Ministers) Recommendation (2004)<sup>11</sup> on e-voting, art. 35

1099 U.N., Human Rights and Elections, 1st ed., para. 109



## **Family and group voting were prohibited.**

Interpretive sources indicate that family and group voting should be prohibited.<sup>1100</sup> 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.<sup>1101</sup>

## **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.<sup>1102</sup> This includes a necessity for voters to be able to tell when their vote has been cast.<sup>1103</sup> These sources further specify that the correct functioning of e-voting systems should be ensured by the state through an independent body.<sup>1104</sup> State practice sources state that technologies should be introduced gradually, based on prior planning, testing, evaluation, and certification.<sup>1105</sup> It is further emphasized that electoral processes involving technologies should meet the same requirements of universality, equality, integrity, transparency, and accountability as traditional voting.<sup>1106</sup>

**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.<sup>1107</sup> The requirements of universality, equality, integrity, transparency, and accountability apply to processes involving the use of technology as they do to traditional voting.

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1100 U.N. (CEDAW), Concluding Observations, Tajikistan (2007), para. 26

1101 SADC PF, Norms and Standards, para. 16

1102 CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 30

1103 CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 14

1104 CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 28

1105 OSCE (ODIHR), Handbook for the Observation of New Voting Technologies, p. 19, 41

1106 OSCE (ODIHR), Election Observation Handbook (Ed. 6), p. 68; OSCE (ODIHR), Handbook for the Observation of New Voting Technologies, p. 8

1107 CoE (Committee of Ministers), Declaration on Human Rights and Rule of Law in the Information Society, para. 7

## **Protection of Personal Data**

### ***Key Obligations:***

- *Transparency and Access to Information*

**Personal data collected was not used for other purposes.**

Regional treaties and political commitment sources indicate that personal data should only be collected for specified and legitimate purposes.<sup>1108</sup>

**Personal data controllers complied with data minimization, accuracy, confidentiality, integrity, and storage limitation obligations.**

Regional treaties and political commitment sources stipulate that the collection of personal data should be minimized, relevant, and limited to purposes pursued.<sup>1109</sup> Furthermore, personal data should not be stored longer than necessary for the purposes pursued.<sup>1110</sup>

## **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.<sup>1111</sup> Further, treaties state that all are equal before the law and should enjoy equal protection of the law.<sup>1112</sup>

## **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.**

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<sup>1108</sup> EU, GDPR, art. 5(1)b; UNGA, Resolution 73/179, para. 7.c; CoE (Committee of Ministers), Recommendation (2012)4, para. 6; CoE (Committee of Ministers), Recommendation on Good Administration, art. 9.1-3; OECD, Recommendation Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, para. 8

<sup>1109</sup> EU, GDPR, art. 5(1)b,c; CoE (Committee of Ministers), Recommendation (2012)3, para. 7, 10; APEC, Privacy Framework, para. 24; OECD, Recommendation Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, para. 8

<sup>1110</sup> EU, GDPR, art. 5.1.e

<sup>1111</sup> 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)

<sup>1112</sup> 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); LAS, Arab Charter, art. 3; ASEAN, Human Rights Declaration, art. 3



Political commitments suggest that voting systems should ensure that votes are accurately represented<sup>1113</sup> and that voters should be able to alter their choice before casting their ballot.<sup>1114</sup> With respect to electoral processes involving technologies, state practice sources emphasize that such processes should meet the same requirements of universality, equality, integrity, transparency, and accountability as traditional voting.<sup>1115</sup>

### **Ballots were understandable and user-friendly.**

Political commitments and state practice sources establish that ballots, including electronic ones, should:

- Be understandable<sup>1116</sup>
- Account for different levels of literacy<sup>1117</sup>
- Be available in the principal languages in multilingual societies<sup>1118</sup>
- Be identical in all languages<sup>1119</sup>

## **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.<sup>1120</sup> This right ensures that everyone, including candidates, voters, observers, and poll workers, is 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 or were included in voter lists at place of stay.**

Treaty obligations grant everyone the right to leave and return to his/her own country.<sup>1121</sup>

Political commitments establish that voting by people displaced in advance of voting should be facilitated. State practice documents specify that this could be achieved by allowing temporary changes

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**!** Refer to the Framework section at the beginning of this handbook for more information regarding permissible restrictions on freedom of movement.

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1113 CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 90

1114 CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 11

1115 OSCE (ODIHR), Election Observation Handbook (Ed. 6), p. 68; OSCE (ODIHR), Handbook for the Observation of New Voting Technologies, p. 8

1116 CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, para. A.I.1

1117 U.N., Human Rights and Elections, 1st ed., para. 110

1118 OSCE (ODIHR), Election Observation Handbook (Ed. 6), p. 54

1119 U.N., Human Rights and Elections, para. 110

1120 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)

1121 U.N., ICCPR, art. 12(2); AU, AfCHPR, art. 12(2); CIS, Convention on Human Rights, art. 22(2)

of residence and inclusion in voter lists at a place of stay or granting a possibility to return to cast their ballots.<sup>1122</sup>

State practice sources assert the importance of voter access to polling stations.<sup>1123</sup>

## **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*
- *Transparency and Access to Information*

**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.<sup>1124</sup>

Political commitments also suggest that states should create, in law and practice, an enabling environment for civil society organizations and recognize accredited nongovernmental organizations.<sup>1125</sup> Their ability to conduct activities without unreasonable restrictions, hindrance or insecurity, including those activities related to observation of voting operations, should be facilitated.<sup>1126</sup> States also should involve civil society organizations and facilitate their effective participation in public decision-making processes.<sup>1127</sup>

**Candidates and their representatives were able to observe polling and counting as means of protecting their right to be elected.**

Treaty obligations establish the right of every citizen to be elected.<sup>1128</sup> This right may only be subject to reasonable and objective restrictions.<sup>1129</sup>

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<sup>1122</sup> UNGA, Guiding Principles on Internal Displacement, Principle 22; CoE (Congress of the Council of Europe), Local Voting Rights for the Integration of Migrants and IDPs, pp. 5-6, 22, 24

<sup>1123</sup> EU, Handbook (Ed. 2), p. 75

<sup>1124</sup> AU, ACDEG, arts. 19-22; CIS, Convention on Democratic Elections, art. 1(2); OSCE, Copenhagen Document, para. 8; OAS, IADC, arts. 23-25

<sup>1125</sup> OSCE, Moscow Document, para. 43

<sup>1126</sup> OIF, Bamako Declaration, para. 4(c)17; OSCE, Moscow Document, para. 43; UNHRC, Resolution 38/12, p. 3; CoE (Committee of Ministers), Recommendation (2018)11, para. I.a,c, II.a; CoE (PACE), Resolution 2226(2018), para. 10.6; EU, EP, Resolution 2016/2324(INI), para. 3, 6

<sup>1127</sup> UN (CRPD), General Comment No. 6, para. 70.d; OIF, Bamako Declaration, para. 2.6; CoE (PACE), Resolution 2226(2018) on New Restrictions on NGO Activities, para. 10.5

<sup>1128</sup> 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

<sup>1129</sup> U.N. (CCPR), General Comment 25, para. 4



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.<sup>1130</sup>

#### **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.<sup>1131</sup> This includes observers requiring access to the facilities used for voting.

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! Refer to the Framework section of this handbook for more information regarding unreasonable restrictions on the right to be elected.

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#### **Candidates and their representatives, as well as observers, were able to observe polling and counting.**

Regional treaties recognize that the participation of observers, both citizen and international, may enhance all aspects of the electoral process<sup>1132</sup> and that they should be permitted to follow all aspects and stages of it. State practice documents elaborate that the principles applicable to traditional voting, including the requirement of openness and transparency, are equally applicable to electoral processes involving technologies.<sup>1133</sup>

#### **If electronic voting systems were used, there was an open and comprehensive audit.**

State practice sources indicated that technologies should be introduced gradually, based on prior planning, testing, evaluation, and certification.<sup>1134</sup>

### **Election Observation**

#### **Key Obligations:**

##### **● Transparency and Access to Information**

#### **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.<sup>1135</sup> This applies to observer access to polling stations and other premises used for voting.

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1130 AU, Declaration on the Principles Governing Democratic Elections in Africa, art. 7

1131 U.N., ICERD, art. 5; U.N., CRPD, art. 9; AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 15(1), 21(2)c

1132 AU, ACDEG, arts. 19–22; CIS, Convention on Democratic Elections, art. 1(2); OSCE, Copenhagen Document, para. 8; OAS, IADC, arts. 23–25

1133 OSCE (ODIHR), Election Observation Handbook (Ed. 6), p. 68; OSCE (ODIHR), Handbook for the Observation of New Voting Technologies, p. 8

1134 OSCE (ODIHR), Handbook for the Observation of New Voting Technologies, p. 19, 41

1135 U.N., ICERD, art. 5; U.N., CRPD, art. 9; AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 15(1), 21(2)c

**International observers were accredited and were able to access and comment on all parts of the electoral process.**

State practice sources indicated that international observers should be permitted to follow all aspects and stages of an electoral process.<sup>1136</sup>

## 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.**

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

International and regional treaties state the right to free expression includes the ability for all to seek and receive information and ideas.<sup>1137</sup> 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.**

International treaties and interpretive sources state that states should proactively put government information of public interest in the public domain.<sup>1138</sup> This includes information regarding the electoral process.

## Deterrence of Fraud

### ***Key Obligations:***

- Equal Suffrage
- Secret Ballot

**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.<sup>1139</sup>

<sup>1136</sup> U.N., Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers, para. 12

<sup>1137</sup> 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)

<sup>1138</sup> U.N., UNCAC, art. 10; CoE, Convention on Access to Official Documents, art. 2(1); U.N. (CCPR), General Comment 34, para. 19

<sup>1139</sup> U.N., ICCPR, art. 25(b); OAS, ACHR, art. 23(1)(b); CIS, Convention on Human Rights, art. 29(b)



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.<sup>1140</sup>

### **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.<sup>1141</sup> Sources prohibit ballot box “stuffing” as an example of the infringement of equal suffrage.<sup>1142</sup> Examples of specific measures states may take to deter fraud include:

- Marking voters’ fingers to prevent duplicate voting<sup>1143</sup>
- Showing ballot boxes to be empty at the commencement of voting<sup>1144</sup>
- Sealing ballot boxes properly at the beginning of the vote<sup>1145</sup>
- Accounting for all ballots, including unused ballots, throughout election day<sup>1146</sup>

### **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.<sup>1147</sup> Sensitive election materials should be stored securely throughout the voting process.<sup>1148</sup>

## **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,<sup>1149</sup> 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

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1140 U.N., Human Rights and Elections, 1st ed., para. 68

1141 Ibid.

1142 CoE, Handbook for Observers of Elections, para. 2.5.3

1143 EU, Handbook (Ed. 2), p. 97

1144 OSCE (ODIHR), Election Observation Handbook (Ed. 6), p. 73

1145 EISA and ECF of SADC Countries, PEMMO, p. 25

1146 CoE (Venice Commission), Code of Good Practice, sec. 1.3.2.2.33 (explanatory report)

1147 CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 51–52

1148 CoE (Venice Commission), Code of Good Practice, sec. 13.2.2.33-5 (explanatory report)

1149 U.N., UNCAC, art. 18; AU, Convention on Corruption, art. 7

participation as a means of combating corruption.<sup>1150</sup> Treaty sources define as corruption:

- The solicitation or acceptance of something of value in exchange for an advantage<sup>1151</sup>
- The offering or granting of something of value in exchange for an act or omission in the performance of a public function<sup>1152</sup>
- Fraudulent use or concealment of property derived from corrupt activities<sup>1153</sup>
- Participation or conspiracy to commit corrupt activities<sup>1154</sup>
- Any act or omission of official functions by a public official to gain illicit benefits<sup>1155</sup>
- 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 party<sup>1156</sup>
- Improper influence<sup>1157</sup>

**!** 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.<sup>1158</sup>

## 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.<sup>1159</sup> Individuals must be free from physical and emotional violence at all times.

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1150 U.N., UNCAC, art. 13(a); AU, Convention on Corruption, art. 3(3)

1151 AU, Convention on Corruption, art. 4

1152 U.N., UNCAC, art. 19

1153 AU, Convention on Corruption, art. 4

1154 Ibid.

1155 Ibid.

1156 Ibid.

1157 U.N., UNCAC, art. 18

1158 U.N. (CCPR), General Comment 31, para. 3

1159 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 indicate that states must ensure that interference with voting and intimidation or coercion of potential voters is prohibited.<sup>1160</sup>

**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.<sup>1161</sup>

**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.<sup>1162</sup> Other state practice sources expand this obligation to include a requirement that law enforcement behave in a neutral manner during the electoral process.<sup>1163</sup> Any security-related restrictions of freedoms and the use of force by public security providers must be based in law, necessary, and proportionate to the objective of maintaining public order.<sup>1164</sup>

**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.<sup>1165</sup>

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

As part of the obligation to guarantee the security of the person for all citizens, states should create, in law and practice, an enabling environment for civil society organizations to be able to operate without any unreasonable restrictions, hindrance, or insecurity, including during election observation efforts.<sup>1166</sup>

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<sup>1160</sup> U.N. (CCPR), General Comment 25, para. 11

<sup>1161</sup> CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 51–52

<sup>1162</sup> U.N., Human Rights and Elections, 1st ed., para. 94–97

<sup>1163</sup> EU, Handbook (Ed. 2.), p. 52; OSCE (ODIHR), Guidelines for Public Security Providers in Elections, p. 22

<sup>1164</sup> U.N. (CCPR), General Comment No. 37, para. 78; OSCE (ODIHR), Guidelines for Public Security Providers in Elections, p. 22

<sup>1165</sup> Merloe, Promoting Legal Frameworks, p. 50

<sup>1166</sup> OIF, Bamako Declaration, para. 4(c)17; OSCE, Moscow Document, para. 43; U.N., HRC, Resolution 38/12 on Civil Society Space, p. 3; CoE (Committee of Ministers), Recommendation (2018)11 on the Need to Strengthen the Protection and Promotion of Civil Society Space, para. I.a,c, II.a; CoE (PACE), Resolution 2226(2018) on New Restrictions on NGO Activities, para. 10.6; EU, EP, Resolution 2016/2324(INI) on Addressing Shrinking Civil Society Space, para. 3, 6

## 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.

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

Treaty obligations make clear that every person has a right to an effective (timely and enforceable)<sup>1167</sup> remedy before a competent national tribunal for acts that violate his/her rights or freedoms.<sup>1168</sup> 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.<sup>1169</sup>

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.<sup>1170</sup>

### **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.<sup>1171</sup> This applies to the entire electoral process and all electoral rights.

Interpretive sources indicate that this obligation is unqualified and of immediate effect<sup>1172</sup> and includes a need to take various positive measures. These measures include informing the population and state officials of human rights<sup>1173</sup> and the prevention, punishment, investigation, and/or redress of violations of human rights by nonstate actors.<sup>1174</sup> All branches of the government and other public authorities are responsible for meeting this obligation.<sup>1175</sup>

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.<sup>1176</sup>

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1167 U.N., ICCPR, art. 2; AU, AfCHPR, art. 7

1168 U.N., ICCPR, art. 2; AU, AfCHPR, art. 7; OAS, ACHR, art. 25; CoE, ECHR, art. 13

1169 ECOWAS, Protocol on Democracy and Good Governance, art. 7

1170 CoE (Committee of Ministers), Declaration on the Code of Good Practice, p. 1

1171 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

1172 U.N. (CCPR), General Comment 31, para. 14

1173 U.N. (CCPR), General Comment 31, para. 17

1174 U.N. (CCPR), General Comment 31, para. 8

1175 U.N. (CCPR), General Comment 31, para. 4

1176 CoE (Venice Commission), Code of Good Practice, sec. I. 3.2.(xv)



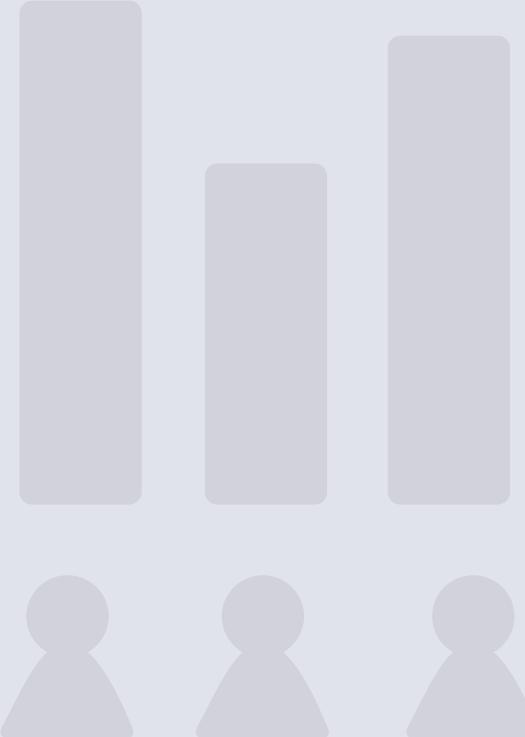


## Section 9

# Vote Counting and Tabulation

## 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
  - Right to an Effective Remedy
  - Right and Opportunity to Participate in Public Affairs
  - Equality Between Men and Women
  - Right and Opportunity to Be Elected
  - Freedom of Movement
  - Freedom of Association
  - Secret Ballot
  - Universal Suffrage
  - 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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**T**he 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.

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**!** Refer to the ACE Electoral Knowledge Network for more information on vote counting and tabulation.

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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
- Protection of personal data
- 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.<sup>1177</sup> The rule of law is widely recognized as an essential condition for the fulfillment of human rights and representative democracy.<sup>1178</sup>



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 law<sup>1179</sup> and that laws are equally enforced.<sup>1180</sup> 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.<sup>1181</sup>

State practice sources suggest that closing and counting procedures should be established by law.<sup>1182</sup>

### **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.<sup>1183</sup>

<sup>1177</sup> U.N., UNCAC, art. 5(1); AU, ACDEG, art. 32(8); AU, Convention on Corruption, Preamble, art. 3(11); CoE, ECHR, Preamble; CIS, Convention on Human Rights, Preamble; ECOWAS, Protocol on Democracy and Good Governance, art. 34(1)

<sup>1178</sup> UNGA, Millennium Declaration; UNGA, Resolutions on the Rule of Law; OAS, IADC, arts. 3 and 4; and OSCE, Copenhagen Document, para. 3

<sup>1179</sup> 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); LAS, Arab Charter, art. 3; ASEAN, Human Rights Declaration, art. 3

<sup>1180</sup> U.N., ICCPR, art. 26; AU, AfCHPR, art. 13(3); CIS, Convention on Human Rights, art. 20(1)

<sup>1181</sup> U.N. (CCPR), General Comment 25, para. 4

<sup>1182</sup> EU, Handbook (Ed. 2), p. 82

<sup>1183</sup> 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; ECOWAS, Protocol on Democracy and Good Governance, art. 33(1)

## 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,<sup>1184</sup> including when planning the electoral process.

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.<sup>1185</sup>

## Counting Cast Ballots

### ***Key Obligations:***

- *Right and 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.<sup>1186</sup> 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.<sup>1187</sup> The right to be elected includes the right to have ballots counted. Procedures should not create unnecessary technical barriers to participation by otherwise qualified eligible voters.<sup>1188</sup> Special accommodations could be used to facilitate voting, including postal voting, electronic voting, and mobile voting as well as tailored provisions for voting by the members of the military.<sup>1189</sup>

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<sup>1184</sup> 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

<sup>1185</sup> U.N., Human Rights and Elections, 1st ed., para. 75

<sup>1186</sup> 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)

<sup>1187</sup> 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)

<sup>1188</sup> U.N. (CCPR), General Comment 25, para. 11

<sup>1189</sup> CoE (Venice Commission), Code of Good Practice, sec. 1.3.2.iv, 1.3.2.2.1.38–39, i.3.2.xi



## 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.<sup>1190</sup> In addition, international treaties are clear that all are equal before the law and should enjoy the equal protection of the law.<sup>1191</sup>

## 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.**

International treaties obligate states to take the steps necessary to give effect to human rights.<sup>1192</sup> 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.<sup>1193</sup>

## Safeguards to Prevent Falsification of Ballots

### *Key Obligations:*

- Equal Suffrage

**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.<sup>1194</sup>

<sup>1190</sup> 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

<sup>1191</sup> 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); LAS, Arab Charter, art. 3; ASEAN, Human Rights Declaration, art. 3

<sup>1192</sup> 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

<sup>1193</sup> CoE, Council of Europe Handbook for Observers of Elections, para. 4.3

<sup>1194</sup> U.N., ICCPR, art. 25(b); OAS, ACHR, art. 23(1)(b); CIS, Convention on Human Rights, art. 29(b)

**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).<sup>1195</sup> 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,<sup>1196</sup> 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.**

Treaty obligations require states to take measures to prevent corruption in various forms,<sup>1197</sup> 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.<sup>1198</sup>

Treaty sources define as corruption:

- The solicitation or acceptance of something of value in exchange for an advantage<sup>1199</sup>
- The offering or granting of something of value in exchange for an act or omission in the performance of a public function<sup>1200</sup>
- Fraudulent use or concealment of property derived from corrupt activities<sup>1201</sup>
- Participation or conspiracy to commit corrupt activities<sup>1202</sup>
- Any act or omission of official functions by a public official to gain illicit benefits<sup>1203</sup>

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<sup>1195</sup> OSCE (ODIHR), Legal Framework (Ed. 1), p. 28

<sup>1196</sup> CoE, Handbook for Election Observers, para. 4.6

<sup>1197</sup> U.N., UNCAC, art. 18; AU, Convention on Corruption, art. 7; AU, ACDEG, art. 7(1); OAS, Inter-American Convention Against Corruption, art. 11(2); CIS, Convention on Democratic Elections, art. 3(6)

<sup>1198</sup> U.N., UNCAC, art. 13

<sup>1199</sup> AU, Convention on Corruption, art. 4

<sup>1200</sup> U.N., UNCAC, art. 19

<sup>1201</sup> AU, Convention on Corruption, art. 4

<sup>1202</sup> Ibid.

<sup>1203</sup> Ibid.



- The use of state property for purposes other than those for which they were intended for the benefit of a public official or a third party<sup>1204</sup>
- Improper influence<sup>1205</sup>

State practice sources indicate that electoral legislation should include procedures and penalties aimed at preventing corruption.<sup>1206</sup> 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 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.<sup>1207</sup> 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,<sup>1208</sup> 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.<sup>1209</sup>

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

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1204 AU, Convention on Corruption, art. 4

1205 U.N., UNCAC, art. 18

1206 U.N., Human Rights and Elections, 1st ed., para. 118

1207 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)

1208 U.N., UNCAC, art. 10; CoE, Convention on Access to Official Documents, art. 2(1); U.N. (CCPR), General Comment 34, para. 19

1209 OSCE, Copenhagen Document, para. 7.4

**The counting process was verifiable, and the ballots were 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.<sup>1210</sup>

**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,<sup>1211</sup> be publicly announced, and be posted at the counting station.<sup>1212</sup>

**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.<sup>1213</sup>

**Candidates and their representatives, as well as observers, were able to observe polling and counting.**

**International observers were accredited and were able to access and comment on all parts of the electoral process**

Regional treaties are clear that the participation of observers, both citizen and international, may enhance all aspects of the electoral process.<sup>1214</sup> To facilitate effective access to the electoral process for candidates, their representatives, and observers, copies of all protocols and tabulation sheets should be provided.<sup>1215</sup>

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

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1210 CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 98

1211 OSCE (ODIHR), Existing Commitments, p. 73

1212 CoE (Venice Commission), Code of Good Practice, sec. 3.2.2.4.46 (explanatory report)

1213 CoE (Venice Commission), Code of Good Practice, sec. 1.3.2.xiv

1214 AU, ACDEG, arts. 19–22; CIS, Convention on Democratic Elections, art. 1(2); OSCE, Copenhagen Document, para. 8; OAS, IADC, arts. 23–25

1215 Norwegian Helsinki Committee, Human Rights Monitoring, p. 14



## Candidates and their representatives, as well as observers, were able to observe polling and counting.

Regional treaties and political commitments are clear that the participation of observers, both citizen and international, may enhance all aspects of the electoral process.<sup>1216</sup> In addition, they suggest that the state should facilitate the ability of nongovernmental organizations to conduct their activities,<sup>1217</sup> presumably including observation of the vote counting and tabulation process. States should create, in law and practice, an enabling environment for civil society organizations to conduct their activities free from hindrance and insecurity<sup>1218</sup> and facilitate their effective participation in public decision-making processes.<sup>1219</sup>

Interpretive sources indicate that candidates or their agents and accredited observers should be allowed to observe the counting and tabulation of votes.<sup>1220</sup>

## 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.<sup>1221</sup>

## 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 centers<sup>1222</sup> and that the locations of results centers are established and centers are easily accessible.<sup>1223</sup>

## 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.<sup>1224</sup> This includes observers requiring access to the facilities used for vote counting and tabulation.

<sup>1216</sup> AU, ACDEG, arts. 19–22; CIS, Convention on Democratic Elections, art. 1(2); OSCE, Copenhagen Document, para. 8; OAS, IADC, arts. 23–25

<sup>1217</sup> OSCE, Moscow Document, para. 43

<sup>1218</sup> OIF, Bamako Declaration, para. 4(c)17; U.N., HRC, Resolution 38/12 on Civil Society Space, p. 3; CoE (Committee of Ministers), Recommendation (2018)11 on the Need to Strengthen the Protection and Promotion of Civil Society Space, para. I.a,c, II.a; CoE (PACE), Resolution 2226(2018) on New Restrictions on NGO Activities, para. 10.6; EU, EP, Resolution 2016/2324(INI) on Addressing Shrinking Civil Society Space, para. 3, 6

<sup>1219</sup> UN (CRPD), General Comment No. 6, para. 70.d; OIF, Bamako Declaration, para. 2.6; CoE (PACE), Resolution 2226(2018) on New Restrictions on NGO Activities, para. 10.5

<sup>1220</sup> U.N. (CCPR), General Comment 25, para. 20

<sup>1221</sup> U.N. (CCPR), General Comment 25, para. 20

<sup>1222</sup> Norwegian Helsinki Committee, Human Rights Monitoring, p. 14

<sup>1223</sup> EISA and ECF of SADC Countries, PEMMO, p. 27

<sup>1224</sup> U.N., ICERD, art. 5; U.N., CRPD, art. 9; AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 15(1), 21(2)c

**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.<sup>1225</sup>

## **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.<sup>1226</sup> 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.<sup>1227</sup>

**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.<sup>1228</sup>

## **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.<sup>1229</sup> 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.<sup>1230</sup>

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1225 CoE (Committee of Ministers) Recommendation (2004)11 on e-voting, art. 102

1226 U.N., ICCPR, art. 25; OAS, ACHR, art. 23; U.N., UDHR, art. 23

1227 U.N. (CCPR), General Comment 25, para. 20

1228 U.N., Human Rights and Elections, 1st ed., para. 109

1229 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)

1230 EU, Handbook (Ed. 1), p. 82



## **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.<sup>1231</sup> Other sources elaborate on this obligation to include a requirement that law enforcement behave in a neutral manner during the electoral process.<sup>1232</sup> Any security-related restrictions of freedoms and the use of force by public security providers must be based in law, necessary, and proportionate to the objective of maintaining public order.<sup>1233</sup>

Other sources indicate that the highest election official at the counting site should have authority to maintain order.<sup>1234</sup>

## **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.<sup>1235</sup> 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.

## **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 must take the steps necessary to train officials on human rights.<sup>1236</sup> This includes training on the vote counting and tabulation process since it directly impacts the enjoyment of various fundamental rights.

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<sup>1231</sup> U.N., Human Rights and Elections, 1st ed., paras. 94–97

<sup>1232</sup> EU, Handbook (Ed. 2), p. 52

<sup>1233</sup> U.N. (CCPR), General Comment No. 37, para. 78; OSCE (ODIHR), Guidelines for Public Security Providers in Elections, p. 22

<sup>1234</sup> Merloe, Promoting Legal Frameworks, p. 50

<sup>1235</sup> 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)

<sup>1236</sup> U.N. (CCPR), General Comment 31, para. 3

## **Protection of Personal Data**

### ***Key Obligations:***

- Transparency and Access to Information

**Personal data controllers complied with data minimization, accuracy, confidentiality, integrity, and storage limitation obligations.**

Regional treaties and political commitment sources stipulate that the collection of personal data should be minimized, relevant, and limited to purposes pursued.<sup>1237</sup>

## **Election Observation**

### ***Key Obligations:***

- Transparency and Access to Information

**Candidates and their representatives, as well as observers, were able to observe polling and counting.**

Interpretive sources indicate that candidates or their agents and accredited observers should be allowed to observe the counting and tabulation of votes.<sup>1238</sup>

**The vote-counting process was transparent and observable.**

Interpretive sources indicate that the vote count and tabulation process should be transparent and observable.<sup>1239</sup>

**International observers were accredited and were able to access and comment on all parts of the electoral process.**

State practice sources indicate that international observers should be permitted to follow all aspects and stages of the electoral process.<sup>1240</sup>

## **Access to Information and Electoral Management Body Documents**

### ***Key Obligations:***

- Right and Opportunity to Participate in Public Affairs

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<sup>1237</sup> EU, GDPR, art. 5(1)b,c; CoE (Committee of Ministers), Recommendation (2012)3, para. 7, 10; APEC, Privacy Framework, para. 24; OECD, Recommendation Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, para. 8

<sup>1238</sup> U.N. (CCPR), General Comment 25, para. 20

<sup>1239</sup> U.N. (CCPR), General Comment 25, para. 20

<sup>1240</sup> U.N., Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers, para. 12



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

The right to free expression includes the ability for everyone to seek and receive information and ideas.<sup>1241</sup> This extends to election observation. Election observers should be provided with copies of all protocols and tabulation sheets.<sup>1242</sup>

## 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)<sup>1243</sup> remedy before a competent national tribunal for acts that violate his/her rights or freedoms.<sup>1244</sup> 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.<sup>1245</sup> The rules should provide a mechanism for challenging and for invalidating all or parts of the election results.<sup>1246</sup>



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

### **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.<sup>1247</sup>

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.<sup>1248</sup>

1241 U.N., ICCPR, art. 19(2); AU, Convention on Corruption, art. 9; OAS, ACHR, art. 13(1); CoE, ECHR, art. 10(1)

1242 Norwegian Helsinki Committee, Human Rights Monitoring, p. 14

1243 U.N., ICCPR, art. 2; AU, AfCHPR, art. 7

1244 U.N., ICCPR, art. 2; AU, AfCHPR, art. 7; OAS, ACHR, art. 25; CoE, ECHR, art. 13

1245 ECOWAS, Protocol on Democracy and Good Governance, art. 7

1246 CoE (Venice Commission), Report on Electoral Law and Electoral Administration in Europe, para. 166, 172

1247 U.N. (CCPR), General Comment 25, para. 20

1248 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.<sup>1249</sup> Fair rules should:

- Provide clear grounds upon which complaints and appeals are allowable<sup>1250</sup>
- Define and govern the right to demand a recount<sup>1251</sup>
- Provide an opportunity to challenge and invalidate all or part of the election results<sup>1252</sup>

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1249 SADC, Principles and Guidelines, para. 2.1.10

1250 OSCE (ODIHR), Legal Framework, p. 36

1251 CoE, Handbook, para. 4.8

1252 CoE (Committee of Ministers), Recommendation (2004)11 on e-voting, art. 27





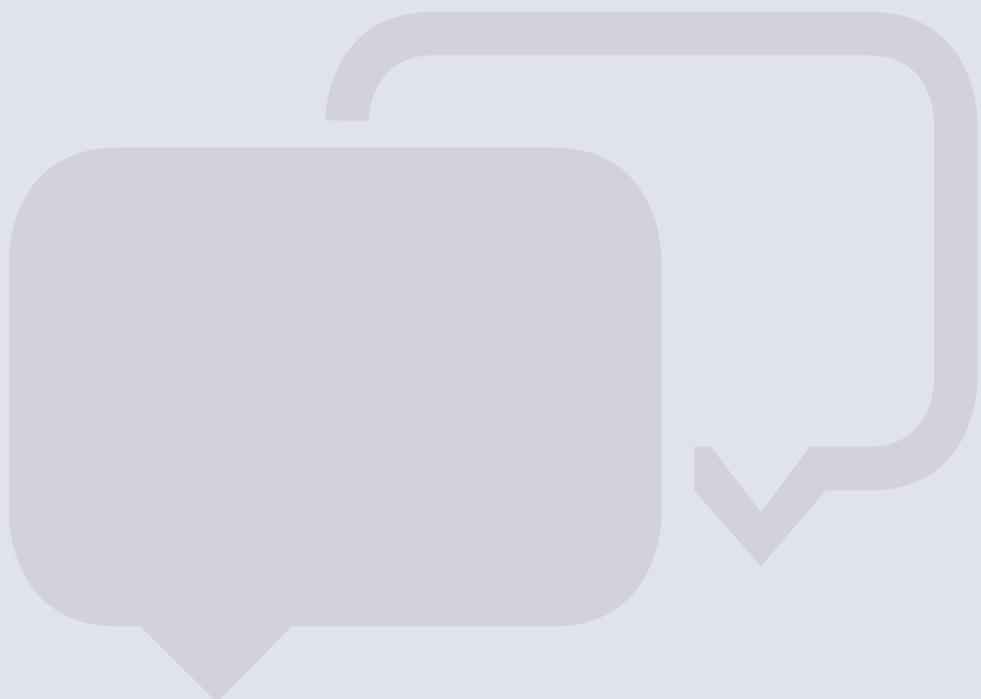
## Section 10

# Electoral Dispute Resolution

## Relevant Obligations

- Genuine Elections That Reflect the Free Expression of the Will of the People
- Right to Security of the Person
- Right to a Fair and Public Hearing
- Periodic Elections
- Freedom From Discrimination and Equality Before the Law
- Prevention of Corruption
- Right to an Effective Remedy
- 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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**T**he 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.<sup>1253</sup> 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.

**!** Refer to the ACE Electoral Knowledge Network for more information on electoral dispute resolution and electoral justice.

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.

<sup>1253</sup> 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 law<sup>1254</sup> and that laws should be equally enforced.<sup>1255</sup> Laws must also be consistent with international human rights.<sup>1256</sup>

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

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**Laws and procedures were not arbitrarily applied.**

Interpretive sources indicate that laws and procedures must not be arbitrarily applied.<sup>1257</sup> Suspension or exclusion of participatory rights is prohibited except on grounds established by law that are objective and reasonable.<sup>1258</sup>

**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.<sup>1259</sup>

State practice sources indicate that effective implementation of the electoral law requires sanctions against the infringements of the electoral law,<sup>1260</sup> including cases of electoral fraud.<sup>1261</sup>

**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.<sup>1262</sup>

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<sup>1254</sup> 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); LAS, Arab Charter, art. 3; ASEAN, Human Rights Declaration, art. 3

<sup>1255</sup> U.N., ICCPR, art. 26; AU, AfCHPR, art. 13(3); CIS, Convention on Human Rights, art. 20(1)

<sup>1256</sup> 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; ECOWAS, Protocol on Democracy and Good Governance, art. 33(1)

<sup>1257</sup> U.N. (CCPR), General Comment 25, para. 4

<sup>1258</sup> U.N. (CCPR), General Comment 25, para. 4

<sup>1259</sup> U.N. (CCPR), General Comment 31, para. 18

<sup>1260</sup> CoE (Venice Commission), Code of Good Practice, sec. I.2.3.19

<sup>1261</sup> CoE (Venice Commission), Code of Good Practice, sec. 1.3.2.xv

<sup>1262</sup> AU, ACHPR, Principles and Guidelines, art. E

State practice sources elaborate on this, stipulating that the law should clearly state who has standing to file an election dispute.<sup>1263</sup>

## The Election Calendar and Enjoyment of Rights

### ***Key Obligations:***

- *Periodic Elections*
- *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,<sup>1264</sup> 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,<sup>1265</sup> presumably including dispute resolution processes.

## Freedom From Discrimination and Electoral Dispute Resolution

### ***Key Obligations:***

- *Freedom From Discrimination and Equality Before the Law*

**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.<sup>1266</sup> In addition, international treaties are clear that all are equal before the law and should enjoy the equal protection of the law.<sup>1267</sup>

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.<sup>1268</sup>

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<sup>1263</sup> OSCE (ODIHR), Legal Framework (Ed. 1), p. 81

<sup>1264</sup> 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

<sup>1265</sup> U.N., Human Rights and Elections, 1st ed., para. 75

<sup>1266</sup> 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

<sup>1267</sup> 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); ASEAN, Human Rights Declaration, art. 3

<sup>1268</sup> U.N. (CCPR), General Comment 28, para. 21



## **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 of arms and equal access to the courts.<sup>1269</sup> Fees that de facto prevent access to the courts may violate the obligation of equal access to the courts.<sup>1270</sup> 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.<sup>1271</sup>

## **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. This obligation should include access for citizen and international observers. Only certain limited restrictions may be placed on transparency and access to information.<sup>1272</sup>

### **The judgments, findings, 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).<sup>1273</sup>

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

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### **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.<sup>1274</sup> This would include information regarding the electoral process.

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1269 U.N. (CCPR), General Comment 32, para. 8

1270 U.N. (CCPR), General Comment 32, para. 11

1271 CoE (Committee of Ministers), Annex to Recommendation (81)7, para. B.5

1272 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)

1273 U.N., ICCPR; art. 14(1); CoE, ECHR, art. (6)(1)

1274 U.N., UNCAC, art. 10; CoE, Convention on Access to Official Documents, art. 2(1); U.N. (CCPR), General Comment 34, para. 19

**Potential complainants were informed of the means of filing a complaint and the time frame of its resolution.**

Political commitments recommend that all potential complainants be informed of the means by which to file a complaint and the time frame for its resolution.<sup>1275</sup>

**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.<sup>1276</sup>

**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 transparent<sup>1277</sup> and that the opportunity should exist to present evidence in support of a complaint.<sup>1278</sup>

## **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 to 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.<sup>1279, 1280</sup> The right to a public hearing must be protected except for specific and objective reasons as determined by law.<sup>1281</sup> The independence and impartiality of tribunals are absolute rights.<sup>1282</sup>

International treaties state that in the determination of suits at law, the independence and impartiality of tribunals must be promoted.<sup>1283</sup>

Regional treaties state that independence of the tribunal requires proper procedures detailing appointment, term limits, security, and remuneration of tribunal members.<sup>1284</sup> They also explain that states

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1275 U.N. (ECOSOC); U.N. document E/CN.4/2000/62, para. VIII.12.a

1276 AU, ACHPR, Principles and Guidelines, art. C(b)(iii)

1277 OSCE, Copenhagen Document, para. 12

1278 OSCE (ODIHR), Existing Commitments, p. 75

1279 U.N., ICCPR, art. 14(1); OAS, ACHR, art. 8(1); CoE, ECHR, art. 6(1); CIS, Convention on Human Rights, art. 6(1)

1280 U.N., ICCPR, art. 14; OAS, ACHR, art. 8

1281 U.N., ICCPR, art. 14(1); CoE, ECHR, art. 6(1)

1282 U.N., ICCPR, art. 14

1283 U.N., ICCPR, art. 14

1284 AU, AfCHPR, art. 26



should take steps to protect the independence of the judiciary to ensure the proper functioning of dispute resolution processes.<sup>1285</sup>

Interpretive sources indicate that the notion of a fair trial includes the guarantee of a fair and public hearing, absent of influence,<sup>1286</sup> and further indicate that impartiality requires that judges act without bias and that the tribunal appears unbiased to the reasonable observer.<sup>1287</sup>

Interpretive sources indicate that the notion of an independent tribunal is incompatible with a situation in which the functions 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.<sup>1288</sup> 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.<sup>1289</sup>

## Misuse of State Resources

### **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.<sup>1290</sup> State practice sources recommend that a designated independent body should oversee compliance with regulations against misuse of public resources and of official position.<sup>1291</sup>

**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.<sup>1292</sup> They are also clear that states have a duty to investigate alleged rights violations and provide appropriate judicial and administrative means for addressing claims of rights violations.<sup>1293</sup> This also applies to cases of misuse of public resources and of official position. The

1285 ECOWAS, Protocol on Democracy and Good Governance, art. 1(a)

1286 U.N. (CCPR), General Comment 32, para. 25

1287 U.N. (CCPR), General Comment 32, para. 21

1288 U.N. (CCPR), General Comment 32, para. 19

1289 U.N. (CCPR), Leonid Sinitisin v. Belarus, Communication no. 1047/2002 (2006), para. 7.3

1290 U.N., UNCAC, art. 18; AU, Convention on Corruption, art. 7

1291 CoE (Congress of the Council of Europe), Administrative Resources and Fair Elections, p. 41

1292 U.N. (CCPR), General Comment 31, para. 17

1293 U.N. (CCPR), General Comment 31, para. 15

possibility to bring misuse of public resources and of official position complaints to a judicial or another authorized body should be made available.<sup>1294</sup>

### **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 should be proportionate, appropriate, dissuasive, and effectively enforced.<sup>1295</sup> This includes sanctions applicable to misuse of public resources and of official position.<sup>1296</sup>

## **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.<sup>1297</sup> 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 effect<sup>1298</sup> and that states should take positive measures that may include educating the population and state officials in human rights<sup>1299</sup> and the prevention, punishment, investigation, and/or redress of violations of human rights by nonstate actors.<sup>1300</sup> 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.<sup>1301</sup>

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1294 CoE (Venice Commission), OSCE (ODIHR), Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources, para. II.A.1.4

1295 AU, ACDEG, art. 17; U.N. (CCPR), General Comment 31, para. 4

1296 CoE (Venice Commission), OSCE (ODIHR), Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources, para. II.C.2.2

1297 U.N., ICCPR, art. 2(2); AU, ACHPR, art. 1; OAS, ACHR, art. 2; CoE, ECHR, art. 1; CIS, Convention on Human Rights, art. 1

1298 U.N. (CCPR), General Comment 31, para. 14

1299 U.N. (CCPR), General Comment 31, para. 3

1300 U.N. (CCPR), General Comment 31, para. 8

1301 U.N. (CCPR), General Comment 31, para. 4



## **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)<sup>1302</sup> remedy for acts that violate their rights or freedoms,<sup>1303</sup> including during the electoral process.<sup>1304</sup> Regional treaties state that remedy should be available throughout the electoral process.<sup>1305</sup>

Interpretive sources elaborate on the treaties, stating that an effective remedy requires reparation and, at times, may require states to take interim measures.<sup>1306</sup>

## **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.<sup>1307</sup>

## **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.<sup>1308</sup> Cessation of a violation also is noted as an essential element of an effective remedy.<sup>1309</sup>

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.<sup>1310</sup> This includes any malfeasance, unlawful actions, or omissions by public security providers, which should be promptly investigated and entail appropriate liability set by law.<sup>1311</sup> Interpretive sources add that the duty to investigate applies also to acts by private people and entities.<sup>1312</sup>

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1302 U.N., ICCPR, art. 2; AU, AfCHPR, art. 7

1303 U.N., ICCPR, art. 2; AU, AfCHPR, art. 7; OAS, ACHR, art. 25; CoE, ECHR, art. 13

1304 AU, ACDEG, art. 17 (2)

1305 AU, ACDEG, art. 17(2); ECOWAS, Protocol on Democracy and Good Governance, art. 7

1306 U.N. (CCPR), General Comment 31, paras. 16, 19

1307 U.N. (CCPR), General Comment 32, para. 58

1308 U.N. (CCPR), General Comment 31, para. 17

1309 U.N. (CCPR), General Comment 31, para. 15

1310 U.N. (CCPR), General Comment 31, para. 15

1311 U.N. (CCPR), General Comment 37, para 78, 90; UNHRC, Report of the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, Philip Alston: Addendum on Election-Related Violence and Killings, para. 57

1312 U.N. (CCPR), General Comment 31, para. 8

**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.<sup>1313</sup>

**"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.<sup>1314</sup>

## **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)<sup>1315</sup> remedy before a competent national tribunal for acts that violate his/her rights or freedoms.<sup>1316</sup> Remedy should be available for complaints that arise throughout the electoral process.<sup>1317</sup>

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.<sup>1318</sup>

**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.<sup>1319</sup> Political commitments and state practice sources stress that the safety and ability of journalists and other media actors to work in full freedom should be protected, with harassment and violence targeting journalists, offline and online, promptly investigated and liability imposed.<sup>1320</sup>

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<sup>1313</sup> ECOWAS, Protocol on Democracy and Good Governance, art. 7

<sup>1314</sup> CoE (Venice Commission), Code of Good Practice, sec II.3.b

<sup>1315</sup> U.N., ICCPR, art. 2; AU, AfCHPR, art. 7

<sup>1316</sup> U.N., ICCPR, art. 2; OAS, ACHR, art. 25; CoE, ECHR, art. 13

<sup>1317</sup> ECOWAS, Protocol on Democracy and Good Governance, art. 7

<sup>1318</sup> AU, Principles on Freedom of Expression, Principle. 9.2

<sup>1319</sup> U.N., ICCPR, art. 2(3); OAS, ACHR, art.25(1); CoE, ECHR, art. 13; AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 25(a-b)

<sup>1320</sup> UNHRC, Resolution 39/6 on Safety of Journalists, para. 9.a; CoE (Committee of Ministers), Recommendation (2016)4, para. I.17; U.N. (OHCHR), OAS, ACHPR, OSCE, Joint Declaration on Media Independence and Diversity in the Digital Age, para. 2.a



## Safety, Security, and Electoral Dispute Resolution

### **Key Obligations:**

- Right to Security of the Person
- State Must Take Necessary Steps to Give Effect to Rights

**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.<sup>1321</sup> 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.<sup>1322</sup> Malfeasance, unlawful actions, or omissions by public security providers should be promptly investigated with the appropriate liability set by law.<sup>1323</sup>

**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 agents in polling stations but without interference from them.<sup>1324</sup> Unlawful actions or omissions by security agents should be investigated with the appropriate liability stipulated in law.

## Business and Protection of Human Rights

### **Key Obligations:**

- Right to an Effective Remedy

**Business enterprises embraced, in policy and practice, their international and/or national human rights obligations.**

**Accessible and effective complaint and redress mechanisms were established to protect these rights.**

To effectively protect the freedom of expression and other fundamental rights, internet intermediaries should recognize and protect

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1321 U.N., ICCPR, art. 9; AU, AfCHPR, art. 6; ACHR, art. 7(1)

1322 EU, Handbook (Ed. 2.), p. 52

1323 U.N. (CCPR), General Comment 37, para 78, 90; UNHRC, Report of the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, Philip Alston: Addendum on Election-Related Violence and Killings, para. 57

1324 U.N., Human Rights and Elections, 1st ed., paras. 94–97

human rights online, including through accessible and effective complaint and redress mechanisms.<sup>1325</sup>

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<sup>1325</sup> CoE (Committee of Ministers), Recommendation (2018)2, para. 2.5.1-3, Recommendation (2016)1, para. 6.1; U.N. (OHCHR), Freedom of Expression and Elections in the Digital Age, p. 13



## **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)<sup>1326</sup> and subsequent international and regional treaties,<sup>1327</sup> 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."

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 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.

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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

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<sup>1326</sup> International Covenant on Civil and Political Rights (adopted Dec. 16, 1966, entered into force March 23, 1973), 999 UNTS 171.

<sup>1327</sup> 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

decisions, and also “the teachings of highly qualified publicists.”<sup>1328</sup> 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.<sup>1329</sup>

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*).<sup>1330</sup>

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.<sup>1331</sup> If the meaning is not clear, the *travaux préparatoires* (the negotiating history) may be used as a supplementary means of interpretation.<sup>1332</sup> (See also the section on interpretation below.)

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<sup>1328</sup> 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.”

<sup>1329</sup> 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.

<sup>1330</sup> International Court of Justice (ICJ), North Sea Continental Shelf (Federal Republic of Germany/Netherlands and Federal Republic of Germany/Denmark), (1969)

<sup>1331</sup> Vienna Convention on the Law of Treaties, art. 31(1)

<sup>1332</sup> Vienna Convention on the Law of Treaties, art. 32

## **Signature, Ratification, 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 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.<sup>1333</sup>

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 depositary mechanism outlined in the treaty itself.<sup>1334</sup> 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.<sup>1335</sup> 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.<sup>1336</sup>

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.<sup>1337</sup>

## **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

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1333 Vienna Convention on the Law of Treaties, arts. 10 and 18

1334 Vienna Convention on the Law of Treaties, arts. 2(1)(b), 14(1), and 16

1335 Vienna Convention on the Law of Treaties, arts. 2(1)(b) and 15

1336 Vienna Convention on the Law of Treaties, arts. 2(1)(d) and 19–23

1337 Vienna Convention on the Law of Treaties, art. 24

translated into legislation that is promulgated through legislative channels. In all cases, agreement to be bound by treaty requires that the necessary steps be taken to give effect to the treaty in national law.

## Judicial Decisions and Interpretation of Treaties

**1** 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.

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.

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.<sup>1338</sup> 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*.... Nongovernmental organizations can be viewed as engaged in an important debate about current *opinio juris* and about the desirability of recognizing new norms of international law."<sup>1339</sup>

<sup>1338</sup> 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).

<sup>1339</sup> Lepard, 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**

 See Appendix D for a full reference list.

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.

## **The United Nations**

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 (CMW); (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.<sup>1340</sup> 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 reelections 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	14

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.

<sup>1340</sup> 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<sup>1341</sup>

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.<sup>1342</sup>

### Human Rights Council<sup>1343</sup>

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 nongovernmental organizations 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.

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<sup>1341</sup> Website of the Office of the High Commissioner for Human Rights, <http://www.ohchr.org/EN/Pages/Home.aspx>, accessed March 14, 2022

<sup>1342</sup> Website of the Office of the High Commissioner for Human Rights, <http://www.ohchr.org/EN/AboutUs/Pages/WhatWeDo.aspx>, accessed March 14, 2022

<sup>1343</sup> Website of the Office of the High Commissioner for Human Rights, <http://www.ohchr.org/EN/HRBodies/HRC/Pages/Home.aspx>, accessed March 14, 2022

## **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. As of November 2021, there were 44 thematic and 11 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)
- Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights (1984)
- 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)
- United Nations Human Rights Committee, General Comment No. 37 on Article 22: Right of Peaceful Assembly (2020)
- United Nations Committee on the Rights of Persons with Disabilities, General Comment No. 1 on Equal Recognition Before the Law (2014)
- United Nations Committee on the Rights of Persons with Disabilities, General Comment No. 2 on Article 9: Accessibility (2014)
- United Nations Committee on the Rights of Persons with Disabilities, General Comment No. 6 on Equality and Non-Discrimination (2018)

## African Union

The African Union (AU) is an intergovernmental organization whose membership includes all of the independent countries in Africa or in African waters, except Burkina Faso, Guinea, Mali and Sudan, which are currently suspended.<sup>1344</sup> 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 Peoples' Rights, the organization's principal judicial body on human rights issues.

The African Court of Human and Peoples' Rights 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 court worked 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

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<sup>1344</sup> Data as of March 14, 2022

recognized by the AU. While the court handles cases related to international human rights commitments, particularly those arising from the African Charter and international treaties or instruments ratified by state parties, it has no criminal jurisdiction and works with issues related to human rights violations. In July 2005, the AU decided to create the African Court of Justice and Human Rights as a merger of the African Court of Human and Peoples' Rights and the Court of Justice of the African Union. The African Court of Justice and Human Rights (ACJHR) was designed to have two organs – one focused on general legal disputes and the other on human rights. In 2014, the protocol that established the ACJHR was amended to include a third organ focused on granting the court criminal jurisdiction over crimes like genocide, war crimes, terrorism, crimes against humanity, corruption, trafficking in people, and others.<sup>1345</sup> The protocol to amend the ACJHR also merged the ACHPR with the Court of Justice of the African Union under the name "African Court of Justice and Human and Peoples' Rights" (ACJHPR).<sup>1346</sup> However, the amended protocol that created the ACJHPR is yet to enter into force.<sup>1347</sup>

The ACHPR has 11 judges who are nationals of member states. They are elected for a six-year term and are eligible for reelection once. Recognized nongovernmental organizations as well as member states and AU organs may request opinions of the ACHPR. In addition, individuals from states that have signed a declaration that permits individual complaints have standing before the court.<sup>1348</sup> The ACHPR has been actively hearing cases, including those related to election matters, since 2010.

### New Economic Partnership for African Development

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:

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1345 Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights (adopted June 27, 2014), Annex - Statute of the African Court of Justice and Human and Peoples' Rights, arts. 3 and 14

1346 Ibid. art. 8

1347 The amended protocol shall enter into force 30 days after it is ratified by 15 members states. While 15 states have signed the amendment, none has ratified it.

1348 At the time of writing, this is limited to seven states: Burkina Faso, Ghana, Malawi, Mali, Rwanda, Tanzania, and Côte d'Ivoire.

### *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 Union Convention on Preventing and Combating Corruption (adopted, 2003; entered into force, 2006)
- African Youth Charter (adopted, 2006; entered into force, 2009)
- African Charter on Democracy, Elections, and Governance (adopted, 2007; entered into force, 2012)
- African Charter on Values and Principles of Public Service and Administration (adopted, 2011; entered into force, 2016)
- Protocol to the African Charter on Human and People's Rights on the Rights of Older Persons (adopted, 2016)
- Protocol to the African Charter on Human and People's Rights on the Rights of Persons with Disabilities in Africa (adopted, 2018)

### *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)

## **European Union**

The European Union (EU) is an international organization comprising 27 member states. The predecessor of the EU, the European Economic Community, was established in 1958, initially with the aim of increasing economic cooperation. The renaming of the community in 1993 into the European Union reflected both the increase in its membership and the span in focus across different policy areas.

Decision-making at the EU level involves several institutions. Direct representation of EU citizens is ensured through the 705-member European Parliament, elected for a five-year term from each of the member states. The European Parliament performs functions of a co-legislator, whereas it shares the power to adopt and amend legislative proposals and to decide on the EU budget with the Council of the European Union. It also has a supervisory function and oversees the work of the European Commission and other EU bodies.

The European Council is a body comprising heads of state or government of all EU member states as well as its president and the president of the European Commission. The European Council is

responsible for setting the overall political direction and priorities of the European Union.

The council, which is also referred to as the Council of the European Union, consists of representatives of EU member states' governments. As part of a co-decision procedure, in policy areas where the European Union has sole or shared competence together with member states, the council debates and adopts legislative acts together with the European Parliament on the basis of proposals submitted by the European Commission. It is also responsible for coordinating policies of member states in specific fields.

The European Commission is composed of a group of 27 commissioners from EU member states, known as a "college," which represents the interests of the European Union as a whole. The commission is led by the president, who assigns commissioners the responsibility for specific policy areas. Together with other EU bodies, the European Commission contributes to the development of the overall strategy and political direction for the European Union.

*Treaties:*

- Treaty of the European Union (Lisbon Treaty) (signed, 2007; entered into force, 2009)
- Charter of Fundamental Rights of the European Union (signed, 2000; entered into force, 2009)
- Regulation 2016/679 of the European Parliament and of the Council on the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data (General Data Protection Regulation) (entered into force, 2016; applies since 2018)

## **Commonwealth of Independent States**

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.<sup>1349</sup> 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 on Human Rights and Fundamental Freedoms, which came into force in 1998, provides for the establishment of a Human Rights Commission of the CIS to act as a control mechanism focused on monitoring state execution of the convention.

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<sup>1349</sup> Georgia is a former member state.

### ***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**

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, composed of 324 national parliamentarians from member states; and the European Court of Human Rights, the organization's judicial body, that primarily monitors state compliance with the 1950 European Convention on 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.<sup>1350</sup>

Contracting states and individuals, nongovernmental organizations, 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 62 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 for terms of four years. Commission experts issue reports and recommendations in four key areas: constitutional assistance;

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<sup>1350</sup> The ECHR in 50 Questions, [https://www.echr.coe.int/Documents/50Questions\\_ENG.pdf](https://www.echr.coe.int/Documents/50Questions_ENG.pdf), accessed March 14, 2022

elections and referendums; cooperation with constitutional courts; and transitional studies, reports, and seminars.<sup>1351</sup>

#### ***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 (Second Edition) (2020)
- Venice Commission (European Commission for Democracy Through Law) Revised Guidelines on the Holding of Referendums (2020)
- Venice Commission (European Commission for Democracy Through Law) and OSCE (ODIHR) Guidelines on Freedom of Peaceful Assembly (Third Edition) (2020)

## **Economic Community of West African States**

The Economic Community of West African States (ECOWAS) is an international organization of 15 states from the West African subregion: Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, the Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Togo.<sup>1352</sup> 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 five 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 nongovernmental organizations 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 need to

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<sup>1351</sup> 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.

<sup>1352</sup> Mauritania withdrew its ECOWAS membership in 1999.

**!** See the Framework section of this handbook for more information on evidence of international law.

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 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.<sup>1353</sup>

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 previous section) when issuing opinions.<sup>1354</sup> 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

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).

1353 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)

1354 ECOWAS Court of Justice website, <http://www.courtecowas.org/>, accessed March 14, 2022

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.<sup>1355</sup> 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.

In 2013, the Ministerial Council of the LAS adopted a Statute for the Arab Court of Human Rights, a body that would have jurisdiction over human rights complaints brought against states by other states. It is envisaged that complaints also could be brought not by individuals but by nongovernmental organizations if the relevant state additionally accepts that jurisdiction. States would be able to accept the court's jurisdiction generally or with regard to specific disputes. Only Saudi Arabia has so far ratified the statute.

LAS 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**

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

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<sup>1355</sup> League of Arab States Portal, <http://www.lasportal.org>, accessed on March 14, 2022

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 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 20 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**

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. Therefore, it 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**

The Southern African Development Community (SADC) is composed of 16 member states: Angola, Botswana, Comoros, Democratic Republic of the Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia, and Zimbabwe. 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)

## **Association of Southeast Asian Nations**

The Association of Southeast Asian Nations (ASEAN) is a regional organization that promotes intergovernmental cooperation and facilitates economic, political, security, military, educational, and sociocultural integration between member states and other countries in Asia. It was established in 1967 in Bangkok, Thailand, with initially six countries signing the ASEAN Declaration (Bangkok Declaration). Following other countries joining, ASEAN presently comprises 10 member states, including Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam.

ASEAN's highest policy-making body is the ASEAN Summit. It takes place twice annually and brings together heads of state or government of its member states.

The ASEAN Coordinating Council was established in 2008 and includes foreign ministers of its member states who meet at least twice a year, including to prepare for the ASEAN Summit. The Coordinating Council ensures the coordination and the implementation of ASEAN's mandate and its activities.

Based on the ASEAN Charter, the organization also has three Community Councils, including the ASEAN Political-Security Community Council, ASEAN Economic Community Council, and ASEAN Socio-Cultural Community Council, with responsibility over the respective thematic pillars.

***Treaties:***

- ASEAN Charter (signed, 2007; entered into force, 2008)

***Other Regional Instruments:***

- ASEAN Human Rights Declaration (signed 2012)



## Appendix C

# Illustrative Questions for Data Collection



## 1. Legal Framework

	ASSESSMENT CRITERIA	ILLUSTRATIVE QUESTIONS FOR DATA COLLECTION
<b>International Human Rights Obligations in the Legal Framework</b>		
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	The legal framework for elections included the protection of fundamental rights and made international obligations domestically binding.	<ul style="list-style-type: none"><li>• Does the legal framework provide for the conduct of elections that are in accordance with international standards and political rights?</li><li>• Are relevant provisions from international/regional treaties incorporated into the national legal framework?</li><li>• Do any legal provisions contradict international obligations of the state?</li></ul>
<b>Rule of Law</b>	<p>Any restrictions placed on fundamental rights were reasonable and objective.</p> <p>Key aspects of the election process were enshrined in law at the highest level (e.g., the electoral system was enshrined in the constitution).</p>	<ul style="list-style-type: none"><li>• What, if any, restrictions on fundamental human rights and freedoms are in place?</li><li>• Are any groups particularly impacted by any restrictions?</li><li>• Which aspects of the electoral process are enshrined in the constitution and which are left to legislative or administrative discretion?</li></ul>
	Participatory rights were protected at the highest level of the law (the constitution).	<ul style="list-style-type: none"><li>• How do the country's international obligations impact the legal framework for elections?</li><li>• Does the constitution incorporate human rights and/or treaty obligations?</li></ul>
<b>Derogation of Obligations</b>		
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	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"><li>• Have any limitations been placed on nonderogable rights (e.g., discrimination on the basis of race, color, sex, language, religion, or social origin)?</li><li>• 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?</li><li>• Who is affected by any limitations?</li></ul>
<b>Rule of Law</b>	Prior to the derogation of human rights and electoral obligations, a state of emergency was publicly announced.	<ul style="list-style-type: none"><li>• Did authorities publicly declare a state of emergency prior to any derogation of human rights?</li></ul>
<b>Periodic Elections</b>	Any restrictions on rights were justified by law and subject to review.	<ul style="list-style-type: none"><li>• Have authorities based their justification of any limitations on rights in law?</li><li>• Are the restrictions subject to judicial review?</li></ul>



### Rule of Law and the Legal Framework

<b>State Must Take Necessary Steps to Give Effect to Rights</b>  <b>Rule of Law</b>	The principles of rule of law were promoted.	<ul style="list-style-type: none"><li>Are all decisions related to the electoral process subject to the rule of law?</li></ul>
	The legal framework for elections was stable.	<ul style="list-style-type: none"><li>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?</li><li>Are there valid reasons and a general consensus behind any late changes?</li></ul>
	The laws regulating elections were equally enforced and were not arbitrarily applied.	<ul style="list-style-type: none"><li>Are laws enforced consistently?</li><li>Is the law publicly promulgated and available in the official languages of the country?</li></ul>
	Sanctions for violations of the electoral law were proportionate, appropriate, and effectively enforced.	<ul style="list-style-type: none"><li>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?</li><li>Are sanctions provided by law proportionate to the severity of the offense?</li><li>How are sanctions enforced?</li></ul>

### Establishment, Regulation of, and Membership in Political Parties/Internal Party Policies

<b>Freedom of Association</b>	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"><li>Does the legal framework contain clear provisions that pertain to political party formation, legal recognition, or functioning?</li><li>What are the requirements for a party or other political organization to receive legal recognition? Are these requirements burdensome?</li><li>What governmental body receives and decides on applications for legal recognition?</li><li>Is there sufficient time for political party registration?</li><li>To what extent does regulation apply to parties' internal policies?</li></ul>

### State Authorities Responsible for Upholding Rights

<b>State Must Take Necessary Steps to Give Effect to Rights</b>	All branches of the government are responsible for protecting human rights, including those responsible for administering election processes.	<ul style="list-style-type: none"><li>Under the legal framework, who is responsible for protecting human rights during electoral processes?</li><li>Are there other, independent mechanisms to promote the protection of human rights? (e.g., ombudswoman)</li><li>Does the legal framework provide for civic education to inform people of their electoral rights?</li></ul>
	Citizens were able to participate in public affairs through nongovernmental organizations.	<ul style="list-style-type: none"><li>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?</li><li>Are there any restrictions on the ability of nongovernmental organizations to establish and operate in full freedom and for citizens to join them?</li></ul>

### Independence and Impartiality of the Electoral Management Body

<b>Prevention of Corruption</b>	Steps were taken to institutionalize efficient and effective public administration.	<ul style="list-style-type: none"><li>What steps were taken to institutionalize efficient and effective public administration?</li><li>Are public officials obliged by law to act neutrally and impartially?</li></ul>
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<b>Authority and Responsibility of the Electoral Management Body in Interpreting the Law</b>		
<b>Rule of Law</b>	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"> <li>• What body has the legal power to promulgate electoral regulations?</li> <li>• What is the EMB's role in administering and interpreting the law?</li> <li>• Is the EMB's interpretation subject to additional review by another body (e.g., the supreme or constitutional court, legislature, or other)?</li> </ul>
<b>Regularity of Elections</b>		
<b>Periodic Elections</b>	Elections have been held periodically.	<ul style="list-style-type: none"> <li>• How often does the legal framework require that elections for each office take place?</li> <li>• How often have elections taken place?</li> </ul>
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	The period between elections was not unduly long.	<ul style="list-style-type: none"> <li>• Has the time between elections been so long as to suggest that elected officials no longer represent the will of the voters?</li> </ul>
<b>Postponement of Elections</b>		
<b>Periodic Elections</b>	The legal framework only allowed for temporary postponement of the election in times of declared state of emergency.	<ul style="list-style-type: none"> <li>• Does the legal framework permit a delay to elections? Under what conditions?</li> </ul>
<b>Election Calendar and the Enjoyment of Rights</b>		
<b>Periodic Elections</b>	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.	<ul style="list-style-type: none"> <li>• Does the calendar allow adequate time for boundary delimitation, voter registration, electoral dispute resolution, etc.?</li> <li>• Does the legal framework contain steps to follow in the event the calendar is not observed?</li> </ul>
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	The legal framework provided for regular elections required that they be held within a reasonable time period after they are called.	<ul style="list-style-type: none"> <li>• Does the legal framework provide for periodic elections to be held at reasonable intervals?</li> </ul>
	The legislative calendar related to the development of electoral laws was published well in advance of deadlines.	<ul style="list-style-type: none"> <li>• How long in advance of the elections was electoral legislation finalized and promulgated?</li> <li>• Is the legislative calendar published far enough in advance to provide all stakeholders an opportunity to represent their positions and to promote legal certainty?</li> </ul>



### Freedom From Discrimination in the Legal Framework

<b>Equality Between Men and Women, Minorities, and People With Disabilities</b>	The legal framework for elections did not discriminate on the basis of prohibited grounds.	<ul style="list-style-type: none"><li>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?</li><li>Does the design of the electoral system facilitate electoral participation and representation of vulnerable groups, including women, minorities, and people with disabilities?</li><li>Are guarantees of rights of people with disabilities mainstreamed throughout the legal framework and policies?</li></ul>
	Minorities were able to use their own language(s).	<ul style="list-style-type: none"><li>Does the law allow for the use of minority languages throughout the electoral process, including in campaigning, media, and voter education materials?</li><li>Is the legal framework available in minority languages?</li></ul>
	The legal framework for elections included guarantees of equality before the law.	<ul style="list-style-type: none"><li>Does the legal framework explicitly guarantee equality before the law? If so, for whom?</li></ul>
	The legal framework provided equal access to any place or service intended for use by the public.	<ul style="list-style-type: none"><li>What restrictions does the legal framework place on access to public places? Are these time- or context-bound?</li><li>Were citizen observers denied access to polling stations or other public facilities in use during the electoral process? Why?</li><li>Does the legal framework provide equal access to public service positions (e.g., within the electoral management body)?</li></ul>

### Universal Suffrage, the Right to Vote, and Voter Education The Right to Vote and Voting Operations

<b>Right and Opportunity to Vote</b>	The legal framework for elections was consistent with international human rights.	<ul style="list-style-type: none"><li>Does the legal framework ensure that the electoral system and boundary delimitation process are in compliance with international obligations and human rights?</li></ul>
		<b>Citizenship</b> <ul style="list-style-type: none"><li>What are the criteria for citizenship? Are they clear and understandable?</li><li>Do citizenship criteria discriminate against particular groups of people? If so, whom?</li><li>Are there restrictions on who can acquire or confer citizenship?</li><li>With respect to the enjoyment of rights, are distinctions made between those who attained citizenship by birth and those who attained it through naturalization?</li></ul>
<b>Freedom From Discrimination and Equality Before the Law</b>	The rules regarding citizenship were clear and nondiscriminatory.	<ul style="list-style-type: none"><li>Are women discriminated against in terms of acquiring or conferring citizenship?</li></ul>
	Citizenship rules did not discriminate directly or indirectly against women.	

The Legal Framework and Equality Between Men and Women	
Equality Between Men and Women	<p>The legal framework for elections included guarantees of equality before the law for men and women.</p> <ul style="list-style-type: none"> <li>• Does the legal framework include guarantees of equality between men and women?</li> <li>• Are there any legal provisions that directly or indirectly discriminate against women?</li> </ul> <p>The state took steps to ensure de facto equality between men and women.</p> <ul style="list-style-type: none"> <li>• 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)?</li> <li>• Are there legal measures in place to promote women to decision-making positions within government structures such as the EMB?</li> <li>• If quotas are used, do they achieve the desired outcome?</li> <li>• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li> <li>• Are there requirements to collect and publish gender-disaggregated information around the electoral processes?</li> </ul>
Freedom From Discrimination and Equality Before the Law	<p>The state took steps to ensure de facto equality between men and women.</p> <ul style="list-style-type: none"> <li>• 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)?</li> <li>• Are there legal measures in place to promote women to decision-making positions within government structures such as the EMB?</li> <li>• If quotas are used, do they achieve the desired outcome?</li> <li>• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li> </ul>
Equality Between Men and Women	<p>Special measures were taken, as necessary, to promote equality for minorities.</p> <ul style="list-style-type: none"> <li>• Are there legal provisions ensuring the right to vote and/or be elected for minorities?</li> <li>• Does the legal framework contain any affirmative measures to offset past or current discrimination?</li> <li>• If quotas are used, do they achieve the desired outcome?</li> <li>• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li> </ul> <p>Special measures were taken to ensure de facto equality for people with disabilities.</p> <ul style="list-style-type: none"> <li>• Are there provisions in place to ensure that people with disabilities can fully participate in the electoral process?</li> <li>• Is there a recognized need for special measures for people with disabilities?</li> <li>• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li> </ul>



#### The Right to an Effective Remedy, Including Challenging Election Results

<b>Right to an Effective Remedy</b>	The legal framework provided citizens with an effective (timely and enforceable) remedy throughout the electoral process.	<ul style="list-style-type: none"><li>• Does the legal framework provide clear guidance on the process of seeking a remedy?</li><li>• Are the remedies available appropriate to the time-bound nature of the electoral process?</li><li>• Are remedies provided effective (timely and enforceable)?</li><li>• Who has the authority to enforce remedies according to the law?</li><li>• Who has legal standing to seek a remedy for violations?</li></ul>
<b>Rule of Law</b>	The legal framework for elections included the right to challenge the election results as necessary.	<ul style="list-style-type: none"><li>• In what circumstances are challenges to election results permitted?</li><li>• What is the legal process for challenging election results?</li><li>• Who has standing to challenge the election results?</li></ul>



## 2. Electoral System and Boundary Delimitation

ASSESSMENT CRITERIA		ILLUSTRATIVE QUESTIONS FOR DATA COLLECTION
<b>The Legal Framework for Electoral Systems and Boundary Delimitation</b>		
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	The principles of rule of law were promoted.	<ul style="list-style-type: none"><li>• Are all decisions related to the electoral system and boundary delimitation subject to the rule of law?</li><li>• Who makes decisions regarding the electoral system and boundary delimitation process? Is this person/body independent and impartial?</li></ul>
<b>Rule of Law</b>	The laws regulating elections were equally enforced and were not arbitrarily applied.	<ul style="list-style-type: none"><li>• Are laws enforced consistently during the boundary delimitation process?</li><li>• Are laws pertaining to the electoral system and boundary delimitation publicly promulgated and available in the official languages of the country?</li></ul>
<b>Right and Opportunity to Participate in Public Affairs</b>	The legal framework for elections was consistent with international human rights.	<ul style="list-style-type: none"><li>• Does the legal framework ensure that the electoral system and boundary delimitation process are in compliance with international obligations and human rights?</li></ul>
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	There were clear legal provisions regarding the electoral system and boundary delimitation.	<ul style="list-style-type: none"><li>• Where in the legal framework are provisions regarding the electoral system and boundary delimitation enshrined (e.g., the constitution, laws, regulations)?</li><li>• Are provisions on the electoral system and boundary delimitation subject to misinterpretation?</li></ul>
<b>Oversight of Boundary Delimitation</b>		
<b>Freedom from Discrimination and Equality Before the Law</b>	The state took the steps necessary to give effect to rights regarding the boundary delimitation process through effective oversight mechanisms.	<ul style="list-style-type: none"><li>• How often does boundary delimitation take place?</li><li>• Who has the authority to change the boundaries of electoral districts (e.g., the legislature, the courts, a boundaries commission, or other body)?</li><li>• Is there an independent demarcation body? How are its members chosen? What are its powers? Are its decisions subject to appeal to another body?</li></ul>
<b>Choice of the Electoral System</b>		
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	The electoral system allowed multiparty participation and actual and equal representation.	<ul style="list-style-type: none"><li>• Does the structure of the electoral system support the participation of multiple parties? How so?</li><li>• Does the electoral system allow space for new political movements to flourish?</li><li>• 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?</li><li>• Is the choice of system widely understood by the electoral contestants and the public?</li></ul>
<b>Rule of Law</b>		
<b>Freedom from Discrimination and Equality Before the Law</b>		



### Choice of the Electoral System (Continued)

<b>State Must Take Necessary Steps to Give Effect to Rights</b>	The legal framework defined the formulas to be used to convert votes into mandates.	<ul style="list-style-type: none"><li>• What form of representation is used (plural/majority, proportional, or mixed system)?</li><li>• If a mixed system is used, how many seats are filled using each subsystem?</li><li>• As appropriate, what system is used for the allocation of “remainders”?</li><li>• In a proportional system, does the formula for seat allocation risk disproportionate results due to a high legal threshold?</li><li>• Does the law require a minimum level of voter turnout for the election to be valid? If so, what is it?</li><li>• 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?</li><li>• Are elections direct or indirect? If indirect, what is the process? Which offices are affected? How is equal suffrage addressed?</li><li>• Are presidential elections held in one round or two, or are they held by preferential voting?</li><li>• Are there provisions for runoffs in the parliamentary system?</li></ul>
<b>Rule of Law</b>		
<b>Freedom from Discrimination and Equality Before the Law</b>	The electoral system did not discriminate against citizens on grounds prohibited by international law.	<ul style="list-style-type: none"><li>• Have electoral boundaries been drawn in a discriminatory or distorted manner to favor one group or another? If yes, how so?</li><li>• Do the rules on delimitation include antidiscrimination provisions?</li><li>• Do the size and importance of districts afford opportunities for female candidates to be elected?</li><li>• Does electoral system design take into account the needs and facilitate participation and representation of national minorities? Of people with disabilities?</li></ul>
	The electoral system was enshrined in law at the highest level (e.g., the constitution).	<ul style="list-style-type: none"><li>• What aspects of the electoral system are enshrined in the constitution?</li></ul>
<b>Freedom From Discrimination in the Electoral System System, Boundary Delimitation Process, and Electoral Dispute Resolution</b>		
<b>Freedom From Discrimination and Equality Before the Law</b>		
<b>Equality Between Men and Women</b>	The electoral system did not discriminate against citizens on grounds prohibited by international law.	<ul style="list-style-type: none"><li>• Have electoral boundaries been drawn in a discriminatory or distorted manner to favor one group or another? If yes, how so?</li><li>• Do the rules on delimitation include antidiscrimination provisions?</li><li>• Do the size and importance of districts afford opportunities for female candidates to be elected?</li><li>• Does electoral system design take into account the needs and facilitate participation and representation of national minorities? Of people with disabilities?</li></ul>

Criteria for Boundary Apportionment		
<b>Freedom From Discrimination and Equality Before the Law</b>	Each vote was of equal weight.	<ul style="list-style-type: none"> <li>• Do the criteria used to determine boundaries result in each vote carrying equal weight?</li> <li>• Does the boundary delimitation process protect equal suffrage?</li> <li>• Does the law establish a voter-per-representative ratio for election districts? If so, what is it?</li> </ul>
<b>Equal Suffrage</b>	Where variances occurred between the numbers of voters in various constituencies, they were small.	<ul style="list-style-type: none"> <li>• Are there variances between the numbers of voters in various constituencies? What are they?</li> <li>• Does the law establish acceptable variances in voter-per-representative ratios between districts? Are they reasonable? How large are they?</li> </ul>
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	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"> <li>• What are the criteria upon which electoral districts are drawn (e.g., size of population, size of electorate, effects of geographical constraints, administrative boundaries)?</li> <li>• Are the procedures for the delineation of electoral boundaries based on transparent and justifiable criteria?</li> </ul>
Citizen Participation in the Boundary Delimitation Process		
<b>Right and Opportunity to Participate in Public Affairs</b>	The right to participate in public affairs was protected, including during the boundary delimitation process.	<ul style="list-style-type: none"> <li>• Is public review of the boundary demarcation process inclusive of all parts of the political spectrum and sectors of society?</li> <li>• Was access to the boundary delimitation process denied to members of civil society? If so, on what basis?</li> <li>• Is there public debate on the boundary delimitation process?</li> </ul>
	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"> <li>• Do independent stakeholders have access to relevant data required to analyze government decisions regarding the delimitation process?</li> <li>• Does the public or civil society raise particular concerns regarding the process or outcome of boundary delimitation?</li> </ul>
Special Measures		
<b>Freedom From Discrimination and Equality Before the Law</b>	The state took steps to ensure de facto equality between men and women.	<ul style="list-style-type: none"> <li>• Are there special measures in place to ensure women's representation (e.g., quotas)? Are reserved seat measures applied in practice?</li> <li>• If special measures are in place, are they temporary? When will they be removed?</li> <li>• To what extent is there public debate about the representation of women in elected office?</li> </ul>
<b>Equality Between Men and Women</b>	Special measures were taken, as necessary, to promote equality for minorities.	<ul style="list-style-type: none"> <li>• 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?</li> <li>• If special measures are in place, are they temporary in nature? When will they be removed?</li> </ul>
	Special measures were taken to ensure de facto equality for people with disabilities.	<ul style="list-style-type: none"> <li>• Are there special measures in place to ensure representation of people with disabilities? What form do they take (e.g., quotas or reserved seats)? Are such measures voluntary or binding?</li> </ul>



### The Election Calendar and Enjoyment of Rights

Periodic Elections	The election calendar provided sufficient time for a review of the boundaries to take place as necessary.	<ul style="list-style-type: none"><li>• Are voting rights considered during the boundary delimitation process?</li><li>• 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)?</li><li>• Are there requirements to review boundary delimitation on a regular basis?</li></ul>
<b>Right to an Effective Remedy</b>		
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"><li>• 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?</li><li>• Were remedies enforced prior to the election?</li></ul>



### 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**

**Rule of Law**

The electoral management body acted in conformity with the law.

- Does the EMB act in conformity with the law?

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

- 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.

- 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.

- 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**

**Periodic  
Elections**

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

- 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?

##### Electoral Management Body 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.

- 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.

- What steps were taken to institutionalize efficient and effective public administration?



### Independence and Impartiality of the Electoral Management Body

<b>Freedom From Discrimination and Equality Before the Law</b>	There was an independent and impartial EMB.	<ul style="list-style-type: none"><li>• Is there an independent EMB?</li><li>• Is the election commission subject to political pressure?</li><li>• Does the selection process for EMB members ensure the independence and impartiality of staff?</li><li>• Can EMB members be removed from office? If so, for what reasons and by whom?</li></ul>
<b>Prevention of Corruption</b>	The EMB acted impartially in the administration of the election.	<ul style="list-style-type: none"><li>• Is the EMB acting impartially in the administration of the election?</li><li>• Do electoral stakeholders express confidence in the impartiality of the EMB?</li></ul>
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	The EMB had sufficient resources to implement all phases of the election process.	<ul style="list-style-type: none"><li>• Does the EMB have adequate funds and staff to administer the election?</li><li>• Who determines the EMB's budget? Does the body have control over its own resources? To whom is the EMB fiscally responsible?</li><li>• 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)?</li></ul>

### State Authorities Responsible for Upholding Rights

<b>Transparency and Access to Information</b>	An independent, duly resourced body oversaw compliance with data protection principles.	<ul style="list-style-type: none"><li>• Does the legal framework designate a body to oversee compliance with data protection principles?</li><li>• Does this body meet the requirement of being independent?</li><li>• Is this body duly resourced to perform vested functions?</li></ul>
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### Recruitment of Electoral Management Body Staff

<b>Freedom From Discrimination and Equality Before the Law</b>	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"><li>• How are EMB commissioners selected? Who selects them?</li><li>• How is the chair of the EMB selected? What limits exist on the chair's power?</li><li>• What are the procedures for recruiting technical staff? Is the recruitment process competitive?</li><li>• Are there any last-minute changes to the membership of the EMB?</li></ul>
<b>Prevention of Corruption</b>		<ul style="list-style-type: none"><li>• Does the law require the EMB to include specific professional categories?</li><li>• What is the composition of the EMB?</li><li>• Are there term limits for commissioners?</li><li>• Are appointment and dismissal procedures clearly articulated and transparently implemented?</li><li>• Can EMB members be dismissed at will?</li></ul>
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	The appointment to and membership of the EMB were regulated by law.	

### Training of Electoral Management Body Staff

<b>State Must Take Necessary Steps to Give Effect to Rights</b>	EMB personnel received training on the electoral process and international obligations.	<ul style="list-style-type: none"><li>• Do EMB commissioners, staff, and polling officials receive adequate training on their role in protecting rights? If so, who provides the training?</li><li>• Is training mandatory?</li></ul>
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<b>Provision of Voter Education by the Electoral Management Body</b>		
<b>Transparency and Access to Information</b>	The state took the steps necessary to give effect to rights during voter education.	<ul style="list-style-type: none"> <li>• Does the government prioritize the funding of civic and voter education by providing for it in the state budget prior to elections?</li> <li>• Does the EMB have adequate resources (human and financial) to implement the voter education process?</li> <li>• What voter education efforts were undertaken by the EMB? Were they effective?</li> </ul>
<b>Access to Information and Electoral Management Body Documents</b>		
<b>Transparency and Access to Information</b>	The EMB provided citizens with access to information throughout the electoral process.	<ul style="list-style-type: none"> <li>• Through what media and how frequently does the EMB provide information to the public?</li> <li>• Is information provided in a timely fashion so as to be useful within the time frame of elections?</li> <li>• Does the EMB provide information in multiple languages as necessary?</li> <li>• Is any denial of access to information based on reasonable and objective criteria?</li> </ul>
<b>Equality Between Men and Women</b>	The state proactively put in the public domain government information of public interest, including electoral information.	<ul style="list-style-type: none"> <li>• Is the EMB engaged in a proactive education campaign?</li> <li>• Are there technical or legal barriers to accessing EMB information?</li> <li>• Are the records of electoral administration available through a regular process at the EMB or other body?</li> <li>• Is information accessible to people with disabilities (e.g., in Braille, through assistive technologies, large font)?</li> </ul>
	The state took steps to ensure de facto equality between men and women.	<ul style="list-style-type: none"> <li>• Has the EMB taken steps beyond promulgating rules and regulations to ensure participation of women in the electoral process?</li> <li>• Is there a secretariat or unit for women or gender within the EMB?</li> <li>• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li> <li>• Does the EMB collect and publish gender-disaggregated data on various aspects of the electoral process, e.g., representation of women in electoral bodies, number of women voters and candidates, etc.?</li> </ul>
<b>Transparency in Electoral Management Body Decision Making and Procurement</b>		
<b>Transparency and Access to Information</b>		<ul style="list-style-type: none"> <li>• Are all or some meetings of the EMB open to the public?</li> <li>• Are observers, citizen and international, able to follow the work of the EMB?</li> </ul>
<b>Right and Opportunity to Participate in Public Affairs</b>	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"> <li>• Does the EMB operate openly and involve civil society organizations?</li> <li>• Does the EMB communicate its decisions effectively to lower-level bodies?</li> <li>• Does the EMB make decisions by qualified majority or consensus?</li> <li>• Does the EMB's procurement process entail the use of competitive and public tenders?</li> </ul>
<b>Prevention of Corruption</b>		



Anticorruption Policies Within the Electoral Management Body		
<b>Prevention of Corruption</b>	The EMB, as an organ of the state, implemented effective policies to discourage acts of corruption.	<ul style="list-style-type: none"><li>• Are there internal anticorruption policies within the EMB?</li><li>• What sanctions does the EMB maintain and implement for violations of corruption in the election process?</li><li>• Does the EMB encourage public participation as a means of combating corruption (e.g., open meetings and publicly disseminated notes)?</li></ul>
Freedom From Discrimination and the Election Management Body		
<b>Freedom From Discrimination and Equality Before the Law</b>	The EMB treated all citizens equally.	<ul style="list-style-type: none"><li>• Did the EMB discriminate in administering the elections?</li><li>• Did the EMB prevent discriminatory actions by others?</li><li>• Were materials produced by the EMB designed for use by all citizens, including people with disabilities, illiterate citizens, and minorities?</li></ul>
<b>Equality Between Men and Women</b>		
Access to Electoral Information		
<b>Equality Between Men and Women</b>	The state took steps to ensure de facto equality between men and women.	<ul style="list-style-type: none"><li>• Has the EMB taken steps beyond promulgating rules and regulations to ensure participation of women in the electoral process?</li><li>• Are there requirements to collect and publish gender-disaggregated information around electoral processes?</li></ul>
Special Measures		
<b>Freedom From Discrimination and Equality Before the Law</b>	The state took steps to ensure de facto equality between men and women.	<ul style="list-style-type: none"><li>• Has the EMB taken steps beyond promulgating rules and regulations to ensure participation of women in the electoral process?</li><li>• Is there a secretariat or unit for women or gender within the EMB?</li><li>• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li></ul>
<b>Equality Between Men and Women</b>		
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	Special measures were taken, as necessary, to promote equality for minorities.	<ul style="list-style-type: none"><li>• Has the EMB taken steps to promote the participation of minorities in the electoral process?</li><li>• Does the EMB include minorities among its members or staff? At what level of decision making?</li><li>• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li></ul>

<b>Special Measures (Continued)</b>		
<b>Freedom From Discrimination and Equality Before the Law</b>	Special measures were taken to ensure de facto equality for people with disabilities.	<ul style="list-style-type: none"> <li>Has the EMB taken steps to promote the participation of citizens with disabilities in the electoral process?</li> <li>Did the EMB reach out to and develop any special measures in place in consultation with disabled people organizations?</li> <li>Does the EMB include people with disabilities among its members or staff? At what level of decision making?</li> <li>Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li> <li>Are any incentives provided to political parties to support the participation by people with disabilities?</li> </ul>
<b>Equality Between Men and Women</b>	The EMB included women.	<ul style="list-style-type: none"> <li>Is the composition of the EMB representative of society?</li> <li>At what level of authority are women represented in the EMB?</li> <li>Is there gender equality in the distribution of leadership positions?</li> <li>Are the policies and actions of the EMB designed to promote internal equality?</li> </ul>
<b>State Must Take Necessary Steps to Give Effect to Rights</b>		
<b>Safety, Security, and the Electoral Management Body</b>		
<b>Right to Security of the Person</b>	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"> <li>What measures is the EMB taking to prevent violence and protect voters, candidates, and others during the campaign period?</li> <li>Does the EMB have a comprehensive security plan?</li> <li>How does the EMB respond to electoral violence or intimidation?</li> <li>Are security personnel accountable to the EMB? How is security information conveyed among security forces and the EMB?</li> <li>Have EMB members or staff been subject to threats to their safety?</li> </ul>
<b>Freedom of Movement for Electoral Management Body Personnel</b>		
<b>Freedom of Movement</b>	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"> <li>Were restrictions of movement placed on EMB officials or staff? Did these restrictions prevent them from carrying out their duties?</li> <li>Did the EMB restrict the movement of others during the electoral process?</li> </ul>
<b>Right to Effective Remedy for Electoral Management Body Actions</b>		
<b>Right to an Effective Remedy</b>	An effective (timely and enforceable) remedy was available for all violations of their fundamental rights.	<ul style="list-style-type: none"> <li>Are EMB actions subject to challenge or legal review?</li> <li>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)?</li> <li>Is the EMB required to release public reports and statistics about accountability procedures?</li> </ul>



### Hearings by Impartial and Independent Tribunals

<b>Right to a Fair and Public Hearing</b>	Citizens were granted a fair and public hearing by a competent, impartial, and independent tribunal in the determination of their rights.	<ul style="list-style-type: none"><li>• Does the EMB meet the criteria of an independent and impartial tribunal according to international law?</li><li>• What role does the EMB play in the arbitration of disputes?</li><li>• If the EMB is not an impartial tribunal, what body is responsible for the arbitration of disputes?</li></ul>
	The tribunal was protected from political influence (e.g., appointment processes, term limits, security, and remuneration).	<ul style="list-style-type: none"><li>• Is the tribunal perceived as an impartial arbiter?</li><li>• Are term limits, remuneration, or other factors used to influence tribunal members?</li></ul>
	The proceedings of any complaints were transparent, and all parties to the complaint were given an equal opportunity to present evidence.	<ul style="list-style-type: none"><li>• Did all parties to complaints have equal opportunity to present evidence?</li><li>• Are the findings of the tribunal accessible, and is an explanation of them provided?</li></ul>
	"Forum shopping" was discouraged.	<ul style="list-style-type: none"><li>• Is there a right of appeal in court?</li><li>• Are there clear procedures for appeals of decisions by administrative, judicial, or legislative bodies concerning electoral-related complaints?</li><li>• Are the appeal channels narrowly constructed so that neither appellants nor the authorities can choose the appeal body?</li></ul>

### Protection of Personal Data

<b>Transparency and Access to Information</b>	Citizens who offered proof of identity had the right to rectify information about them that was inaccurate.	<ul style="list-style-type: none"><li>• What is the process for voters and/or candidates to correct information held about them by the EMB?</li></ul>
	Personal data collected was not used for other purposes.	<ul style="list-style-type: none"><li>• Does the legal framework contain a requirement that personal data may be collected by an EMB only for a specified and legitimate purpose?</li><li>• How is personal data protected by the state?</li><li>• Have there been indications or complaints that data collected was used for any purpose other than voter registration?</li></ul>
	Personal data could be collected and processed based on informed consent.	<ul style="list-style-type: none"><li>• Does the legal framework require that personal data could be collected and processed based on informed consent?</li></ul>
	Personal data controllers complied with data minimization, accuracy, confidentiality, integrity, and storage limitation obligations.	<ul style="list-style-type: none"><li>• Are personal data controllers, including the EMB, obliged to comply with obligations of data minimization, accuracy, confidentiality, integrity, and storage limitation?</li><li>• Did personal data controllers comply with these requirements? Were there any reports or complaints in this regard?</li></ul>
	An independent, duly resourced body oversaw compliance with data protection principles.	<ul style="list-style-type: none"><li>• Does the legal framework designate a body to oversee compliance with data protection principles?</li><li>• Does this body meet the requirement of being independent?</li><li>• Is this body duly resourced to perform vested functions?</li></ul>

### **Protection of Personal Data (Continued)**

Everyone had the right to know whether information about themselves was processed and to obtain it in an accessible format.	<ul style="list-style-type: none"><li>• Are voters and/or candidates granted access to their records held by the EMB? Is the information provided to them in an accessible format?</li></ul>
Personal data controllers provided clear and accessible information about their data collection and processing policies and practices.	<ul style="list-style-type: none"><li>• Do voters and candidates have clear and accessible information on what personal data is being collected about them as part of election management and how this data is used?</li><li>• Do personal data controllers provide clear information about their data collection policies and practices?</li></ul>



## 4. Voter Registration

	ASSESSMENT CRITERIA	ILLUSTRATIVE QUESTIONS FOR DATA COLLECTION
<b>The Legal Framework and Voter Registration</b>		
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	<p>The principles of rule of law were promoted.</p>	<ul style="list-style-type: none"><li>• Are all decisions related to the voter registration process subject to the rule of law?</li></ul>
<b>Rule of Law Right and Opportunity to Vote</b>	<p>The laws regulating elections were equally enforced and were not arbitrarily applied.</p> <p>The legal framework for elections was consistent with international human rights.</p> <p>Voter registration procedures were clearly stipulated by law.</p>	<ul style="list-style-type: none"><li>• Are laws enforced consistently during the voter registration process?</li><li>• Are the laws regarding voter registration publicly promulgated and available in the official languages of the country?</li><li>• Does the legal framework ensure that voter registration is in compliance with international obligations and human rights?</li><li>• Are the voter registration procedures stated in the law?</li><li>• Does the law clearly define eligibility criteria for voting, and are these criteria reasonable and consistent with international obligations?</li></ul>
<b>Voter Registration and the Fulfillment of Human Rights</b>		
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	<p>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.</p>	<ul style="list-style-type: none"><li>• Is voter registration state-initiated? If so, is it by enumeration or based on a civil registry?</li><li>• Is the state actively promoting voter registration? How so?</li></ul>
<b>Universal Suffrage Periodic Elections</b>	<p>There was adequate time for the voter registration process, including exhibition of preliminary lists and opportunities for challenges and corrections.</p>	<ul style="list-style-type: none"><li>• Are voter registration timelines feasible given available resources?</li><li>• When is the preliminary voter list made publicly available? Is there adequate time for the exhibition of the preliminary lists?</li><li>• Are there adequate time and opportunity for challenges and corrections to be made to the list?</li><li>• Is there sufficient time for the list to be distributed to polling centers?</li></ul>
<b>Universal Suffrage, the Right to Vote, and Voter Education The Right to Vote and Voting Operations</b>		
<b>Right and Opportunity to Vote</b>	<p>The right to vote was guaranteed by law and was subject only to reasonable and objective restrictions.</p>	<ul style="list-style-type: none"><li>• Is the right to vote restricted in any way? Are these restrictions reasonable and objective?</li><li>• 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?</li><li>• 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?</li></ul>

<p><b>Freedom From Discrimination and Equality Before the Law</b></p>	<p>The rules regarding citizenship were clear and nondiscriminatory.</p> <ul style="list-style-type: none"> <li>• What are the criteria for citizenship? Are they clear and understandable?</li> <li>• Do citizenship criteria discriminate against particular groups?</li> <li>• Are there restrictions on who can acquire or confer citizenship?</li> <li>• With respect to the enjoyment of rights, are distinctions made between those who attained citizenship by birth and those who attained it through naturalization?</li> </ul>
<p><b>Right and Opportunity to Participate in Public Affairs</b></p>	<p>Voter registration promoted universal suffrage.</p> <ul style="list-style-type: none"> <li>• Who is eligible to vote, as outlined in the constitution, law, and regulations?</li> <li>• What restrictions, if any, are placed on the right to vote? Are they reasonable and objective?</li> <li>• Are there significant legal hurdles to register to vote?</li> <li>• Is there a way to determine eligibility on election day?</li> <li>• 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?</li> <li>• Are citizens who reach voting age shortly before or on election day allowed to vote? If so, are there separate provisions regarding their registration?</li> <li>• Is the state taking steps to ensure registration for people with disabilities (e.g., through the use of assistive technologies)?</li> </ul>
<p><b>Right and Opportunity to Vote</b></p>	<p>Limitations on universal suffrage imposed during the voter registration process were reasonable and objective.</p> <ul style="list-style-type: none"> <li>• What, if any, restrictions are placed on the right to vote? Are they reasonable and objective?</li> <li>• Have people been denied registration in practice on unreasonable grounds?</li> </ul>
<p><b>Universal Suffrage</b></p>	<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"> <li>• Are voting rights restored to convicted people after they have served a prison sentence? Have people been denied registration in practice on unreasonable grounds?</li> <li>• Are resident noncitizens permitted to vote? If so, how many years must they have been resident in order to be eligible?</li> <li>• Does the inclusion or exclusion of refugees affect the interests of a particular political party?</li> </ul>
	<p>Voters displaced in advance of election day had the possibility of returning on election day to cast their ballots or were included in voter lists at a place of stay.</p> <ul style="list-style-type: none"> <li>• Is the participation of any eligible voters inhibited (e.g., by onerous registration requirements)?</li> <li>• Is the state taking steps to facilitate registration for all eligible people?</li> <li>• 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?</li> <li>• Are displaced people able to vote in their place of former residence or included in voter lists at a place of stay?</li> </ul>



Freedom From Discrimination in the Voter Registration Process		
<b>Freedom From Discrimination and Equality Before the Law</b>	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"><li>• What restrictions on registration exist? Are they based on prohibited grounds?</li><li>• Do restrictions on registration or the right to vote result in de facto discrimination on the basis of prohibited grounds?</li><li>• What information is required to register? Do the requirements place an undue burden on members of minority groups, women, or people with disabilities?</li><li>• Are internally displaced people able to register to vote? Where will they vote?</li><li>• Are refugees able to register to vote?</li><li>• Compared to men, do women face legal hurdles in obtaining the documents needed to vote?</li></ul>
<b>Right and Opportunity to Vote</b>	Voter registration facilities were accessible to all.	<ul style="list-style-type: none"><li>• Are registration facilities accessible to those with disabilities? Are provisions in place to assist those with, for example, impaired sight?</li><li>• 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?</li></ul>
Special Measures		
<b>Freedom From Discrimination and Equality Before the Law</b>	The state took steps to ensure de facto equality between men and women.	<ul style="list-style-type: none"><li>• Are women and men registered in numbers proportional to their representation in the population?</li><li>• Have authorities undertaken measures to encourage women's registration?</li><li>• Are there any instances of cultural or social pressure, such as those felt by women, which the registration system might handle inadequately?</li><li>• Has the state undertaken any special measure to ensure registration of women?</li><li>• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li></ul>
<b>Equality Between Men and Women</b>	Special measures were taken, as necessary, to promote equality for minorities.	<ul style="list-style-type: none"><li>• Have authorities undertaken measures to encourage minority registration?</li><li>• Are there any instances of cultural or social pressure, such as those felt by minority groups, which the registration system might handle inadequately?</li><li>• What special measures have been implemented?</li><li>• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li></ul>
	Special measures were taken to ensure de facto equality for people with disabilities.	<ul style="list-style-type: none"><li>• Have authorities undertaken measures to encourage registration of people with disabilities?</li><li>• What special measures have been implemented?</li><li>• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li></ul>

	<b>Equal Access to Public Places</b>
<b>Right and Opportunity to Vote</b>	<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"> <li>• Does the legal framework guarantee the right of equal access for all to any place or service intended for public use?</li> <li>• Do the legal framework or regulations contain requirements of universal design and/or reasonable accommodations?</li> <li>• Does the legal framework provide equal access to public service positions (e.g., within the electoral management body)?</li> <li>• What restrictions does the legal framework place on access to public places? Are these time- or context-bound?</li> <li>• Were citizen observers denied access to polling stations or other public facilities in use during the electoral process? Why?</li> </ul>
<b>Voter Registration in Minority Languages</b>	
<b>Transparency and Access to Information</b>	
<b>Freedom From Discrimination and Equality Before the Law</b>	<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"> <li>• 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?</li> <li>• Are voter registration materials available in minority languages?</li> </ul>
<b>Accuracy of the List</b>	
<b>Genuine Elections That Reflect the Free Expression of the Will of the People</b>	
<b>Right and Opportunity to Vote</b>	<p>The voter list was accurate and up to date.</p> <ul style="list-style-type: none"> <li>• Is voter registration periodic or continuous?</li> <li>• Is a new list being used for this election?</li> <li>• Does the voter list include all eligible and interested citizens?</li> <li>• Is the list regularly reviewed for accuracy?</li> </ul>
<b>Universal Suffrage</b>	
<b>Equal Suffrage</b>	
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	



### Accuracy of the List (Continued)

<b>Genuine Elections That Reflect the Free Expression of the Will of the People</b>	Voter registration processes prevented multiple registrations.	<ul style="list-style-type: none"><li>• What sources of identification are required of citizens for registration?</li><li>• Are measures in place to cross-check data provided by voters?</li><li>• Is proxy registration permitted?</li><li>• Are measures in place to remove the names of ineligible or deceased people?</li><li>• Is technology, such as biometric voter registration, used to prevent multiple registrations?</li></ul>
<b>Right and Opportunity to Vote</b>		<ul style="list-style-type: none"><li>• Is the voter registration system active or passive?</li><li>• If active registration, does the state create opportunities for voters to register, provide voter education, make locations accessible, and offer simple procedures?</li></ul>
<b>Universal Suffrage</b>		<ul style="list-style-type: none"><li>• If passive registration, what is the source of data and is it reliable and accurate? How can voters ensure they are included?</li><li>• What is the format of the list (paper or computerized)?</li><li>• Who maintains voter data and for what other purposes, if any, is it used?</li><li>• What is the process for absentee voter registration?</li><li>• Has the state taken steps to facilitate voting by people with disabilities (e.g., assistive technologies)?</li></ul>
<b>Equal Suffrage</b>	The state took steps to facilitate registration.	
<b>State Must Take Necessary Steps to Give Effect to Rights</b>		

### Transparency in Creating and Maintaining the Voter List

<b>Transparency and Access to Information</b>	There was transparency in the creation and maintenance of the voter list.	<ul style="list-style-type: none"><li>• Does everyone have a right to receive information about his/her inclusion on the voter list?</li><li>• Is the voter list available for review by political parties?</li><li>• Has the state provided information regarding the process of maintaining the voter list and the accuracy of the data it contains?</li><li>• Did the number of registered voters exceed the number of eligible voters?</li><li>• Does the EMB conduct an audit of the voter registration process?</li></ul>
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### Correction of Voter Registration Data

<b>Right to an Effective Remedy</b>	Citizens who offered proof of identity had the right to rectify information about them that was inaccurate.	<ul style="list-style-type: none"><li>• What is the process for voters to correct information in the voter list?</li><li>• 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?</li></ul>
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	Voter registration procedures allowed for claims (of unjustified exclusion) and objections (for incorrect inclusion).	<ul style="list-style-type: none"><li>• Is there a process for claims and objections regarding the voter list?</li><li>• Have allegations of inaccuracies or duplications in the voter list been widespread? Could such allegations affect confidence in the electoral process?</li><li>• Are there clear rules for correcting mistakes or omissions in voter registration information?</li><li>• Is the timeline for public scrutiny sufficient to allow election stakeholders to review lists, to request and process changes, and address appeals?</li></ul>

Voter Access to Registration Information		
<b>Transparency and Access to Information</b>	The state proactively put in the public domain information regarding voter registration.	<ul style="list-style-type: none"> <li>Is the voter registration process widely known and understood?</li> <li>How is information regarding the registration process shared (e.g., posters, radio, education campaigns)?</li> </ul>
	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"> <li>How can voters find out if they are included on a voter list?</li> <li>Was information in the list provided in an easily understood format?</li> <li>Are citizens informed of their status if the voter registry is challenged?</li> </ul>
	Voters had the ability to correct errors in the voter list.	<ul style="list-style-type: none"> <li>What is the process for voters to correct information in the voter list?</li> <li>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?</li> </ul>
<b>State Must Take Necessary Steps to Give Effect to Rights</b>		
<b>Transparency and Access to Information</b>	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"> <li>When and where is the voter list displayed for public inspection?</li> <li>Are voter lists posted in or around polling stations?</li> </ul>
	Personal data collected was not used for other purposes.	<ul style="list-style-type: none"> <li>Does the legal framework contain a requirement that personal data may only be collected for a specified and legitimate purpose?</li> <li>How is personal data protected by the state?</li> <li>Have there been indications or complaints that data collected was used for any purpose other than voter registration?</li> </ul>
	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"> <li>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?</li> <li>What information is included in lists given to parties, candidates, and civil society? Do they contain unnecessary data?</li> </ul>
<b>Freedom From Discrimination and Equality Before the Law</b>		
<b>Transparency and Access to Information</b>	Personal data controllers complied with data minimization, accuracy, confidentiality, integrity, and storage limitation obligations.	<ul style="list-style-type: none"> <li>Are personal data controllers obliged to comply with obligations of data minimization, accuracy, confidentiality, integrity, and storage limitation?</li> <li>Did personal data controllers comply with these requirements? Were there any reports or complaints in this regard?</li> </ul>



<b>Protection of Personal Data</b>		
<b>Transparency and Access to Information</b>	Citizens who offered proof of identity had the right to rectify information about them that was inaccurate.	<ul style="list-style-type: none"><li>• What is the process for voters to correct information in the voter list?</li><li>• 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?</li></ul>
	Personal data controllers complied with data minimization, accuracy, confidentiality, integrity, and storage limitation obligations.	<ul style="list-style-type: none"><li>• Are personal data controllers obliged to comply with obligations of data minimization, accuracy, confidentiality, integrity, and storage limitation?</li><li>• Did personal data controllers comply with these requirements? Were there any reports or complaints in this regard?</li></ul>
	Everyone had the right to know whether information about themselves was processed and to obtain it in an accessible format.	<ul style="list-style-type: none"><li>• Are voters granted access to their records? Is the information provided to them in an accessible format?</li></ul>
	Personal data controllers provided clear and accessible information about their data collection and processing policies and practices.	<ul style="list-style-type: none"><li>• Do voters have clear and accessible information on what personal data is being collected about them as part of voter registration and how this data is used?</li><li>• Do personal data controllers provide clear information about their data collection policies and practices?</li></ul>
<b>Freedom of Movement for the Purposes of Voter Registration</b>		
<b>Freedom of Movement</b>	Freedom of movement was respected throughout the voter registration process.	<ul style="list-style-type: none"><li>• Are EMB staff able to move freely about the country to deliver and receive voter registration materials?</li><li>• Have security conditions impeded voter registration by hindering free movement within the country?</li><li>• Are voters able to get to voter registration facilities?</li></ul>
	Citizens were able to return to the country (as necessary) to register to vote.	<ul style="list-style-type: none"><li>• Are there any barriers to citizens returning to their country or former place of residence to register to vote?</li></ul>
	Citizens displaced against their will had the opportunity to be considered resident in their former place of residence.	<ul style="list-style-type: none"><li>• 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?</li></ul>
<b>Transparency and Access to Electoral Documents</b>		
<b>Equality Between Men and Women</b>	The state took steps to ensure de facto equality between men and women.	<ul style="list-style-type: none"><li>• 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)?</li><li>• If quotas are used, do they achieve the desired outcome?</li><li>• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li><li>• Are there requirements to collect and publish gender-disaggregated information around electoral processes?</li></ul>

Transparency in Decision Making and Procurement in the Voter Registration Process		
<b>Prevention of Corruption</b>	The EMB promoted transparency in its decision-making and procurement processes, including with regard to voter registration processes.	<ul style="list-style-type: none"> <li>Has the EMB publicly communicated decisions related to voter registration?</li> <li>What measures does the EMB have in place to prevent corruption at all levels of the election administration?</li> <li>What information regarding the procurement of voter registration material and equipment is publicly available?</li> </ul>
<b>Voter Education on Voter Registration</b>		
<b>Right and Opportunity to Vote</b>	Voter education campaigns included information regarding voter registration processes.	<ul style="list-style-type: none"> <li>What information about voter registration is shared during voter education and with whom? Are all regions and groups included?</li> <li>Have election administrators made efforts to inform voters and stakeholders about the public scrutiny period and other voter registration activities as appropriate?</li> <li>Are there plans to educate officials to properly conduct voter registration?</li> <li>Have adequate training materials been provided to registration officials?</li> </ul>
<b>Universal Suffrage</b>	Voter education campaigns included information about the voting and registration process.	<ul style="list-style-type: none"> <li>Do voter education materials make a clear connection for voters between voter registration and the ability to cast a vote?</li> <li>Do voter education materials explain the voting process and any voter registration measures taking place on election day?</li> </ul>
<b>Partisan and Nonpartisan Observation of the Voter Registration Process</b>		
<b>Right and Opportunity to Participate in Public Affairs</b>	Citizen observers were able to access and comment on all parts of the electoral process, including voter registration.	<ul style="list-style-type: none"> <li>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?</li> <li>Do political parties, candidates, and ballot initiative groups have access to the registration process or data?</li> <li>Do political parties and civil society groups have the opportunity to observe the production of the final voter list and verify its authenticity?</li> <li>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?</li> <li>Are political parties and civic organizations allowed to review or test the software?</li> </ul>
<b>Transparency and Access to Information</b>	International observers were accredited and were able to access and comment on all parts of the electoral process.	<ul style="list-style-type: none"> <li>Are international observers able to observe all aspects of the electoral process, including voter registration?</li> <li>Are there any restrictions placed upon the ability of observer organizations to conduct their activities around voter registration?</li> </ul>
	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"> <li>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?</li> </ul>



<b>Voter Registration Activities by Civil Society</b>	
<b>Freedom of Association</b>	Civil society organizations were permitted to conduct voter registration free from unreasonable restrictions. <ul style="list-style-type: none"><li>• Are civil society organizations permitted to conduct voter awareness activities in preparation for voter registration? Are all groups equally permitted to do so?</li><li>• Are civil society organizations allowed to conduct voter registration?</li><li>• Does the state create an enabling environment and facilitate, in law and in practice, the activities of nongovernmental organizations in the context of voter registration?</li><li>• Are civil society organizations able to operate free from hindrance and insecurity?</li><li>• Are political parties permitted to conduct voter awareness activities in preparation for voter registration? Are all parties equally permitted to do so?</li><li>• Are political parties allowed to conduct voter registration?</li></ul>
<b>Safety, Security, and Voter Registration</b>	
<b>Right to Security of the Person</b>	The state prohibited interference with registration, intimidation, or coercion of potential voters. <ul style="list-style-type: none"><li>• Are voters able to register in a peaceful and secure environment?</li><li>• Is any insecurity or violence, including online, undermining the registration of women as voters?</li><li>• Are weapons allowed in the registration facilities?</li><li>• 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?</li><li>• Were there large crowds of unauthorized people at the registration facilities?</li><li>• Have there been verifiable reports of intimidation or coercion in the registration process? Do they follow a pattern?</li></ul>
<b>Right to an Effective Remedy and Voter Registration</b>	
<b>Right to an Effective Remedy</b>	An effective remedy was available for all citizens for violations of their rights during the voter registration process. <ul style="list-style-type: none"><li>• Are there clear procedures for filing claims and objections to add, update, or remove names from the voter list?</li><li>• How many complaints about the voter registry were filed? What was the basis of the complaints?</li><li>• Were cases of wrongful disenfranchisement caused by the registration process granted a remedy?</li></ul> 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"><li>• Is the timeline for complaints and remedies clearly stated in law?</li><li>• Is there sufficient time for all complaints to be resolved prior to election day?</li><li>• If not, were special procedures in place to allow contested voters to participate in the election (e.g., a provisional ballot)?</li></ul>



## 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"><li>• Are all decisions related to voter education subject to the rule of law?</li><li>• Are laws enforced consistently during voter education?</li><li>• Are the laws regarding voter education publicly promulgated and available in the official languages of the country?</li></ul>
	The legal framework for elections was consistent with international human rights.	<ul style="list-style-type: none"><li>• Does the legal framework ensure that voter education is in compliance with international obligations and human rights?</li></ul>
	The laws regulating elections were equally enforced and were not arbitrarily applied.	<ul style="list-style-type: none"><li>• Are legal provisions and regulations regarding voter education enforced consistently?</li><li>• Are the laws and regulations regarding voter education publicly promulgated and available in the official languages of the country?</li></ul>

#### 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"><li>• Is voter education provided between and in advance of elections?</li><li>• Is there adequate time in the electoral calendar for voter education?</li></ul>
State Must Take Necessary Steps to Give Effect to Rights		

#### 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"><li>• Are voter education efforts held in appropriate and accessible locations?</li><li>• Are any regions or groups not receiving voter education? Why?</li><li>• Are out-of-country voters or those voting by absentee ballot provided with voter education?</li></ul>
	All eligible voters were informed of their electoral rights before, during, and after election day.	<ul style="list-style-type: none"><li>• Do voter education materials include information about voter eligibility requirements and universal suffrage?</li><li>• When did voter education take place?</li><li>• Did voter education campaigns explain what constitutes an unreasonable restriction on voting rights?</li></ul>
	Voter education campaigns were responsive to the needs of the electorate.	<ul style="list-style-type: none"><li>• Is voter education appropriately tailored to groups or individuals who often face exclusion from the political process (e.g., women, first-time voters, minorities)?</li></ul>
	The state took proactive measures to promote voting by the broadest pool of eligible voters and ensure votes cast were counted.	<ul style="list-style-type: none"><li>• Does the state encourage and facilitate broad participation of citizens through voter education?</li><li>• Are there any targeted efforts to encourage the participation of youth as voters?</li></ul>
	The state took the steps necessary to give effect to rights during voter education.	<ul style="list-style-type: none"><li>• Does the state encourage and facilitate broad participation of citizens through voter education?</li><li>• Are there any targeted efforts to encourage the participation of youth as voters?</li></ul>



### The Content of Voter Education Campaigns

<b>Right and Opportunity to Vote</b>  <b>Secret Ballot</b>	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"><li>• Is the principle of “one voter, one vote” included in education campaigns?</li><li>• Are voters made aware that they may only cast their ballot once?</li><li>• Is information provided to voters regarding their right to impartial assistance that does not violate the secrecy of the vote?</li><li>• Are potential voters informed that they may not waive their right to a secret ballot?</li><li>• Does voter education include information about how to run for office and the steps necessary to register as a candidate?</li><li>• Does voter education include information on the right to join and participate in civil society organizations?</li><li>• Is voter education carried out impartially?</li></ul>
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	Voter education campaigns included information on restrictions that may be applied to participatory rights.	<ul style="list-style-type: none"><li>• Do voter education materials explain unreasonable restrictions on the right and opportunity to vote and be elected?</li></ul>
	Voter education campaigns included information about the voting and registration process.	<ul style="list-style-type: none"><li>• Does voter education include voter registration and encourage citizens to ensure they are registered to vote?</li><li>• Do voter education campaigns include information on candidates, parties, referenda, and ballot initiatives?</li></ul>
<b>Provision of Voter Education by the Electoral Management Body</b>		
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	The state took the steps necessary to give effect to rights during voter education.	<ul style="list-style-type: none"><li>• Does the government prioritize the funding of civic and voter education by providing for it in the state budget prior to elections?</li><li>• Does the EMB have adequate resources (human and financial) to implement the voter education process?</li></ul>
	Voter education was provided by the EMB and was impartial and responsive to the needs of the electorate.	<ul style="list-style-type: none"><li>• 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?</li><li>• Do the voter education materials provided by the EMB adequately address the needs of the electorate?</li></ul>
<b>Provision of Voter Education by Civil Society and Political Parties</b>		
<b>Right and Opportunity to Participate in Public Affairs</b>	Civil society organizations participated in voter education.	<ul style="list-style-type: none"><li>• Are there legal provisions that address the role of civil society organizations in conducting voter education? If so, do they contain unreasonable restrictions?</li></ul>
		<ul style="list-style-type: none"><li>• Are civil society organizations facing any insecurity or restrictions in practice that hinder or prevent them from carrying out their activities?</li></ul>
		<ul style="list-style-type: none"><li>• How is civil society involved in voter education?</li></ul>
		<ul style="list-style-type: none"><li>• Does the EMB facilitate civil society efforts to educate voters?</li></ul>
		<ul style="list-style-type: none"><li>• Are there efforts to promote media and information literacy to enable citizens to access, understand, and critically analyze information?</li></ul>
<b>Freedom of Association</b>	Political parties and/or candidates were permitted to provide voter education.	<ul style="list-style-type: none"><li>• Do political parties provide their supporters with voter education? Is this information consistent with the information provided by the EMB?</li></ul>

<b>Freedom From Discrimination in Voter Education</b>	
<b>Freedom From Discrimination and Equality Before the Law</b>	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.
<b>Equality Between Men and Women</b>	<ul style="list-style-type: none"> <li>• Did the implementation of voter education programs discriminate against any groups of citizens on the basis of prohibited grounds?</li> <li>• Do voter education efforts include information on what voters can do if their right to freedom from discrimination is violated?</li> <li>• Are efforts made to ensure that rural voters are given special attention and that the participation of women and youth is encouraged?</li> <li>• Are women and men registered in numbers proportional to their representation in the population?</li> <li>• Have authorities undertaken measures to encourage women's registration?</li> <li>• Are there any instances of cultural or social pressure, such as those felt by women, which the registration system might handle inadequately?</li> <li>• Has the state undertaken any special measure to ensure registration of women?</li> <li>• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li> </ul>
	<ul style="list-style-type: none"> <li>• Are voter education locations accessible to people with physical disabilities? Those living in rural areas?</li> <li>• If locations are separated by gender, do both genders have equal access to voter education?</li> </ul>
	<ul style="list-style-type: none"> <li>• Do voter education materials include symbols?</li> <li>• Is voter education conducted by radio or television?</li> </ul>
<b>Special Measures</b>	
<b>Freedom From Discrimination and Equality Before the Law</b>	The state took steps to ensure de facto equality between men and women.
<b>Equality Between Men and Women</b>	<ul style="list-style-type: none"> <li>• Are women and men registered in numbers proportional to their representation in the population?</li> <li>• Have authorities undertaken measures to encourage women's registration?</li> <li>• Are there any instances of cultural or social pressure, such as those felt by women, which the registration system might handle inadequately?</li> <li>• Has the state undertaken any special measure to ensure registration of women?</li> <li>• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li> <li>• Have authorities undertaken measures to encourage minority registration?</li> <li>• Are there any instances of cultural or social pressure, such as those felt by minority groups, which the registration system might handle inadequately?</li> <li>• What special measures have been implemented?</li> <li>• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li> </ul>



### Special Measures (Continued)

<b>Freedom From Discrimination and Equality Before the Law</b>	Special measures were taken to ensure de facto equality for people with disabilities	<ul style="list-style-type: none"><li>• Have authorities undertaken measures to encourage registration and electoral participation by people with disabilities?</li><li>• What special measures have been implemented?</li><li>• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li></ul>
<b>Equality Between Men and Women</b>	Voter education materials were available in all official languages as well as in minority languages.	<ul style="list-style-type: none"><li>• In what languages are voter education materials available?</li></ul>

### Partisan and Nonpartisan Observation of Voter Education

<b>Right and Opportunity to Participate in Public Affairs</b>	Citizens were able to participate in public affairs through nongovernmental organizations.  Observers, citizen and international, were given access to the voter education process.	<ul style="list-style-type: none"><li>• 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?</li><li>• Are authorities conducting the voter education process in an observable manner?</li></ul>
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### Right to an Effective Remedy and Voter Education

<b>Right to an Effective Remedy</b>	There was a timely and effective means of seeking redress for violations of rights, including regarding voter education.	<ul style="list-style-type: none"><li>• Does the complaint procedure allow for timely redress?</li><li>• Have any remedies been granted regarding voter education? Are they enforced? Are they effective?</li></ul>
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### Access to Information and Electoral Documents

<b>Freedom From Discrimination and Equality Before the Law</b>	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"><li>• What is the footprint of different media outlets? Do all geographic regions of the country have access to the media?</li><li>• In what languages are election-related materials available?</li><li>• Are media providing political reporting and information in formats accessible for people with disabilities?</li></ul>
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	The state took the steps necessary to give effect to rights during voter education.	<ul style="list-style-type: none"><li>• Does the government prioritize the funding of civic and voter education by providing for it in the state budget prior to elections?</li><li>• Does the EMB have adequate resources (human and financial) to implement the voter education process?</li><li>• What voter education efforts were undertaken by the EMB? Were they effective?</li><li>• Are there efforts to promote media and information literacy to enable citizens to access, understand, and critically analyze information?</li><li>• Are there any regulations or policies on countering disinformation? Are they enforced?</li></ul>



## 6. Candidacy and Campaigning

ASSESSMENT CRITERIA		ILLUSTRATIVE QUESTIONS FOR DATA COLLECTION
<b>The Legal Framework and Candidacy and Campaigning</b>		
<b>State Must Take Necessary Steps to Give Effect to Rights</b>  <b>Rule of Law</b>	The principles of rule of law were promoted.	<ul style="list-style-type: none"><li>• Are all decisions related to candidacy and campaigning subject to the rule of law?</li></ul>
	The laws regulating elections were equally enforced and were not arbitrarily applied.	<ul style="list-style-type: none"><li>• Are laws regarding candidacy and campaigning enforced consistently?</li><li>• Are the laws regarding candidacy and campaigning publicly promulgated and available in the official languages of the country?</li></ul>
	The legal framework for elections was consistent with international human rights.	<ul style="list-style-type: none"><li>• Does the legal framework ensure that candidacy and campaigning are in compliance with international obligations and human rights?</li></ul>
	Campaign finance regulation was consistent with the principles of the rule of law.	<ul style="list-style-type: none"><li>• Are campaign finance regulations clearly stipulated in law? Where?</li><li>• Are campaign finance regulations equally enforced?</li><li>• Are regulations available to the public?</li></ul>
<b>Establishment of, Regulation of, and Membership in Political Parties</b>		
<b>Right and Opportunity to Be Elected</b>	Citizens were able to establish and participate in political parties and other associations.	<ul style="list-style-type: none"><li>• Is the right to form or join a political party guaranteed by law?</li><li>• Are all citizens equally able to join the political party of their choice?</li><li>• What restrictions are placed on the right to form or join a political party? Are these restrictions reasonable and objective?</li></ul>
	Political organizations were treated equally in being recognized and registering as a party.	<ul style="list-style-type: none"><li>• Are all groups equally able to form and register political parties?</li><li>• Have any political organizations been denied the right to form or register parties? On what basis?</li></ul>
<b>Freedom of Association</b>	Individual electoral rights could be enjoyed in community with others.	<ul style="list-style-type: none"><li>• Are political parties granted rights to peaceful assembly, association, freedom of expression, and opinion?</li></ul>
<b>Freedom From Discrimination and Equality Before the Law</b>	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"><li>• Does the legal framework contain clear provisions that pertain to political party formation, legal recognition, or functioning?</li><li>• What are the requirements for a party or other political organization to receive legal recognition? Are these requirements burdensome?</li><li>• What governmental body receives and decides on applications for legal recognition?</li><li>• Do requirements for the geographical distribution of members or branches inhibit political representation, in particular of regionally concentrated national minority groups?</li><li>• Is there sufficient time for political party registration?</li></ul>



### Establishment of, Regulation of, and Membership in Political Parties (Continued)

Right and Opportunity to Be Elected		<ul style="list-style-type: none"><li>On what grounds can an application for registration as a party be rejected under the law? Are the criteria used objective?</li></ul>
Freedom of Association	The grounds for rejecting registration of a party were based on objective criteria.	<ul style="list-style-type: none"><li>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?</li><li>How are applicants notified of a rejection, suspension, or termination of their legal status?</li></ul>
Freedom From Discrimination and Equality Before the Law		<ul style="list-style-type: none"><li>Are decisions restricting party activities or formation subject to judicial review?</li></ul>

### 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"><li>What internal measures (e.g., a code of conduct, party primaries) are in place to protect electoral rights?</li></ul>
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### 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"><li>Is there a specific campaign period? How long does it last?</li><li>Does the timing allow sufficient opportunity for candidate registration and campaigning?</li><li>Does the electoral calendar allow adequate time for the resolution of disputes related to candidacy and campaigning?</li></ul>
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### Candidature

Right and Opportunity to Be Elected	Every citizen had the right to be elected, subject only to reasonable restrictions.	<ul style="list-style-type: none"><li>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?</li><li>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?</li><li>Are people of specific professional categories restricted from running for election (e.g., the military, civil service, judiciary)?</li><li>Are candidate fees/deposits reasonable and consistently collected?</li><li>Are any candidates or parties disqualified from running? If so, on what grounds?</li><li>Are any candidates disqualified after they are registered? If so, on what grounds?</li><li>Are there requirements for electoral coalitions or alliances, and how do they affect ballot qualification or placement on the ballot?</li></ul>
Right and Opportunity to Participate in Public Affairs		<ul style="list-style-type: none"><li>What are the requirements for candidacy? Do they uphold fundamental rights, including freedom of association?</li></ul>
Freedom of Association		
Freedom From Discrimination and Equality Before the Law		
Rule of Law	Candidacy requirements upheld freedom of association.	

Candidature (Continued)		
<b>Right and Opportunity to Be Elected</b>	The loss of the right to be elected was only imposed after adjudication by a court.	<ul style="list-style-type: none"> <li>Are candidates able to challenge a refusal to register their nomination? Before what body?</li> <li>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?</li> <li>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?</li> </ul>
<b>Right and Opportunity to Participate in Public Affairs</b>		
<b>Freedom of Association</b>		
<b>Freedom From Discrimination and Equality Before the Law</b>	Citizens were able to support any and all candidates of their choice.	<ul style="list-style-type: none"> <li>Are citizens able to sign ballot qualification petitions for one or more candidates?</li> </ul>
<b>Rule of Law</b>		
Independent Candidacy		
<b>Freedom From Discrimination and Equality Before the Law</b>	Regulations regarding candidacy were the same for independent and partisan actors.	<ul style="list-style-type: none"> <li>Are there provisions in place for independent candidates? Do they differ from those of partisan candidates?</li> <li>Do the regulations in place favor one type of candidate (i.e., independent or partisan) over the others?</li> </ul>
Female Candidates		
<b>Equality Between Men and Women</b>	Female candidates participated in the electoral process on an equal basis with men.	<ul style="list-style-type: none"> <li>Are there direct or indirect restrictions on the ability of women candidates and their supporters to campaign?</li> <li>How many female candidates are participating in the election? For which offices are they running? Are they competitive in the election?</li> <li>Are female candidates able to raise funding equivalent to male candidates?</li> </ul>
	The state took steps to ensure de facto equality between men and women.	<ul style="list-style-type: none"> <li>Are there measures in place to promote female candidature (e.g., quotas, requirements for specific placement on party lists, separate voting, training programs)?</li> <li>Are there special ballot requirements concerning qualification of women candidates?</li> <li>Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li> </ul>
<b>Right to Security of the Person</b>	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.	<ul style="list-style-type: none"> <li>From what sources can candidates and parties support their campaigns? Is public funding of parties and/or campaigns envisaged? Based on what criteria?</li> <li>Do women candidates have equal access to financial resources to conduct their campaigns as men do? Is there any gender-targeted public funding?</li> <li>Can candidates receive private financial support?</li> </ul>
	Intimidation, coercion, or violence against politically active women was prohibited in law and in practice.	<ul style="list-style-type: none"> <li>Is intimidation, coercion, or violence against politically active women prohibited by law?</li> <li>Are there reports of harassment or violence against women engaged in politics? If so, what action is taken in response?</li> </ul>



Equal Treatment of Candidates and Parties		
<b>Freedom From Discrimination and Equality Before the Law</b>	Regulations for candidacy and campaigning were not discriminatory.	<ul style="list-style-type: none"><li>Do candidacy regulations discriminate on the basis of prohibited grounds?</li><li>Do any candidacy regulations directly or indirectly affect the ability of women or candidates from minority groups to stand for election?</li><li>If language tests are applied for candidate registration, are they conducted in a transparent and objective manner?</li><li>Where relevant, are there direct or indirect restrictions on the ability of national minority candidates and their supporters to campaign?</li></ul>
<b>Equality Between Men and Women</b>	No one suffered discrimination or disadvantage of any kind because of their candidacy.	<ul style="list-style-type: none"><li>Did anyone suffer discrimination or disadvantage of any kind because of their candidacy (e.g., denial of services, job opportunities)?</li></ul>
	Candidates and political parties were able to compete with each other on an equal basis.	<ul style="list-style-type: none"><li>Are candidates and/or political parties able to freely register as election contestants regardless of their political persuasion?</li><li>Did all candidates have an equal opportunity to campaign?</li></ul>
Campaign Silence Period		
<b>Freedom of Opinion and Expression</b>	If a campaign silence period was imposed, it was reasonable in length.	<ul style="list-style-type: none"><li>Does the law require a campaign silence period? If so, when and what activities are prohibited?</li><li>Is the duration of the campaign silence period reasonable?</li><li>Is the campaign silence period enforced consistently?</li></ul>
Special Measures		
<b>Freedom From Discrimination and Equality Before the Law</b>	The state took steps to ensure de facto equality between men and women.	<ul style="list-style-type: none"><li>Are there measures in place to promote female candidature (e.g., quotas, requirements for specific placement on party lists, separate voting, training programs)?</li><li>Are there special ballot requirements concerning qualification of women candidates?</li><li>Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li><li>Do women candidates have equal access to financial resources to conduct their campaigns as men do? Is there any gender-targeted public funding?</li></ul>
<b>Equality Between Men and Women</b>	Special measures were taken, as necessary, to promote equality for minorities.	<ul style="list-style-type: none"><li>Are special measures taken to ensure that members of minorities are given an opportunity to stand for office?</li><li>Are there special ballot requirements concerning qualification of candidates from minorities?</li><li>Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li></ul>
	Special measures were taken to ensure de facto equality for people with disabilities.	<ul style="list-style-type: none"><li>Are special measures taken to ensure that people with disabilities are given an opportunity to stand for office?</li><li>Are there special ballot requirements concerning qualification of candidates with disabilities?</li><li>Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li><li>Do political parties support the participation of people with disabilities by nominating them as candidates? Is any targeted financial support provided?</li><li>Are campaign events and programs of political parties accessible for people with disabilities?</li></ul>

<b>Equal Access to Public Places</b>		
<b>Freedom From Discrimination and Equality Before the Law</b>	Public places were accessible to all in a nondiscriminatory fashion.	<ul style="list-style-type: none"> <li>Is the use of state-controlled facilities for meetings, rallies, and other campaign activities allocated equally among electoral contestants?</li> <li>Are there restrictions on canvassing in public places? Are they equally applied to all parties?</li> <li>Have electoral contestants or their supporters been denied access to public places? On what basis?</li> </ul>
<b>Freedom of Opinion and Expression for Political Candidates and Their Supporters</b>		
<b>Freedom of Opinion and Expression</b>	<p>Freedom of opinion and expression were protected throughout the campaign process.</p> <p>Political parties were able to communicate their opinions to the electorate.</p>	<ul style="list-style-type: none"> <li>Are all candidates and parties equally able to campaign openly, free from administrative action, violence, or other forms of intimidation?</li> <li>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?</li> <li>Are there any regulations or policies on countering disinformation? Are they enforced?</li> <li>Are parties and candidates able to organize and interact freely with the electorate?</li> <li>Have restrictions been placed on the use of print, broadcast, or internet media to disseminate campaign platforms? Do they align with international obligations?</li> </ul>
<b>Advocacy of Hatred and Incitement to Violence</b>		
<b>Freedom of Association</b>	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"> <li>Are any candidates advocating national, racial, or religious hatred? Are any candidates inciting discrimination, hostility, or violence?</li> <li>Does the law allow candidates to be disqualified on the basis of their platform? Are rules invoked in practice?</li> </ul>
<b>Internet and Exercise of Rights Online</b>		
<b>Freedom of Assembly</b>	Internet freedom and the exercise of human rights online were protected. Restrictions imposed were based in law, proportionate, and necessary in a democratic society.	<ul style="list-style-type: none"> <li>Does freedom of expression by law apply to the internet and online media?</li> <li>Are any restrictions imposed in law and in practice on the freedom of expression online? Are such restrictions proportionate?</li> </ul>
<b>Campaigning Without Interference</b>		
<b>Freedom of Assembly</b>	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"> <li>If electoral contestants are unable to assemble freely, what is the reason (e.g., arbitrary assignment of permits)?</li> </ul>
<b>Right and Opportunity to Participate in Public Affairs</b>		



### Campaigning Without Interference (Continued)

<b>Freedom of Assembly</b>	Restrictions on the campaign activities were proportionate, nondiscriminatory, and subject to prompt independent and impartial judicial review.	<ul style="list-style-type: none"><li>• Does the holding of an assembly require prior permission from authorities?</li><li>• If no prior permission is required, is notification required? Are respective procedures clearly outlined and simple to follow?</li><li>• Are there means for contestants to appeal the restriction of free assembly? Is the ruling timely?</li><li>• Are restrictions subject to independent and impartial review?</li><li>• Are assembly organizers obliged to bear any costs related to security, medical care, or cleaning?</li></ul>
<b>Right and Opportunity to Participate in Public Affairs</b>	Citizens were able to participate in public affairs through political parties and nongovernmental organizations.	<ul style="list-style-type: none"><li>• 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?</li></ul>

### Freedom of Movement for Political Candidates and Their Supporters

<b>Freedom of Movement</b>	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"><li>• 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?</li><li>• Are candidates and/or their supporters able to return to the country to campaign?</li></ul>
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### Observation of the Campaign Period

<b>Right and Opportunity to Participate in Public Affairs</b>	Citizens were able to participate in public affairs through political parties and nongovernmental organizations.	<ul style="list-style-type: none"><li>• 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?</li></ul>
<b>Transparency and Access to Information</b>	Election observers were able to observe the campaign process.	<ul style="list-style-type: none"><li>• Are observers accredited in sufficient time to observe the campaign process?</li><li>• 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?</li></ul>
	International observers were accredited and were able to access and comment on all parts of the electoral process.	<ul style="list-style-type: none"><li>• Are international observers able to observe all aspects of the electoral process, including candidate registration?</li><li>• Are there any restrictions placed upon the ability of observer organizations to conduct their activities around candidate registration?</li></ul>

<b>Protection of Personal Data</b>		
Transparency and Access to Information	Personal data collected was not used for other purposes.	<ul style="list-style-type: none"> <li>• Does the legal framework contain a requirement that personal data may only be collected for a specified and legitimate purpose?</li> <li>• How is personal data protected by the state?</li> <li>• Have there been indications or complaints that data collected was used for any purpose other than candidate registration?</li> </ul>
	Personal data could be collected and processed based on informed consent.	<ul style="list-style-type: none"> <li>• Does the legal framework require that personal data could be collected and processed based on informed consent?</li> </ul>
	Personal data controllers complied with data minimization, accuracy, confidentiality, integrity, and storage limitation obligations.	<ul style="list-style-type: none"> <li>• Are personal data controllers obliged to comply with obligations of data minimization, accuracy, confidentiality, integrity, and storage limitation?</li> <li>• Did personal data controllers comply with these requirements? Were there any reports or complaints in this regard?</li> </ul>
<b>Transparency and Access to Electoral Documents</b>		
Transparency and Access to Information	The right of access to information was protected for everyone.	<ul style="list-style-type: none"> <li>• Are documents regarding candidates and campaigns accessible to the public?</li> <li>• Are there fees or other hurdles in order to access this information? Are the requirements prohibitive?</li> <li>• Is information accessible to people with disabilities (e.g., in Braille, through assistive technologies, large font)?</li> </ul>
	The state proactively put in the public domain government information of public interest.	<ul style="list-style-type: none"> <li>• Is the state proactive in making information publicly available?</li> <li>• Where and in what format is the information available?</li> </ul>
<b>Right to an Effective Remedy for Candidates and Parties</b>		
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"> <li>• Are the procedures for seeking a remedy clear?</li> <li>• Are there fees for or technical barriers to seeking a remedy?</li> <li>• Are remedies timely? Are they enforced?</li> </ul>
<b>Security of the Person for Candidates, Parties, and Their Supporters</b>		
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"> <li>• Has the threat of violence or other security concerns been used to suppress campaigning activities?</li> <li>• Are registered candidates free from interference or pressure to withdraw?</li> <li>• Are candidates provided with security teams?</li> <li>• 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?</li> <li>• Are law enforcement agencies acting in an impartial, restrained, professional, and appropriate manner?</li> <li>• What are the sanctions for disrupting campaign activities or using violence? To whom do they apply?</li> </ul>
State Must Take Necessary Steps to Give Effect to Rights		



### Security of the Person for Candidates, Parties, and Their Supporters (Continued)

<b>Right to Security of the Person</b>	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"><li>• What measures is the EMB taking to prevent violence and protect voters, candidates, and others during candidate registration?</li><li>• How does the EMB respond to electoral violence or intimidation?</li><li>• Are security personnel accountable to the EMB? How is security information conveyed among security forces and the EMB?</li><li>• Have EMB members or staff been subject to threats to their safety?</li></ul>
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	Electoral stakeholders were free from arbitrary arrest and detention as well as intimidation and coercion.	<ul style="list-style-type: none"><li>• Does the legal framework clearly stipulate in what cases security-related restrictions of freedoms be imposed and when the use of force by public security providers is permissible?</li><li>• Are such provisions in line with requirements of necessity and proportionality?</li></ul>
	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"><li>• Did security personnel provide protection of voters, candidates, and electoral management body personnel without interfering in the process?</li><li>• What was the public perception of the role of security personnel in the election process?</li></ul>
<b>Regulation of Campaign Contributions</b>		
<b>Freedom of Opinion and Expression</b>	There was a balanced and transparent system for political party financing.	<ul style="list-style-type: none"><li>• Is there a balanced and transparent system for political party financing that guards against corruption?</li></ul>
	There were clear rules and regulations regarding the acceptable sources of financial donations.	<ul style="list-style-type: none"><li>• Does the law clearly state acceptable and unacceptable sources of campaign funding?</li><li>• Are campaigning and spending by third parties regulated? Are any transparency and accountability requirements applicable to them?</li></ul>
<b>Prevention of Corruption</b>	The state regulated foreign funding of candidates and parties but did not limit contributions by nationals living abroad.	<ul style="list-style-type: none"><li>• Are there limitations on foreign funding?</li><li>• Are nationals living abroad allowed to contribute to campaigns? If there are limits, do they affect any particular candidate/party?</li></ul>
	Reasonable limitations were imposed on private contributions.	<ul style="list-style-type: none"><li>• Are limitations placed on contributions to political campaigns?</li><li>• Are there limitations on contributions from a single source?</li><li>• Are anonymous donations regulated?</li></ul>
	Candidates could contribute to their own campaigns, subject to reasonable limitations.	<ul style="list-style-type: none"><li>• Are there limits on candidates' contributions to their own campaigns?</li></ul>

Public Funding for Election Campaigns		
Right and Opportunity to be Elected	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.	<ul style="list-style-type: none"> <li>• Does the state provide support to candidates? Based on what criteria? Did state support interfere with the independence of the party?</li> <li>• What form did state support take?</li> <li>• Do women candidates have equal access to financial resources to conduct their campaigns as men do? Is there any gender-targeted public funding?</li> </ul>
Equality Between Men and Women	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"> <li>• What conditions are there for receipt of public funding? Is it distributed equally among candidates or based on a fair and equitable formula?</li> </ul>
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"> <li>• Can citizens provide financial support to candidates? Does such support interfere with the independence of the party?</li> </ul>
Freedom of Opinion and Expression	The system for regulating private financial contributions ensured equality of freedom to raise private funds.	<ul style="list-style-type: none"> <li>• Were candidates equally permitted to raise private funds?</li> <li>• Does the legal and regulatory framework limit private contributions?</li> <li>• What are the mechanisms for enforcing contribution limits?</li> <li>• Do limits apply to in-kind contributions of supplies?</li> </ul>
Campaign Expenditures		
Right and Opportunity to Be Elected	There were limits imposed on campaign expenditures.	<ul style="list-style-type: none"> <li>• Are limits imposed on campaign contributions reasonable?</li> <li>• Are campaigning and spending by third parties regulated? Are any transparency and accountability requirements applicable to them?</li> </ul>
Prevention of Corruption	All candidates were treated equitably with regard to campaign finance and expenditures.	<ul style="list-style-type: none"> <li>• 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)?</li> </ul>
Disclosure of Campaign Finances		
Transparency and Access to Information	The funding received by a political party and/or candidate was disclosed in regular reports.	<ul style="list-style-type: none"> <li>• How often are parties/candidates required to submit reports?</li> <li>• To whom are reports submitted?</li> <li>• Are any parts of financial reports available to the public?</li> <li>• What penalties or accountability measures are in place to help enforce financial reporting requirements?</li> <li>• Is any reporting in connection with third-party spending required?</li> </ul>
Prevention of Corruption	Disclosure provisions should clearly identify what counts as campaign expenditure.	<ul style="list-style-type: none"> <li>• Are regulations clear regarding types of campaign expenditure (e.g., distinctions between campaign and regular party finances)?</li> <li>• Is there an established campaign period for the purposes of recording expenditures?</li> </ul>



### Disclosure of Campaign Finances (Continued)

<b>Transparency and Access to Information</b>	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"><li>• Are reporting requirements onerous?</li><li>• What information regarding individual donors is included in disclosure reports?</li></ul>
<b>Prevention of Corruption</b>	Limits on advertising spending (as political speech) were instituted only in the interests of promoting equality between candidates or parties.	<ul style="list-style-type: none"><li>• What limitations exist on campaign advertising spending?</li><li>• Are there frameworks in place to ensure transparency in advertising spending?</li><li>• Can third parties pay for and air political advertisements?</li><li>• Do regulations require that spending on advertising be disclosed in regular reporting by candidates?</li><li>• If in place, do regulations on paid political advertising in traditional media, including rules on placement, financing, and transparency, apply to such advertising online?</li></ul>

### Misuse of State Resources

<b>Right to Security of the Person</b>	There was a balanced and transparent system for political party financing.	<ul style="list-style-type: none"><li>• Is there a balanced and transparent system for political party financing that guards against corruption?</li></ul>
<b>Prevention of Corruption</b>	Public resources were not abused in support of a particular party or candidate.	<ul style="list-style-type: none"><li>• Do law and regulations clearly prohibit the use of government resources to advance the interests of a particular contestant?</li><li>• Is there a prohibition against candidates currently in office using the benefits of their positions for electoral gain?</li><li>• Do law and regulations prohibit government officials, including military officers and police commanders, from pressuring subordinates to support or campaign for a particular political contestant?</li></ul>
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	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"><li>• Is there a clear law regarding the involvement of public employees in campaigns?</li><li>• Do law and regulations prohibit government employees from campaigning for any electoral contestant during the hours of their employment?</li><li>• Is there verifiable evidence of coercion or pressure on public employees to campaign for a particular party or candidate?</li></ul>

### Independent Body to Monitor Campaign Finances

<b>State Must Take Necessary Steps to Give Effect to Rights</b>	The state took steps to provide for independent monitoring of campaign and political financing.	<ul style="list-style-type: none"><li>• Is there an independent campaign finance monitoring body?</li><li>• Who determines the body's membership?</li><li>• Is the body's mandate laid out in clear regulations?</li><li>• Does the body release information in a timely manner?</li></ul>
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### Sanctions for Campaign Finance Violations

<b>State Must Take Necessary Steps to Give Effect to Rights</b>	Violations of rules regarding political and campaign finance were subject to proportionate and effective sanctions.	<ul style="list-style-type: none"><li>• Who is responsible for enforcing sanctions against those who violate campaign finance regulations?</li><li>• Are the sanctions effective?</li></ul>
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## 7. The Media

		ASSESSMENT CRITERIA	ILLUSTRATIVE QUESTIONS FOR DATA COLLECTION
<b>The Legal Framework and the Media</b>			
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	The principles of rule of law were promoted.	<ul style="list-style-type: none"><li>• Are all decisions related to the media subject to the rule of law?</li><li>• Are all media provisions applied consistently?</li></ul>	
<b>Rule of Law</b>	The laws regulating elections were equally enforced and were not arbitrarily applied.	<ul style="list-style-type: none"><li>• Are media laws and regulations accessible to the public (e.g., regarding campaign news coverage, fair and balanced reporting)?</li><li>• Are media laws publicly promulgated and available in the official languages of the country?</li></ul>	
<b>International Human Rights Obligations and the Legal Framework</b>			
<b>Freedom From Discrimination and Equality Before the Law</b>	The legal framework for elections included the protection of fundamental rights and made international obligations domestically binding.	<ul style="list-style-type: none"><li>• Does the legal framework ensure that media regulation is in compliance with international obligations and human rights?</li><li>• Does the legal framework provide for the conduct of elections that are in accordance with international standards and political rights?</li><li>• Are relevant provisions from international/regional treaties incorporated into the national legal framework?</li><li>• Do any legal provisions contradict international obligations of the state?</li></ul>	
<b>Pluralistic and Balanced Media</b>			
<b>Transparency and Access to Information</b>	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"><li>• Are there multiple media outlets that cover a range of political views?</li><li>• 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?</li><li>• 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?</li><li>• Have media outlets been shut down because of political views expressed?</li><li>• What role do bloggers or other online media play in this election?</li></ul>	
<b>Freedom From Discrimination and Equality Before the Law</b>	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"><li>• Who owns or controls private media outlets?</li><li>• Are they identified with certain partisan or other influential individuals or organizations?</li><li>• What are the government and private sources of income for media outlets?</li><li>• To what degree are various media outlets dependent on government advertising or subsidies?</li></ul>	
<b>Freedom of Opinion and Expression</b>	Space in the media existed for political debate.	<ul style="list-style-type: none"><li>• Do the media cover political issues? Does coverage include both sides of the political debate?</li></ul>	



## Independence of the Media

<b>Freedom of Opinion and Expression</b>	<p>There were no restrictions on people who may practice journalism by the state, though journalists may have regulated themselves.</p>	<ul style="list-style-type: none"><li>• Do regulations restrict who can practice journalism? If so, on what grounds?</li></ul>
	<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"><li>• Do media outlets include editorial content? Is it clearly identified as such?</li><li>• Do media outlets face any kind of interference in their editorial policies from the authorities, political parties, or owners?</li><li>• Do media outlets face negative reactions to their editorial content from the state?</li><li>• Are there any reports of the government withholding or increasing resources in order to exert control over media?</li></ul>
	<p>The media was able to express criticisms of the government.</p>	<ul style="list-style-type: none"><li>• Have cases been brought against members of the media for criticizing any branch of the government?</li><li>• 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?</li></ul>
	<p>The media was not held liable for the reproduction of untrue statements made by others.</p>	<ul style="list-style-type: none"><li>• Has any member of the media or any media outlet been held liable for the untrue statements of others?</li></ul>
<b>Independent Body to Regulate Broadcasting During Elections</b>		
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	<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"><li>• Does an independent regulatory body for the media exist?</li><li>• What is the body's mandate?</li><li>• Does the body have the authority to implement and enforce its decisions?</li></ul>
	<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"><li>• What is the composition of the body?</li><li>• How are members of the body selected for and removed from their position?</li><li>• Does the body have its own budget and ability to recruit its own staff?</li><li>• Is the body viewed as independent by candidates, parties, and other stakeholders?</li></ul>

<b>Freedom of Expression and the Media</b>	
<b>Freedom of Opinion and Expression</b>	<p>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.</p>
	<p>Free communication of information and ideas about public and political issues took place between citizens, candidates, and elected representatives.</p>
	<p>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.</p>
	<p>Paid content in media and other information sources, including online, was clearly marked and distinguishable from editorial and user-generated content.</p>
<b>The Content of Voter Education Campaigns</b>	
<b>Freedom of Opinion and Expression</b>	<p>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.</p>
	<ul style="list-style-type: none"> <li>• Do the media face any kind of censorship or obstruction by the authorities?</li> <li>• Are parties or candidates allowed to present their materials unedited or without review by government or broadcast officials?</li> <li>• Are journalists forced to adjust their comments or criticisms so as to be considered acceptable by the authorities? Do journalists engage in self-censorship?</li> <li>• Are any journalists being harassed, incarcerated, or subject to other forms of intimidation that stifle their freedom of expression or have a chilling effect?</li> </ul> <ul style="list-style-type: none"> <li>• Is there a robust campaign in which candidates and parties use the media to convey their political platform?</li> <li>• What forms of media are used by political candidates and parties to communicate with the electorate?</li> <li>• Do candidates and parties have active online presences? Is social media being used to communicate to voters? Are these campaigns effective?</li> </ul> <ul style="list-style-type: none"> <li>• If any claims of defamation are filed, what are the grounds?</li> <li>• Are criticisms of state institutions (such as the army or administration) prohibited or subject to legal action?</li> </ul> <ul style="list-style-type: none"> <li>• Are there requirements for paid content in media and other information sources, including online, to be clearly marked as such?</li> <li>• Is such content clearly distinguishable from editorial and user-generated content in practice?</li> </ul>



### 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"><li>• Does the law prohibit hate speech? If so, how is it defined? Is there any coverage that may be regarded as hate speech?</li><li>• Is any media outlet disseminating hate speech? Who are the targets?</li><li>• Is social media being used as a platform for advocating hatred?</li></ul>
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"><li>• If any claims of defamation are filed, what are the grounds?</li><li>• Are criticisms of state institutions (such as the army or administration) prohibited or subject to legal action?</li></ul>
Freedom of Opinion and Expression	Remedies for defamation were not excessively punitive.	<ul style="list-style-type: none"><li>• What remedies are provided for verified claims of defamation? Are they proportionate?</li><li>• Can defamation law be considered a de facto suppression of freedom of expression?</li></ul>
Freedom of Opinion and Expression	The release of opinion polls was subject only to reasonable restrictions.	<ul style="list-style-type: none"><li>• 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)?</li><li>• Are opinion polls that could favor one party or candidate over others given undue prominence?</li><li>• 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)?</li><li>• Are opinion polls given undue prominence that could favor one party or candidate over others?</li></ul>
Freedom of Opinion and Expression	If there was a campaign silence period, it was of reasonable duration.	<ul style="list-style-type: none"><li>• Do media outlets respect the provisions for the silence period? If not, what are the major violations and their repercussions?</li><li>• Do campaign silence regulations also pertain to social media?</li></ul>
Freedom of Opinion and Expression	The media aired debates between candidates and provided voter education.	<ul style="list-style-type: none"><li>• Does the media provide voters with sufficient information on the administration of the election and on voting procedures?</li><li>• Are voter education programs transmitted to effectively and accurately inform the electorate about the voting process?</li><li>• Do debates take place between electoral contestants? Are they aired on publicly accessible television?</li></ul>

<b>Access to Electoral Information</b>		
<b>Transparency and Access to Information</b>  <b>Freedom of Opinion and Expression</b>	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"> <li>Are members of the media and media outlets able to access the information they need to effectively report on the electoral process?</li> <li>Is information about the election available to members of the public who actively seek it?</li> </ul>
	The state proactively put in the public domain government information of public interest.	<ul style="list-style-type: none"> <li>Is the state/public media providing information to the public on relevant issues regarding the electoral process?</li> <li>Is the state making electoral documents more broadly available to the public through the media?</li> <li>How is information made available by the state (e.g., when, where, and in what format)?</li> <li>Are there any instances of electoral documents being misrepresented or inaccurately reproduced?</li> </ul>
	Voters were able to form opinions independently, on the basis of information from a plurality of sources and free from any manipulative interference.	<ul style="list-style-type: none"> <li>Are there efforts to promote media and information literacy to enable citizens to access, understand, and critically analyze information?</li> </ul>
<b>Protection of Sources</b>		
<b>Transparency and Access to Information</b>	The media was able to report on electoral issues, including from confidential sources, without government interference.	<ul style="list-style-type: none"> <li>Do regulations protect “whistle-blowers” or confidential sources?</li> <li>Can the media gather information from confidential sources without fear of reprisal from the state?</li> </ul>
	The media was given access to information, particularly with regard to allegations of corruption and related offenses.	<ul style="list-style-type: none"> <li>Can the media access information about the actions of the EMB in order to prevent corruption and promote good practices?</li> <li>Is the media reporting on concerns regarding the policies and practices of the EMB with regard to the administration of the election?</li> </ul>
<b>Freedom From Discrimination and the Media</b>		
<b>Freedom From Discrimination and Equality Before the Law</b>  <b>Equality Between Men and Women</b>	The regulation of the media promoted equality and absence of discrimination.	<ul style="list-style-type: none"> <li>Is there any prejudice in reporting based on ethnic, religious, gender, or other status or social issues?</li> <li>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)?</li> </ul>
	Political parties and candidates had access to the public media on a nondiscriminatory basis.	<ul style="list-style-type: none"> <li>Are parties and candidates given equal opportunity to use government-controlled facilities to produce their messages where alternative facilities are not readily available?</li> <li>Do public media outlets offer the same fee structure to all political contestants?</li> <li>Are favored parties given discounts?</li> </ul>
	Female and male candidates received equal coverage.	<ul style="list-style-type: none"> <li>Are all candidates receiving equal coverage, regardless of sex?</li> </ul>



### Freedom From Discrimination and the Media (Continued)

#### Freedom From Discrimination and Equality Before the Law

#### Equality Between Men and Women

The media took steps to reach all segments of society, including those who speak minority languages or live in rural areas.

News coverage of incumbents in the public media was not abused so that it constituted additional free airtime or print coverage.

- 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?

- 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.

- 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 does it 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).

Free airtime for candidates and parties was granted during peak viewing or listening hours.

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.

Limits on advertising spending (as political speech) were instituted only in the interest of promoting equality between candidates or parties.

Paid content in media and other information sources, including online, was clearly marked and distinguishable from editorial and user-generated content.

- 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)?

- Are all candidates and parties granted access to peak airtime?

- What are the fee structures for paid advertisements by candidates?
- If in place, do regulations on paid political advertising in traditional media, including rules on placement, financing, and transparency, apply to such advertising online?

- 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?

- Are there requirements for paid content in media and other information sources, including online, to be clearly marked as such?
- Is such content clearly distinguishable from editorial and user-generated content in practice?

Internet and Exercise of Rights Online		
<b>Freedom of Assembly</b>	<p>Internet freedom and the exercise of human rights online were protected. Restrictions imposed were based in law, proportionate, and necessary in a democratic society.</p>	<ul style="list-style-type: none"> <li>• Does freedom of expression by law apply to the internet and online media?</li> <li>• Are any restrictions imposed in law and in practice on the freedom of expression online? Are such restrictions proportionate?</li> </ul>
	<p>Internet intermediaries were transparent and provided easy access to their policies and practice on online content management, distribution, and automated processing.</p>	<ul style="list-style-type: none"> <li>• Do internet intermediaries provide clear and easily accessible information on their policies and practice related to online content management, distribution, and automated processing?</li> </ul>
Freedom of Movement and the Media		
<b>Freedom of Movement</b>	<p>Freedom of movement was guaranteed to all electoral stakeholders, including the media.</p>	<ul style="list-style-type: none"> <li>• Are there explicit or implicit restrictions placed on journalists' travel to any part of the country?</li> <li>• Have security conditions impeded media coverage by hindering free movement within the country?</li> <li>• Does the legal framework protect safety and ability of journalists and other media actors to work in full freedom?</li> <li>• Are remedies available for harassment and violence against journalists, offline and online?</li> <li>• Were any instances of harassment and violence against media and journalists reported? Were they promptly investigated? Were perpetrators held accountable?</li> </ul>
Safety, Security, and the Media		
<b>Right to Security of the Person</b>	<p>Security of the person was guaranteed for all election stakeholders, including members of the media.</p>	<ul style="list-style-type: none"> <li>• Are media personnel subject to harassment by state authorities or nonstate actors?</li> <li>• Are any journalists being harassed, incarcerated, or subject to other forms of intimidation that stifle their freedom of expression or have a chilling effect?</li> </ul>
Protection of Personal Data		
<b>Transparency and Access to Information</b>	<p>Personal data could be collected and processed based on informed consent.</p>	<ul style="list-style-type: none"> <li>• Does the legal framework require that personal data could be collected and processed based on informed consent?</li> </ul>
	<p>Personal data controllers complied with data minimization, accuracy, confidentiality, integrity, and storage limitation obligations.</p>	<ul style="list-style-type: none"> <li>• Are personal data controllers obliged to comply with obligations of data minimization, accuracy, confidentiality, integrity, and storage limitation?</li> <li>• Did personal data controllers comply with these requirements? Were there any reports or complaints in this regard?</li> </ul>
	<p>Personal data controllers provided clear and accessible information about their data collection and processing policies and practices.</p>	<ul style="list-style-type: none"> <li>• Do voters and candidates have clear and accessible information on what personal data is being collected about them in connection with their use of media and how this data is used?</li> <li>• Do personal data controllers provide clear information about their data collection policies and practices?</li> </ul>



### Protection of Personal Data (Continued)

<b>Transparency and Access to Information</b>	Internet intermediaries were transparent and provided easy access to their policies and practice on online content management, distribution, and automated processing.	<ul style="list-style-type: none"><li>Do internet intermediaries provide clear and easily accessible information on their policies and practice related to online content management, distribution, and automated processing?</li></ul>
<b>Disclosure of Campaign Finances</b>		
<b>Prevention of Corruption</b>	Paid content in media and other information sources, including online, was clearly marked and distinguishable from editorial and user-generated content.	<ul style="list-style-type: none"><li>Are there requirements for paid content in media and other information sources, including online, to be clearly marked as such?</li><li>Is such content clearly distinguishable from editorial and user-generated content in practice?</li></ul>
<b>Right to an Effective Remedy and the Media</b>		
<b>Right to an Effective Remedy</b>	A system to file complaints related to the media was available for all citizens.	<ul style="list-style-type: none"><li>Is there a complaint mechanism for violations of media regulations? If so, under whose authority is the mechanism?</li><li>Does the implementing body act when it identifies a breach of the regulations, regardless of whether a complaint has been filed?</li><li>Are sanctions imposed by the supervisory body commensurate with the gravity of the offense committed? Could sanctions encourage self-censorship among journalists?</li><li>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?</li></ul>
<b>Business and Protection of Human Rights</b>		
<b>Transparency and Access to Information</b>	Personal data controllers provided clear and accessible information about their data collection and processing policies and practices.	<ul style="list-style-type: none"><li>Do voters and candidates have clear and accessible information on what personal data is being collected about them in connection with their use of media and how this data is used?</li><li>Do personal data controllers provide clear information about their data collection policies and practices?</li></ul>
<b>Freedom From Discrimination and Equality Before the Law</b>	Internet intermediaries were transparent and provided easy access to their policies and practice on online content management, distribution, and automated processing.	<ul style="list-style-type: none"><li>Do internet intermediaries provide clear and easily accessible information on their policies and practice related to online content management, distribution, and automated processing?</li></ul>
<b>Business enterprises</b> embraced, in policy and practice, their international and/or national human rights obligations. Accessible and effective complaint and redress mechanisms were established to protect these rights.		



## 8. Voting Operations

		ASSESSMENT CRITERIA	ILLUSTRATIVE QUESTIONS FOR DATA COLLECTION
<b>Legal Framework for Voting Operations</b>			
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?	
<b>Citizenship</b>			
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?	
<b>The Right to Vote and Voting Operations</b>			
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? • 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?	
	Poll workers were adequately trained in the determination of eligible voters.	• 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?	
Freedom From Discrimination and Equality Before the Law			



### Facilitation of Voting

<b>Right and Opportunity to Vote</b>	Voting operations facilitated broad participation.  Sufficient resources, human and material, were available at each polling station.	<ul style="list-style-type: none"><li>Do arrangements for voting facilitate equal opportunities for all voters?</li><li>Do voters appear to understand the voting process?</li><li>Are there provisions requiring voter education signs or directions at the polling site?</li><li>If required/where applicable, are required identity documents easily available to all prospective voters in order to prevent disenfranchisement?</li></ul> <ul style="list-style-type: none"><li>Are the following materials missing or insufficient: indelible ink, booths, ballot papers, envelopes, voter lists, ballot boxes, stamps, seals/padlocks, light source?</li><li>Is the minimum number of polling staff present? Are there enough staff to run the polling station efficiently?</li></ul>
<b>Freedom of Movement</b>	There was an adequate number of polling places to accommodate voters.	<ul style="list-style-type: none"><li>How many voters are assigned to each polling site?</li><li>Can voters be processed in the number of voting hours?</li></ul>
<b>Universal Suffrage</b>	Polling places were located in public places that were easy to access.	<ul style="list-style-type: none"><li>What are the requirements for locating polling sites?</li><li>Do locations take into consideration the needs of minority groups, people with disabilities, and women?</li><li>Is the area surrounding the polling center (including roads and paths) free from obstacles or barricades that could preclude its accessibility for voters?</li><li>Do the voters have adequate information about the location of their polling station?</li></ul> <ul style="list-style-type: none"><li>Is the layout of the polling station adequate for voting and ensuring the secrecy of the vote?</li><li>If voters are waiting outside for their turn to vote, are they doing so in an orderly manner?</li><li>Are there problems with overcrowding, excessive delays, or queues?</li><li>Are there indications of disorganization, such as unusually long lines of people or excessive delays?</li><li>At closing time, are voters waiting in line allowed to vote?</li></ul>

### Polling Places Accessible to Voters With Disabilities

<b>Freedom From Discrimination and Equality Before the Law</b>	Polling places were accessible, including to those with disabilities.	<ul style="list-style-type: none"><li>Are polling sites required by law to be accessible to voters with physical challenges and disabilities?</li><li>Are the facilities suitable for disabled people to use independently?</li></ul>
<b>Assisted Voting</b>		
<b>Right and Opportunity to Vote</b>	Impartial assistance for voters unable to vote independently was provided.	<ul style="list-style-type: none"><li>Is impartial assistance provided to voters who require such support? Does assistance given protect the secrecy of the ballot?</li><li>Does the ballot contain symbols for the electoral contestants so that illiterate people can easily identify their electoral choice and cast a secret ballot?</li></ul>
<b>Secret Ballot</b>	Voters were made aware of their right to impartial assistance, if needed.	<ul style="list-style-type: none"><li>Are voters requiring assistance informed of their right to impartial assistance?</li><li>Can voters choose who will assist them?</li></ul>

		<b>Proxy Voting</b>
<b>Universal Suffrage</b>	Proxy voting, if allowed, was strictly regulated.	<ul style="list-style-type: none"> <li>• 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?</li> <li>• If cases of proxy voting are observed, do they affect women voters in particular?</li> </ul>
<b>Equal Suffrage</b>		
<b>Secret Ballot</b>		
		<b>Secrecy of the Ballot</b>
<b>Secret Ballot</b>	The legal framework offered clear guidance with regard to the secrecy of the ballot.	<ul style="list-style-type: none"> <li>• Is the right to secrecy of the ballot guaranteed in law and in practice? Are there clear procedures to protect casting a secret ballot?</li> <li>• When voting procedures appear to compromise the secrecy of the ballot, do the voters believe that their votes are secret?</li> <li>• If voting technologies are used, are safeguards in place to prevent votes cast being linked with specific voters (e.g., using time stamps)?</li> <li>• If sequential numbers appear on ballots and ballot counterfoils, is it possible to trace how a person voted?</li> </ul>
	Family and group voting was prohibited.	<ul style="list-style-type: none"> <li>• 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?</li> <li>• Are cases of family voting observed that affect women voters in particular?</li> </ul>
	Polling stations were set up to ensure secrecy of the ballot.	<ul style="list-style-type: none"> <li>• Is the layout of the polling station adequate for voting and ensuring the secrecy of the vote?</li> <li>• 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?</li> </ul>
		<b>Voting Technologies</b>
<b>Right and Opportunity to Vote</b>	Electronic voting technologies operated correctly, and their functioning was ensured by the state through an independent body.	<ul style="list-style-type: none"> <li>• 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?</li> <li>• Are election officials required to follow clear and specific procedures during the voting process?</li> <li>• Are clear and secure troubleshooting procedures provided concerning the machines (e.g., having paper ballots on hand in case of machine failure)?</li> <li>• Is staff satisfactorily trained and is sufficient technical assistance available?</li> <li>• 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?</li> <li>• Are party/candidate representatives provided access to monitor the design, testing, certification, procurement, election official training, and delivery of voting technologies?</li> </ul>
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	Voting technologies were usable by voters and secure from interference.	<ul style="list-style-type: none"> <li>• Are voting technologies simple and easy to understand? Are voters provided the alternative of using a paper ballot?</li> <li>• Are clear security procedures set concerning the voting hardware, software, and electronic data? Are they implemented?</li> <li>• Are there suitable safeguards against manipulation or interference in the e-voting process? Are they implemented?</li> </ul>



<b>Freedom From Discrimination in Voting Operations</b>		
<b>Freedom From Discrimination and Equality Before the Law</b>	The voting process did not discriminate against anyone on the basis of prohibited grounds.	<ul style="list-style-type: none"><li>• Are there reports of voting being prevented on the basis of discriminatory criteria?</li><li>• Are the facilities suitable for disabled people to use independently?</li><li>• 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?</li><li>• Are women voting in equal numbers to men?</li><li>• What is the gender of the presiding officer? Are women represented among polling staff?</li></ul>
<b>Special Measures</b>		
<b>Freedom From Discrimination and Equality Before the Law</b>	The state took steps to ensure de facto equality between men and women.	<ul style="list-style-type: none"><li>• Is the state taking any special temporary measures to promote de facto equality between men and women in the voting process? What are they?</li><li>• Is sex-disaggregated data available on the casting of ballots?</li><li>• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li></ul>
<b>Equality Between Men and Women</b>	Special measures were taken, as necessary, to promote equality for minorities.	<ul style="list-style-type: none"><li>• Is the state taking any special measures to promote voting by minorities? What are they? Are they effective?</li><li>• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li><li>• Is the state meeting its objective for the temporary special measure? If so, has the special measure ceased?</li></ul>
	Special measures were taken to ensure de facto equality for people with disabilities.	<ul style="list-style-type: none"><li>• Is the state taking any special measures to promote voting by people with disabilities? What are they?</li><li>• Is there an evaluation mechanism to ensure the impact of special measures? If so, have these efforts been effective?</li></ul>
<b>Ballot Design and Voter Choice</b>		
<b>Right and Opportunity to Vote</b>	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"><li>• Are voters able to verify their choice on the ballot? Can they change their choice before the ballot is cast?</li><li>• Are voters able to cast a blank ballot if they so choose?</li></ul>
	Ballots were understandable and user-friendly.	<ul style="list-style-type: none"><li>• Do ballots account for all levels of literacy?</li><li>• Are they available in the principal languages in multilingual societies?</li><li>• If they are available in more than one language, are ballots identical in all languages?</li></ul>
<b>Freedom of Movement and Voting Operations</b>		
<b>Freedom of Movement</b>	Freedom of movement was respected throughout the electoral process.	<ul style="list-style-type: none"><li>• Are voters, candidates, observers, and poll workers able to move freely about the country?</li><li>• 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?</li></ul>
	Voters displaced in advance of election day had the possibility of returning on election day to cast their ballots or were included in voter lists at a place of stay.	<ul style="list-style-type: none"><li>• 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?</li><li>• Are displaced people able to vote in their place of former residence or included in voter lists at a place of stay?</li></ul>

<b>Partisan and Nonpartisan Observation of Voting Operations</b>		
<b>Right and Opportunity to be Elected</b>	The state accredited citizen observer organizations and facilitated their ability to conduct their activities.	<ul style="list-style-type: none"> <li>Are citizen observer organizations accredited for the electoral process, including voting operations? How many?</li> <li>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?</li> <li>Are partisan and nonpartisan observers present in polling stations?</li> </ul>
<b>Right and Opportunity to Participate in Public Affairs</b>	Candidates and their representatives were able to observe polling and counting as means of protecting their right to be elected.	<ul style="list-style-type: none"> <li>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?</li> <li>Are party representatives, candidates, and groups supporting or opposing referenda and other ballot initiatives able to observe the setup and activation of voting technologies?</li> </ul>
<b>Freedom of Association</b>	Observers were able to access places used for voting.	<ul style="list-style-type: none"> <li>Is access to the polling stations for observers or party agents restricted? On what grounds?</li> </ul>
<b>Access to Information and Electoral Documents</b>		
<b>Transparency and Access to Information</b>	<p>The right to access to information was respected throughout the voting process.</p> <p>Documents regarding the electoral process, including voting operations, were publicly accessible and accurate.</p>	<ul style="list-style-type: none"> <li>Is information about voting operations publicly available? If so, in what format?</li> <li>Is the state proactive in publishing information on the electoral process?</li> <li>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?</li> <li>Is the electoral roll on display (subject to protection of personal data)?</li> </ul>
<b>Election Calendar and Enjoyment of Rights</b>		
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	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.	<ul style="list-style-type: none"> <li>Does the electoral calendar allow enough time for the preparation of and implementation of voting operations?</li> <li>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?</li> </ul>



Deterrence of Fraud	
<b>Equal Suffrage</b>	Procedures did not diminish the value of the votes of particular individuals, groups, or geographic areas.
<b>Secret Ballot</b>	Safeguards were in place to prevent multiple voting and other forms of ballot fraud.
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	Safeguards were in place to prevent removal of evidence of how a voter voted from the polling station.
Prevention of Corruption and Voting Operations	
<b>Prevention of Corruption</b>	The EMB maintained and implemented policies to prevent, address, and penalize acts of corruption, including during the voting process.
<b>Training for Election Officials</b>	
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	The state educated officials and citizens on the voting process.

<b>Safety, Security, and Voting Operations</b>	
<b>Right to Security of the Person</b>	<p>Potential voters were able to vote without intimidation or coercion.</p> <ul style="list-style-type: none"> <li>• Is there a peaceful atmosphere on election day?</li> <li>• Are there other people in the polling station with no apparent official function? Are they all authorized? Have the proper identification?</li> <li>• 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)?</li> <li>• Are any cases of external pressure, intimidation, or reprisals observed that are directed at women voters in particular?</li> </ul>
	<p>Safeguards were in place to prevent coercion of voters.</p> <ul style="list-style-type: none"> <li>• Is the environment around the polling sites peaceful? Are there regulations to ensure a peaceful voting atmosphere?</li> <li>• 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?</li> <li>• Do security arrangements outside the polls prevent intimidation of voters, vote-buying, and other forms of coercion?</li> <li>• Are only authorized people present in the polling station?</li> </ul>
	<p>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.</p> <ul style="list-style-type: none"> <li>• Are members of the security forces present in the polling center? Are they authorized to be there?</li> <li>• Are security forces and police behaving in an appropriate manner?</li> </ul>
	<p>Election officials were able to maintain order at the polling station.</p> <ul style="list-style-type: none"> <li>• Are electoral officials responsible for maintaining order within the polling station? Do security personnel and police follow instructions of election officials?</li> </ul>
<b>Right to an Effective Remedy and Voting Operations</b>	
<b>Right to an Effective Remedy</b>	<p>The state provided an effective (timely and enforceable) remedy to all citizens for violations of their rights, including in the context of voting operations.</p> <ul style="list-style-type: none"> <li>• Are there mechanisms for dispute resolution and/or addressing complaints within the polling station?</li> <li>• Are complaints and disputes dealt with in a fair and timely manner? Are complaints addressed or effectively resolved?</li> <li>• 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?</li> </ul>
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	<p>Steps were taken to prevent and punish fraud and electoral offenses.</p> <ul style="list-style-type: none"> <li>• 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?</li> </ul>



## 9. Vote Counting and Tabulation

	ASSESSMENT CRITERIA	ILLUSTRATIVE QUESTIONS FOR DATA COLLECTION
<b>Legal Framework and Vote Counting and Tabulation</b>		
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	The principles of rule of law were promoted.	<ul style="list-style-type: none"><li>• Are all decisions related to counting and tabulation subject to the rule of law?</li></ul>
<b>Rule of Law</b>	The laws regulating elections were equally enforced and were not arbitrarily applied.	<ul style="list-style-type: none"><li>• Are counting and tabulation procedures enforced consistently?</li><li>• Are the laws regarding counting and tabulation, including poll closing, publicly accessible?</li></ul>
<b>The Election Calendar and Enjoyment of Rights</b>		
<b>Periodic Elections</b>	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"><li>• How much time is allotted to vote counting and tabulation in the electoral timeline?</li><li>• Do counting and tabulation take place within the designated time frame?</li></ul>
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	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"><li>• 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)?</li></ul>
<b>Right and Opportunity to Be Elected</b>	Vote counting and tabulation processes protected the right to be elected.	<ul style="list-style-type: none"><li>• Are ballots for each party or candidate separated correctly and counted individually?</li><li>• Are the votes for any particular party or candidate consistently handled improperly? If so, which party or candidate?</li><li>• Are any votes counted/not counted despite disagreement on the voters' intent by party/candidate agents?</li></ul>
<b>Universal Suffrage</b>	The vote counting and tabulation process did not discriminate against anyone on the basis of prohibited grounds.	<ul style="list-style-type: none"><li>• Is there discrimination toward any candidates or parties during the counting and tabulation process? If so, which party/candidate is being discriminated against? How?</li></ul>

<b>Determining Voter Intent</b>	
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	<p>The state took the steps necessary to give effect to rights during the vote counting process.</p> <ul style="list-style-type: none"> <li>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?</li> <li>Are invalid ballots properly identified in a uniform manner? Are they appropriately segregated? Preserved for review?</li> <li>Are ballots invalidated in a reasonable and consistent manner? Are invalid ballots appropriately segregated and preserved for review?</li> <li>Does the number of invalid ballots seem inordinately high?</li> <li>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?</li> <li>Is there disagreement over voters' intent? How are these votes handled? How often does this occur?</li> <li>Are there intentional acts to alter the expressed preferences of voters during the vote counting?</li> </ul>
<p>The intent of the voter was taken into consideration when determining ballot validity.</p>	
<b>Safeguards to Prevent Falsification of Ballots</b>	
<b>Equal Suffrage</b>	<p>Equal suffrage was respected throughout the electoral process, including vote counting, consistent with the concept of "one person, one vote."</p> <ul style="list-style-type: none"> <li>Are all ballot papers that indicate the will of the voter considered valid?</li> <li>Are there clear procedures for reconciling the number of cast ballots (paper or electronic) with the list of voters?</li> <li>Are there intentional acts to alter the expressed preferences of voters during vote counting?</li> </ul> <p>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.</p> <ul style="list-style-type: none"> <li>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?</li> <li>Are protocols and tally sheets countersigned by more than one poll worker?</li> <li>Are all sensitive election materials, including voting technologies, stored securely overnight and during transport?</li> </ul>
<b>Prevention of Corruption in Vote Counting</b>	
<b>Prevention of Corruption</b>	<p>The EMB maintained and implemented policies to prevent, address, and penalize acts of corruption including during the voting process.</p> <ul style="list-style-type: none"> <li>Is the results process undertaken in a prompt and fully transparent manner?</li> <li>What precautions are taken to prevent interference with marked ballots?</li> <li>Is the count performed by polling-station officials or are other people involved?</li> <li>Are official records correctly completed at the end of the count and signed by all authorized people?</li> <li>Are the contents of the ballot box observed before ballots are removed in plain view? Are the ballot boxes checked for evidence of tampering?</li> <li>Are unused ballots secured, canceled, or destroyed after being counted?</li> <li>Are there clear procedures for the secure transportation of voting materials?</li> </ul>



### Transparency in the Reporting, Transmission, and Publishing of Election Results

<b>Transparency and Access to Information</b>  <b>Prevention of Corruption</b>	<p>Access to information was guaranteed throughout the electoral process, including during the counting and tabulation process.</p>	<ul style="list-style-type: none"><li>• What measures were implemented to ensure access to information was guaranteed throughout the process?</li><li>• Were there any complaints that information was unavailable and/or inaccurate?</li><li>• Are results, disaggregated by polling station, available on the EMB website?</li></ul>
	<p>The state proactively put in the public domain government information of public interest.</p>	<ul style="list-style-type: none"><li>• Are results published within stipulated time frames, according to procedures? Where are the results published after announcement?</li><li>• At what levels of the election administration are results published?</li></ul>
	<p>Votes were counted and reported honestly.</p>	<ul style="list-style-type: none"><li>• Are the votes counted and reported accurately and honestly?</li><li>• Is the counting conducted in an orderly manner? Are ballots for each party or candidate separated correctly and counted individually?</li><li>• Are official counting records correctly completed at the end of the count and signed by all authorized people?</li><li>• Are there any discrepancies between the counted votes and the published results? Can the EMB account for them?</li></ul>
	<p>The counting process was verifiable, and the ballots preserved for later review.</p>	<ul style="list-style-type: none"><li>• 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?</li><li>• Is the count conducted in a transparent environment?</li><li>• Are unused ballots secured, canceled, or destroyed after being counted?</li><li>• 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?</li><li>• Are ballot papers and other sensitive election materials preserved for later review (e.g., during a challenge or recount)?</li></ul>
	<p>Results were published in a timely manner, were publicly announced, and were posted at the counting station.</p>	<ul style="list-style-type: none"><li>• Are the results immediately publicly posted at the polling station or counting center upon completion of the count?</li><li>• Are partial/preliminary results available prior to the announcement of final results?</li><li>• Is there a specific time frame in which the results must be announced? Is it met?</li></ul>
	<p>Tallies were transmitted to higher levels of tabulation in a transparent and open manner.</p>	<ul style="list-style-type: none"><li>• How are results transmitted to each higher level of tabulation?</li><li>• 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)?</li><li>• Are all levels of tabulation open to observation and/or verification by observers and candidate/party agents?</li><li>• Are results publicly posted by polling station at the polling center? Are copies given to observers and agents?</li><li>• Are there procedures in place for the secure transportation of sensitive election materials? Are they implemented?</li></ul>

### **Transparency in the Reporting, Transmission, and Publishing of Election Results (Continued)**

<b>Transparency and Access to Information</b>	Candidates and their representatives, as well as observers, were able to observe polling and counting.	<ul style="list-style-type: none"><li>• Are representatives of political parties and candidates able to observe all aspects of the vote counting, transmission of results, and tabulation?</li><li>• Are citizen and international observers able to observe all aspects of the vote counting, transmission of results, and tabulation?</li><li>• Are citizen and international observer organizations accredited for the electoral process, including counting and tabulation? How many?</li><li>• Are there any restrictions placed upon the ability of organizations to conduct their activities around counting and tabulation in full freedom?</li></ul>
<b>Prevention of Corruption</b>	International observers were accredited and were able to access and comment on all parts of the electoral process.	<ul style="list-style-type: none"><li>• Are representatives of political parties and candidates able to observe all aspects of the vote counting, transmission of results, and tabulation?</li><li>• Are citizen and international observers able to observe all aspects of the vote counting, transmission of results, and tabulation?</li><li>• Are citizen and international observer organizations accredited for the electoral process, including counting and tabulation? How many?</li><li>• Are there any restrictions placed upon the ability of organizations to conduct their activities around counting and tabulation in full freedom?</li></ul>

### **Partisan and Nonpartisan Observation of Vote Counting and Tabulation**

<b>Right and Opportunity to Be Elected</b>		<ul style="list-style-type: none"><li>• Does the state create an enabling environment and facilitate, in law and in practice, the activities of nongovernmental organizations in the context of vote counting and tabulation?</li></ul>
<b>Right and Opportunity to Participate in Public Affairs</b>		<ul style="list-style-type: none"><li>• Are civil society organizations able to operate free from hindrance and insecurity?</li></ul>
<b>Freedom From Discrimination and Equality Before the Law</b>		<ul style="list-style-type: none"><li>• Does the state involve and facilitate the participation of civil society organizations in public decision-making processes?</li></ul>
<b>Freedom of Association</b>		<ul style="list-style-type: none"><li>• Are representatives of political parties and candidates able to observe all aspects of the vote counting, transmission of results, and tabulation?</li></ul>
<b>Transparency and Access to Information</b>	Candidates and their representatives, as well as observers, were able to observe polling and counting.	<ul style="list-style-type: none"><li>• Are citizen and international observers able to observe all aspects of the vote counting, transmission of results, and tabulation?</li></ul>
<b>State Must Take Necessary Steps to Give Effect to Rights</b>		<ul style="list-style-type: none"><li>• Are citizen and international observer organizations accredited for the electoral process, including counting and tabulation? How many?</li></ul>
<b>Prevention of Corruption</b>		<ul style="list-style-type: none"><li>• Are female observers able to access counting centers? In comparison with men, do they face additional barriers to access, including social or cultural barriers?</li><li>• Are any organizations conducting parallel vote tabulations or exit polling? Are these efforts credible, and what are their results?</li><li>• Are there any restrictions placed upon the ability of organizations to conduct parallel vote tabulations or exit polling?</li></ul>



### Partisan and Nonpartisan Observation of Vote Counting and Tabulation (Continued)

Right and Opportunity to Be Elected	The vote-counting process was transparent and observable.	<ul style="list-style-type: none"><li>• Do polling officials strive to conduct the counting process in an open, transparent manner?</li></ul>
Right and Opportunity to Participate in Public Affairs	Party agents and accredited observers were given copies of the protocols and tabulation sheets from the results center.	<ul style="list-style-type: none"><li>• Are party/candidate agents and observers issued a copy of the results protocol?</li></ul>
Freedom From Discrimination and Equality Before the Law	Observers were able to access places used for vote counting and tabulation.	<ul style="list-style-type: none"><li>• Do observers have access to the counting process?</li><li>• Do observers have access to tabulation centers at all levels?</li></ul>
Freedom of Association		
Transparency and Access to Information		<ul style="list-style-type: none"><li>• Is a postelection audit conducted on a random sample of electronic voting machines, regardless of whether there is a challenge to the official results?</li></ul>
State Must Take Necessary Steps to Give Effect to Rights	If electronic voting systems were used, there was an open and comprehensive audit.	<ul style="list-style-type: none"><li>• 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?</li></ul>
Prevention of Corruption		

### 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"><li>• Do ballots contain any unusual markings intended to violate the secrecy of the ballot?</li><li>• Are all ballot papers that reveal the identity of the voter considered invalid?</li></ul>
	The legal framework offered clear guidance on secrecy of the ballot throughout the election.	<ul style="list-style-type: none"><li>• What guidance does the legal framework offer on secrecy of the ballot during the counting and tabulation processes?</li></ul>

### Freedom of Movement, 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"><li>• Are polling officials able to move freely about the country to deliver/collect/transmit vote materials?</li><li>• Are partisan and nonpartisan observers able to move freely about the country to observe vote counting and tabulation processes?</li></ul>
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<b>Safety, Security, Vote Counting, and Tabulation</b>	
<b>Right to Security of the Person</b>	<p>Vote counting took place in an environment free of intimidation.</p> <ul style="list-style-type: none"> <li>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?</li> <li>Is the environment around and within the center secure during vote counting and tabulation?</li> <li>Are any unauthorized people present at the counting or tabulation? Are they actively involved in the count?</li> <li>Is anyone participating in the vote counting process that should not be?</li> </ul>
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	<p>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.</p> <ul style="list-style-type: none"> <li>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?</li> <li>Are the police and/or security forces personnel engaged in inappropriate activities, such as taking notes and reporting figures or results by telephone?</li> <li>Does the legal framework clearly stipulate in what cases security-related restrictions of freedoms could be imposed and when the use of force by public security providers is permissible? Are such provisions in line with requirements of necessity and proportionality?</li> </ul>
<b>Training of Polling and Counting Workers</b>	
<b>Transparency and Access to Information</b>	<p>The state educated officials and citizens on the vote counting and tabulation process.</p> <ul style="list-style-type: none"> <li>Do election officials appear to understand and adhere to the required procedures? Did they receive training on counting procedures? What did this training include?</li> <li>Are an adequate number of staff and supervisors trained for the counting and tabulation process?</li> <li>Are the closing, reconciliation, and counting procedures properly followed? Do counting officials act in an impartial manner and in accordance with the law?</li> <li>Is there any education on the counting and tabulation process for citizens? Observers? Party agents/candidates?</li> </ul>
<b>Protection of Personal Data</b>	
	<p>Personal data controllers complied with data minimization, accuracy, confidentiality, integrity, and storage limitation obligations.</p> <ul style="list-style-type: none"> <li>Does the legal framework contain provisions to protect personal data? What requirements are enshrined?</li> <li>Are personal data controllers obliged to comply with obligations of data minimization, accuracy, confidentiality, integrity, and storage limitation?</li> <li>Did personal data controllers comply with these requirements? Were there any reports or complaints in this regard?</li> </ul>



### Election Observation

<b>Transparency and Access to Information</b>	<p>Candidates and their representatives, as well as observers, were able to observe polling and counting.</p> <p>International observers were accredited and were able to access and comment on all parts of the electoral process.</p> <p>The vote-counting process was transparent and observable.</p> <p><b>Access to Information and Electoral Management Body Documents</b></p> <p>The EMB provided citizens with access to information throughout the electoral process.</p>	<ul style="list-style-type: none"><li>Are representatives of political parties and candidates able to observe all aspects of the vote counting, transmission of results, and tabulation?</li><li>Are citizen and international observers able to observe all aspects of the vote counting, transmission of results, and tabulation?</li><li>Are citizen and international observer organizations accredited for the electoral process, including counting and tabulation? How many?</li><li>Are there any restrictions placed upon the ability of organizations to conduct their activities around counting and tabulation in full freedom?</li><li>Are representatives of political parties and candidates able to observe all aspects of the vote counting, transmission of results, and tabulation?</li><li>Are citizen and international observers able to observe all aspects of the vote counting, transmission of results, and tabulation?</li><li>Are citizen and international observer organizations accredited for the electoral process, including counting and tabulation? How many?</li><li>Are there any restrictions placed upon the ability of organizations to conduct their activities around counting and tabulation in full freedom?</li><li>Do polling officials strive to conduct the counting process in an open, transparent manner?</li></ul>
<b>Right and Opportunity to Participate in Public Affairs</b>		<ul style="list-style-type: none"><li>Through what means and how frequently does the EMB provide information to the public?</li><li>Is information provided in a timely fashion so as to be useful within the time frame of elections?</li><li>Is any denial of access to information based on reasonable and objective criteria?</li><li>Are copies of protocols and tabulation sheets provided to observers?</li></ul>

<b>Right to an Effective Remedy, Vote Counting, and Tabulation</b>	
<b>Right to an Effective Remedy</b>	<p>The right to remedy was protected throughout the process.</p> <ul style="list-style-type: none"> <li>• Is there a complaint mechanism for violations that occur during the counting and tabulation process? Have any complaints been filed? Have they resolved?</li> <li>• Are all complaints resolved in time to appropriately count/discount the vote in question?</li> </ul>
	<p>The right to challenge the election results was guaranteed by law.</p> <ul style="list-style-type: none"> <li>• Are there clear procedures for party agents/candidates to raise concerns regarding the accuracy of the count? Are they followed?</li> <li>• Does the legal framework provide a mechanism to challenge or invalidate all or parts of the election results?</li> </ul>
	<p>There was impartial scrutiny of the counting and tabulation process, and it was subject to judicial review.</p> <ul style="list-style-type: none"> <li>• Is the count and tabulation process subject to judicial review?</li> </ul>
	<p>The legal framework provided clear guidance on the grounds for complaints and appeals as well as the processes for demanding a recount.</p> <ul style="list-style-type: none"> <li>• When can a complaint be filed?</li> <li>• What is the timeline for complaints? Is this timeline clearly communicated to candidates and parties?</li> <li>• Is the timeline for filing a complaint and other requirements (e.g., fees, numbers of copies of complaints to be submitted, etc.) reasonable?</li> <li>• Does the timeline include sufficient time to resolve complaints prior to a determination of results?</li> <li>• Who can request a recount and on what basis?</li> </ul>



## 10. Electoral Dispute Resolution

	ASSESSMENT CRITERIA	ILLUSTRATIVE QUESTIONS FOR DATA COLLECTION
<b>The Legal Framework and Dispute Resolution</b>		
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.	<ul style="list-style-type: none"><li>• Are all decisions related to electoral dispute resolution subject to the rule of law?</li><li>• Are the electoral dispute resolution procedures clearly stipulated by law?</li></ul>
	Laws and procedures were not arbitrarily applied.	<ul style="list-style-type: none"><li>• Are electoral dispute resolution procedures enforced consistently?</li><li>• Are the laws regarding electoral dispute resolution publicly promulgated and available in the official languages of the country?</li></ul>
	The state implemented sanctions against those who violated the electoral law.	<ul style="list-style-type: none"><li>• Does the state impose sanctions for violations of the electoral law? What sanctions are imposed? Are they proportionate to the offense?</li><li>• Are any winning candidates disqualified for violations?</li></ul>
The law was clear regarding legal standing for electoral disputes.		<ul style="list-style-type: none"><li>• 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?</li><li>• Are any complaints being dismissed due to lack of standing? If so, what complainants are involved?</li></ul>
<b>The Election Calendar and Enjoyment of Rights</b>		
State Must Take Necessary Steps to Give Effect to Rights  Periodic Elections	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"><li>• 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?</li><li>• Do extremely short deadlines make complaints difficult to file or to adjudicate?</li></ul>
<b>Freedom From Discrimination and Electoral Dispute Resolution</b>		
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"><li>• 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?</li></ul>
	Everyone was treated equally before the law and courts.	<ul style="list-style-type: none"><li>• Is everyone treated equally in any laws, regulations, etc. that contain provisions on electoral dispute resolution?</li><li>• Does everyone have equal access to electoral dispute resolution?</li><li>• Are there any fees to access the electoral dispute resolution process?</li><li>• 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?</li><li>• Is the principle of "equality of arms" respected?</li></ul>

<b>Transparent Dispute Resolution Processes</b>	
<b>Transparency and Access to Information</b>	<p>Transparency and access to information were respected during the dispute resolution process.</p> <ul style="list-style-type: none"> <li>• Are any restrictions placed on the ability of citizens to access information regarding dispute resolution processes? Do the restrictions align with international obligations?</li> <li>• Do observers have access to the dispute resolution process?</li> </ul> <p>The judgments, findings, and evidence of judicial proceedings, and legal reasoning for judgments, were made public.</p> <ul style="list-style-type: none"> <li>• Must electoral complaint proceedings be open to the complainant and the public?</li> <li>• Are written complaints and answers to them part of a public record?</li> <li>• Must decisions on electoral complaints and appeals provide reasons for the decisions?</li> <li>• Must decisions on electoral complaints and appeals be in writing?</li> </ul> <p>The state proactively put in the public domain government information of public interest.</p> <ul style="list-style-type: none"> <li>• Are decisions published? Where? How long after they were made? Are they easily accessible by all citizens?</li> <li>• Is any other information about judicial proceedings made public? What? Where?</li> </ul>
<b>Right to a Fair and Public Hearing</b>	<p>Potential complainants were informed of the means of filing a complaint and the time frame of its resolution.</p> <ul style="list-style-type: none"> <li>• How are potential complainants informed of the electoral dispute resolution process? Is information provided in multiple languages? Are any groups not informed?</li> <li>• 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?</li> </ul> <p>Parties to the complaints had access to factual information regarding the alleged violations.</p> <ul style="list-style-type: none"> <li>• Are all parties provided with/or have access to information regarding alleged violations? Is all information accurate?</li> </ul>
	<p>Complaints processes were transparent, and the opportunity to present evidence in support of a complaint existed.</p> <ul style="list-style-type: none"> <li>• Are electoral dispute resolution procedures clear and transparent? Are procedures complex or vague? Is it unclear to which body complainants should appeal?</li> <li>• Must electoral complaint proceedings be open to the parties in dispute and the public?</li> <li>• Do procedures include the right of the complainant to present evidence? Is that right protected in practice?</li> </ul>



### Right to a Fair and Public Hearing by a Fair and Impartial Independent Tribunal

#### Right to a Fair and Public Hearing

The legal framework provided the right for a fair and public hearing by a competent, impartial, and independent tribunal in the determination of rights.

- 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?

#### State Must Take Necessary Steps to Give Effect to Rights

#### Right to Security of the Person

The EMB maintained and implemented policies to prevent, address, and penalize acts of corruption, including during the voting process.

### Misuse of State Resources

#### Prevention of Corruption

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.

- Is there a designated independent body to oversee compliance with regulations against misuse of public resources and official position?
- Is the state providing redress for election-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?
- Is misuse of public resources and official position subject to appeal?
- Are sanctions provided by law proportionate to the severity of the offense?
- Are such sanctions in place for misuse of state resources and official position?
- How are sanctions enforced?

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

<b>Right to an Effective Remedy, Including Challenging Results</b>	
<b>Right to a Fair and Public Hearing</b>	<p>The state took the steps necessary to give effect to rights during the electoral process, including through the dispute resolution process.</p>
<b>Right to an Effective Remedy</b>	<ul style="list-style-type: none"> <li>• 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?</li> </ul> <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"> <li>• Are all hearings conducted in a timely manner? What is the time frame in which hearings are conducted?</li> <li>• What remedies are granted? Are they provided within a realistic time frame? Are they enforced?</li> </ul>
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	<p>A remedy was available for violations of the right to a fair and public hearing.</p> <ul style="list-style-type: none"> <li>• In cases where the right to a fair and public hearing is violated, was an effective (timely and enforceable) remedy available?</li> </ul> <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"> <li>• Is the state providing redress for electoral-related complaints, including effective remedies and accountability for violators of electoral rights, public and private?</li> <li>• Is the state taking measures to prevent violations of rights?</li> <li>• Once identified, are states taking measures to cease rights violations? If so, what are the measures?</li> <li>• Are rights violators being penalized? How?</li> <li>• Has the state taken any steps to address allegations of fraud? If so, are these steps effective?</li> <li>• Are there any cases of malfeasance, unlawful actions, or omissions by public security providers? If so, were they investigated and did they entail liability?</li> </ul>
	<p>The ability to challenge the results of the election was provided by law and was available to complainants as appropriate.</p> <ul style="list-style-type: none"> <li>• Is it clear when a recount or re-election may be ordered?</li> <li>• 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?</li> <li>• Can election commissions refuse to perform recounts? Are any requests for recounts being denied?</li> <li>• Are procedures for recounts and re-elections open and accessible to election stakeholders (e.g., candidates, parties, citizen observer groups, the media, international observers)?</li> </ul> <p>"Forum shopping" was discouraged.</p> <ul style="list-style-type: none"> <li>• Is there a right of appeal to a court?</li> <li>• Are there clear procedures for appeals of decisions by administrative, judicial, or legislative bodies concerning electoral-related complaints?</li> <li>• Are appellants and authorities able to choose the appeal body?</li> </ul>



<b>Right to an Effective Remedy and the Media</b>		
<b>Right to an Effective Remedy</b>	A system to file complaints related to the media was available for all citizens.	<ul style="list-style-type: none"><li>• Is there a complaint mechanism for violations of media regulations? If so, under whose authority is the mechanism?</li><li>• Does the implementing body act when it identifies a breach of the regulations, regardless of whether a complaint has been filed?</li><li>• Are sanctions imposed by the supervisory body commensurate with the gravity of the offense committed? Could sanctions encourage self-censorship among journalists?</li><li>• 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?</li></ul>
	The legal framework provided citizens with an effective (timely and enforceable) remedy throughout the electoral process.	<ul style="list-style-type: none"><li>• Does the legal framework protect the safety and ability of journalists and other media actors to work in full freedom?</li><li>• Are remedies available for harassment and violence against journalists, offline and online?</li><li>• Were any instances of harassment and violence against media and journalists reported? Were they promptly investigated? Were perpetrators held accountable?</li></ul>
<b>Safety, Security, and Electoral Dispute Resolution</b>		
<b>Right to Security of the Person</b>	Electoral stakeholders were free from arbitrary arrest and detention as well as intimidation and coercion.	<ul style="list-style-type: none"><li>• 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?</li><li>• Are there any reports of coercion? Of intimidation? If so, who do they affect?</li></ul>
<b>State Must Take Necessary Steps to Give Effect to Rights</b>	Law enforcement bodies were neutral in their work.	<ul style="list-style-type: none"><li>• Have there been any reports of bias among law enforcement? If so, are specific parties or groups of people particularly affected?</li><li>• Were such reports promptly investigated? Was liability as set by law imposed?</li></ul>
	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"><li>• Are security forces and police behaving in an appropriate manner?</li><li>• Are they ensuring safety and security without any undue interference?</li></ul>
<b>Business and Protection of Human Rights</b>		
<b>Right to an Effective Remedy</b>	Business enterprises embraced, in policy and practice, their international and/or national human rights obligations. Accessible and effective complaint and redress mechanisms were established to protect these rights.	<ul style="list-style-type: none"><li>• Do internet intermediaries explicitly recognize and comply with their human rights obligations?</li><li>• Is there a clear, accessible, and effective complaint and redress mechanism for citizens to resort to in cases of human rights violations by internet intermediaries?</li></ul>

## Appendix D

# References

(Citations Appear by Organization)

### The United Nations

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## **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
ACHPR	African Commission on Human and Peoples' Rights
AfCHPR	African Charter on Human and Peoples' Rights
AHRC	Arab Human Rights Committee
APEC	Asia-Pacific Economic Cooperation
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
CRC	Convention on the Rights of the Child
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
EP	European Parliament
EU	European Union

GDPR	General Data Protection Regulation
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
IFES	International Foundation for Electoral Systems
IPU	Inter-Parliamentary Union
LAS	League of Arab States
OAS	Organization of American States
ODIHR	Office for Democratic Institutions and Human Rights
OECD	Organization for Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights
OIF	International Organization of La Francophonie
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
TI	Transparency International
UDHR	Universal Declaration of Human Rights
U.N.	United Nations
UNHRC	United Nations Human Rights Council
UNCAC	United Nations Convention Against Corruption
UNGA	United Nations General Assembly

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## The Carter Center at a Glance

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