

## Chapter 9

# ELECTION OBSERVATION

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## 1. Introduction

Over the last decade, observation of elections and referenda has emerged as an important task in support of democratic development and international human rights. The right to political participation lies at the core of a democratic society. The ability of all citizens to express their preferences in periodic and genuine elections is one of the main manifestations of this right. Yet, political participation is a much broader concept which in order to be meaningful, presupposes adherence to other basic human rights such as the right to freedom of expression, movement, peaceful assembly and association both at the time of an election and, more importantly, between elections. Election observation is therefore more than just a technical exercise, as it can contribute directly to the promotion of universal human rights through factual reporting identifying problems as well as recommendations on how the problems can be rectified. Observation can also prevent violations of human rights associated with the election process through the very presence and visibility of observers, as the correctness of the election process itself is assessed.

A state is obligated to respect and protect international human rights and the international community has a crucial role to play in ensuring state respect for human rights commitments. Election observation is one manner in which international monitoring of state compliance can take place. State commitments legitimize international election observation. They also place a large responsibility on the international community to observe and assess elections in a way that will reinforce rather than undermine that legitimacy. As the practice of sending observer missions to assess elections rapidly expanded in the early 1990s, it became evident that there was a strong need to establish a more structured election observation methodology.

Numerous election observation missions have taken place over the last decade

coordinated i.e. by the Organisation for Security and Co-operation (OSCE), United Nations (UN), Organisation of American States (OAS), Council of Europe and the European Union (EU). The methodology developed by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) is at present the most systematic, encompassing and verifiable approach. Thus, the general methods of election observation including practical guidelines for the conduct of election observation missions outlined in the present chapter, are identical to that set out in the ODIHR Election Observation Handbook, only modified to ensure global applicability.<sup>1</sup>

It is now recognized that election observation cannot be a one-day event. An informed assessment of an election process cannot be made on the basis of election day observations only. This more complete approach requires a long-term observer presence in the country, through the various stages of the election process necessary for a meaningful and democratic exercise. When evaluating an election process, observers must take into account the entire election cycle, from the registration of voters and candidates, through the campaign, the final voting and counting stages, the public declaration of results, and the installment into office of those elected.

As a consequence, the practical field tasks of an election observation mission can be divided into four distinct phases: Pre-election, election, immediate post-election and the extended post-election phase. Long-term observers (LTOs) cover all election phases, while the short-term observers (STOs) cover the election and immediate post-election phases. The objective of the long-term observation is to gain an in-depth knowledge of the various phases of the election cycle. The objective of short-term observation is to provide a broad presence throughout the country to assess the closing days of the campaign, election day and the vote count.

The present chapter will identify

observation targets and activities to be undertaken in all of the four phases. In a well structured observer mission there will be a division of labour between a smaller team of LTOs and a larger number of STOs. The review of relevant observation targets and activities will make reference to the two functions in order to define the distinct yet complementary roles of the two categories of observers as we elaborate the tasks of observers in general throughout the election process.

### ***Lack of systematic approach***

There are two major problems which continue to hamper international election observation and which the observer must be aware of: The lack of a systematic observation methodology in many observation missions, and the lack of cooperation between international organisations in sending consistent messages to the country being observed.

Unfortunately, there are still numerous situations where international election observation takes place without the necessary systematic approach. This is true particularly in Africa and Asia where regional Inter-Governmental Organisations (IGOs) have not played a significant role in election observation. The UN has thus been the most likely coordinator of an international election observer mission. The UN has in turn limited its role to that of only *facilitating* international election observation (unless part of a large-scale UN mission). In practice, this means that the UN as such does not take responsibility for the substantive assessment of an electoral process as expressed by the international observers in a final statement.

The country offices of the UN Development Program (UNDP) will assist observers with administration and logistics, but leaves co-ordination of the final statement to a Joint International Observer Group (JIOG). The JIOG is composed of representatives from the various Embassies present in the country where elections are observed, sometimes

supported by election officers on short term contracts with the UNDP. Around the election phase members of the JIOG will be replaced by formal or ad-hoc heads of national observer delegations which lack the longer term perspective and most often, must consult closely with their respective Embassies before a final statement is approved. The lack of an institutional mandate and systematic approach endangers the credibility and potential positive effects of international observation efforts. This is not an exclusively UN problem, as the European Union has struggled with similar problems. The European Union is at present the IGO most active outside its own geographical area and has over the last year systematized its approach to election observation and upgraded training of election observers. It must also be mentioned that a number of professional and non-governmental organisations in Asia and Africa as well as elsewhere, are highly professional when it comes to election observation.

In these situations the national diplomatic missions, institutions or organisations deploying election observers as well as the individual observers themselves, carry joint responsibility for actively promoting a systematic approach to election monitoring so as to ensure an informed and objective assessment of the electoral process. It is ultimately the responsibility of the same actors to abstain from making an overall assessment if there is insufficient documentation. This chapter will hopefully serve to guide the efforts of institutional actors as well as individual observers to enhance the legitimacy of international election observation.

### ***Lack of international cooperation***

It is quite common that various IGOs are present with separate missions in a country where an election process is being observed i.e. the UN, EU, Commonwealth, OAU and the Southern African Development Community (SADC) or the

OSCE/ODIHR, the OSCE Parliamentary Assembly and/or the Council of Europe in their respective areas of responsibility. It is common that the various missions issue separate final statements. Unfortunately, it is also common that the statements issued do not coincide in content. National governments have thus learned to go "forum-shopping", making public reference to the most congenial statement. This is a problem as IGOs are tempted to give priority to political messages (being supportive or explicitly critical) or publicity (being the first statement out) rather than accountability (processing all available data). The OSCE has since 1997 sought to improve intra-institutional cooperation through an agreement between the ODIHR and the OSCE Parliamentary Assembly. Similar agreements or at least actual cooperation on the ground, should be actively promoted by all involved actors, bearing in mind that such cooperation must take place based on a systematic approach.

## **2. International human rights obligations**

All election observers, regardless of their own nation's political system and election process, are bound together in their task by the Universal Declaration of Human Rights (UDHR). The Universal Declaration, adopted unanimously by the United Nations General Assembly in 1948, recognizes the integral role that transparent and open elections play in ensuring the fundamental and universal right to democratic participatory government:

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right to equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic

and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures. (UDHR Art.21)

This obligation was reiterated eighteen years later in a similar wording in the International Covenant on Civil and Political Rights (ICCPR) which since then has been ratified by the great majority of 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 held by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- c. To have access, on general terms of equality, to public service in his country. (ICCPR Art. 25)

The role that periodic, free and genuine elections play in ensuring respect for political rights is also enshrined in the European Convention for the Protection of Human Rights and Fundamental Freedoms (Protocol No.1, Art.3), the American Convention on Human Rights (Art.23), the African Charter on Human and Peoples' Rights (Art.13), and in the Copenhagen Document (1990) of the Organization for Security and Cooperation in Europe.

It is then clearly an obligation of the state to secure the right to participate in public affairs. Yet, it is not equally clear what standards apply in order for the state to have ensured respect for this right. International human rights law is not very well developed in this area in contrast to other areas of international law addressed in the present Manual (cf. chapters 7, 8 and 10).

For observers on the ground, there is a need for further elaboration or operationalization as to what this obligation entails. The most authoritative UN document available for this purpose is the General Comment on Article 25 issued by the UN Human Rights Committee (see Annex 1). The Human Rights Committee monitors state compliance with the legally binding commitments of the ICCPR (cf. Chapter 2).

It should be noted at the outset that international human rights law does not impose any particular electoral system. What it does require is that "any [electoral] system operating in a State party must be compatible with the rights protected by article 25 and must guarantee and give effect to the free expression of the will of the electors" (General Comment parag.21).

What specific indicators or principles can thus be derived from Article 25 of the ICCPR? I will below summarize guidance provided by the General Comment, adding where relevant, guidance summarized by the OSCE of what is argued to be democratic practice. I will argue that international human rights obligations require the state to ensure *universality, equality, fairness, secrecy, freedom, transparency, and accountability* in the electoral process. These principles will emerge as we review seven elements of Article 25:

1. *Every citizen.* The right to participate in public affairs is the only human right which apply for citizens of a state only as opposed to being universal and applicable to any person subject to the authority of a state in which they happen to be (cf. Chapter 5). It is however, required that citizenship be defined in law respecting the right to non-discrimination; that is no distinctions based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Unreasonable or discriminatory legislation may well raise concern with regard to other rights protected in human rights law. Thus, within the
2. *Genuine elections* shall guarantee the free expression of the will of the electors. The voter must be able to form an independent opinion in order to express a will, and must thus be able to take part in public debate and dialogue free from violence or threat of violence. The *freedom* of expression, assembly and association are thus essential conditions for the effective exercise of the right to vote and must be upheld throughout the entire election process. Genuine elections also require positive measures by the state to overcome obstacles to effective participation. There is thus an obligation to ensure *fairness* and a level playing field through information and materials which ensure that voters have adequate information about contestants and issues which will inform their choice. The term *transparency* is not explicitly mentioned in the General Comment, but it follows from the requirement that the electoral process must be in accordance with law, that an independent electoral authority should be established and that there be access to judicial review for electors. To increase electors confidence it is further stated that votes be counted in the presence of the candidates or their agents and that there should be independent scrutiny of the voting and counting process. As a further practical consequence of the need for transparency, the OSCE requires that the vote count be visible and verifiable from the level of the polling station, to any intermediate levels of the election administration, and finally to the national election authority.
3. *Periodic elections* ensure the *accountability* of elected representatives to the electors when the representatives exercise the legislative or executive powers vested in them. Intervals bet-

legitimate limitation of citizenship, the principle of inclusiveness or "*universality*" should be a primary objective.

ween elections must not be unduly long to avoid uncertainty as to the continued basis for legitimate authority. The result of an election must thus be respected and implemented meaning that those elected must be duly installed in office and leave office if their mandates are not renewed in later elections.

4. *Universal suffrage.* All citizens of a qualifying age should have the right to vote and their registration as voters must be facilitated as reflected in the principle of *universality*. Criteria for denying the right to vote or register must not be unreasonable as would be the case if denial was based on physical disability, literacy, education or property. Furthermore, there is an obligation for the state to enact positive measures to overcome difficulties such as illiteracy, language and poverty. Positive measures may include voter education and registration campaigns.
5. *Equal suffrage* means one person one vote. This is further understood to require *equality* in weighing of votes and that electoral boundaries should not distort the distribution of votes or discriminate against groups. The latter two requirements may be of considerable concern to legislators and observers alike when assessing a given electoral system and its lack of absolute equality. The OSCE has specified the principle of relative equality by requiring that under the majority voting system, the size of the electorate from one constituency to another, should not vary by more than approximately 10%. Under the proportional representation system, the size of the electorate may vary but the number of representatives for each district should be proportional to the size of the electorate.
6. *Secret ballot.* It is required that *secrecy* of the vote including possible absentee voting, be ensured by protecting the voters from coercion or com-

pulsion to disclose how they intend to vote or have voted, and from unlawful and arbitrary interference in the voting process. Democratic practice shows that secrecy can only be assured if the voter cast the ballot alone, in the privacy of a secure voting booth, and in a manner that the marked ballot paper cannot be viewed before it is deposited in the ballot box.

7. *Equal access to public service.* All citizens who have reached a qualifying age and meet the criteria for registration should experience *equality* in their formal possibilities to stand for election. Potential restrictions on the access to public office must be justifiable according to objective and reasonable criteria. Discriminatory criteria such as education, residence, decent or political affiliation, are not acceptable, likewise to require an unreasonable number of signatures for registration.

The seven principles: universality, equality, fairness, secrecy, freedom, transparency and accountability, as understood above, are thus standards against which observers can assess the legislative framework governing an election. It is on this basis one can form an opinion on whether or not the state is complying with its international human rights obligation in the area of political participation.

### 3. Conditions for effective election observation

Election observation only takes place at the invitation of a host government. In order to allow for long-term observation, it is the responsibility of the host government to issue the invitation at least three months in advance of an election. The invitation will most often be directed to the United Nations or another Intergovernmental organization (IGO) with the mandate and capacity to undertake coordinated election observer missions.

Alternatively, an invitation is directed to the international community in general through the various diplomatic representations in the host-country. In the absence of a timely invitation, the relevant IGO or diplomatic community may not be able to or find it recommendable to respond positively to an invitation to observe.

We do not subscribe to the view that the mere presence of observers adds legitimacy to an election process. It is the observers' methodology and the resulting conclusions that will form the basis of the assessment of the election. In order to make this assessment, it is expected that the inviting government assures, according to accepted international standards, that the observer mission will be able to carry out its duties, specifically to:

- Assess the number of observers necessary to mount a viable observation which is not a matter for negotiation with the host government;
- Receive accreditation through a simple non-discriminatory procedure;
- Obtain information regarding the election process from electoral authorities at all levels;
- Meet with representatives of all parties and with individuals randomly selected;
- Obtain permission to travel in all regions of the country during the election process and on election day;
- Have unimpeded access to polling sites and counting centers throughout the country;
- Have authority to issue public statements.

## 4. Code of conduct

Listed below are some general principles and rules which all observers must respect:

- Observers will maintain strict impartiality in the conduct of their duties, and shall at no time express any bias or preference in relation to national authorities, parties, candidates, or with

reference to any contentious issues in the election process.

- Observers will undertake their duties in an unobtrusive manner, and will not interfere with the election process, polling day procedures, or the vote count.
- Observers will carry the prescribed identification issued by the host government or election commission, and will identify themselves to any interested authority upon request.
- Observers will not display or wear any partisan symbols, colors, or banners.
- Observers may wish to bring irregularities to the attention of the local election officials, but they must never give instructions or countermand decisions of the election officials.
- Observers will base all conclusions on well documented, factual, and verifiable evidence, and must fill out a survey form of polling stations visited.
- Observers will refrain from making any personal or premature comments about their observations to the media or any other interested persons, and will limit any remarks to general information about the nature of their activity as observers.
- Observers will participate in post-election debriefings, by fax or telephone if necessary.
- Observers must comply with all national laws and regulations.

## 5. Preparing for election observation

In order to assess whether and how an election observation mission will be undertaken, the relevant Inter-Governmental Organisation (IGO) will deploy a needs assessment mission several months before an election. Ideally one or more of the delegates will be involved in the overall co-ordination of the subsequent election observation mission.

One of the most important tasks of the needs assessment mission is to ascertain

whether the legislative framework governing the election process is in line with human rights obligations. The state's effort to protect, respect and promote human rights as operationalized in the seven principles reviewed above (see section 2), must be clearly reflected in the legal framework for the election, including the Constitution and the statutory provisions (election law, political party law, media law, criminal code, rules of procedure).

The legal framework should be drafted in an open and inclusive manner, in order to secure broad confidence among the competing political parties or movements, candidates and voters. Significant changes in the legislative framework, if ongoing from one election to another, can create an unstable and unpredictable environment in which political parties compete for election. The international community should not be inclined to observe an election in which the universal principles are not clearly reflected in the governing legislation and regulations.

In preparing for an election observation mission which will assess whether practice is in line with the legislative framework, the needs assessment mission must consider any previous election observation reports on the country concerned, including progress made on recommendations made or critical points raised. The needs assessment mission should also assess the context of the observation and make recommendations as to the size, composition, organisational structure and operating procedures of the election observation mission. Through its work the needs assessment mission should serve to establish an early dialogue with the national electoral authorities.

## 6. Overall coordination

An election observer mission will normally have a Head of Mission or a Coordinator, designated by the responsible IGO as its on-site representative tas-

ked to support and coordinate the activities of long- and short-term observers (LTOs and STO). The Coordinator will conduct an on-going assessment throughout the observation as to whether the conditions for effective observation are being respected by the host government. Likewise, the Coordinator will be responsible for ensuring that the Code of Conduct is understood by all observers. Most observer missions will require the Coordinator to be assisted by a deputy head of mission with main responsibility for contact with the long-term observers in particular, and an administration and deployment officer responsible for deployment plans and all other administrative matters.

The most important and sensitive task for the Coordinator is to assess the electoral process and formulate the preliminary statement to be issued after the election day/s. The statement must be objective, based on informed judgment, and worded in a manner that enhances its chances of triggering favourable post-election reactions on the part of the authorities.

The Coordinator will liaise regularly with the supervising IGO headquarter, reporting on and consulting on ongoing developments and possible concerns. The Coordinator will also maintain regular contact with embassies and other foreign state-representations in the country of observation to keep them oriented as to ongoing developments and possible concerns.

The principal counterpart within the host country is the electoral commission or the authority designated to administer the election (hereafter called the National Election Administration). The Coordinator will establish regular contact with the relevant election authorities and set-up a temporary office in the capital city. The Coordinator will also maintain regular contact at the national level with relevant ministries, political parties, non-governmental organizations (including domestic monitors and human rights groups), other relevant civic associations, the media and national minorities (if rele-

vant). The information collected should be documented with the permission of the source, and may later be incorporated into the final reporting.

The Coordinator will actively seek a dialogue with relevant national authorities on election related matters throughout the electoral process. Any concerns the election observer mission may have will be brought to the attention of the National Election Administration. The Coordinator should make every effort to ensure that the relevant authorities are familiar with and understand the reasons for possible concerns expressed prior to and/or after the elections.

The Coordinator should issue a short press statement upon arrival in the country offering a brief description of the election observation mandate and contact information. The Coordinator should always stress the impartiality of the observer mission, and the willingness of the mission to receive comments about the electoral process or other human rights issues relating to the electoral process.

The Coordinator should support and coordinate the activity of the observers by providing:

- A comprehensive briefing on the election regulations and procedures, as well as on critical election issues;
- Relevant checklists and forms to be used by long- and short-term observers;
- A deployment plan that ensures observations from a representative sample of the country on election day;
- A post-election debriefing that will serve as the basis for the post-election statement and the final report.

## 7. Pre-election phase observation targets

Election observation is not a one-day event. In line with the long-term approach, observers must take into account the various stages of the election cycle, from the registration of voters and the com-

mencement of the campaign, to the final voting, counting and verification procedures, the processing of complaints and the resolution of disputes. In order to fulfill a commitment to long-term election observation, a core group of LTOs should be deployed for a period of approximately two months prior to the election.

The role of the LTO is to acquire first hand knowledge about the effectiveness and impartiality of the pre-election administration; the perception of choices among voters; and the nature of the campaign prior to election day. Based on this insight the LTOs are responsible for assisting the short-term observers (STOs) in placing the observations in the election phase within an informed context.

LTOs should monitor any discrimination in law or in fact during each stage of the election cycle, including during voter education and voter registration. LTOs should also monitor discrimination against minorities or women, such as exclusion or marginalisation in voter education programmes and under-representation in election administration bodies.

The arrival of LTOs should be set to a specific date so they can attend a briefing by the Coordinator. The briefing should cover the following points:

- overview of the coordinating IGO and its work in the field of election monitoring;
- review codes of conduct and methodology of an observation as outlined in this chapter or in a handbook specific to the coordinating IGO;
- explain the method of the particular observation;
- assess the election law and regulations in light of needs assessment mission report if available;
- review security issues;
- explain how to respond to press enquiries.

After receiving their accreditation, LTOs will be deployed in teams of two to selected posts throughout the country. They will submit interim reports based on their findings which will then be used to brief

STOs and contribute to the final election report. LTOs should attend periodic meetings that the Coordinator may call in the course of the observation. Without intervening in the election process in any manner, LTOs will be responsible for maintaining contact in their respective regions with election and government authorities, political parties, non-governmental organizations (including domestic monitors and human rights groups), other relevant civic organisations, the media and national minorities (if relevant). The Coordinator and other staff at headquarters will do the same at the national level.

The observer mission should observe the following aspects of the pre-election cycle which will be elaborated on below. The first nine aspects deal mainly with the election administration and the last four relate to the election campaign:

- National election administration's composition and resources
- Voter information
- Voter identification and registration
- Registration of candidates and political parties
- Election boundaries
- Ballot design and security
- Special voting provisions
- Tabulation, aggregation and verification process
- Complaints and review process
- Political campaigning
- Campaign resources
- Media coverage
- Conduct of security forces

### *National election administration's composition and resources*

#### *Composition*

An independent electoral authority should be in place mandated to supervise the electoral process and to ensure that it is conducted in accordance with established laws which are compatible with international human rights law. A national election administration, such as a Central Election Commission (CEC) or an equivalent body, is usually assigned to admin-

ister an election. Occasionally the judiciary may oversee the election process. Whichever body is constituted or assigned to administer the election, its work should be independent, impartial, and transparent.

The administering body should be independent from politically motivated manipulation. Its independence could be enhanced if composed of respected, neutral and experienced individuals. It should be able to implement the election legislation and regulations without any undue interference, intimidation or impediment to its duty.

Alternatively, the administering body could be made up of a balance of political party representatives appointed by their respective parties. The balance of clearly identified party representatives is intended to serve as a check on the system, through multi-party representatives, with equal representation at all levels of the election administration. The party representatives should be appointed for a designated period, and should not be subject to removal by their party based on their decisions concerning the election administration.

It is preferable if the administering body is a permanent body, or at least with a standing executive committee. If it is not a permanent body, its independence can be further guaranteed if the members have a fixed tenure and the right of return to their previous employment.

If a judicial body is charged with administering the elections, its independence must be assured through transparent proceedings. Judicial appointees should be independent of the authority of those standing for office.

It is imperative for the administering body to be impartial. It must enforce the rights of freedom of expression, association, assembly, non-discrimination and due process of the law.

The transparency of the election administration can be greatly enhanced, contributing to public confidence in the system, when meetings of the National Election Administration are open mee-

tings, and when there are recorded minutes of each meeting.

Various ministries, other central public administration bodies, prefects or other government representatives at district level, local council mayors and town hall staff may be directed to support the National Election Administration by carrying out the administrative and logistic operations of preparing for and conducting the elections. They may have responsibility for preparing and distributing the electoral registers, the ballot papers, ballot boxes, polling booths, official stamps and all the other required material, as well as determining the arrangements for storage, distribution and security. Observers should be informed of the role of all relevant ministries and local authorities in organising the election process.

#### *Human resources*

Adequate human resources, and specialised skills, are required to implement an election. Observers should note what instructions have been issued to election officers, and if electoral officers have received sufficient training and are familiar with the tasks to be carried out on election day.

Long-term observers should assess whether election commission members receive standardised training at all levels of the election administration. Such training should also be available to members of commissions appointed by political parties. LTOs should observe training sessions for election officials whenever possible.

#### *Material resources*

The independence of the election administration body is further guaranteed by a transparent, sufficient and independent budget provided from government resources. The observers should establish whether the election administration has a realistic understanding of the material requirements for an efficient process:

- Will there be a sufficient number of suitable and adequate polling station facilities?

- Will sufficient polling station equipment be procured for a smooth process (number of ballot papers, secure and adequate ballot boxes, number of adequate polling booths)?
- Will the computer capacity (when applicable) be sufficient to service the election process?

#### ***Voter information***

States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Voter information is one necessary measure to ensure the effective exercise of the right to vote by an informed community. Observers should assess the extent and effectiveness of voter information (also referred to as voter education). Sufficient voter information needs to be distributed to ensure that participants in the electoral process are fully informed of their rights and responsibilities as voters. Such efforts will focus on the particular election and should inform voters of when, how, and where to vote. It is therefore essential that this information is provided in a timely manner, allowing voters sufficient time to make use of the information.

It is ultimately the responsibility of the government and the election authorities to ensure that the voters receive objective and impartial information. This information should be made available to all eligible voters, including traditionally disenfranchised segments of the population (e.g. minorities).

Voter information must be distinguished from civic education which is a longer term process of educating citizens in the fundamentals of democratic society and civic responsibility. This undertaking goes beyond the task of the government and the election administration in the context of a given election.

*Problems that can arise: Information about the election process may be received too late, information issued by the government could be biased e.g. "information bulletins" showing a ballot paper filled in favour of a contestant,*

*certain groups may not receive or understand information.*

#### ***Voter identification and registration***

All citizens of the country should have the right to vote and be registered as voters on equal terms, provided they have reached a qualifying age. A national voter register is a public document that establishes the nation-wide list of all eligible voters.

Registration procedures and facilities should be readily accessible to the electorate, and the registration procedures clearly stated. The voter list should therefore be made available for public inspection well in advance of the election to permit complaints about incorrect inclusion or exclusion.

There should be legal provisions governing the method of registration, registration timetable, qualification and disqualification in respect of nationality, age and abode, temporary absence, means of identification, registration form, format of the register, publication of a draft register, procedure for claims and appeals, publication of a final register, and availability and right to inspect registers.

Reasonable restrictions may include factors such as residence, citizenship, convicted persons in legal detention, and those considered mentally incapacitated by the courts. In relation to these factors, persons may be barred in some countries from exercising the right to vote without violating human rights obligations. However, in regards to citizenship and the principle of universality, those people who have lived in the country as de facto citizens for a reasonable number of years should be given a fair chance to register to vote.

The voter registration process is best assured by a permanent, well maintained and regularly updated national voter register. One comprehensive, computerised list can also assist the authorities in verifying the accuracy of the lists, thereby enhancing the integrity of the voter register. However, some countries may not

have the capacity to generate a computerised voter register. Methods of registration, therefore, may vary from country to country depending on local circumstances, but should always seek to minimize the potential obstacles for the voter to register.

Each method requires a prescribed procedure for identifying and registering all qualified persons. Registration campaigns are necessary to ensure all voters the possibility of effective participation. It may be necessary to conduct a house to house, person to person canvass with completion of registration forms at the household. Persons may be required to attend a registration center in their locality in order to have their names included in a register. A register may be generated from existing records such as census registration or other national registry details.

Large scale emigration and internal migration can cause significant population shifts between elections. The difficulty of identifying and registering large numbers of voters who have moved is a substantial technical undertaking. Voters have to be crossed off lists according to their previous residence and added to lists in their new place of residence.

Safeguards should exist to avoid multiple registration. If the voters receive special voter cards, there must be adequate security to avoid duplication or counterfeiting of the cards.

Any system where special certificates can be issued on election day to enable eligible voters whose names do not appear on the voter register certainly broadens the possibility of voters to cast their ballot. But this is also a system that can be open to abuse. On such occasions when certificates are used, observers should ask voters where they were issued and who issued them. To avoid multiple voting, voters can also have their identification certificates stamped, particularly if there is no voter register.

[Note. In some instances, a formal voter register may not exist, and voting may be allowed on the basis of a citizens' register. In such

cases, the citizens' register should be equally well maintained and accessible. In exceptional cases there may be no formal registration, with voters being required to establish their identity and eligibility at the polling station on polling day. In these cases, special arrangements should be considered, such as the use of indelible ink, to guard against multiple voting.]

### **Registration of candidates and political parties**

International human rights law explicitly proclaims the right of citizens to equal access to public office. They may seek office individually or as representatives of political parties or organizations, without discrimination. Any arbitrary or discriminatory application of the law for the purpose of damaging specific political forces, undermines respect for human rights.

The same general principles underlying the right to vote apply for the right to be a candidate. All political forces and movements should therefore be able to nominate candidates on equal terms, and not be limited for reasons of race, gender, language, religion, political or other opinion, ethnic or national origin, or economic status.

Reasonable restrictions for persons wishing to become candidates must not unjustly discriminate, and may include a residency requirement in the country for a certain period of time before the elections, or having reached a higher age than the minimum voting age. The registration requirements should be clear, predictable and non-discriminatory. A right of appeal must exist in the case of refusal of registration to a party or candidate.

*Problems that can arise: undue suspension of parties or candidates, and inconsistent application of the law with respect to the registration of candidates; provisions in the election law that have the effect of discriminating against groups; potentially discriminatory demands such as excessive deposits or an unreasonable number of names on registration petitions.*

### **Election boundaries**

Within the framework of each state's electoral system, the vote of one elector should be equal to the vote of another. To support the principle of equality, the drawing of electoral boundaries should not distort the distribution of voters or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely. Equality in representation means that each elected member represents a similar number of registered electors. For example, in a majority voting system, the size of the electorate should not vary by more than approximately 10% from constituency to constituency. Under the proportional representation system the size of the electorate may vary but the number of representatives for each district should be proportional to the size of the electorate.

The election law should provide detailed and uniform criteria for the drawing of electoral district lines, specifying considerations such as the number of voting population per district and natural and historical continuity of boundaries. The boundaries must be drawn in a transparent and unbiased manner, and ideally by a non-partisan commission of experts assigned for this purpose.

### **Ballot design and security**

National authorities should take positive measures to overcome specific difficulties such as illiteracy and language barriers which prevent persons entitled to vote from exercising their right effectively. The complexity or simplicity of the ballot directly affects the efficiency of the voting process. The ballots should be easy to fill out for the voter. Specific methods such as photographs and symbols should be adopted to ensure that illiterate voters have adequate information on which to base their choice.

In order to safeguard the ballot, each ballot should bear an official stamp specific to the polling station and/or the signature of an authorized person/s in the polling station.

The coordinator and LTOs should determine who printed the ballots and where and how they were stored and distributed to the different regions, and at what time this was done prior to the elections. Where envelopes are used to authenticate a vote, similar observation should be carried out to ensure their security etc.

*Problems that may arise: In multilingual societies, observers should note whether the election administration has made an effort to facilitate voting for those citizens who may not speak the language of the majority. In societies with problems of illiteracy observers should note if due consideration is reflected in ballot design.*

### **Special voting provisions**

In cases where voting is permitted by mobile ballot boxes and absentee voting, or in military barracks, prisons and hospitals, such special voting procedures should be closely observed.

*Mobile ballot boxes and absentee voting*  
Providing mobile ballot boxes and absentee voting broadens the participation of the electorate. However, these are provisions that can be open to abuse. Observers should closely observe and understand such provisions i.e. to which constituencies will absentee ballots be allocated to.

#### *Voting in military barracks, prisons and hospitals*

In such cases where voting is permitted in military barracks, prisons and hospitals, the process can be open to abuse potentially undermining the principles of secrecy and freedom of choice. Relevant questions for the observer include:

- Will sufficient campaign materials be provided to these voters in order for them to make an informed choice?
- Are special voter registration arrangements provided? Is absentee voting permitted? How are double registration and multiple voting prevented?
- Will there be adequate practical arrangements provided in these voting sites or will these segments of the electorate vote with the general public?

gements provided in these voting sites or will these segments of the electorate vote with the general public?

- Will there be adequate provisions for these voters to vote by secret ballot and free from intimidation?
- Is absentee voting permitted? In which constituencies will votes be counted?

### **Tabulation, aggregation and verification process**

It is paramount that the electors have confidence in the counting process in line with the principles of fairness and transparency. Before an election, the National Election Administration should explain the counting, reporting and transportation process for the electorate, parties and the media. They should describe the process openly, assuring the transparency of the system, and give preliminary results according to a specific schedule. Observers should assess this process, and ensure that it is conceived in a transparent manner.

The counting process should be transparent and easily verifiable. Candidates' proxies or agents, domestic and international observers and the media should have the right to observe the whole counting process including, where applicable, the tabulation of votes.

Candidate proxies or agents, domestic and international observers and the media should all have the right to receive copies of the official results of each polling station ("protocols") which should also be made available to the general public by posting in a public place.

The process of aggregating results should be open to inspection, from polling station level to regional authorities and/or to the National Election Administration, and documented in relevant laws. Transportation of the ballots should be transparent and secure. If authorities transmit the results by computer, then observers should have access to the process and be allowed to monitor it.

### **Complaints and review process**

The electoral process must be in accordance with law and in order to secure the rule of law there must be access to judicial review. The right to appeal to an independent, impartial national legal body must be ensured for all involved parties in the electoral process. A complaints procedure should be established as a review mechanism which can serve as the final arbiter of disputes.

Observers should pay particular attention to the selection and composition of the review authority, its terms of tenure and its institutional autonomy, as the integrity of the election process can only be upheld if the review mechanism is independent and impartial.

Complaints concerning the election process that are submitted by candidates or voters alike, must be dealt with equitably and according to due process of law. Procedures and deadlines should be clearly enumerated in the election code. There must also be accessible and adequate facilities for filing complaints with the judicial authorities nominated for this purpose by the electoral law.

Response should be in a timely manner, and all rulings should be recorded and made public. The complaints that are registered during the electoral process can serve as indicators of issues that should be further investigated by the LTOs.

*Problems that can arise: "shelving" of complaints until after the elections, failure of a representative of the National Election Administration to turn up at the court hearing, lack of transparency in the rules of procedure, or insufficient and misleading information given to potential applicants.*

### **The political campaign**

This and the next three observation targets relate to the election campaign. The free communication of information and ideas about public and political issues is essential to the freedom of choice. The right to political participation presupposes that

political campaigning is conducted in an environment that assures freedom of expression, assembly, and association.

Candidates must have the freedom to convey their programs to the voters without disruption of campaign meetings, and without geographic infringement imposed by government through "no-go areas". There must be a well defined process for ensuring the issuing of permits for conducting public rallies, political meetings and fund raising activities. There must be judicial recourse in the case of unreasonable delays in granting such requests.

The observers should note the availability of venues for rallies, access of all candidates and parties to places and audiences of their choice, distribution of campaign materials, and the effective freedom of assembly, association and expression for all competing political forces. Particular attention should be paid to the use of intimidation or violence to inhibit campaigning.

### **Campaign resources**

An effective campaign needs sufficient financing. Campaign costs can include salaries, transportation, office expenses, the purchase of print and electronic media, and the printing and distribution of campaign materials. While it is understood that elections do not always take place on a completely level playing field, reasonable limitations on campaign expenditure could be introduced to avoid disproportionate expenditure on behalf of any candidate or party. Expenditures in regard to campaigning may be regulated by the election law or separate legislation dealing with public financing if campaign funds are to be provided by the state.

It is the responsibility of the government not to abuse state resources, both human and material (i.e. vehicles, office space and telecommunications), in support of its own candidates.

Time is also an important resource for a meaningful election campaign. The duration of the campaign must provide

enough time for the contestants to convey their policies to the electorate. The right to freedom of expression, association and assembly, if not previously secured on a permanent basis, must be ensured in sufficient time to allow effective political organization and campaigning.

*Problems that can arise: Rules on campaign financing which obstruct efficient campaigning.*

### **Media coverage**

The international obligations presuppose freedom of expression including access for the media to information and freedom to independently report on matters of public interest. The very basis of democratic governance require that the electorate be able to make informed choices. This demands that all contesting points of view be fairly and equitably communicated on a non-discriminatory basis, particularly in the media financed from public funds. State sponsored broadcasters carry a special responsibility for providing balanced coverage of the election campaign.

In this respect, government regulation of the media is of crucial importance to a meaningful election campaign. While larger and better financed parties and candidates may be able to purchase media time or space, an equitable formula should be reached to permit all contestants reasonable access to public print and electronic media.

However, editorial coverage is also important to an election campaign, and whether or not editors cover the campaign from an independent perspective covering all issues and events should be noted. Additionally, while the incumbent will get media coverage concerning state affairs, campaign events should not be confused with issues of state. This should be taken into account when evaluating the media by its degree of independence in informing the electorate about the candidates and issues.

The media should be assured by the

government of: (1) the right to gather and report objective information without intimidation; and (2) no arbitrary or discriminatory obstruction or censorship of campaign messages.

While long-term observers should pay attention to the media, it may be necessary to cooperate with specialized agencies in order to have a precise and scientific analysis of the media.

*Problems that can arise: defamation of candidates by state-owned media; exclusion of particular parties or candidates from state owned media coverage or coverage only at times of low penetration; intimidation or harassment of media in the context of the elections; manipulation of paper and ink supplies; interference with distribution networks for printed media.*

### **Security forces**

Throughout the campaign and voting process, security forces have a duty both to prevent intimidation of voters and candidates by others, and not to propagate intimidation themselves. Intimidation can have an insidious effect on candidates and voters alike, particularly when perpetrated by security forces. While intimidation may be difficult to quantify, widespread trends in intimidation, particularly by security forces, become readily apparent.

## **8. Election phase observation targets**

Short-term observers (STOs) normally arrive shortly before election day, and are deployed to provide a broad presence throughout the country on election day. The main observation targets of the election phase are: the closing days of the campaign, the voting and the vote count which will be elaborated on below. In order to facilitate effective observation by STOs in the election phase there are three practical issues that must be addressed:

the briefing, checklist/s and deployment plan.

**Briefing:** It is particularly important that the observer is well informed about the electoral process. The observer needs to be informed on the procedural and legal aspects of the election, in addition to the political and social context within which the election is being organised. Prior to deployment the coordinator will organize a briefing which should cover the following issues:

- overview of the coordinating IGO and its work in the field of election monitoring;
- review codes of conduct and methodology of an observation as outlined in this chapter or in a handbook specific to the coordinating IGO;
- explain the method and specific issues of the particular observation;
- assess the pre-election period based on the long-term observation;
- assess the political / social climate prior to the election;
- assess the conditions for a free and independent functioning of the media;
- assess the election law and its practical implementation;
- explain the polling and counting procedures;
- explain the design and use of the checklists;
- present deployment plan and team assignment (only accredited observers should be present);
- review security issues;
- explain how to respond to press enquiries.

Information to be provided will include a translated copy of the national election law and relevant regulations if not obtained prior to arrival, general logistical information and emergency contact numbers, a map of the country delineating constituencies and checklists for polling and for the count.

**Checklists:** The main method of analysis for an election observer mission is both qualitative, based on data collected by mission headquarter and long-term observers, and quantitative where data collec-

ted by STOs play a primary role. For statistical analysis, observers will be asked to fill in standard forms to be adapted as required on a country-by-country basis (see model election day checklist in Annex 2). Completing the forms in polling stations provides a basis of analysis of election day and serves as an *aide memoire* for the observers.

Although a quantitative analysis may not always be possible given that the total number of polling stations visited may be too limited, checklists do ensure that all aspects of the election day process are followed and reported. A quantitative analysis may be possible whenever the basis of analysis is drawn from at least 500 polling station forms from a representative sample of the polling stations within the country.

**Deployment plan:** The Coordinator should offer a consensual deployment plan, developed in consultation with other international observer groups. There may also be consultation with domestic monitoring groups. The deployment plan is intended to avoid duplication of observer efforts, and to ensure that teams of observers cover a representative sample of the country on election day. The deployment plan should ensure a balanced sample, covering both urban, rural, and socially diverse areas. The deployment plan should also ensure that some observers are designated to visit regional and central election commissions. In instances where polling is conducted in military barracks, prisons or hospitals, the deployment plan should also ensure coverage of these special voting sites.

Observers should be deployed in teams of two persons. Depending on geography and on what they find at polling stations, a team of observers may visit between 10-20 polling stations during the day. Observers should be reminded that election observation is not a race to visit the greatest number of polling stations, and sometimes it can be equally beneficial to visit fewer polling stations for a longer period of time.

### ***Closing days of the campaign***

STOs are on occasions in the country in time to observe the closing days of the campaign.

Pre-election questions should include:

- Is the campaign dynamic and are all sectors of the electorate participating actively?
- Is there an atmosphere of open debate and free discussion among the electorate, or an atmosphere of reserve and fear?
- Is there much physical evidence of the campaign such as campaign posters and campaign literature?
- Do such campaign materials represent a wide or narrow array of competing candidates/parties?
- Have civic education efforts been made and how well do citizens appear to be prepared and motivated?
- Do members of all social sectors appear equally motivated?
- Does the media coverage of the campaign appear to be balanced or weighted in favor of certain parties/candidates?

Observers should be encouraged to observe campaign meetings and rallies on site and through media reporting. In reference to the code of conduct, observers may not speak at campaign events or make any public comments. Observers should not display any partisan symbols or banners. Observers must always carry their official accreditation.

### ***The voting***

The basic aim of observing the elections at the polling station level is to verify whether voting and counting is implemented in an orderly manner and in accordance with the electoral procedures. At the close of the polls, observers should be present to ascertain that the procedures for closing and counting are followed.

Customarily, observers arrive at a polling station prior to the official opening to observe the opening procedures. This will allow observers to examine ballot boxes

before they are sealed, and to see if polling is beginning on schedule. Observers should always introduce themselves to the official in charge on their arrival at a polling station.

Observers should be aware of any unusual tension that exists upon entering the polling station. It may be those first few minutes that are crucial for an immediate and impression of the situation in a polling station. On the other hand, it could take some time to assess the situation, and observers should plan on spending at least thirty minutes in each polling station visited.

When arriving at the polling station, the observer's accreditation should be shown to the Chairman of the Polling Station Commission and an effort should be made to ensure that the purpose of the mission is well understood by the officials.

Observers should refrain from giving advice. If asked to comment on relevant issues, a rule of thumb is always to counter with questions referring to the electoral law and rules and regulations. It is in this way possible to indirectly draw problems to the attention of local officials.

If there are concerns about serious irregularities in a particular polling station, observers may wish to spend more time there to see if problems are addressed, or consider returning later in the day. In such circumstances it may be useful to state an intention to return. In the event of serious irregularities, observers should bring them to the attention of a long-term observer or mission headquarter which will advise on further contact with a superior election commission.

Observers should recognize that some mistakes made by election officials may be because of inexperience rather than due to any deliberate intention to compromise the integrity of the process. However, observers should pay attention as to how irregularities are addressed, and particular attention to recurring patterns of irregularities. Such irregularities should be noted down in the checklists which, when aggregated from numerous polling

stations, may support or weaken the assumption of a recurring patterns.

In order to collect relevant information the observer should ask questions and observe what is taking place. The questions and observations suggested below, will be reflected as relevant in a country specific checklist. The necessary stringency of a checklist for quantitative analysis can be observed in the attached model polling day checklist (Annex 2).

#### *Polling station questions*

There are three groups of persons that observers should speak with at the polling station. These include the polling station officials, voters, and if present domestic observers (party affiliated, candidate affiliated, and non-partisan). All information should be considered as long as its credibility is assured. Observers should remember that some persons may try to manipulate information given to observers for their own purposes, and observers should use their judgment in ascertaining a balanced judgment of a situation. Observers should speak to a cross-section of people from each group wherever possible.

*Polling station officials:* Observers should confirm that all persons working as election officials or handling ballots are duly appointed members of the polling commission. Relevant enquiries to address to members of the polling commission may include:

- How were they selected and prepared for their election administration duties?
- Were any written instructions issued in addition to the election law and public regulations?
- How are the duties of the polling commission divided to provide for efficient and secure distribution of ballots and processing of voters?
- When were the ballots and other voting materials received and how were they secured prior to election day?
- How many ballots were initially received by the station?

- What is the number of total voters on the voter list, and how many voters have actually voted (this will give some idea of the turnout trends)?
- Is there a supplemental voter registry for sick and elderly voters voting at home by mobile ballot box, and if so, is there an unusually high number of names on the supplemental list?
- Have any voters been turned away because their name did not appear on the list or they did not have the appropriate ID, and how were these problems addressed?
- Did any disturbances, irregularities or complaints occur, and how have they been addressed?

*Voters:* Observers should talk to voters to judge their confidence in the process. For example, when perfect conditions for a secret ballot do not exist, an observer should consider whether the voter believes that his or her vote is secret. Were voters well informed about their choices and did they know the voting procedures?

*Domestic observers:* The presence of domestic observers in the polling stations is always considered an asset. Domestic observers include party affiliated observers, candidate representatives or non-partisan civic observers and should be permitted access to polling stations and all stages of the process.

It is important to note that an international observer mission will organise its activities fully independent of domestic observer groups. This is necessary to safeguard the impartiality of both as well as their separate roles in assessing the electoral process. International observers should note whether domestic observers are present at the polling stations, and whether they have been restricted or hindered in any way from carrying out their observation duties. Their comments may offer additional insights into the voting environment at the polling station and the performance of the Polling Station Commission.

Discussions with voters and domestic

observers should be in confidence and with discretion, beyond the sight of the election authorities if necessary.

#### *Polling station observations*

Observers should note the following observations and record them in the designated checklist as relevant:

- Is physical access to the polling station difficult?
- Are there indications of disorganization such as unusually long lines of people?
- Is there any sign of partisan campaign materials or campaign activity in the polling station?
- Is there any attempt to solicit people to vote?
- Are there police, security forces or government officials in the polling stations?
- Are there other persons in the polling station with no apparent official function?
- Do polling station officials seem well trained and free to talk about their duties?
- How are voters identified?
- Does the voter register appear to be accurate?
- How are voters processed e.g. by crossing names off the electoral register or the stamping of identity cards? Or, if no register exists, by the use of indelible ink?
- Are there any indications of multiple voting?
- Is there sufficient balloting materials?
- Do large numbers of voters require assistance with the process?
- Is any undue pressure being applied to voters?
- Is the secrecy of a person's vote guaranteed by the layout of the station?
- Are voters being allowed to enter the voting booth together?
- Are handicapped or severely ill people able to vote, and how is the secrecy of their vote maintained if they need assistance?
- Are ballot boxes located in full view of the Polling Station Commission and the observers?

- Is there any intimidation of voters as they leave the polling station?
- What is the overall impression of the voting process?

*Problems that can arise: restricting the right of eligible voters to cast a ballot, demanding unnecessary forms of identification, incorrectly telling voters they must vote in another location, telling potential voters that they have already cast a ballot, family voting, proxy voting (unless specified by law), multiple voting and ballot stuffing, unsecured voting booths, unsealed ballot boxes, campaign materials and political party propaganda in the polling station, presence of military or security forces (unless accounted for in the election law), failure to check the voter's identity, unregulated use of mobile ballot box, eligible voters who have not been registered, absence of necessary voting materials, excessive delays in administering the polling, intimidation.*

#### *Special voting facilities*

The military voting process should be followed by some observers, as the military can represent a segment of the electorate that is vulnerable to intimidation. For example, troops may be required to vote in front of their officers, and in some cases officers may even instruct their troops on how to vote.

In some countries, voting is permitted in hospitals and prisons. Where this is the case, some observers should be assigned to visit these polling sites as well. Hospital patients and prisoners also constitute a segment of the electorate that may be particularly vulnerable to intimidation.

#### *The count*

Accredited observers are entitled to observe the count. The count is a crucial stage in the election and must be observed to the end. This provides the opportunity to spot check whether ballots are counted accurately.

The first stage in the vote count is most transparent if organized in the polling stations. A counting system in which the ballots are not counted in the polling station but transported to a central counting location produces additional problems of transparency and verification. An observer team should accompany any transportation of ballot boxes.

To enhance the principle of transparency it is encouraged that results are published at the first level of counting, normally the polling station level. The results should be freely available for recording. The transparency of the process is also enhanced when all party and candidate representatives are given copies of the result sheets or "protocol". Non-partisan domestic observers should also be able to copy the results in the polling stations.

The tabulation of results should be verifiable and transparent at all levels of the election administration. This is applicable both in the polling station and as the results are aggregated at each level of the election administration.

The results from particular polling stations can constitute a sample of verified results that can be matched at district or regional level, and later with the overall published results. The results from polling stations can be checked one by one against the official tabulation. This is a process that should also be encouraged for domestic observers and party agents. Findings and results can be documented with the assistance of checklist forms and with copies of the protocols with results.

Checklists may include the following:

- Is the vote count conducted according to the prescribed procedure?
- Do election officials appear to understand the process?
- Is the vote count conducted in a transparent environment, and are adequate and impartial arrangements made for domestic observers?
- How does the number of registered voters recorded as having voted, compare with the number of ballots actually cast?

- Are ballots counted in an orderly and secure manner?
- Are unused ballots secured, cancelled, or destroyed after being counted?
- Are invalid ballots properly identified in a uniform manner?
- Are invalid ballots appropriately segregated and are they preserved for review?
- Does the number of invalid ballots seem inordinately high?
- Are officials making any marks or notations on certain ballots?
- How are disputes or complaints resolved during the count?
- Are the official counting records correctly completed at the end of the count and signed by all authorized persons?
- Is it possible for domestic observers and party observers to obtain copies of the official result sheet ("protocol") of the count?
- How long does it take the commission to complete the count and copy down the results in polling stations and other levels of the election administration that may be visited?
- Is the transport of protocols, ballots and voting materials at the completion of the count transparent and secure?
- Are the results transmitted to the appropriate authorities in a transparent and secure manner, and tabulated accurately?
- Are preliminary results announced according to a prearranged and publicly announced schedule?

#### *Aggregated levels of vote count*

The results of the polling station count are normally transmitted to a regional election commission, where the regional results are aggregated and transmitted to the national level. Observers should make sure that they have fully understood the manner for transporting and calculating the results and that the calculation is verifiable from the polling station to the national level. Observers should maintain a presence at each vote tabulation level, working a shift system or by deployment

of teams specifically assigned for this purpose.

Observation of the vote count at each level of the election administration is essential, from the polling station, to regional election commission, and finally to the National Election Administration. Observers should maintain a presence at each vote tabulation level, working a shift system or by deployment of teams specifically assigned for this purpose.

In some cases electoral authorities may use computers or e-mail to transmit results. In order to ensure transparency of the tabulation exercise, the monitors should have the right to monitor the process, and if possible to receive copies of a printout signed and stamped by the relevant authority as the information is sent. In special circumstances the observers should be given access to the computer software so that its correctness may be verified.

*Problems that can arise: disorderly counting procedures, ballot stuffing, ballot box switching, arbitrary invalidation of ballots cast, loss of ballot boxes, dishonest counting or reporting of the ballots, insecure storage of unused ballots, inconsistent regulation of invalid ballots, inadequate number of counting staff and supervisors.*

## **9. Immediate post-election phase activities**

### ***Debriefing***

A debriefing will be organized by the Coordinator of the election observer mission within 24-48 hours following the election day. The debriefing should provide an opportunity for all observers to hear the Coordinator's preliminary summary including the result of the statistical analysis, and for all observers to be able to complement this picture with their findings during observation of the election process. This process aims to ensure a common understanding of how the electi-

ons were administered in relation to the international standards and the legal framework of the country concerned. The debriefing is closed to the press and to the general public.

The input of observers should concentrate on a factual summary of recurrent trends and/or particularly concerning single events noted during election day observation which may be inadequately reflected in the preliminary summary. Conclusions are drawn from the collective findings of observers, and impressions based on a limited observation experience should be avoided.

The debriefing of the observers can be organised by teams or in the regions by the LTOs or in a central location with the attendance of all observers. For those observers who logistically may not be able to return in time for the debriefing, arrangements should be made to receive reports by fax or telephone.

### ***Preliminary statement***

A post-election statement should be issued by the coordinator within 24-48 hours after the election. A press conference should be organised in-country to present the preliminary statement, normally delivered by the Coordinator. The preliminary statements may need final approval from the headquarters of the coordinating Inter-Governmental Organisation before it is released.

The statement should be concise (normally 2-4 pages) and reflect the most significant findings and concerns of the pre-election period as reported by long-term observers, as well as the election day findings of all observers. The statement should be factual, to the point, and provide an initial assessment of whether the principles of international human rights obligations were upheld and how well the election law and regulations were implemented.

It is important that the findings of the observation be reflected in a joint statement, rather than individual observers giving their personal comments.

Observers must refrain from making any statement or individual comments on their observations. There are serious risks in the publication of partial or incomplete conclusions.

The preliminary statement will normally be followed by a final report. Additional post-election findings can significantly change the overall observation findings and must then be reflected in the final report. If a second statement or final report should not be possible, the preliminary statement must reserve itself in terms of possible post-election developments.

Recommendations should be stated if relevant. They will normally be presented and elaborated on in the final report except in cases where there is a second round of voting; issuing recommendations in the preliminary statement may then improve the quality of the second round.

The Coordinator is responsible for maintaining contact with the relevant authorities throughout the election process (see section 6). The Coordinator should make special effort to contact relevant national authorities with regard to both the preliminary statement and the final report in case they would like a separate meeting to clarify or elaborate on the content of any of these documents.

## 10. Post-election phase observation - targets and activities

### *Final verification*

The majority of STOs will not remain in the country until the final verification of the results and their public announcement. LTOs should remain in place, along with the Coordinator, until the announcement of the final result.

Official publication of complete results by polling station in a set period of time after election day enables a detailed verification process and can enhance public confidence in the outcome of the election. Any undue delay or discrepancies concern-

ing the aggregation, verification and the announcement of the final result should be noted.

*Problems that can arise: unbalanced supervision of the aggregation, verification and final result tabulation; denial of access to this process; denial of access to authorized persons; failure to publish the results at district and precinct level; discrepancies between the election day records of the number of ballots cast and the final results.*

### *Complaints and review process*

Observers should follow all judicial and other processes regarding complaints filed about the election process and any possible reviews specifically called for.

The right to appeal to an independent, impartial national legal body must be ensured for all parties involved in the electoral process. A transparent complaints procedure should be established as a review mechanism which should serve as the final arbiter of disputes.

Complaints concerning the election process that are submitted by candidates or voters alike, must be dealt with equitably and according to due process of law. Voters and candidates should have access to the appropriate documentation that they may need in order to present their case. There must also be accessible and adequate facilities for filing complaints with the judicial authorities nominated for this purpose by the electoral law.

Any response to such complaints should be provided in a timely manner, and all rulings should be recorded and made public.

### *Final report*

The Final Report should reflect the cumulative findings of both LTOs and STOs. The report will be based on the findings of the long-term observers, the data collected on the checklist and the observations reported during the debriefing.

The aim of the report is to arrive at a

conclusion on the election process according to two standards: 1) the principles derived from human rights obligations and other internationally accepted standards 2) the national legal framework governing the election process and its implementation.

The conclusion must be based on verifiable data and be presented in a concise yet comprehensive manner, and include recommendations for improvements in the election process.

While the observation mission's cumulative findings will be reflected in this report, the report will ultimately be the responsibility of and written by the Coordinator. The Report will normally need to be reviewed, edited and approved by the IGO Headquarter before it is published. The Report should be distributed to relevant organisations and national authorities concerned with the elections, and to the observers.

National delegations will often be required to submit separate reports upon completing an assignment. Such reports should always be loyal to the aggregated assessment of the election.

The Final Report should include:

1. Introduction
  - a) which countries and organizations sent observers
  - b) the methodology of the observer mission
2. Legislative framework (incl. electoral boundaries)
3. National electoral administration
4. Voter information
5. Voter registration
6. Candidate and party registration
7. Election campaign (incl. campaign resources)
8. Media coverage
9. The voting (incl. ballot design and special voting procedures)
10. The count
11. Aggregation and verification of the results
12. Complaints and review process
13. Conclusion
14. Recommendations

## 11. The overall assessment

Assessing the election process requires reference to both international human rights obligations and national domestic laws and regulations governing the election process in the specific country.

An election may not meet the ideal standard as set out in international commitments. An election process can always be subject to imperfections and irregularities. While isolated infractions are serious and should be noted, a pattern of recurring and systematic irregularities may indicate a serious threat to the integrity of the election process. Observers should also be aware that there are instances where the letter of the law is not breached, but the spirit of the law is clearly violated.

When assessing an election process, a relative determination must be made as to whether any irregularities materially affected the integrity of the election process. Poor organization does not necessarily indicate manipulation.

The principle of freedom can only be fulfilled if the citizens of a country are informed about the election process, free to cast their ballot without intimidation, and thus have the freedom to choose effectively their leaders. Ultimately, any election process is a celebration of human rights. It is hoped that election observation, as detailed in this chapter, is an effective tool in supporting those fundamental human rights as enshrined in international human right instruments.

### *Notes*

<sup>1</sup> Sections 3-11 of this chapter are merely slightly modified and edited versions of corresponding sections in the OSCE ODIHR Election Observation Handbook (Warsaw 1999). The OSCE ODIHR Handbook in its first edition (1996) took as its point of departure the Manual for Election Observation (Oslo 1994) developed by the Norwegian Institute of Human Rights and the Norwegian Helsinki Committee.

## ANNEX 1: General Comment No. 25

*Adopted by the UN Human Rights Committee on 12 July 1996, under article 40, paragraph 4, of the International Covenant on Civil and Political Rights.*

1. Article 25 of the Covenant recognizes and protects the rights of every citizen to take part in the conduct of public affairs, the right to vote and to be elected and the right to have access to public service. Whatever form of constitution or government is in force, the Covenant requires States to adopt such legislative and other measures as may be necessary to ensure that citizens have an effective opportunity to enjoy the rights it protects. Article 25 lies at the core of democratic government based on the consent of the people and in conformity with the principles of the Covenant.

2. The rights under article 25 are related to, but distinct from, the right of peoples to self determination. By virtue of the rights covered by article 1 (1), peoples have the right to freely determine their political status and to enjoy the right to choose the form of their constitution or government. Article 25 deals with the right of individuals to participate in those processes which constitute the conduct of public affairs. Those rights, as individual rights, can give rise to claims under the first Optional Protocol.

3. In contrast with other rights and freedoms recognized by the Covenant (which are ensured to all individuals within the territory and subject to the jurisdiction of the State) article 25 protects the rights of "every citizen". State reports should outline the legal provisions which define citizenship in the context of the rights protected by article 25. No distinctions are permitted between citizens in the enjoyment of these rights on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Distinctions between those who are entitled to citizenship by birth and those who acquire it by naturalization may raise questions of compatibility with article 25. State reports should indicate whether any groups, such as permanent residents, enjoy these rights on a limited basis, for example, by having the right to vote in local elections or to hold particular public service positions.

4. Any conditions which apply to the exercise of the rights protected by article 25 should be based on objective and reasonable criteria. For example, it may be reasonable to require a higher age for election or appointment to particular offices than for exercising the right to vote, which should be available to every adult citizen. The exercise of these rights by citizens may not be suspended or excluded except on grounds which are established by law and which are objective and reasonable. For example, established mental incapacity may be a ground for denying a person the right to vote or to hold office.

5. The conduct of public affairs, referred to in paragraph (a), is a broad concept which relates to the exercise of political power, in particular the exercise of legislative, executive and administrative powers. It covers all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels. The allocation of powers and the means by which individual citizens exercise the right to participate in the conduct of public affairs protected by article 25 should be established by the constitution and other laws.

6. Citizens participate directly in the conduct of public affairs when they exercise power as members of legislative bodies or by holding executive office. This right of direct participation is supported by paragraph (b). Citizens also participate directly in the conduct of public affairs when they choose or change their constitution or decide public issues through a referen-

dum or other electoral process conducted in accordance with paragraph (b). Citizens may participate directly by taking part in popular assemblies which have the power to make decisions about local issues or about the affairs of a particular community and in bodies established to represent citizens in consultation with government. Where a mode of direct participation by citizens is established, no distinction should be made between citizens as regards their participation on the grounds mentioned in article 2, paragraph 1, and no unreasonable restrictions should be imposed.

7. Where citizens participate in the conduct of public affairs through freely chosen representatives, it is implicit in article 25 that those representatives do in fact exercise governmental power and that they are accountable through the electoral process for their exercise of that power. It is also implicit that the representatives exercise only those powers which are allocated to them in accordance with constitutional provisions. Participation through freely chosen representatives is exercised through voting processes which must be established by laws which are in accordance with paragraph (b).

8. Citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. This participation is supported by ensuring freedom of expression, assembly and association.

9. Paragraph (b) of article 25 sets out specific provisions dealing with the right of citizens to take part in the conduct of public affairs as voters or as candidates for election. Genuine periodic elections in accordance with paragraph (b) are essential to ensure the accountability of representatives for the exercise of the legislative or executive powers vested in them. Such elections must be held at

intervals which are not unduly long and which ensure that the authority of government continues to be based on the free expression of the will of electors. The rights and obligations provided for in paragraph (b) should be guaranteed by law.

10. The right to vote at elections and referenda must be established by law and may be subject only to reasonable restrictions, such as setting a minimum age limit for the right to vote. It is unreasonable to restrict the right to vote on the ground of physical disability or to impose literacy, educational or property requirements. Party membership should not be a condition of eligibility to vote, nor a ground of disqualification.

11. States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed. If residence requirements apply to registration, they must be reasonable, and should not be imposed in such a way as to exclude the homeless from the right to vote. Any abusive interference with registration or voting as well as intimidation or coercion of voters should be prohibited by penal laws and those laws should be strictly enforced. Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community.

12. Freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected. Positive measures should be taken to overcome specific difficulties, such as illiteracy, language barriers, poverty or impediments to freedom of movements which prevent persons entitled to vote from exercising their rights effectively. Information and materials about voting should be available in minority languages. Specific methods, such as photographs and symbols, should

be adopted to ensure that illiterate voters have adequate information on which to base their choice. States parties should indicate in their reports the manner in which the difficulties highlighted in this paragraph are dealt with.

13. State reports should describe the rules governing the right to vote, and the application of those rules in the period covered by the report. State reports should also describe factors which impede citizens from exercising the right to vote and the positive measures which have been adopted to overcome these factors.

14. In their reports, States parties should indicate and explain the legislative provisions which would deprive citizens of their right to vote. The grounds for such deprivation should be objective and reasonable. If conviction for an offence is a basis for suspending the right to vote, the period of such suspension should be proportionate to the offence and the sentence. Persons who are deprived of liberty but who have not been convicted should not be excluded from exercising the right to vote.

15. The effective implementation of the right and the opportunity to stand for elective office ensures that persons entitled to vote have a free choice of candidates. Any restrictions on the right to stand for election, such as minimum age, must be justifiable on objective and reasonable criteria. Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation. No person should suffer discrimination or disadvantage of any kind because of that person's candidacy. States parties should indicate and explain the legislative provisions which exclude any group or category of persons from elective office.

16. Condition relating to nomination dates, fees or deposits should be reason-

able and not discriminatory. If there are reasonable grounds for regarding certain elective offices as incompatible with tenure of specific positions, (e.g., the judiciary, high-ranking military office, public service), measures to avoid any conflicts of interest should not unduly limit the rights protected by paragraph (b). The grounds for the removal of elected office holders should be established by laws based on objective and reasonable criteria and incorporating fair procedures.

17. The right of persons to stand for election should not be limited unreasonably by requiring candidates to be members of parties or of specific parties. If a candidate is required to have a minimum number of supporters for nomination this requirement should be reasonable and not act as a barrier to candidacy. Without prejudice to paragraph (1) of article 5 of the Covenant, political opinion may not be used as a ground to deprive any person of the right to stand for election.

18. State reports should describe the legal provisions which establish the conditions for holding elective public office, and any limitations and qualifications which apply to particular offices. Reports should describe conditions for nomination, e.g. age limits, and any other qualifications or restrictions. State reports should indicate whether there are restrictions which preclude persons in public-service positions (including positions in the police or armed services) from being elected to particular public offices. The legal grounds and procedures for the removal of elected office holders should be described.

19. In conformity with paragraph (b), elections must be conducted fairly and freely on a periodic basis within a framework of laws guaranteeing the effective exercise of voting rights. Persons entitled to vote must be free to vote for any candidate for election and for or against any proposal submitted to referendum or plebiscite, and free to support or to oppose government, without undue influence or

coercion of any kind which may distort or inhibit the free expression of the elector's will. Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind. Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party. The results of genuine elections should be respected and implemented.

20. An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant. States should take measures to guarantee the requirement of the secrecy of the vote during elections including absentee voting, where such a system exists. This implies that voters should be protected from any form of coercion or compulsion to disclose how they intend to vote or how they voted, and from any unlawful or arbitrary interference with the voting process. Waiver of these rights is incompatible with article 25 of the Covenant. The security of ballot boxes must be guaranteed and votes should be counted in the presence of the candidates or their agents. There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes. Assistance provided to the disabled, blind or illiterate should be independent. Electors should be fully informed of these guarantees.

21. Although the Covenant does not impose any particular electoral system, any system operating in a State party must be compatible with the rights protected by article 25 and must guarantee and give

effect to the free expression of the will of the electors. The principle of one person, one vote must apply, and within the framework of each State's electoral system, the vote of one elector should be equal to the vote of another. The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely.

22. State reports should indicate what measures they have adopted to guarantee genuine, free and periodic elections and how their electoral system or systems guarantee and give effect to the free expression of the will of the electors. Reports should describe the electoral system and explain how the different political views in the community are represented in elected bodies. Reports should also describe the laws and procedures which ensure that the right to vote can in fact be freely exercised by all citizens and indicate how the secrecy, security and validity of the voting process are guaranteed by law. The practical implementation of these guarantees in the period covered by the report should be explained.

23. Subparagraph (c) of article 25 deals with the right and the opportunity of citizens to have access on general terms of equality to public service positions. To ensure access on general terms of equality, the criteria and processes for appointment, promotion, suspension and dismissal must be objective and reasonable. Affirmative measures may be taken in appropriate cases to ensure that there is equal access to public service for all citizens. Basing access to public service on equal opportunity and general principles of merit, and providing secure tenure, ensure that persons holding public service positions are free from political interference or pressures. It is of particular importance to ensure that persons do not suffer discrimination in the exercise of their rights under article 25, subparagraph

(c), on any of the grounds set out in article 2, paragraph 1.

24. States reports should describe the conditions for access to public service positions, any restrictions which apply and the processes for appointment, promotion, suspension and dismissal on removal from office as well as the judicial or other review mechanisms which apply to these processes. Reports should also indicate how the requirement for equal access is met, and whether affirmative measures have been introduced and, if so, to what extent.

25. In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion. It requires the full enjoyment and respect for the rights guaranteed in articles 19, 21 and 22 of the Covenant, including freedom to engage in political activity individually or through political parties and other organizations, freedom to debate public affairs, to hold peaceful demonstrations and meetings, to criticize and oppose, to publish political material, to campaign for election and to advertise political ideas.

26. The right to freedom of association, including the right to form and join organizations and associations concerned with political and public affairs, is an essential adjunct to the rights protected by article 25. Political parties and membership in parties play a significant role in the conduct of public affairs and the election process. States should ensure that, in their internal management, political parties respect the applicable provisions of article 25 in order to enable citizens to exercise their rights thereunder.

27. Having regard to the provisions of article 5, paragraph 1, of the Covenant, any rights recognized and protected by article 25 may not be interpreted as implying a right to act or as validating any act aimed at the destruction or limitation of the rights and freedoms protected by the Covenant to a greater extent than what is provided for in the present Covenant.

**ANNEX 2:**

**Model Election day Checklist**

OSCE / ODIHR Election Observation Mission		
Polling Station Report		
<b>Observer team</b> Names/initials	Team number/Accreditation numbers	
<b>Polling Station</b> Electoral District	Polling station name/number	Type of station
<b>Time of visit</b>		
Arrival of team	Departure of team	
Number of voters registered at the station	at (time)	
Number of voters voted		
<b>Before entering the polling station</b> <i>Please assess the general atmosphere. Listening to voters and other bystanders will be helpful. Please specify details on back of form.</i>		
Was the polling station difficult to find ?	Y/N	
Was the physical access to the station difficult?	Y/N	
Did you observe any of the following:		
Intimidation of voters?	Y/N	
General agitation and disturbance?	Y/N	
Campaign posters and materials?	Y/N	
Campaigning activity?	Y/N	
<b>Inside the polling station: People present, polling environment</b> <i>Please specify details on back of form</i>		
Members of the Election Commission	How many? Which parties?	
Representatives of parties/candidates	Y/N/DK Which?	
Domestic observers	Y/N/DK	
Media representatives	Y/N/DK	
Security forces	Y/N/DK	
Unauthorised people	Y/N/DK	
Was the polling station overcrowded?	Y/N	
Was there campaigning inside the station?	Y/N	
Was there campaign material inside the station ?	Y/N	
Was the information displayed for voters correct and complete?	Y/N	

**Inside the polling station: Voting procedures**  
*Please assess each step in the voting procedure in turn.  
 Please specify details on back of form*

Problems with identification?	Y/N
Problems with registration?	Y/N
Ballot papers/documentation not signed/signed/initialled/stamped?	Y/N
Insufficient or wrong ballot materials?	Y/N
Booths not secret?	Y/N
Voting outside booths?	Y/N
Was more than one person in a booth at once?	Y/N
Problems with assistance to blind/illiterate voters?	Y/N
Ballot box not sealed properly?	Y/N
Ballot box not visible by Commission?	Y/N
Other problems?	Y/N
Approximate time taken to process one voter	
<i>Any questions about mobile ballot boxes?</i>	

**Family Voting observed** Y/N  
 Please specify details on back of form

**Disruptions of polling**  
*Please specify details on back of form*

Had voting been suspended at any time?	Y/N/DK	Details?
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**Irregularities reported to you**  
*Please enter here details of any irregularities in polling or campaigning reported to you, and of who reported these irregularities. Ask party representatives, voters themselves, domestic observers, and members of the election commission. Please note also whether you have been able to verify any of these reports.*

**Important**  
 Please take time in the car to discuss your impressions of the polling station and fully complete this form. In particular, please enter the details of anything you saw or heard that appeared irregular or otherwise noteworthy.

**Details and comments**

**Overall impression**

In general, the conduct of the poll at this station was

Very bad      Bad      Good      Very good

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