



Training Manual on Human Rights Monitoring
Chapter XIV: Election Observation

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A. Introduction (1)

1. There are at least four ways the UN has been involved in elections. First, the UN has organized and conducted elections in such countries as Namibia. In this situation, the UN organizes virtually every aspect of the electoral process. Second, the UN has supervised elections by selecting a Special Representative of the Secretary-General to certify the validity of certain crucial aspects of the electoral process. Third, the electoral process is organized and administered by a national organ and the UN is asked to observe the election and verify whether the election process is free and fair.

2. For the above-mentioned categories of UN involvement, all of the following five elements must be present:

- (1) A formal request has been received from the State concerned;
- (2) Broad public support exists for UN involvement;
- (3) Sufficient advance time remains for comprehensive UN involvement;
- (4) There exists a clear international dimension to the situation;
- (5) A favourable decision has been rendered by an authoritative body of the UN (*i.e.*, the General Assembly or the Security Council).

3. Before becoming involved with an election, the UN Headquarters (or the UN human rights field operation) will have carefully considered:

- (1) Does a situation of gross violations of human rights exist?
- (2) Is the scope of assistance requested appropriate?
- (3) Will UN involvement encourage unwarranted confidence in a flawed or disingenuous process?
- (4) Will UN advice be implemented by the Government and major political actors?

4. A fourth type of UN involvement is improving the national capacity in regard to the material, infrastructural, legal, and human rights aspects of elections. Requests for technical assistance can be granted quickly, without the need for consideration by a political decision-making body of the UN.

5. Strategic choices must be made about which form the UN involvement should take. Obviously, the role of the UN field operation changes with the nature of its mandate. Frequently, the UN and other election observers are asked to play several roles during an election, including, for example, both assistance in preparing for the election and then observing it. Having assisted with the preparation of election process, it is difficult for the same individuals to be entirely impartial when observing the results of their own efforts. In general, however, the field operation and its officers should -- particularly in regard to election observation -- be and be seen to be neutral as to the result of the voting.

6. No matter what the UN election observer's specific role is, his/her presence can assist in ensuring the integrity of the election process. HROs who serve as election observers are in a position to report on a country's respect for political rights. In addition, HROs can assess the degree to which the Government respects the rights to freedom of expression, freedom of association, hold opinions without interference, peaceful assembly, etc. Further, officers may take advantage of the relative

openness of an election period to make inquiries into specific reports of human rights violations.

7. This Chapter of the Manual focuses primarily on the third type of UN involvement - - election observation and verification, in which a human rights field operation is more likely to participate than in the other kinds of UN involvement. While running an election, as in the case of Namibia, demands tremendous resources and great expertise, election observation and verification also requires both resources and considerable expertise. In addition, observing an election may place the human rights field operation in a very sensitive position, which may interfere with its other monitoring functions and might risk its maintenance of the requisite neutrality. Hence, the decision to assist in election monitoring must be the subject of careful reflection. Nonetheless, several human rights field operations have been given a mandate to pursue election observation and verification.

This Chapter includes an overview of international human rights standards related to free and fair elections and an analysis of the issues and techniques related to election observation. The Chapter is mainly based on the publication *"Human Rights and Elections - A Handbook on the Legal, Technical and Human Rights Aspects of Elections"* of the (then) United Nations Centre for Human Rights⁽²⁾. **Appendix I** reproduces ***OHCHR Guidelines for Electoral Assistance, Monitoring and Observation - A Human Rights Checklist for Examination of Electoral Arrangements***.

B. International standards for free and fair elections

1. Participation in Government and non-discrimination

8. The **right of everyone to participate in the Government of his or her country** is a fundamental human right.⁻⁽³⁾ Elections play an important role in ensuring adherence to the right of political participation. Article 21(3) of the Universal Declaration of Human Rights states, "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."

9. In addition, the Covenant on Civil and Political Rights guarantees in Article 25(b) that every citizen shall have the **right** and opportunity, "[t]o **vote and to be elected** at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors. . . ."

10. Regional organizations have also affirmed the right to participate in free and fair elections. Pursuant to Article 3 of Protocol I of the European Convention on Human Rights, States Parties undertake to hold free elections at reasonable intervals by secret ballot. The final document issued by the Conference on Security and Co-operation in Europe Meeting on the Human Dimension in Copenhagen states that free elections held at reasonable intervals by secret ballot are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings. Further, in 1994 the Council of the Inter-Parliamentary Union in Europe unanimously adopted the Declaration on Criteria for Free and Fair Elections.

11. Article 20 of the American Declaration of the Rights and Duties of Man and Article 23(b) of the American Convention on Human Rights guarantee the right of citizens to vote and be elected in genuine periodic elections. In addition, Article 13(1) of the African (Banjul) Charter on Human and Peoples' Rights provides that every citizen shall have the right to participate freely in Government.

12. Further, the **right to participate in free and fair elections** is to be applied universally and **without discrimination.** Article 1 of the Convention on the Political Rights of Women and Article 7(a) of the Convention on the Elimination of All Forms of Discrimination against Women state that **women are entitled to vote in all elections on equal terms with men.** Pursuant to Article 5 (c) of the Convention on the Elimination of All Forms of Racial Discrimination, "States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of . . . [p]olitical rights, in particular the rights to participate in elections -- **to vote and to stand for election** -- on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service" See also, Universal Declaration of Human Rights, Article 2; and Covenant on Civil and Political Rights, Article 2.

2. Pre-requisite rights⁻⁽⁴⁾

13. International human rights instruments also protect a number of basic rights, the enjoyment of which is crucial to a meaningful electoral process. The **right to participate in free and fair elections implicates** these rights, including:

- **the right to freedom of expression** - The electoral process is a mechanism whose very purpose is the expression of the political will of the people. The right to express partisan ideas must, therefore, be firmly guarded during electoral periods⁽⁵⁾.
- **the right to freedom of opinion** - The unconditional freedom to hold a political opinion is imperative in the context of elections, since the authentic assertion of popular will is impossible in an environment where such freedom is absent or restricted in any way⁽⁶⁾.
- **the right to peaceful assembly** - The right of assembly must be respected, since public demonstrations and political rallies are an integral part of the election process and provide an effective mechanism for the public dissemination of political information⁽⁷⁾.
- **the right to freedom of association** - This right clearly include the right to form and participate in political organizations. Respect for this right is vital during the electoral process, as the ability to form and join political parties is one of the most important means by which people can participate in the democratic process⁽⁸⁾.

See **Chapter IV- Overview of international human rights and humanitarian law standards** for more details on international standards related to these rights. Other rights relevant to the electoral process include the rights to freedom of movement, to organize trade unions, to participate in one's Government, to be free from discrimination on political grounds, and -- in particularly difficult circumstances -- the right to be free from arbitrary killing.

C. Objectives of election observation

14. Election monitoring can serve at least seven important purposes:

- The first, and indeed, primary purpose is **ensure** to that an **independent, impartial, and objective evaluation** of the electoral process is conducted. Second, monitoring can be done to **encourage acceptance of election results**.
- Third, election observation can be done to **encourage participation and build voter confidence** in the electoral process.
- The fourth objective is **ensuring the integrity of the electoral process**, including deterrence and detection of violence, intimidation, and fraud.
- Fifth, there is a need to **monitor the protection of all human rights** during the election period.
- Sixth, election monitoring **facilitates dispute resolution** -- particularly as to issues related to the election process.
- Seventh, election monitoring can **provide indirect support for civic education** and the building of a civil society.

D. Selecting HROs to serve as election observers

15. An election observer delegation should consist of a minimum of two members. Ideally, however, there will be far more than two HROs. It is important to allow for a **sufficient number of observers to ensure their presence at an adequate number of polling places and election events**. When determining the size of the observation delegation, factors such as the size of the country, population, and number of polling stations should be considered.

16. Several factors should be considered when selecting observers. The fewer the number of observers the more important it is for the individuals to have a **reputation for independence, impartiality, and objectivity** beyond the normal qualifications for HROs. Language skills are also important. Another factor is experience in electoral administration or politics.

17. Election observers should understand the mandate and methods of the field operation. In addition, they should be already knowledgeable or briefed as to the history, current politics, local culture, and electoral process of the country holding the election.

E. Length of observation

18. The meaningful involvement of HROs as observers requires their **presence from the beginning of the electoral process**. If the HROs serving as observers are not regularly located in the country, it is preferable to visit the site of the election at least twice -- once to review the preparations for the election and the political campaign and a second time to observe the election and vote count. At a minimum, HROs observing an election should plan at least a seven-day visit. Election observers should use this time to meet the major actors in the political process, travel outside of the capital city, assess preparations for the election including registration proceedings, observe election day activity, and monitor the vote count.

F. Informing the authorities about the observation

19. If HROs are to serve as election observers, their presence should be expressly permitted by the field operation's mandate, electoral laws, procedures, and/or officials. Because of the visibility of the election process, the role of the observer should be clearly described in public information materials.

20. At the beginning of the election observation process, the HROs should announce their presence at the site of the election. They should explain the specific goals of the observation. They should also stress the independence and impartiality of the HROs in their role as election observers, and the human rights field operation's willingness to receive comments.

G. Contacts and interviews

21. HROs serving as election observers should try to meet with a number of the participants in the political process. It is important to **arrange meetings (both prior and subsequent to the election) with Government officials, party leaders, and candidates**. HROs serving as election observers should also try to meet with members of the Government body administering the election, and representatives of organizations such as labour unions, professional organizations, human rights groups, etc. When meeting with members of organizations, the HROs should inquire as to specific complaints about the electoral process.

1. Key human rights issues

22. In general, HROs who serve as **election observers need to know** whether⁽⁹⁾:

- (1) **freedom of movement, assembly, association, and expression** have been respected throughout the election period;
- (2) all parties have conducted their **political activities within the law**;
- (3) any political party or special interest group has been subjected to **arbitrary and unnecessary restrictions in regard to access to the media** or generally in regard to their freedom to communicate their views;
- (4) parties, candidates, and supporters have enjoyed **equal security**;
- (5) voters have been able to **cast their ballots freely**, without fear or intimidation;
- (6) the **secrecy of the ballot** has been maintained;
- (7) the overall conduct of the ballot has been such as to **avoid fraud and illegality**.

2. Interested groups

23. HROs should attempt to **determine the position and impressions of interested groups** by asking the following questions:

- (1) What are the **concerns of each of the contending political parties**?
- (2) What are the **concerns of the local nongovernmental human rights organizations**?
- (3) What are the **concerns of interested international human rights organizations**?
- (4) What are the **concerns of the legal community**?
- (5) Have all **major national players agreed publicly to abide by the outcome** of the elections?
- (6) What are the **concerns of the diplomatic community**?

3. National infrastructure

24. The HROs serving as election observers should also **examine the country's existing infrastructure** and ask:

- (1) Is the national administrative structure **experienced in the organization of free and fair elections**?

- (2) Are the political **parties experienced in contesting multi-party elections**?
- (3) Are the political parties **able to contest the forthcoming election**?
- (4) Is the **judiciary sufficiently independent and well-functioning** to allow it to adjudicate electoral matters?

25. Further, HROs serving as election observers are making the following **determinations about the country's laws and procedures**:

- (1) Do the **laws and procedures respect international standards**?
- (2) Do they **reflect the particular needs, aspirations, and historical realities** of the people involved?
- (3) Do they **give voice to the political will** and rights to self-determination of the people?

H. Travel

26. It is particularly important for HROs serving as **election observers to be afforded free movement and access**. Under the basic mandate of the field operation, they should also be protected from harm or interference with their official duties.

27. As campaign abuses and election fraud may occur throughout the country, officers should travel as widely as possible in order to obtain an accurate assessment of the electoral process. During their travels, HROs should not use Government or military escorts. Traveling with Government security forces, Government officials, or party representatives may have an intimidating effect on the individuals to be interviewed.

I. Monitoring elections (10)

28. In observing an election process, a human rights field operation might divide its efforts into four periods: pre-election preparations and campaign period, voting, counting, and post-election follow-up.

1. Monitoring the pre-election preparations and campaign period

a. The development of election law and procedures

29. The **process of identification of electoral districts and boundaries should respect the international norm of equal suffrage**. Such delimitation should not be designed to dilute or discount the votes of any particular groups or geographic areas.

30. **Fair constituency-delimitation procedures** will take into account a range of information, including available demographic information, territorial integrity, geographical distribution, topography, etc. If delimitation is based on census data, the HROs should determine whether the census was accurate. Further, **polling stations** should be distributed so as to **guarantee equal access** within each constituency.

31. Electoral laws and procedures should guard against unfair advantage being bestowed upon Government-supported candidates. **Provisions concerning candidate qualifications must be clear and must not discriminate against women or particular racial or ethnic groups**. Disqualifications should be subject to independent review.

32. **Political parties should not face unreasonable restrictions** on participation or campaigning. There should be protection under the law for party names and symbols. Procedures for designation of party agents, for nomination time and place requirements, and for campaign financing should be clearly established by law. In addition, the **electoral calendar** should provide adequate time for campaigning and public information efforts.

b. Monitoring the electoral administration

33. Provisions of the **law should ensure that an objective, unbiased, independent, and effective administrative structure** is in place. HROs should pay careful attention to provisions for appointment, remuneration, duties, powers, qualifications, and reporting structure of electoral staff. The HRO should ask: (1) Is a single line of ultimate authority established?; (2) Is the method of appointment objective and unbiased?; and (3) Is the means of compensation potentially corrupting?

34. At all levels, **staff must have the necessary qualifications** to perform well; staff should also **be insulated from bias and political pressure**. Adequate **advance training** is imperative for all election officials. All electoral activities, including the decision-making process, the legal process, and the organization of events, should be conducted in a wholly transparent manner. In addition, public consensus should exist on the administrative structure.

c. Monitoring registration

35. If **advance registration** of voters is proposed, the process must be **carefully constructed to ensure fairness and effectiveness of provisions concerning** elector qualifications, residence requirements, election lists, registers, and the means provided for challenging those documents. Voter lists should be available to interested parties. If no registration is to take place in advance of polling, **alternative measures for the prevention of double-voting** (for example, the use of indelible ink) and of voting by unqualified persons must be put in place.

36. Disqualifying factors must not represent impermissible discrimination, and should be limited so as to provide the maximum reasonable enfranchisement of the people. Procedures for **registration should accommodate broad participation**, and should not create unnecessary technical barriers to participation by otherwise qualified persons.

d. Monitoring civic education

37. Funding and administration should be provided for **objective, non-partisan voter education and information campaigns**. The voter education campaign should be based upon the voting experience of the population. The **public should be well informed as to where, when, and how to vote**. The public should also be educated as to why voting is important.

38. Literature should be widely available and should be published in the various national languages to help ensure the meaningful participation of all eligible voters. **Voter education should encourage participation by all, including members of ethnic groups and women**. Multimedia methods should be employed to provide effective civic education to people with various levels of literacy. Voter education campaigns should extend throughout the territory of the country, including rural and outlying areas.

e. Monitoring the media

39. Arrangements for **fair media access** by candidates and parties is especially important where the major information media are Government-controlled. Media **regulations** should provide for **safeguards against political censorship, unfair Government advantage, and unequal access during the campaign period**. Fair media access implies not only equality of time and space allotted, but also attention to the hour of broadcasting and the placement of printed advertisements. HROs should also try to determine if broad agreement exists on the media regulation system.

40. HROs serving as election observers should monitor both national and local media. Monitoring political broadcasts, broadcast civic education programmes, and allocation of time to various political parties permits an evaluation of participants' access to the political process.

2. Monitoring the vote

41. HROs should try to **cover as many polling stations as possible on election day**. HROs should pay particular attention to observance of the following principles.

42. Free and fair elections should be guided by **detailed provisions regarding** the form of **ballots**, the design of ballot boxes and voting compartments, and the manner of polling. These provisions should protect the process from fraudulent practices and should **respect the secrecy of the vote**.

43. **Ballots should be worded clearly and contain information that is identical in all native languages.** To avoid fraud and to give each participant an equal chance, however, the positions of candidate and party names should be rotated on the ballot. Further, the ballot form should **take into account various levels of literacy** in the country. Proxy and absentee voting provisions should be designed to encourage the broadest possible participation, without compromising electoral security. **Voters with special needs** (such as the disabled, elderly, students, conscripts, workers, foreign service personnel, and prisoners who have retained voting rights) **should be accommodated**, without compromising electoral security.

44. **Sufficient quantities of voting materials should be available at each polling place.** Polling personnel should have clear guidance in admitting and identifying qualified voters. The questions that are put to the voters should be limited by statute. Further, HROs should watch for evidence of voter intimidation or discriminatory treatment of voters.

45. HROs should not interfere with the polling process, unless assistance is requested by the authorities. Whether or not a HRO should respond to such requests for assistance depends upon the circumstances at hand. In taking such a decision, the HRO should be mindful of his/her "observer" status and ensure that no action taken could possibly be perceived as partisan or otherwise misconstrued. Serious problems should be reported to the central electoral authorities.

3. Monitoring the count

46. It is especially important for **HROs to be present at the closing of the polls and the counting of the ballots.** Counting should be open to official observation by concerned parties, including national and international observers. All issued, unissued, or damaged ballot papers must be systematically accounted for. **The processes for counting votes, verification, reporting of results, and retention of official materials must be secure and fair.** Recount procedures should be available in case of questionable results. Ideally, alternative, independent verification procedures such as parallel vote tabulation will be in place.

47. HROs should **determine whether individuals who are denied voting rights have access to substantive redress.** The right to challenge election results and for aggrieved parties to seek redress should be provided by law. The petition process should set out the scope of available review, procedures for its initiation, and the powers of the independent judicial body charged with such review.

4. Monitoring results and follow-up

48. Immediately after the election, the media usually asks the UN and other international observers to pronounce whether or not an election was free and fair. **Making a final judgement regarding the election so quickly is impossible** as complaints have not yet been filed and information from the countryside has not yet been received. To capitalize on the media attention, however, it is usually necessary for UN Headquarters or the Special Representative of the Secretary-General to make a tentative and qualified statement based on the information available at the time.

49. Only after complaints have been received from opposing political parties, voters, and others can HROs get a full picture of what has transpired. After HROs have inquired into complaints to determine whether they are justified and determined whether they affected the results, the leadership of the human rights field operation monitoring the election can assess whether or not the election was free and fair. Any

announcement of such an assessment, however, is usually **made by UN Headquarters**, the Special Representative of the Secretary-General, or after consultation and authorization, by the leadership of the human rights field operation. **Under no circumstances** should a **HRO or election observer** take it upon him/herself to **address the media evaluating or otherwise judging the election** or its outcome.

1. The material in this part is based principally on United Nations Centre for Human Rights, Human Rights and Elections - A Handbook on the Legal, Technical and Human Rights Aspects of Elections, Professional Training Series N° 2, U.N. Doc. HR/P/PT/2 (1994).

2. See Note 1. See also Larry Gerber, Guidelines for International Election Observing (1984); Guy D. Goodwin-Gill, Free and Fair Elections: International Law and Practice (1994); OSCE/ODIHR Election Observation Handbook (1996); Hege Araldsen and Oyvind W. Thiis, Election Observation, Manual on Human Rights Monitoring (Norwegian Institute of Human Rights 1997).

3. Universal Declaration, Art. 21(1).

4. Human Rights and Elections, UN centre for Human Rights, Chapter III, pp. 6-8.

5. Idem. p. 7.

6. Idem. p. 7.

7. Idem, p.8.

8. Idem, p.8.

9. Guy S. Goodwin-Gill, Free and Fair Elections: International Law and Practice 62 (1994).

10. This part is based principally on United Nations Centre for Human Rights, Human Rights and Elections, UN Doc. HR/P/PT/2 (1994).