



Challenging the Norms and Standards of Election Administration: Standards for EMBs' Use of the Internet

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I. Introduction

This article proposes international electoral standards for the use of the Internet during election campaigns (outside of voting). Regardless of whether the complexity and controversy surrounding Internet voting is ever resolved, election administrators will have to decide how they will use the Internet to improve election processes and better inform voters. As has been seen in elections around the world, the influence of the Internet is growing. What content and services must be online to ensure that influence is a positive one and to ensure the Internet promotes free and fair elections?

The emerging role of the Internet during election campaigns deserves close attention. It may be that changes in campaigning and citizen action online, rather than e-voting, present the real opportunities for—or challenges to—democratic transformation.

There are many examples of online best practices during election periods. Once documented and shared, such practices can bring existing democratic freedoms and electoral standards to life where they are applied. However, while most election-related benefits from online activities will be gained through best practices, a standards-established model for "must-have" and "should-have" online elements is emerging. As more citizens come online, electoral management bodies (EMBs) will see their online responsibilities increase. Clearly, these responsibilities will arrive sooner in "wired" countries with active online populations, but they will eventually arrive everywhere. Creating a shared body of best practice now can benefit all democracies over time.

II. Two Proposed Internet-Era Electoral Standards

This article contains numerous recommendations, but two key suggestions for information-age electoral standards particularly deserve attention and debate and inform all of the recommendations below:

1. All information produced, compiled, disseminated or disclosed to implement electoral standards must be **publicly accessible** on the Internet in a standard, authoritative format.
2. **Voter privacy** must be established to cover all voter actions online (seeking information about political candidates and issues; communicating with family, friends and members of private associations about elections or governance; and voting).

The need for the first standard is intuitive. In order to build trust in the electoral process, promote voter participation, encourage informed voting and ensure legal compliance, EMBs must make public all information about election standards, laws, regulations and voter education programs. In addition, existing electoral standards require broad and timely access to this information. It is almost impossible to conceive of any democratic purpose served by keeping such information offline.

The second proposed standard opens an area of great debate. The Internet era provides many ways to track individual behavior; however, to ensure continued participation in the electoral system, voters must feel they can freely explore the raw materials of political thought without fearing public exposure by those with state, media or economic power.

III. Analysis and Recommendations

Based on a review of the Web sites of EMBs, the following section outlines policy recommendations for EMBs' web presence and practices, specifically with regard to:

- Providing information online
- Establishing an online legal environment
- Monitoring the Internet media
- Ensuring technological access

PROVIDING INFORMATION ONLINE

A typical EMB Web site should provide extensive access to official government election-related content. The "any time, anywhere" Internet makes election information more accessible now than at any time in history, and it is therefore a force for democratization.

1. Make content available online

Ideally, all public election material—text, images, audio or video, voting information and educational content—produced by EMBs should be available online.¹ However, given the variation in EMBs' resources and in online populations across countries, a progression of Internet use for EMBs should be defined and benchmarked.

Must-have elements

For all countries, the items below represent basic items that create democratic legitimacy, regardless of the number of citizens who use the Internet.

- ***Content demonstrating electoral standards are in action***

Any public information mentioned in existing electoral standards must be available in a timely manner online (and easy to locate) with its release to the public.

- ***Accurate and authoritative content***

Even in the most wired countries, governments often place disclaimers on their Web sites suggesting that they are not responsible for the accuracy of the information there. Such disclaimers undermine legitimacy and trust in the electoral process. EMBs must guarantee that their Web sites provide legally accurate and authoritative information.

- ***Multilingual content***

As required by local law, all content on an EMB's Web site must be available in all official languages. Other relevant languages should be used when possible.

Should--have elements

If "must-have" content establishes legitimacy, trust, and free and fair elections, "should-have" content and services promote voter participation, service transaction convenience for regulated political groups and voters, and other benefits. I recommend that countries with fewer than 20 percent of the population online invest gradually in this second tier of online services. On the other hand, in countries where more than 50 percent of the population is online, the "should-have" items become "must-have" items.

- ***Candidate and party links***

EMBs should provide an official registry of candidate and party Web sites and email addresses. Such a registry allows citizens to locate official (not spoofed) political Web sites and gather reliable information.

- ***Voter registration***

If EMBs can meet the challenge of verifying visitors' identities, they can allow voter registration online, or at least registration address changes. If they do not have the capability to verify identities, they could allow online transactions by verifying email addresses following a transaction and providing clear warnings of the penalties for fraud. As is done in New Zealand, I recommend that governments allow voters to verify online their information as it appears in the electoral rolls.

¹ Any items not available online should be described there and directions given for how to access them offline.

Alternatively, first-time electronic registration or name changes could be conducted by third parties that met certain standards. In the future, regulated political entities and civil society groups may use Tablet PCs or handheld devices that have the ability to collect electronic written signatures. This process would require security procedures, privacy guarantees and penalties that ensure the signatures collected are not used for other purposes.

- ***Campaign finance reporting and disclosure system***

EMBs should provide full online access to all legally public campaign finance data collected online. This public data should be searchable, downloadable for analysis with third-party tools. The data fields electronically released, like postal addresses of campaign donors, may be limited by privacy laws. EMBs could further expand into real-time reporting and disclosure of certain expenditures or donations over a certain amount as well as create an online register of political campaign advertising in both the mass and online media. The full potential of the disclosure approach to regulating or limiting undesirable election behavior through public awareness will only be realized through online access.

- ***Voter outreach and education² programs***

Judging by the information available, EMBs online content appears to be used primarily by election officials, candidates/parties, the media and regulated political entities. As EMBs make more information available, they should reach out to targeted groups to increase voter use of their materials. South Korea provides the most extensive examples to date. EMBs, media organizations (particularly public broadcasters) and nonpartisan organizations that educate voters should hold an international exchange to document the outreach practices that best achieve the most democratic results.

Given its highly interactive nature, the Internet also provides a rich opportunity to increase the political participation of young people. However, a recent CIRCLE survey³ in the United States suggests that the Internet should complement rather than replace offline efforts. The web is a "pull" medium, where users decide what content to view. While you can entice people to visit a page through online advertising or "tell a friend" viral online marketing, disengaged youth are less likely to choose to view online political content. Active research and EMB, NGO and media projects that build on best practices would greatly benefit strategic investments in targeted voter outreach and education online.

EMBs should develop an index of online information products used for voter education, particularly those covered by existing electoral standards. EMBs can also identify best practices and prioritize content development by using specific case studies. In addition, they should map out and analyze the associated costs and benefits. However, providing online access does not absolve an EMB of the responsibility to disseminate information via traditional methods.

² The ACE Project Web site, an information resource on election administration, details Voter Education options and provides sample content at <http://www.aceproject.org/main/english/ve/index.htm>. I will not repeat its important work and detailed advice.

³ See http://www.civicyouth.org/research/products/national_youth_survey2004.htm.

- ***Services and searches***

Citizens prefer voting information that is tailored to their geographical location or political interests, and EMBs can easily provide services based on geography, such as locating candidates or elected officials by area. (Media and NGO voter education sites will more likely take the lead with political issues.)

- ***Campaign regulation information and notifications***

EMBs have a special opportunity to provide tailored services to regulated political organizations, including full and reliable disclosure of all election laws, regulations and policies. Online education, personalized notification services (such as e-mail alerts on deadlines or regulation tracking) will contribute to improved compliance and convenience.

2. Make content accessible online

Accessibility is a cornerstone issue and opportunity for EMBs. Specifically, access should be guaranteed for:

- ***People with disabilities***

EMBs have a democratic obligation to become a model of compliance with e-government accessibility policies. They must make rigorous use of HTML and other technologies that ensure greater access for sight-impaired people. In addition, they should use close captioning of audio/video content for those who are hearing impaired.

- ***Speakers of minority languages***

EMBs should consider providing essential voter information in all local languages. A great advantage of the Web is its ability to provide access to alternative language content in areas of a country where an EMB may not target print distribution.

- ***Users of different Internet interfaces***

In order to reach the greatest number of citizens, EMBs must organize their content for users of different Internet interfaces. The use of database-driven content management systems and standard content formatting (such as HTML, XML, CSS, RSS, etc.) make this task significantly easier, as does the ability to produce low- and high-bandwidth versions of pages. An emerging area is mobile access (often called WAP), which allows users to view the Web via their mobile phones.

- ***Users without computer access***

EMBs may actually achieve better voter outreach by using offline as well as online resources. This is particularly true in countries with limited home Internet access or displaced people. As more and more institutions (from NGOs to political parties to schools) become connected, the Internet can be used as a remote document storage system. This will be particularly useful for achieving the timely distribution of information flyers and small format posters in places where postal service is unreliable. The Internet could also be used to distribute radio programs in MP3 format for use by local radio stations. (See the section on **Ensuring Technological Access** below for further discussion of increasing access to voter information in the most remote places.)

ESTABLISHING AN ONLINE LEGAL ENVIRONMENT

The regulation of online campaign activity is one of the most complicated areas of online election administration.⁴ Moving from analysis and proposals to the approval of new laws or rules on this issue has proved exceedingly difficult. However, this may be a good thing. EMBs need experience with the Internet to determine which aspects of campaign regulations are either threatened or enhanced by use of the Internet.

However, some individuals and informal groups may use the Internet to exercise influence on par with regulated political groups. The reaction to this event will range from government attempts to regulate individual behavior to calls by regulated groups for Internet campaigning exemptions. Recently, a proposed amendment to legislation on Internet taxes in the U.S. House of Representatives that would have exempted Internet campaigning from election regulations failed. Parliaments around the world will need to carefully consider future regulation of online campaigning.

1. Identify applicable laws

EMBs must re-evaluate all campaign regulatory laws in light of today's Internet-driven realities and issue clear guidance. When possible, they should apply to Internet content those laws that currently regulate offline media. In instances in which the application of existing laws may lead to civil or criminal charges for what is considered "normal" campaign or political activity online, EMBs should issue clearly defined regulations that apply only to the Internet. The new circumstances of the Internet, particularly when it comes to the activities of individual citizens, may require exemptions for specific activities on- and offline in order to make enforcement practical and actually improve efforts to achieve the original goals of electoral regulations.

2. Establish privacy policies

All regulated political entities should be required to develop, display and adhere to privacy policies. EMBs should develop a standard template for display on Web sites, providing a checklist of what may and what will not be done with the information generated by an individual's use of the site. The establishment of such a policy will be highly controversial as political organizations' use of data on supporters is typically not made public. Any registered political entity that violates its own privacy policy should be subject to severe legal penalties, and all changes in organizations' privacy policies should be registered with the EMB. In addition, all individuals currently in that organization's database should be notified of the changes and given the opportunity to opt out. Alternatively or in addition, a country's law could specify allowable privacy and data-sharing practices.

⁴ See <http://www.electoralcommission.org.uk/elections/policyreviews.cfm>, <http://www.fec.gov/internet.html>, or <http://www.fppc.ca.gov/index.html?id=362> for further exploration of this issue.

3. Provide defamation and libel guides

As laws related to online libel and defamation differ from country to country, EMBs should compile all relevant local laws and provide citizens, candidates and parties with guidance on how to avoid associated legal penalties. The 1999 United Nations *Report of the Special Rapporteur on the protection and promotion of the right to freedom of opinion and expression* < <http://www.unhchr.ch/html/menu2/7/b/mfro.htm> > illustrates how easily citizens could be charged with criminal libel in democratic countries that view informal online remarks to friends on par with statements on television or in the newspaper.

4. Guarantee the right of reply online

In some countries, newspapers and broadcast media are obliged to provide equal time for all candidates; more specifically, they must do so for a candidate who has been the focus of criticism. Similar policies could also be implemented on the Internet, where Web site owners might be required to carry a response from someone who is the subject of comments on the site. Such policies have been discussed little in the United States; however, the Council of Europe has explored the application of the right of reply in online media.⁵

Whether voluntary or mandatory, guaranteeing the right of reply might provide a less litigious mechanism to correct the record. Most Web forums allow people to reply to other comments, and some news sites allow people to annotate a story by attaching their comments to it. However, the abuse of government-sanctioned reporting mechanisms must be monitored, because the legal and personal costs related to frivolous complaints might have a chilling effect on the exercise of free expression during elections.

MONITORING INTERNET MEDIA

Because the Internet is an agenda-setting medium that effectively reaches traditional journalists and opinion leaders, it will become increasingly important to independently monitor media and other important Web sites during elections in order to ensure fair and balanced coverage.⁶ While the Internet does not yet reach as many citizens as television, its reach will only grow. Therefore, select parts of the Internet, particularly major media sites, should be integrated into any media monitoring effort.

1. Build from academic online content analysis techniques

While the democratic purposes of online monitoring emanate from traditional media monitoring, current online analysis expertise comes from the world of academic Internet research. According to Dr. Kirsten Foot at the University of Washington, they advise the following:

- Build from online content analysis;

⁵ See http://www.coe.int/T/E/Human_Rights/media/7_Links/Right_of_reply_hearing.asp.

⁶ The National Democratic Institute mentions the Internet briefly in its media monitoring guide. See http://www.accessdemocracy.org/library/1420_elect_media_02.pdf.

- Define clearly what is being monitored (a Web site, site section, article, a page, forum, e-mail newsletter, etc.);
- Use a tool like "Teleport Pro" to harvest information from sites (perhaps selecting specific times of each hour or each day to check selected pages);
- Create a standard questionnaire for use by monitors; and
- Use a web-based reporting tool with a database backend (like Webarchivist Coder), because it may work better than an Excel spreadsheet for coding.

As reporting systems on election-related media monitoring are often designed with weekly reporting in mind, fair and balanced reporting should be promoted by streamlining analysis and measuring essential content.

2. Monitor the top 100 Web sites

Independently monitor and report on the "surface" pages of the top 100 Web sites carrying news or political content in a given country. Such monitoring will involve a mix of traffic comparison, objective metrics and commonsense evaluation. This reporting should also cover major portals even if they have limited political content.

I recommend monitoring the stories or content linked from a site's home page, the top sections (e.g. News, Business) and any special election or political sections. The key is to focus on the parts of the top 100 sites that could influence a general reader (e.g., CNN's home page or MSN Messenger's welcome page). While some automatic content analysis tools might be used to complement staff or volunteer analysis, online media monitoring will remain labor intensive.

3. Research political Web trends

Monitoring and analysis of opinion leader sites, forums and e-mail lists are also recommended. Such monitoring will help establish how information travels online or how online rumors are picked up by the mass media. Based on its experience in this area, an EMB or nonpartisan other organizations could offer regular reports on its media monitoring as well as resources to correct the factual record online. The goal would be to highlight the diverse sources of information available online and to demonstrate alternative, non-regulatory mechanisms for creating accountability. Presenting a slightly different model, the U.S.-based FactCheck.Org corrects politicians' statements in a model that could grow into a project that could post corrections to forums or weblogs on agenda-setting political sites.

4. Monitor government Web sites

I recommend that EMBs monitor all top government Web sites, such as the government's home page, the parliament's home page and authorized sites of officials running for re-election.⁷ In addition, EMBs should look for inappropriate redirection or links to campaign Web sites, which would likely violate election laws. EMBs (or perhaps national libraries) are

⁷ Such government-funded sites should be required to link to EMB-produced voting information and should be encouraged to link to other nonpartisan election resources.

the government agencies that should link to political party and candidate Web sites, and they must do so in a balanced, uniform way. During elections, all e-government Web sites should link the EMB site in order to alert online citizens that elections are coming.

5. Encourage watchdog groups to aid policy development

While the Global Internet Liberty Campaign < <http://www.gilc.org> > and Internews < <http://www.internews.org> > both promote global freedom of expression via the Internet, it is important that EMBs encourage the establishment of national groups that can report on the situations in their own countries. Watchdog groups like Reporters without Borders cover issues of Internet freedom < http://www.rsf.org/rubrique.php3?id_rubrique=273 > from the perspective of the media, but few groups examine the situation from the perspective of clean campaigning. EMBs and parliaments need information about the obstacles and successes people encounter on the Internet in order to develop good Internet policy.

ENSURING TECHNOLOGICAL ACCESS

Because most developing democracies are also developing countries with limited telecommunication infrastructure, it is easy to dismiss the role of the Internet in such countries. However, it is in these countries that the strategic use of the Internet may actually provide the greatest efficiencies and benefits. A key to lower costs is the ability to avoid expensive satellite Internet connections. It is essential to find ways to share costs and connections when satellite or expensive direct connections are the only options available.

Many EMBs around the world are actually nearing the final stages of integrating technologically advanced Web sites and online services into election administration. The more interactive an electoral administration is within its own offices, the better prepared it will be to deal with the public and online policy issues.

1. E-mail

All employees of an EMB should have an e-mail account and e-mail access via a Web browser. They should be able to access their accounts outside their office and in remote places. In many developing countries staff will share computer workstations. It is also important to note in many instances, e-mail is easier to access in remote regions than telephones or postal services. Using the Internet to send short text messages (SMS), is a bridging technology where mobile phones are often more accessible than landlines.

2. Wireless Internet options

The following technologies should be reviewed for their potential to provide e-mail/Internet access to election officials and other democratic actors (such as candidates, political parties, NGOs, community radio stations, etc.).

- ***E-mail via radio***

There are places around the world that send and receive e-mail via HF Radio/Shortwave E-mail, which allows them to communicate at a lower cost than satellite. However, initial equipment costs are high, and the data transfer rate is very slow.

- ***Low-earth satellites***

These satellites rotate around the earth providing an opportunity for daily e-mail exchange. Additional research is required to determine where this technology is being used.

- ***Wi-Fi (802.11b/g) and other line-of-sight wireless technologies like WiMax***

These wireless technologies are being used in creative ways around the world. A satellite link to a community access "telecenter" might be shared in a village via Wi-Fi. In Cambodia, Wi-Fi is placed on motorcycles, which enable the delivery and uploading of e-mail from schools, clinics and other locations as they drive past. Upon returning to their base office, which has satellite Internet connection, the devices on the motorcycles pass outgoing messages on to the Internet.

3. Localized content access

Prior to an election, essential voting information, election law guides and voter participation posters should be compiled and distributed to EMB staff, the media, political parties/candidates, election observers, NGOs and others electronically. This content can be made available via CD-ROM or one-way satellite radio with data interface to NGOs (and other organizations serving displaced persons), which can create a mirror of the content on local computers for access and printing on demand.

4. Pilot Open Source Tools for Election Administration

If EMBs and the democratic development community have sufficient political will, the Internet can be used aggressively in even the least wired countries to promote free and fair elections. I recommend that two or three countries be selected for pilot efforts. Generating **usable** open source software tools that foster programming contributions toward further development requires an upfront investment. It also requires support for the idea that a modular open source approach can serve the needs of more than one EMB and replace or complement incumbent administrative technology systems.

V. Conclusion

The legitimacy of modern governance is based on free and fair elections. The new capacities of information and communication technologies, including the Internet, require election laws, rules and practices be updated to ensure that democratic electoral goals are met in the information age. This will be a difficult process due to the speed at which innovations—both good and bad—emerge in the networked world. But we must seize this challenge with democratic intent now, so that in a decade, we will not regret a missed opportunity to shape the information age for democratic good.

By gaining practical Internet experience, EMBs can take advantage of the democratic potential of the information age. By focusing on electoral standards and democratic principles, EMBs can leverage the strengths of the information age, counter its negative aspects, and protect and strengthen democracy for generations to come.

DRAFT

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