

Code of Conduct

**Ethical
and Professional
Observation
of Elections**



**Code of Conduct
Series**

**for the Ethical
and Professional
Observation
of Elections**



The conduct of international observation missions and of individual observers has been the subject of much discussion and, in certain cases, controversy. Many of the key international electoral observation bodies, as well as the donors that fund these bodies, have expressed a need for the development of a Code of Conduct for the ethical and professional discharge of election observation activities. The International Election Observation round table, jointly organized by the United Nations and International IDEA in October 1995, considered the development of such a code to be a priority. Subsequent meetings with election experts and major actors in this field have confirmed the importance and value of a uniform Code of Conduct.

This Code of Conduct was drafted in the first half of 1996. The process involved the retrieval, collation, analysis and synthesis of all the different codes and materials on this topic. This enabled the formulation and drafting of a universal set of minimum standards. Following distribution of the draft code, a lengthy and detailed process of consultation with Election Management Bodies and major international observation organizations was undertaken over a 12-month period. The response to this code has been very positive, and it has been used and endorsed by numerous countries and international organizations.

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Introduction

1. On 10-12 October 1995, a round table on International Election Observation, jointly sponsored by the International Institute for Democracy and Electoral Assistance (International IDEA) and the United Nations, was held in Stockholm. The round table identified the development of a “Code of Conduct concerning the ethical and professional discharge of observation activities” as a task which should be undertaken and noted that “on the basis of existing codes and procedures, it is possible to compile a universal Code of Conduct that specifies the behaviour expected of observers and provides guidelines in ‘good practice’ in observation”¹.

2. This Code of Conduct, prepared by the Secretariat of International IDEA, takes into account views expressed at the round table, and numerous Codes of Conduct, guidelines for election observation, and laws governing election observation, which have been produced in various parts of the world in recent years. This Code is intended to be primarily applicable to international election observers, although much of its contents are of direct relevance to “national” or “domestic” election observers.

3. Election observers face so many different circumstances and situations in their work that it would be impractical to attempt to make a firm rule for every possible situation. Rather, each person using this Code of

Conduct should apply it flexibly, together with good common sense, to meet the circumstances of each particular situation. Missions to observe elections may take various forms, depending on their purpose. Participants in a mission should apply the Code in a manner that is appropriate to the unique function and form of their mission.

4. This Code addresses questions concerning the conduct of observers. It does not deal with the following equally important ethical questions:

- (i) The decision whether or not to undertake or participate in an observation mission.
- (ii) The recruitment, preparation and training of observers.

5. This Code of Conduct has three Parts.

PART ONE

The Function of Election Observation

This Part includes a brief summary of the terminology often confused with the activity of observation. This is followed by the functions, objectives and fundamental ethical principles of election observation.

PART TWO

Guidelines for Election Observation

This Part includes an expanded statement of each of the fundamental ethical principles, with an explanation and detailed guidelines to give effect to that principle.

PART THREE

Principles of Good Professional Practice

This Part lists some prescriptions which, while having an ethical dimension, are better characterized as rules of “good practice” for professional election observation.

The Function of Election Observation

6. In popular usage, any foreign presence at an election might be referred to as "observation". This can be confusing, because people have used that word to refer to any of the following five different types of activity:

- (i) *Mediation*, which is a form of third-party intervention in disputes, directed at assisting disputants to find a mutually acceptable settlement.
- (ii) *Technical Assistance*, which generally takes the form of technical support to the electoral process.
- (iii) *Supervision*, which is the process of certifying the validity of all or some of the steps in an election process.
- (iv) *Monitoring*, which involves the authority to observe an election process and to intervene in that process if relevant laws or standard procedures are being violated or ignored.
- (v) *Observation*, which involves gathering information and making informed judgements from that information.

Mediation and Technical Assistance

7. Both mediation and technical assistance are widespread activities, often involving foreigners. Although the tasks involved in these activities are generally different from the tasks of an observer, they can be confused with observation, for the following reasons:

- (i) Sometimes, one organization is authorized to perform all three functions in the same election.
- (ii) Even if an organization is only responsible for observation, it may be difficult for the organization to refuse to mediate or provide assistance if it is called on to do so during the election process, especially in cases where those roles do not prejudice the function of observation.
- (iii) The three roles each contribute to fulfilling a common set of objectives, that is, legitimizing the election process, building confidence, improving the prospects for democratization, enhancing the electoral process, reducing and/or preventing conflict. Furthermore, providing mediation and assistance can often reduce the need for observation, making it easier to achieve the common goals with fewer resources.

Supervision and Monitoring

8. Supervision and monitoring are sometimes confused with observation because all three activities are based on gathering information regarding an electoral process, and then making judgements about that process, based on the information collected. However, supervision and monitoring are significantly different from observation, for the following reasons:

- (i) Supervisors and/or monitors have much greater authority than observers.
- (ii) Supervisors and/or monitors, by virtue of their greater authority, are usually governed by much stricter rules of conduct

than those which apply to observers.

- (iii) The functions of supervisors and monitors could implicate them in the election management process itself.

9. Supervision by foreigners of an election process has been necessary in some elections, for example, those in Namibia in November 1989 and Bosnia in September 1996. On the other hand, authority to intervene, which is part of the monitoring function, is rarely conferred on foreigners, although it is conferred in some cases on employees of the election management body. For example, the South African election experience in April 1994 demonstrated the importance of domestic monitoring of an election by officials of the electoral administration.

Observation

10. For the purposes of this Code of Conduct, ***observation*** means:

“The purposeful gathering of information regarding an electoral process, and the making of informed judgements on the conduct of such a process on the basis of the information collected, by persons who are not inherently authorized to intervene in the process, and whose involvement in mediation or technical assistance activities should not be such as to jeopardize their main observation responsibilities”.

11. The word ***observer*** can have a number of different meanings:

- (i) In some cases, individuals deployed in the field are regarded as observers.

- (ii) In other cases, where an organization has been involved in an observation process, it may take the view that it, or its chief executive, is the “observer”, and that the personnel it deploys for the purposes of the exercise are merely its staff, its agents, its “eyes and ears”.
- (iii) There may be situations in which a number of organizations seek to mount a joint observation operation or to co-operate in specific areas, and in that case it may be appropriate to regard the integrated structure which they establish for the purposes of that operation as being the “observer”.
- (iv) “Observers” can also be categorized as “short-term observers” and “long-term observers”, depending on the nature and extent of their mandate and length of stay in the country as an observer.

12. Election observation must conform to the following fundamental ethical principles:

- 1 Election observers must recognize and respect the sovereignty of the host country.
- 2 Election observers must be non-partisan and neutral.²
- 3 Election observers must be comprehensive in their review of the election, considering all relevant circumstances.
- 4 Election observation must be transparent.
- 5 Election observation must be accurate.

13. These principles are intended to apply to all the various types of observers listed above. Depending on the situation, some principles

may apply more readily to one sense of "observer" than to another, and this Code should be interpreted flexibly to fit the prevailing circumstances. For example, if there is only one organization involved in observation, it bears full responsibility to be comprehensive, but if several bodies are co-ordinating the observation function, the duty to be comprehensive would apply to the entire joint effort, but not to each body co-operating in that effort.

14. These principles are intended to be applicable to all observation activities, but are not intended to be universally applied to mediation or technical assistance activities that are conducted outside the scope of the function of observation.

Guidelines for Election Observation

ETHICAL PRINCIPLE 1

Election observers must recognize and respect the sovereignty of the host country

15. Usually, election observation will occur in a sovereign state with a recognized system of domestic authority. Observers are guests in the country, and any rights conferred on them are a privilege granted to them by the host country as an exercise of its sovereignty. As guests, observers must reflect a proper respect for the sovereignty of the host country, which should be understood as being distinct from a particular government of that country.

16. Observers should undertake activities in a country only after they have reached an agreement with the relevant authorities in that country, because acting outside an agreement would imply inherent disrespect for a country's sovereignty.

17. All of the guidelines in this principle are subject to the specific arrangements set out in the observation agreement with the host country. Under an agreement, observers may be permitted to do things that these guidelines would not normally allow. For example, if an agreement permits observers to undertake a "quick count" and announce the results of that count, the guideline at paragraph 19 (xii) would be relaxed to the extent that the agreement permits.

18. An agreement concerning observation activities:

- (i) should address the issues of the rights and obligations of the observers as guests in the country; and
- (ii) should not significantly detract from the observers' neutrality or their ability to fulfill their mission.

19. Organizations sponsoring observation activities, and individual observers, should:

- (i) Respect the domestic laws of the host country.

Comment:

Unless the law itself, or the observation agreement, provides for immunity from domestic laws, all domestic laws are binding on observers while in the host country.

- (ii) Show respect for the people and the culture of the host country.
- (iii) Do nothing that interferes in the internal jurisdiction or affairs of the host country.

Comment:

Interference of this sort implies disrespect for the country's sovereignty, and undermines the essential neutrality of the observer, since the interfering action is likely to become a matter of controversy within the country.

- (iv) Inform the election management body of the objectives of the observation process.
- (v) Respect the role, status, and authority of election officials, and show a respectful and courteous attitude to election officials and voters.

Comment:

The status and credibility of the election management body has a significant effect on the credibility and success of an election, so it is essential for observers to demonstrate respect for that body, and to avoid any action that could undermine its credibility.

- (vi) Obtain proper accreditation, and supply any required information for that purpose.

Comment:

Proper election management requires the security of the electoral process. That means that unauthorized persons must be excluded from access to certain places where critical aspects of the process are carried out. It is essential for the election management body to be able to identify the persons who are authorized, and those who are not.

While observers are obliged to co-operate with election officials in this regard, observers have the right to expect that the identification requirements will be administered in good faith, and will not be used as a means to interfere with their functions.

- (vii) Maintain close liaison with the election management body.
- (viii) Give the election management body copies of any written information or statements produced by the observer.

Comment:

The election management body is central to the electoral process and should have any relevant information concerning that process.

- (ix) Be especially careful when making any public statement that could reflect on the election management body.

Comment:

Even if the observation agreement permits an observer to issue statements about the electoral process, or statements critical of the election management body, during the electoral process, observers should do that with great discretion, bearing in mind the harm that a public statement can cause to the credibility of the process. However, even during the process, observers should not create a false impression of the credibility of the election management body, if it is undeserved, and an observer should not suppress evidence of bad faith on the part of the election management body. After the election process has been completed, the need for discretion is less significant.

- (x) Avoid interfering in the normal course of the electoral process, or impeding that process in any way.
- (xi) Avoid giving unauthorized information or guidance to persons involved in the electoral process, and avoid providing interpretations of applicable laws.

Comment:

Generally, the election management body is responsible for giving advice and interpretations of applicable laws, and observers who undertake that task risk being perceived as interfering in the function of the management body. If the advice concerns a contentious issue, the observer risks being seen as supporting the interests of a particular party, candidate, or

interest group.

It is important that advice concerning a genuinely unclear or ambiguous matter should be co-ordinated nationally, so that issues are dealt with consistently across the country. An individual field observer is not in a position to guarantee that sort of consistent message.

This principle does not prohibit an observer from conveying information that is clearly and unambiguously known to the observer, and that should be generally known to any person concerned in or with the election process.

- (xii) Avoid announcing election results without the authority of the election management body.
- (xiii) Report to the relevant authority any criminal activity concerning the election, and any violation of the electoral laws.

Comment:

Enforcement of the domestic law is generally the responsibility of the authorities in the host country.

ETHICAL PRINCIPLE 2

Election observers must be non-partisan and neutral

20. A fundamental role of observers is to support the democratic process, by conferring or denying legitimacy, as the circumstances require, on a particular electoral process. The capacity of observers to perform this function will be irretrievably compromised if they are perceived as having a commitment to any particular electoral outcome. Observers must therefore

undertake all their tasks in a manner that is strictly non-partisan and politically neutral.

21. Election observers should:

- (i) Act in a strictly neutral and unbiased manner in relation to national authorities (including the election management body), parties, candidates, the voters, and the press and media.
- (ii) Avoid doing anything that could indicate, or be seen as indicating, partisan support for a candidate, political party, political actor or political tendency.
- (iii) Disclose to the appropriate body or authority any relationship that could lead to a conflict of interest with their duties as election observers, or with the process of observation and assessment of the election.
- (iv) Not accept any gift or favour from a political party, organization, or person involved in the election process.
- (v) Not participate in any function or activity that could lead to a perception of sympathy for a particular candidate, political party, political actor, or political tendency, for example, visits to military installations, or visits to official ceremonies sponsored by local authorities or political parties.
- (vi) Not express a view on any subject that is likely to be an issue in the election.
- (vii) Not communicate with any voter on a matter of partisan significance.
- (viii) Not wear, carry or display any party symbols or colours of a partisan nature.

ETHICAL PRINCIPLE 3

Election observers must be comprehensive in their review of the election, considering all relevant circumstances

22. When assessing the validity of an election, observers must consider all the relevant factors that affect different aspects of the process. Unless this takes place, the observation process could give unearned legitimacy to a flawed electoral process. Typically, observers should be considering all the following factors:

- (i) The degree of impartiality shown by the election management body.
- (ii) The degree of freedom of political parties and alliances to organize, move, assemble, and express their views publicly.
- (iii) The opportunity for political parties to have their agents observe all aspects of the electoral process.
- (iv) The fairness of access for political parties to state media and other resources of the state.
- (v) The proper registration of voters without distinction or discrimination on the basis of gender.
- (vi) Issues of human rights, including women's rights, that relate to the ability of voters to participate in the electoral process.
- (vii) Any other issue that concerns the essential freedom and fairness of the election.
- (viii) The proper conduct of polling and counting of votes.

23. Sometimes, observers will not be able to address all these factors because they have insufficient resources, or may receive important information too late to properly assess particular factors. In such cases, a less than comprehensive observation may still be legitimate, but the observers should bear in mind the limitations imposed on their work, and qualify their comments and reports appropriately.

If any issues arising from complaints or disputes remain unresolved, observers should exercise caution and avoid reaching premature conclusions about the process.

24. Election observers should:

- (i) Consult widely with relevant political actors and concerned organizations.

Comment:

Consultation should be designed to get as much information as possible concerning the electoral process, drawing on the diverse and extensive sources of information that are available to domestic organizations, and which would otherwise be unavailable to foreign observers.

- (ii) Try to form a valid view of all aspects of the election process, in order to determine its legitimacy.
- (iii) Try to form a valid view of the progress of the election process in all parts of the country and, where relevant, outside the country.
- (iv) Analyse the legal framework within which the election is being conducted, and assess whether it is adequate in the circumstances.

- (v) Try to determine whether the laws governing the electoral process are generally being observed.
- (vi) Try to determine whether the election management body has acted impartially and in a manner that is consistent with a free and fair election.
- (vii) Try to determine whether freedoms of expression, organization, movement, and assembly have been respected.
- (viii) Take special note of the participation of women in the election, in relation to the degree of participation of men.
- (ix) Take special note of the participation of the illiterate and the disabled with a focus on measures which facilitate casting a vote in secret by these individuals.
- (x) Try to observe political meetings and demonstrations.
- (xi) Try to determine whether the process for registering voters, candidates and parties has been carried out equitably and comprehensively.
- (xii) Try to determine whether voters have enough knowledge of the process to be able to participate in the election.
- (xiii) Try to place observers in polling stations and counting centres, in order to observe the compilation and communication of results.
- (xiv) Try to determine whether effective steps have been taken to prevent persons from voting more than once, and to guarantee the secrecy and security of the ballot.
- (xv) Try to examine all complaints about the

electoral process made to the election management body or to the observer, and assess the validity of each complaint.

ETHICAL PRINCIPLE 4

Election observation must be transparent

25. Comments and reports by foreign observers can have a significant influence in the host country after the election process is completed, so it is vital that the validity of the observers' conclusions can be demonstrated. The authority of statements should not only rest on the status of the observers, but on the methods and data used to reach their conclusions.

26. To establish that validity, observers should fully disclose their methods, assumptions, data, analyses, and the details of their comprehensive observations.

27. Election observers should therefore:

- (i) Identify the objectives of their observation, both at the beginning of the process and when they report.

Comment:

It is essential that the public know what the observers were trying to achieve in order to evaluate the results of the observation process on its merits, and to determine whether the process was effective.

- (ii) In all their reports, follow principles based on recognized scientific methodology,

including the following:

- (a) identify the exact information they have gathered and used as a basis for their assessment of the electoral process;
 - (b) when reporting statistical information, identify the basis of sampling they have carried out, and disclose the measures of uncertainty associated with those statistics;
 - (c) identify all the assumptions that they have used; and
 - (d) provide evidence and argument to support all their assumptions and judgements.
- (iii) Be prepared to communicate to the election management body a final collective assessment of the observation process.
- (iv) If appropriate and necessary, inform the election management body of alleged shortcomings in the electoral process, so that body can take remedial action if it wishes.
- (v) Communicate directly and openly all collective conclusions arising from the observation process.

ETHICAL PRINCIPLE 5

Election observation must be accurate

28. It follows from the discussion of Ethical Principle 4, that the information on which observers base their reports must be accurate as well as accessible. Inaccurate or unreliable information can undermine confidence in both

the electoral process and the observation process.

29. Election observers must perform every task on the basis of the highest standards of accuracy of information, objectivity of analysis and recognized scientific methodology. Information relied on by observers should be received first-hand, and should be verifiable. In particular, observers should:

- (i) Ensure that information is collected, compiled, and published in a way that is systematic, clear, and unambiguous.
- (ii) Take any action necessary to ensure that all the information that they compile, use or publish as part of the observation process is received first-hand and is verifiable.
- (iii) If they receive any allegation that reflects adversely on the election management body, or on any participant in the electoral process, seek a response from the person or organization concerned before treating the allegation as valid.

Comment:

By making a point of "getting both sides of the story", observers demonstrate their own good faith, and protect themselves against accepting invalid allegations.

Principles of Good Professional Practice

30. Organizations that provide, deploy, or sponsor election observers should take appropriate steps to ensure that those observers comply with the following principles:

- (i) Each election observer should promptly inform the sponsoring organization of any concern that could adversely affect the observer's ability to participate in the mission. For example, an observer should disclose:
 - (a) any personal health problem that could make it difficult to carry out the mission, or that might place the observer or other persons at risk during the mission;
 - (b) any difficulty the observer has in meeting the language requirements of the mission; and
 - (c) any facts of the observer's personal history that might make him or her unsuitable for service as an observer.
- (ii) During a mission, each election observer should act entirely in the interests of the organization responsible for the observation to which they are attached.
- (iii) At all times during the mission, including during private time away from work, each election observer should behave blamelessly, exercise sound judgement, and observe the highest levels of personal discretion.

- (iv) Each election observer should work harmoniously with other observers and monitors, whether they are foreign or domestic to the host country, and with the support staff who work with the observation mission.
- (v) Each election observer should attend every briefing required by his or her organization and every briefing required by the election management body.
- (vi) Each election observer should strictly comply with every instruction given and every obligation imposed by:
 - (a) the laws of the host country;
 - (b) the rules of the election management body; and of
 - (c) his or her organization.

In particular, observers must comply with every requirement concerning the display of notices that identify the observer or the observer's vehicle(s).

- (vii) An election observer should not participate in any unauthorized activity, including any private activity, that could lead to an actual or perceived conflict of interest with his or her functions as an observer.
- (viii) An election observer should not make any unauthorized public statement or comment.
- (ix) Each election observer should report to the leader of the sponsoring organization any incident that could reflect on the work of the organization.
- (x) Each election observer should obey any rules concerning photography, and should

- not photograph any restricted subject.
- (xi) An election observer should not carry a weapon of any kind.

¹ International IDEA and the United Nations, *Lessons Learnt: International Election Observation – Seventeen organizations share experiences on electoral observation*. The report of a round table jointly organized by the United Nations Electoral Assistance Division and International IDEA, 10-12 October 1995 in Stockholm, Sweden 1995.

² There is little difference between “non-partisan” and “neutral”, however, the election management bodies consulted felt this to be of such importance that it should receive special emphasis.