

ELECTION OBLIGATIONS AND STANDARDS

# An Implementation Guide for National Human Rights Institutions



THE  
CARTER CENTER





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National Human Rights Institutions

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One Copenhill  
453 Freedom Parkway  
Atlanta, GA 30307  
(404) 420-5100

[www.cartercenter.org](http://www.cartercenter.org)

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# Introduction

The 2030 Agenda for Sustainable Development sets peace, justice, and strong institutions as goals for the international community to work toward, along with participatory decision-making at all levels and equal representation and participation of women in public affairs (Goals 5.5 and 16.7).<sup>1</sup> The Human Rights Council stressed “the critical importance of equal and effective participation in political and public affairs for democracy, the rule of law, social inclusion, economic development and advancing gender equality, and for the realization of all human rights and fundamental freedoms.”<sup>2</sup> As part of their broad mandate to protect and promote human rights, national human rights institutions (NHRIs) have a key role to play in protecting and promoting the right to participate in public affairs.

Despite its relevance as a cross-cutting theme and as an enabling condition for all human rights, the right to equal participation in public affairs faces obstacles at the global level, including the shrinking of civic space; restrictions on the freedoms of expression, assembly, and association; and increasing inequality and socio-economic marginalization.<sup>3</sup> While the right to participate in public affairs is broader than elections, the opportunity to freely elect accountable governments is a central aspect of it. In many countries, however, there are legal barriers and other obstacles for all citizens to effectively exercise their right to participate in political and public affairs.<sup>4</sup>

In reaction to these persistent challenges, in 2017 the United Nations Office of the High Commissioner for Human Rights and The Carter Center issued *Human Rights and Election Standards: A Plan of Action*, aimed at advancing genuine and inclusive participatory democracy by strengthening cooperation and partnerships between the human rights and election communities.<sup>5</sup> This handbook for NHRIs on rights-based election observation was prepared in the context of the action plan and aims to contribute to greater complementarity and cooperation between NHRIs and election observers and election assistance providers.

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1 SDG 5.5 reads “Ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life.” SDG 16.7 reads “Ensure responsive, inclusive, participatory and representative decision-making at all levels.” UN General Assembly Res 70/1 ‘Transforming our World: the 2030 Agenda for Sustainable Development’ (Oct. 21, 2015) UN Doc A/RES/70/1

2 UN Human Rights Council Res 33/22 ‘Equal Participation in political and public affairs’ (6 Oct. 2016) UN Doc A/HRC/RES/33/22

3 See for example, CIVICUS ‘State of Civil Society Report’ (2018) <<https://www.civicus.org/index.php/state-of-civil-society-report-2018>> accessed 13 December 2018 ; UN HRC Res 30/26 ‘Best practices, experiences and challenges and ways to overcome them with regard to the promotion, protection and implementation of the right to participate in public affairs in the context of the existing human rights law - Study of the Office of the United Nations High Commissioner for Human Rights’ (23 July 2015) UN Doc A/HRC/30/26; Nina Eschke, ‘Space for Civil Society Participation and SDG Implementation’ (3rd Background Paper, Global Alliance of National Human Rights Institutions (GANHRI), July 2018)

4 UN HRC Res 27/24 ‘Equal participation in political and public affairs’ (Oct. 3, 2014) UN Doc A/HRC/RES/27/24

5 The Carter Center and The United Nations Office of the High Commissioner for Human Rights, *Human Rights and Election Standards: A Plan of Action* (2017)

# National Human Rights Institutions and the Right to Participate in Public Affairs and Elections

**A**s part of their mandate to protect and promote human rights, NHRIs play a key role in promoting democratic governance, based on their own contextual and legal analysis. As independent institutions with human rights expertise, NHRIs can help mitigate exclusionary politics, calling for the protection of participatory rights for all and for a conducive environment for meaningful election processes. This includes protection of the related freedoms of assembly, association, opinion, and expression, as well as the promotion of transparency and the right to information. The activities of NHRIs can thus reinforce and complement the work of domestic and international election observers.

To be able to play this role effectively, NHRIs must be independent from government and have a broad mandate to promote and protect all human rights. This is stipulated in the Principles Relating to National Human Rights Institutions (the “Paris Principles”), which are the international standards an NHRI must meet.<sup>6</sup>

## **What is an election cycle? Who takes part in the different stages? Where does an NHRI come in?**

As a key feature of a democracy, elections should take place at regular intervals. The different stages of preparations, implementation, and review of the framework are called the election cycle, which is illustrated in Figure 1.

The election management body, candidates, and parties, as well as the electorate, are the main actors engaged in this cycle, but there are also other relevant stakeholders, such as nonpartisan domestic and international election observers, media, and parliament. Additional detail about each of these actors is included below.

### **Election Management Body**

The election management body (EMB) plays the central role in administering the election, as a public service to all citizens, implementing the state’s obligation to facilitate participation in public affairs.

An essential feature of meaningful participation through elections is the trust that all stakeholders place in the administration of the process: All candidates and parties should be able to participate under the same conditions, and voters should be able to exercise their right to a secret and equal vote. The credibility of an election therefore depends to a large extent on

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<sup>6</sup> UN GA Res 48/134 ‘Principles Relating to National Human Rights Institutions’ (20 Dec 1993) UN Doc A/GA/Res/48/134 (Paris Principles)



## Election Observers

Nonpartisan election observers work to deliver an impartial assessment of the electoral process. They collect evidence on the legal framework for elections and assess the implementation of the process before, during, and after election day, based on the established laws and regulations, checking the EMB's performance and the suitability of election laws throughout the country. In addition, they often assess the degree to which obligations and human rights have been fulfilled throughout the election cycle. There are two types of election observers:

- Domestic or citizen election observers are from within the country and observe throughout the whole election cycle. They generally deploy larger numbers of volunteers during the registration, campaign, election, and election dispute resolution processes. They may actively promote electoral reform.
- International election observers are not citizens of the country and are deployed to the country ahead of the election process, often when candidate and voter registration begins. As their operation is cost-intensive, they usually deploy a smaller number of volunteers in comparison to domestic election observers; they bring an international and "outside" perspective. They often also have more established methodologies and enjoy a reputation for independence. They provide an impartial assessment of the process and deliver recommendations for future improvements. International observers generally do not participate as a country-based stakeholder in reform debate, though they are ready to provide recommendations, expertise, and advice on election reforms.

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## Election Observation or Human Rights Monitoring

A rights-based approach to election observation can and should be distinguished from human rights monitoring during and around an election process. A rights-based approach to election observation uses election observation methods and techniques, grounding overall assessments of the election process in human rights obligations. Human rights monitoring during the electoral process involves collecting and analyzing information regarding the status and enjoyment of human rights but is not aimed at providing an assessment of the overall quality or integrity of the election.

As election observers are specialized human rights defenders who focus on the right to participate in political affairs, their participation in the election process should be encouraged. Accreditation procedures, often managed by the EMB, should not put an unreasonable burden on observers and should be based on objective criteria.

Impartiality is paramount to domestic and international observers' credibility; any association of the observer group or its members with a political party or coalition is likely to greatly reduce perceptions of impartiality and credibility and thus undermine their conclusions. International and domestic observer groups have developed standard principles and codes of conduct that establish what nonpartisan observation means. For example, the Declaration of Global Principles for Non-Partisan Election Observation states that:

"Non-partisan election observation and monitoring by citizen organizations is impartial towards all political parties, candidates and those in favour of or opposed to any



issue or initiative presented in a referendum. It is politically neutral and concerned with electoral outcomes only in determining the degree to which they are the result of a genuinely democratic process and are reported transparently, accurately and in a timely manner.”<sup>8</sup>

Often, observers are required by the EMB to adhere to a code of conduct that establishes their commitment to noninterference and nonpartisanship.

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### **Political Party or Candidate Agents**

Political parties and candidates in elections often deploy agents (also known as poll watchers) on election day. These agents are tasked with ensuring that the interests of the party or candidate are protected as election day unfolds. Having agents from opposing parties or candidates in a polling place can be an important measure to protect the integrity of the process. The role of party agents should not be confused with that of nonpartisan observers, whose main goal is to protect the integrity of the election process itself rather than a specific contestant.

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### **Legislature**

A democratically elected legislature is the institution that brings to life the principle of participation in public affairs. In addition to the elected executive positions in government, which should represent the majority of the votes, a legislature plays a key role in electoral reforms and in oversight of the election management body. Given the importance of elections to democratic governance, it is important that a cross-party consensus on the election framework exist. The legislature can play a leading role in promoting broad-based, inclusive debate on the election framework, including key stakeholders (e.g., election observers and the election management body) in deliberations.

To ensure independence and accountability of election administration, the EMB (and any other body tasked with parts of the election process, such as a body conducting delimitation of boundaries) should answer to the legislature and regularly report on its performance and operations, just as an NHRI reports to the legislature on regular basis.<sup>9</sup>

### **International Human Rights Bodies**

Public international law protects genuine elections by establishing the obligation of states to fulfill the right of all groups in a society to participate in public affairs, as well as those rights that are instrumental to participation – the freedoms of association and assembly, opinion, expression, and the right to access information.<sup>10</sup>

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<sup>8</sup> Global Network of Domestic Election Monitors (GNDEM), ‘Declaration of Global Principles for Non-Partisan Citizen Election Observers and Monitors’ (commemorated April 3, 2012, at the United Nations, New York)

<sup>9</sup> General Observation 1.11 on the Paris Principles highlights that an NHRI should be given the legislative authority to table its reports directly to the legislature, rather than through the executive. GANHRI ‘General Observations of the Sub-Committee on Accreditation’ (Feb. 21, 2018), General Observation 1.11

<sup>10</sup> Public International Law includes the obligations enshrined in international treaties as well as declarations and political commitments. The jurisprudence and interpretive guidance issued by treaty monitoring bodies is part of public international law. For more information, please see The Carter Center, Election Obligations and Standards: A Carter Center Assessment Manual, (The Carter Center, 2014)

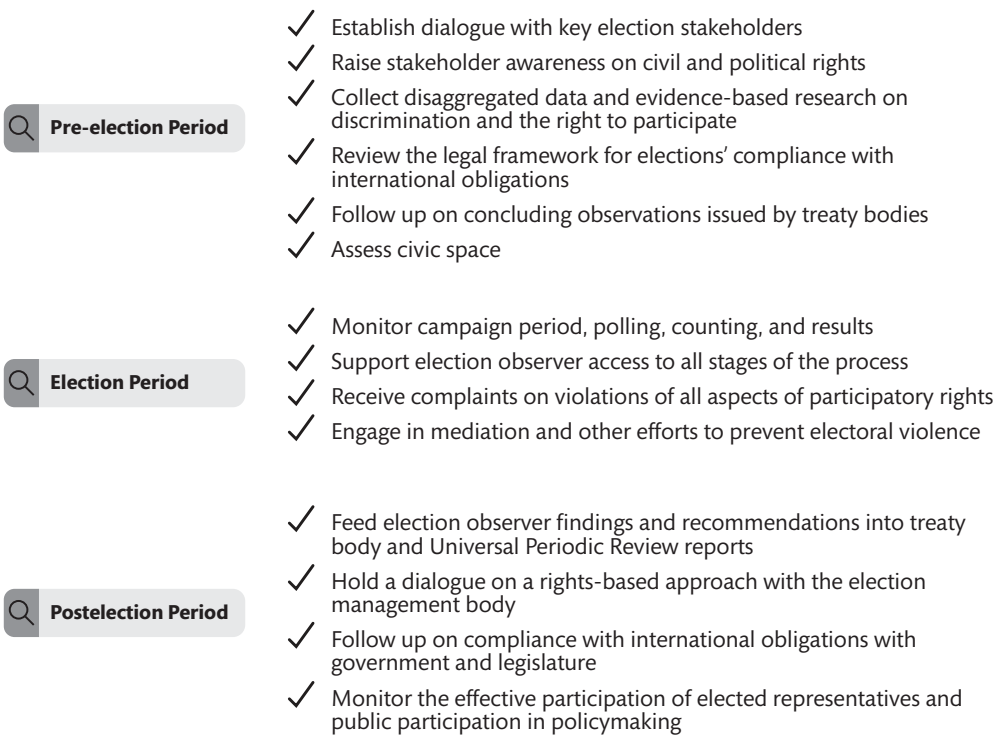
States, NHRIs, and CSOs can report on participatory rights to treaty monitoring bodies established by the UN or by regional bodies and to the Universal Periodic Review (UPR). They can also engage with special procedures, (e.g., special rapporteurs). As these human rights bodies review the legal framework and its implementation and formulate recommendations for improvement, they could be considered election stakeholders even though they operate within different time frames, are not national actors, and are outside the election cycle.<sup>11</sup>

## Where Do NHRIs Come In?

NHRIs have a clear role in the implementation of the Sustainable Development Goals, including through the promotion of cross-cutting issues such as participation and nondiscrimination.<sup>12</sup>

In line with their role as set out in the Paris Principles, NHRIs have the competence to monitor the promotion and protection of the right to participate in public affairs and its associated rights, including through the preparation of thematic reports and recommendations on legislative or regulatory reforms to protect those rights.<sup>13</sup>

**Figure 2.** Options for NHRI engagement on participatory rights along the election cycle



11 Example recommendations on the right to participate in public affairs issued by the Human Rights Committee can be found in Annex X. UN HRC Annex X: Decisions of the Human Rights Committee Declaring Communications Inadmissible Under the Optional Protocol to the ICCPR, Report of the Human Rights Committee to the UN GA' (Oct. 18, 2000) UN Doc A/55/40

12 International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights 'The Mérida Declaration: The Role of National Human Rights Institutions in Implementing the Agenda 2030 for Sustainable Development' (adopted in Mérida, Yucatán 10 Oct., 2015)

13 Paris Principles, art. 3

NHRIs can thus contribute to all stages of the election process, monitoring the enjoyment of the right to participate in public affairs and the freedoms associated with it, providing legal and regulatory advice to the government, and supporting an inclusive policy debate on the framework for elections. National institutions can also support the work of electoral stakeholders, notably the EMB, political parties, and domestic election observers, in promoting the right to participate in public affairs and the associated rights.

The Paris Principles recognize the “fundamental role non-governmental organizations play in expanding the work of national institutions” including those devoted to “special areas,” such as election observers.<sup>14</sup> Establishing working relationships with domestic observers will expand the capacity of NHRIs to identify the main obstacles to political participation, of vulnerable groups in particular, and avoid overlap and duplication of monitoring efforts. In addition, in their engagement with the international human rights system, NHRIs can use the data collected by domestic observers for their own reporting and monitoring.

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<sup>14</sup> Paris Principles, art. 3, C (g)

# NHRIs and Election Processes: How to Complement the Work of Election Observers

**N**ational human rights institutions have a role to play in protecting and fulfilling the right of all people to participate in public affairs. While there are many actors actively engaged in election-related support for participatory rights, the following sections outline some key activities that NHRIs might pursue to advance inclusive opportunities for participation.

## **Identifying Gaps in National Legislation: Reviewing the Legal Framework for Elections Based on Human Rights**

As part of their role in commenting on and analyzing the protection and promotion of human rights in the domestic legal framework, NHRIs should assess and seek the protection of the right to participate in public affairs; the principles of universal, equal suffrage; and the rights and freedoms associated with them. NHRIs can support a broad-based and inclusive dialogue on electoral reforms, making sure that the legal framework is reviewed in a participatory manner and that any changes are made in a consistent and inclusive manner that takes into account a variety of views and experiences.

As a first step toward advocating for election reform, NHRIs should start with a review of the full legal framework for elections. This framework is often a complex set of diverse laws and regulations that goes beyond the dedicated electoral law. The legal framework for elections is a crucial element of any democracy, affecting access to power and representing the “rules of the game.” General acceptance of these rules by stakeholders is therefore as crucial as their compliance with human rights principles.

The legal framework for elections regulates all aspects of the process and includes different elements:

- The national or state constitution
- Laws (election laws, party laws, media laws, public assemblies/gatherings, etc.)
- By-laws and administrative procedures (issued by bodies mandated to interpret/lay out primary laws)
- Working guidelines or instructions (issued by relevant bodies to their staff, e.g., polling station staff)

The legal framework should be publicly available in writing, should be clear and consistent, and should provide for the protection of relevant international human rights.

Complementing the work of domestic and international election observers, who prepare thorough legal reviews according to their standard methodology based on international public law, NHRIs can focus on the conditions for participation, including:<sup>15</sup>

- **Effective legal protection and enforceability** of the right to participate in public affairs, of the equal access of women and men to public office, and of the principle of nondiscrimination.
- **Limitations of participatory and related rights.** Limitations can take many forms, such as: age thresholds for candidacy and voting, political party membership, residency requirements, health conditions, public morale and public order, etc. Are these reasonable, objective, proportionate, and justifiable within the context of a democratic society? NHRIs can provide authoritative interpretation of these limitations in the local context, assessing if they are appropriate and seeking reform as needed.
- **Derogations of participatory and related rights.** When civil rights and freedoms are curtailed during states of emergency, parties and candidates cannot enjoy a level playing field and voter access to balanced media coverage is restricted.<sup>16</sup> Genuine elections cannot be held in a context of reduced civic space, arbitrary detentions, or restrictions on free media.<sup>17</sup> NHRIs have a crucial role to play in assessing any effect a state of emergency (or any restrictions on public freedoms) has on the campaign or the election process, making sure the minimum standards related to the electoral environment and the conduct of the polling, including free movement of voters, are met.<sup>18</sup>
- **Prerequisites for participation** and their effect on disadvantaged groups, such as registration and citizenship requirements and their effect on the participation of internally displaced people, migrant workers, or stateless people.
- As challenges to electoral results can trigger conflict and violence, NHRIs can **assess the framework for a recount of votes ahead of the electoral process**, making sure the criteria and procedures for a recount of the votes are clearly stipulated in election management body (EMB) regulations, including the decision-making process.
- **Administrative rules** that determine issues such as when and how elections take place or may be delayed, or when and how results are announced, certified, or annulled.

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<sup>15</sup> For an introduction on international and domestic observer assessment methodology see, Avery Davis-Roberts and David J Carroll, "Using International Law to Assess Elections," (2010) 17 *Democratization* 416. A list of additional resources for legal review can be found at the end of this section.

<sup>16</sup> See, for example: OSCE/ODIHR 'Statement of Preliminary Findings and Conclusions: International Referendum Observation Mission, Republic of Turkey--Constitutional Referendum' (16 April 2017); European Parliament 'Legislative Elections Bangladesh 2008, Election Observation Delegation Report' (29 Dec. 2008).

<sup>17</sup> "The Paris Minimum Standards on Human Rights Norms in a State of Emergency," provides details on non-derogable obligations in state of emergency, including basic human rights protected by art. 4 of ICCPR, art. 15 of the European Convention on Human Rights, and art. 27 of the American Convention of Human Rights. Richard B Lillich, 'The Paris Minimum Standards on Human Rights Norms in a State of Emergency' (1985) 79 *AJIL* 1072

<sup>18</sup> As part of their broad mandate, NHRIs will protect human rights in the context of state of emergency. See for example, the French Conseil National Consultatif de Droits de L' Homme, 'Avis sur le Suivi de L'État d' Urgence et les Mesures Anti-Terroristes de La Loi du 21 Juillet 2016' (January 2017) <[www.cncdh.fr/sites/default/files/170126\\_avis\\_suivi\\_de\\_letat\\_durgence\\_et\\_mesures\\_anti-terroristes.pdf](http://www.cncdh.fr/sites/default/files/170126_avis_suivi_de_letat_durgence_et_mesures_anti-terroristes.pdf)> accessed 14 Dec 2018

• **Effective exercise of government function.** General Comment 25 of the Human Rights Committee highlights how it is implicit in Art. 25 of ICCPR that elected representatives are actually able to exercise government power.<sup>19</sup> This means:

- Elected legislatures should be able to exercise government powers, including the right to introduce and review legislation and to control government performance.
- Civilian control over security forces.

This also extends to the rights of elected representatives of the opposition, which should not be sidelined from decision-making through restrictive rules on policy- and lawmaking, including:<sup>20</sup>

- Right to participate in legislative process
- Right to speak in parliament
- Right to appeal to the constitutional court
- Participation in the appointment of senior officials, including media commissioners, high-ranking judges, NHRI, ombudsmen, and election officials.

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### **Derogation of Rights: The Siracusa Principles**

ICCPR allows the limitation of some of the rights it aims to protect, provided the limitation is prescribed by law; necessary in a democratic society in order to protect public safety, order, health, or morals or the fundamental rights and freedoms of others (see for example Art. 18.3 and Art. 21); and proportional to that aim. The Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights provide additional guidance on the application of these criteria, establishing that any derogation or limitation must be necessary, proportional, and made based on objective considerations.<sup>21</sup> The principle of nondiscrimination applies to all limitations, disallowing, for example, blanket limitations targeting a particular group in a society.

The principles put the burden on the state to justify why limitations are being imposed, demonstrating how they protect fundamental values of the community and are necessary in democratic society, at the same time offering safeguards and effective remedy against abuse.

The principles further recognize that there is “no single model of democratic society,” but establish that a “society which recognizes, respects and protects human rights set forth in the Charter of the United Nations and the Universal Declaration of Human Rights may be seen as meeting this definition.”

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19 UN HRC ‘CCPR General Comment No. 25 (Participation in Public Affairs and the Right to Vote), The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service’ (12 July 1996) UN Doc CCPR/C/21/Rev.1/Add.7 (General Comment 25) art. 25

20 Democracy Reporting International, ‘Lawful Restrictions on Civil and Political Rights’ (Briefing Paper 31, DRI, 2012),

21 UN Commission on Human Rights ‘The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights’ (28 Sept. 1984) UN Doc E/CN.4/1984/4 (The Siracusa Principles)

## ADDITIONAL RESOURCES

*Election observers and expert organizations have developed various tools and materials for legal analysis of the framework for elections based on international public law, including these:*

- *European Union/NEEDS, Compendium of International Standards*
- *The Carter Center, Election Obligations and Standards. An Assessment Manual*
- *International IDEA, International Electoral Standards. Guidelines for Reviewing Legal Frameworks*

## The Electoral Environment and Fundamental Freedoms

General Comment 25 of the Human Rights Committee establishes that the right to participate in political affairs becomes trivial in a context of restricted civil liberties, as this affects both the conditions in which candidates compete for support and voters' ability to participate in policy debates and make informed choices.<sup>22</sup> Protecting civil rights and freedoms is thus a strategic function of any NHRI: There is no space for democracy if human rights defenders, political parties, and citizens are not able to register associations, stage demonstrations free from intimidation, or move freely around the country.<sup>23</sup> In the context of elections, freedom of peaceful assembly and association, freedom of opinion and expression, and the right to access information are particularly important.

### Political Parties and Candidates

The aggregation of individual interests into political parties is a vital element of participation: Political parties act as intermediaries between the state and its citizens and enable participation in public affairs. Freedom of association lies at the heart of the ability to form political parties.

The legal framework for elections often includes a political party law, which sets out criteria for party registration and may include basic operational and financial reporting requirements. Often, the registration of political parties is administered by the EMB: Any restriction on the right to form a political party must be reasonable, based on objective criteria, and applied equally.<sup>24</sup> Wherever the state provides public funding, all parties should be able to access public resources, based on clear and objective criteria.<sup>25</sup>

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<sup>22</sup> General Comment 25, para. 8, 12, 14

<sup>23</sup> International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art 12, 21

<sup>24</sup> ICCPR art. 21

<sup>25</sup> ICCPR art. 21; Convention Against Corruption (adopted on 31 October 2003, and entered into force 14 December 2005) 2349 UNTS 41 (CAC), art. 7.3

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 **IDEA**

- NHRI can assess party laws and regulations from a perspective of the **freedom of association** and review unreasonable limitations and restrictions. Procedures for the registration of political parties should be clear and publicly available, and complaints against decisions of the competent administrative body (EMB or other) should be possible. NHRI might decide to engage in situations where parties are banned or deregistered based on their political views or where parties promote views inconsistent with human rights principles.
- NHRI has a role in raising **parties', candidates', and voters' awareness and respect of human rights principles**, including for party programming and election campaigning. This can include the development of materials and information about the freedoms of assembly, association, and movement and their implementation during elections but might also extend to issuing statements or public appeals on parties and candidates to respect human rights during all stages of the election process.<sup>26</sup>

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The right to participate in public affairs includes the right to stand as a candidate and should not be subject to unreasonable limitations (e.g., a requirement to hold academic degrees or to compete as a member of a political party) and should be based on objective criteria.<sup>27</sup> Blanket limitations that exclude a particular group from running as candidates are not allowed.<sup>28</sup> Based on the eligibility criteria for elected representatives, the EMB establishes procedures for candidate registration. Candidates should be able to challenge an EMB's refusal to register their nomination.

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 **IDEA**

- NHRI can conduct a **rights-based assessment of the candidate application process**, monitor whether regulations and procedures are implemented without discrimination, and assess whether complaints and appeals against rejected candidates are resolved within a reasonable amount of time. If within their mandate, NHRI can receive complaints from individuals claiming discrimination.
- The NHRI can assess the **efforts made to ensure equality and nondiscrimination** in the protection of the right to participate, for example by holding a dialogue with candidates from disadvantaged groups and analyzing their challenges. This might also include holding closed-door dialogues on intimidation and the safety of women candidates during the registration process. Where the state has established special measures to eliminate discrimination on the basis of gender, identity, or social group, NHRI could provide an assessment of parties' and electoral administrations' adherence to these measures and identify possible unintended side effects (positive or negative) of these measures, if any.

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<sup>26</sup> See for example the statement issued by the Commission Nationale Consultative des Droits de L' Homme ahead of the 2002 presidential election in France, calling for a boycott of the candidate of the Front National party, whose campaign discourse posed a threat to French democratic values, including the principle of nondiscrimination. [http://www.cncdh.fr/sites/default/files/02\\_avis\\_fn.pdf](http://www.cncdh.fr/sites/default/files/02_avis_fn.pdf).

<sup>27</sup> General Comment 25, para. 4, 15, 17, 18

<sup>28</sup> ICCPR art. 20; General Comment 25, para. 15



## The Election Campaign

Everyone has the right to peaceful assembly.<sup>29</sup> The freedom to assemble peacefully is a cornerstone of the democratic process, and political rallies and mass party events are an essential tool for candidates, providing them with the opportunity to disseminate and discuss their programs and electoral promises. Voters should be able to freely participate in meetings, rallies, and public discourse and debate to obtain information about the parties and candidates.<sup>30</sup> In addition, everyone should be able to participate in rallies, protests, and other gatherings without fear of reprisal.<sup>31</sup>

The rights of freedom of expression, assembly, association, and movement can only be limited in particular circumstances, and all electoral stakeholders should be able to hold and participate in campaign activities on equal terms and without fear or intimidation, including by state security forces.<sup>32</sup>

The establishment of a level playing field also means that state resources – funding, facilities, and buildings – are equitably available to all contesting parties and candidates. Parties and candidates should be required to transparently administer campaign funding and expenditures, reporting to the EMB in regular intervals. Funding limits might be set to ensure fairness, but any thresholds should still allow for effective campaigning activities.



### IDEA

- As a nexus between the state and civil society, NHRIs are well-placed to conduct a **rights-based performance assessment** of the different state institutions involved in electoral campaigns beyond the EMB. For example, an NHRI can monitor how campaign rallies are policed, establishing a comparison of incumbent and opposition party events and collecting information on intimidation and violence against women as voters and candidates.
- As a complement, an NHRI could establish a dedicated **complaint mechanism for the campaign period**, collecting data on cases of intimidation and restriction of the right to freedom of assembly, association, movement, and nondiscrimination, liaising with the EMB and other state actors to establish procedures for immediate action by the EMB, the relevant administration, or security forces.

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<sup>29</sup> ICCPR, art. 21

<sup>30</sup> Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III) (UDHR) art 21; ICCPR art. 25

<sup>31</sup> Report of the Special Rapporteur A/68/299

<sup>32</sup> ICCPR art. 12, 19, 25; General Comment 25, para. 12; UDHR art. 21; Lillich 'State of Emergency' 8



## IDEA

- NHRIs could build on their networks among specialized civil society organizations (for example, social media monitors, anti-hate speech initiatives) and initiate a broad-based dialogue with political parties and the EMB on the impact of social media on election campaigns in their country.
- NHRIs could engage with data businesses and social media organizations and highlight the challenges their services present to individual rights and election campaigns. This could also include cooperation to produce materials and awareness-raising campaigns aimed at making social media users aware of the right to online privacy.

## Participation of Civil Society Organizations in Election Processes

The right to participate in public affairs includes the right to participate in political movements and civil society activities.<sup>33</sup> Civil society can conduct voter education activities, facilitate public debates, and support electoral violence mitigation efforts. Domestic election observers, in particular, may increase public trust in the election process by providing an impartial assessment with evidence-based findings.



## IDEA

- The degree of **civic space** is an indicator of the level of protection of the right to participate in public affairs. A focus of NHRIs' efforts on elections should thus be to protect civic space during the election process. Threats, attacks, and acts of intimidation against civil society representatives during the electoral period should be monitored and investigated by NHRIs, assessing the risk a curtailment of civil rights presents for the election, in particular if organizations with critical views or opinions are restricted.
- As a specialized civil society organization promoting participatory rights, domestic citizen election observers rely on an effective right to participate and **observe all stages of an election process**. NHRIs can offer support to election observers, for example, holding a dialogue with domestic citizen observers and jointly advocating for the legal protection of their access to all stages of the process.

## ADDITIONAL RESOURCES

- *Report of the Special Rapporteur on the rights to peaceful assembly and of association, A/68/299*
- *OSCE, Monitoring Campaign Finance*
- *OSCE, Handbook on Monitoring the Freedom of Association and Assembly*
- *OAS, Observing Political-Electoral Financing Systems: A Manual*
- *IFES, Abuse of State Resources: Research and Assessment Framework: Guidelines for the Democracy and Governance Community of Practice*
- *National Democratic Institute: How Domestic Organizations Monitor Elections: An A to Z Guide*

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<sup>33</sup> ICCPR art. 25

## Protecting Freedom of Opinion and Expression and the Right to Access Information

In essence, democracy represents the institutionalization of deliberation, dialogue, and representation and, as such, it cannot exist without a free exchange of views and opinions on issues and public policies. On the other hand, fact-based dialogue and participatory public policymaking can only take place if the state shares information and data about its performance. The freedom of opinion and expression and the right to access information are thus essential for the enjoyment of the right to participate in political affairs.<sup>34</sup>

The right to freedom of expression in the context of elections should be enjoyed by voters, by candidates and political organizations, and by the media. Freedom of opinion and expression, as well as the right to access information, of and by each of these groups can be subject to many different kinds of restrictions, all of which fall within the monitoring purview of the NHRI. For example, NHRIs could monitor and raise awareness of the extent to which it is possible for the electorate and political contestants to engage freely in political debate and discourse; the degree to which there is a pluralistic media environment and voters have access to a wide variety of views; and that election stakeholders do not suffer harassment, intimidation, or violence because of their views.<sup>35</sup>

### The Role of the Media

Media play a key role in disseminating information both about the process of elections and about the parties and candidates contesting. They should be able to do so without fear and intimidation, including when they report opinions critical of the incumbent government.<sup>36</sup> Media reporting should be fair and balanced, covering all contesting political views and providing the voter with an overview of the choices.

Media reporting also provides information on the process itself, including the results of the election both overall and at disaggregated levels, ideally including by polling station. Media should therefore be able to access information about election administration, including when there are allegations of partiality and corruption.

Often, specific regulations exist on media coverage of election campaigns, establishing an oversight body mandated to regulate and oversee election coverage (often the EMB or an independent media regulatory body). Such regulatory frameworks should establish independent oversight and require equitable media coverage of all parties. In some cases, free and equally allocated airtime for political advertising may be provided. Restrictions on the freedom of speech should be reasonable and proportional, such as, for example, a one-day silence period ahead of election day or prohibition of hate speech.<sup>37</sup>

Domestic and international election observers often monitor media coverage of the campaign period. This is a resource-intensive activity, as systematically compiling a representative sample requires substantial human resources to review, read, and code media

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<sup>34</sup> ICCPR art. 19; General Comment 25, para. 12

<sup>35</sup> Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue A/HRC/26/30

<sup>36</sup> UNHRC 'CCPR General Comment No. 24: Issues Relating to Reservations Made upon Ratification or Accession to the Covenant or the Optional Protocols thereto, or in Relation to Declarations under Article 41 of the Covenant'( 4 November 1994) UN Doc CCPR/C/21/Rev.1/Add.6

<sup>37</sup> General Comment 25, para. 4

reporting and to provide an objective quantitative and qualitative analysis. NHRIs can complement this work through the following activities:



#### IDEA

- Review of the regulatory framework for online and offline media, assessing the limitation of rights as well as the requirement to provide equitable coverage of all parties and candidates, in public media and private media. NHRIs could lead public debate on the **role of online and social media in electoral processes** and feed a rights-based approach regarding these emerging challenges.<sup>38</sup>
- Establish **cooperation with journalists' associations** and collect data on the extent to which journalists are able to travel freely throughout the country during the electoral period and to report on all political parties and candidates without restriction or fear of reprisal or intimidation. In addition, NHRIs could cooperate with journalism associations to provide training on civil and political rights, nondiscrimination, inclusiveness, and pluralism. Through these trainings, NHRIs could encourage media to challenge gender stereotypes and to increase their outreach to minority areas, including by offering coverage in different local languages.

### Campaigning in Online Spaces

Human rights should be protected in online spaces, such as social media, just as they are in traditional media. The spread and relevance of social media and the internet have increased in recent years, and their impact on election processes is twofold. On the one hand, they provide a new, direct communication channel through which parties or candidates can appeal to the electorate, and they allow for exchanges among citizens, voters, and candidates or elected officials.<sup>39</sup> On the other hand, they are also a source of personal data and information on voter preferences and attitudes that can be used for campaigning purposes.

While new ways of political engagement can increase participation, social media campaigning presents challenges to individual rights and democratic principles of transparency, accountability, and nondiscrimination. For example, micro-targeted political party advertising can only be viewed by the voter in question, and disclosure of spending for online advertising may not have sufficient detail for analysts to understand how many voters were targeted and how.

In addition, governments are increasingly imposing internet shutdowns in response to elections, demonstrations, and other events. Network disruptions were recorded during or around elections or protests in Cameroon, the Gambia, India, Myanmar, the Islamic Republic of Iran, Uganda, and Montenegro. More recently, they were imposed in the

38 See for example the legal opinion of the Commission Nationale Consultative des Droits de L'Homme on the draft law on fake news during electoral processes: CNDCH 'Lutte contre les fake news des risques pour la liberté d'expression et le droit à l'information' (25 May 2018) <[http://www.cncdh.fr/sites/default/files/180526\\_cp\\_lutte\\_contre\\_les\\_fake\\_news.pdf](http://www.cncdh.fr/sites/default/files/180526_cp_lutte_contre_les_fake_news.pdf)> accessed 3 December 2018.

39 For case studies on the US and Pakistan, respectively, see Privacy International 'Case Study: Profiling and Elections- How Election Campaigns know our Deepest Secrets' <<https://privacyinternational.org/case-studies/763/case-study-profiling-and-elections-how-political-campaigns-know-our-deepest>> accessed 3 December 2018; Hassan Mirbahar and Ray Serrato Mirbahar 'How Can Social Media Impact the 2018 Elections? The News on Sunday, (Pakistan, 20 May 2018) <<http://tns.thenews.com.pk/social-media-elections/#.WzYtey-B3OR>> accessed 3 December 2018.

Democratic Republic of the Congo (DRC) and Zimbabwe. As the special rapporteur on the promotion and protection of the right to freedom of opinion and expression explains, these shutdowns “invariably fail to meet the standard of necessity. Necessity requires a showing that shutdowns would achieve their stated purpose, which in fact they often jeopardize.”<sup>40</sup>

As this is an emerging field presenting new questions and challenges, NHRIs can contribute to the discussion of the role of social media in elections and ways to appropriately regulate it, balancing the rights to freedom of expression and opinion online against the right to privacy and the prohibition to incite hatred and discrimination.<sup>41</sup> Finally, NHRIs can help to raise awareness of the impact of internet shutdowns on democratic processes and can proactively share this information with regional and international human rights mechanisms as a means of helping to develop and advance international law in this area.



## IDEA

- An increasing number of states are affected by the rise of hate speech in social media and the negative consequences this has on democratic values. Based on international standards, such as the Rabat Plan of Action on the prohibition of advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence, NHRIs could lead a **dialogue on policies and legislative measures** to prevent online hate speech, mainstream civil rights into the discussion, and demand that the state include digital literacy training in education curricula.<sup>42</sup>
- If **statutory or self-regulatory mechanisms to eliminate online hate speech** are already being discussed, NHRIs could feed into a possible discussion issuing legal opinions based on human rights.<sup>43</sup> Additionally, NHRIs could specify that their complaint mechanisms, if in place, also cover online violation of rights.

## TECHNOLOGY AND ELECTIONS

Recognizing the opportunities that technology can present to enhance public participation in public affairs and associated rights, the Human Rights Council has called on member states to actively explore innovation.<sup>44</sup> While technology has the potential to improve civic engagement, it may not make participation more accessible and inclusive if there are low levels of digital literacy or if digital divides exist within a country. As the guidelines on **effective implementation of the right to participate in public affairs state**, “ICTs may provide tools to improve participation in elections and enhance their transparency. States

40 UN HRC, Report of the Special Rapporteur on the promotion and protection of the right of freedom of opinion and expression, A/HRC/35/22

41 ICCPR art. 17, 20; UHDR art. 12, 19

42 UNHRC ‘Annual report of the United Nations High Commissioner for Human Rights’ (11 January 2013) UN Doc A/HRC/22/17/Add.4; UNHRC Res 16/18 ‘Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief’ (12 April 2011) UN Doc A/HRC/RES/16/18; For more recommendations on Information and Communication Technology (ICT) to strengthen equal and meaningful participation, see UNHRC ‘Draft guidelines for States on the effective implementation of the right to participate in public affairs’ (20 July 2018) UN Doc HRC/39/28 para. 87-94.

43 For example, Germany passed a law requiring social media companies to erase discriminatory and defamatory posts (Netzwerkdurchsetzungsgesetz)

44 UNHRC ‘Equal participation in political and public affairs’ (26 September 2016) UN Doc A/HRC/33/L.28

considering the introduction of technological innovations in order to improve participation in electoral processes should do so only after broad outreach and consultations with all stakeholders, as well as comprehensive and consultative feasibility studies, have been conducted. Digital innovations may be best introduced as a solution to problems that might hinder the credibility of the process or the acceptance of results, not as an end in itself.<sup>45</sup>

NHRIs can offer guidance and advocate for the design of technologies that are introduced to solve a specific problem, enable meaningful political participation, and respect human rights. They can engage in the discussion by providing research and risk assessments and identifying how the technology might exacerbate exclusion, lack of accountability, or violation of rights.

New technologies can not only increase public input into policymaking or facilitate voting, they also can help NHRIs and election observers to share information and data about election processes and to monitor the implementation of recommendations, for example through online databases or tracking tools. In addition, NHRIs could consider using civic technologies to increase their accessibility to citizens, for example developing mobile phone applications to inform voters and candidates about their electoral rights or establishing complaint mechanisms during elections.

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## ADDITIONAL RESOURCES

- *Article 19 Hate Speech Explained: A Toolkit*
- *OSCE, Media Monitoring for Election Observation*
- *NDI, Media Monitoring to Promote Democratic Elections*
- *The Carter Center, Election Obligations and Standards: An Assessment Manual*
- *European Commission for Democracy Through Law (Venice Commission), Compilation of Venice Commission Reports and Opinions Concerning Media and Elections*
- *Monitoring Electronic Technologies in Electoral Processes: An NDI Guide for Political Parties and Civic Organizations*
- *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, A/HRC/26/30*
- *Guidelines on the Effective Implementation of the Right to Participate in Public Affairs, A/HRC/39/28*

## Inclusive Electoral Processes: Advancing Equal Participation of Men and Women

Both the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) protect and promote the equal right of women to participate in public affairs.<sup>46</sup> While the percentage of women elected to parliaments has almost doubled since 1995, rising from 11.3 percent to 23.4 percent in 2017, it is still falling short of the commitments made at the Beijing Declaration and Platform for Action.<sup>47</sup>

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45 UNHRC, Guidelines on the effective implementation of the right to participate in public affairs, UN Doc A/HRC/39/28 para 28

46 ICCPR art.3, 25; Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW) art. 7

47 Inter-Parliamentary Union, 'Women in Parliament 2017, The Year in Review' (Geneva, 2018) <[www.ipu.org/resources/publications/reports/2018-03/women-in-parliament-in-2017-year-in-review](http://www.ipu.org/resources/publications/reports/2018-03/women-in-parliament-in-2017-year-in-review)> accessed 4 December 2018

Women can be affected in different ways than men at every stage of the electoral process, from challenges to registering as voters because of the responsibility to take care of children, lack of legal documentation, illiteracy, or discrimination by parties who perceive higher chances of winning if they put forward a male candidate. This might not only be rooted in legal lacunae: Cultural barriers and practices prevent women from de facto enjoying rights that often are legally protected.

As many NHRIs work on women's rights as part of their core program, they can develop synergies and tackle situations of double violation of rights more effectively. NHRIs could also link electoral stakeholders (the EMB, political parties, domestic election observers) into the discussion of national action plans for the advancement of women and include indicators or objectives regarding women's participatory rights. Some options for NHRI engagement are these:



#### IDEA

- Gender-based discrimination should be prohibited by law. NHRIs can conduct an **assessment of the legal and regulatory framework for elections and check provisions that protect women's right to participate in public affairs**. This may include, for example, temporary special measures to facilitate women's registration as voters and candidates or a requirement to maintain and publish gender-disaggregated data.
- **Work to establish baseline data on women's representation in all levels of government and conduct an assessment of the challenges faced by women candidates, polling station staff, and election observers**. This could focus, as a priority, on situations of intersectional discrimination, and work could be conducted in partnership with those specialized civil society organizations that have networks and expertise with marginalized groups.
- **Ensuring women's participatory rights are included in civic education efforts** by developing materials alone or jointly with the EMB or civil society organizations. Depending on the context, materials could be prepared to be accessible to an illiterate audience.
- **Supporting the EMB in mainstreaming gender equality into all aspects of its work**, including gender-sensitive budgeting, ensuring participation of women as voters (registration, voting, education) and as candidates (considering positive measures such as women quotas or adapting campaign finance requirements).
- **Supporting multiagency coordination** on equal participation of women in politics, including EMB, security agencies, judiciary, and other relevant bodies.
- Working with political parties to develop gender policies in line with human rights obligations and to develop codes of conduct that address discrimination against women.

### Monitoring Violence Against Women in Politics and Elections

Violence against women in politics and elections is defined as all acts of threat, intimidation, coercion, or aggression that have the objective of preventing women from exercising their

participatory rights.<sup>48</sup> It includes all forms of physical, psychological, and sexual violence targeting women as voters and candidates, and so allows for a more nuanced assessment of some of the challenges faced by women. The Special Rapporteur on Violence against Women and Girls has made violence against women in politics an area of priority, noting the need to collect further data and discuss challenges and lessons learned about this barrier to women's participation.<sup>49</sup> NHRIs can contribute in a number of ways, such as the ideas that follow.



#### IDEA

- Establish a call center or a hotline where cases of political violence against women can be reported. This center could lead data collection and publish an analysis of main trends, establishing baselines on political violence, situations of intersected violation of women's rights, and possible mitigation mechanisms.<sup>50</sup> The NHRI could also offer support to victims of political violence in pursuing remedy, including in civil and criminal courts.
- Work with security agencies to develop gender-sensitive electoral security policies, tailoring security agencies' approach to security in campaigning, voting, and results announcement to the different impacts insecurity has on men and women.

#### ADDITIONAL RESOURCES

- *European Union Handbook for International Election Observation*
- *UNDP, Enhancing Women's Participation Throughout the Election Cycle*
- *UN, Women and UNDP Violence Against Women in Elections: A Programming Guide*
- *IFES, Gender Equality and Election Management Bodies: A Best Practice Guide*
- *OSCE, Handbook for Monitoring Women's Participation in Elections*
- *NDI, Votes Without Violence: A Citizen Observer's Guide to Violence Against Women in Elections*
- *UN, Guidelines on Producing Statistics on Violence Against Women*

#### Inclusive Electoral Processes: Participation of Vulnerable Groups

The inclusion of vulnerable groups is often an NHRI priority, and many NHRIs across the world focus their programming on the rights of indigenous peoples, minorities, persons with disabilities, and persons in detention.<sup>51</sup> In the 2015 Kyiv Declaration, NHRIs empha-

<sup>48</sup> UN Development Programme and UN Women, 'Preventing Political Violence Against Women in Elections: A Programming Guide' (20 December 2017) 23

<sup>49</sup> UN Commission on the Status of Women 62nd session 'Statement by Ms. Dubravka Šimonović, special rapporteur on violence against women, its causes and consequences' (12 March 2018) <[www.ohchr.org/Documents/Issues/Women/SR/StatementCSW12March2018.pdf](http://www.ohchr.org/Documents/Issues/Women/SR/StatementCSW12March2018.pdf)> accessed 18 December 2018

<sup>50</sup> NDI has pioneered an initiative to close gaps in global data availability on violence against women in politics and elections: an online incident reporting tool. The data collected will be collated into a report submitted to the Special Rapporteur on Violence Against Women. See <https://www.ndi.org/incident-report-form-violence-against-women-politics>.

<sup>51</sup> ICCPR art. 26; International Convention for the Elimination of All Forms of Racial Discrimination (adopted 7 March 1966, entered into force on 12 March 1969) 660 UNTS 195 (ICERD), art. 1, 5; Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3 (CRPD), art. 29



sized the role they play in conflict and post-conflict situations, including in protecting and promoting the human rights of internally displaced people and refugees.<sup>52</sup>

Socio-economic exclusion has a direct impact on the enjoyment of political rights, in particular if poverty and mistrust of authorities prevail.<sup>53</sup> The Human Rights Council noted, however, that many states still fall short of effective inclusion in electoral processes, stressing the need to step up efforts.<sup>54</sup> Neglect of minority areas by state authorities and service providers, lack of information and materials in local languages, or lack of adapted access to state services to people with disabilities impact vulnerable groups rights concurrently.

NHRIs are uniquely placed to effectively tackle situations of intersectional violations of rights, linking work on participatory rights with the protection and promotion of a vulnerable group's socio-economic rights. See the examples that follow.



#### IDEA

- Where the state has not developed a specific set of policies or mechanisms aimed at the inclusion of disadvantaged groups, NHRIs can **collect data on the challenges to participation faced by these particular groups, namely national minorities, indigenous peoples, or people with disabilities**. Data collected could feed into holistic assessments of the barriers to participation, including logistical, financial, cultural, or educational barriers, throughout the election process. This assessment should also include an “anti-discrimination review” of the legal framework.
- Depending on EMB capacity and interest, NHRIs may offer trainings on nondiscrimination to officials and **advise on special measures the EMB can take to promote inclusiveness**, such as:
  - Special voter registration campaigns for national minorities;
  - Auditing accessibility for disabled voters and candidates;
  - Facilitating registration and enabling voting in IDP camps; and
  - Mechanism to facilitate participation in places of detention.
- Beyond the EMB, NHRIs could conduct an **assessment of training needs of all other electoral stakeholders**, including media, parties, and voters. Awareness-raising efforts could include information on civil and political rights in minority languages as well as training programs on stereotypes or misrepresentation of vulnerable groups. In addition, they could include advice on possible affirmative action measures the state could take to strengthen political participation and representation of vulnerable groups. NHRIs might also consider tailored trainings for those sections of the security forces involved in the electoral process.

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<sup>52</sup> National Human Rights Institutions ‘The Kyiv Declaration on the Role of National Human Rights Institutions in Conflict and Post-Conflict Situations’ (Kyiv, 22 October 2015)

<sup>53</sup> Guidelines on the effective implementation of the right to participate in public affairs, A/HRC/30/26, paras 16 - 22

<sup>54</sup> ‘Equal Participation in Political and Public Affairs’ A/HRC/Res/33/22 para. 1

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## Youth Participation in Public Affairs Matters

The right of people up to the age of 18 to participate in decisions affecting their lives is enshrined in Art. 12 of the Convention on the Rights of the Child.<sup>55</sup> Several additional international and regional political commitments affirm the right of children and youth to be heard.<sup>56</sup> Beyond participation in civil society and youth movements, states should actively promote youth participation in policymaking, particularly on matters that concern them.<sup>57</sup> Many countries have aligned the minimum age threshold for election to office with the minimum age to vote or have included youth quotas in local councils and national legislatures. NHRIs can raise awareness of youth rights, actively seek to encourage youth participation by supporting a dialogue on formal or informal mechanisms for the inclusion of youth in public affairs, and ensure that reporting on youth rights is a regular part of the NHRI's monitoring and reporting activities to regional and international human rights mechanisms.<sup>58</sup> This might also include an assessment of voter registration procedures, making sure that those who are 18 (or the relevant age threshold for voting) are actually able to register and exercise their right on election day. Finally, ensuring that youth are also among the staff and membership of the NHRI can help encourage youth engagement.

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## CASE STUDY

### COMELEC and CHR in Philippines: The HRBA Approach to Election Management and a Field Manual to Ensure the Right of Suffrage of the Vulnerable Sectors

In 2014, the Philippines Commission on Elections (COMELEC) and Commission on Human Rights (CHR) entered into a memorandum of understanding to conduct trainings for selected COMELEC field personnel to enhance their capacity to promote the inclusiveness of the electoral process, focusing on the rights of people with disabilities, indigenous peoples and people deprived of liberty.<sup>59</sup> The trainings targeted regional election directors, provincial election supervisors, and election officers from COMELEC's headquarters. It provided them with a basic understanding of the barriers faced by vulnerable groups and ways to overcome them. In addition, the trainings raised participant awareness of the significance of a human-rights based approach to election management. The workshops built on a series of best practices and lessons learned that COMELEC gathered from previous elections and included a series of recommendations and next steps. COMELEC and CHR published all materials, findings, and recommendations from the training in a "field manual" that was then disseminated to all staff. According to COMELEC, the trainings helped to achieve the highest voter turnout in 2016 national and local elections, with 81.95 percent participation.<sup>60</sup>

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55 Convention on the Rights of the Child (adopted 20 November 1989, took effect 2 September 1990) 1577 UNTS 3 (CRC) art. 12

56 See, for example UNGA Res 58/133 'Policies and program involving youth' (26 January 2004) Un Doc A/RES/58/133; African Youth Charter (adopted by the African Union 2 July 2006, entered into force 8 August 2009) (AYC)

57 CRC art. 12

58 UN HRC, First Session of the Forum on Human Rights, Democracy and the Rule of Law, Report of the Co-Chairs, A/HRC/34/46

59 Commission on Human Rights of the Philippines and Commission on Elections of the Philippines 2014: Human Rights Based Approach to Election Management. A Field Manual to Ensure the Right of Suffrage of the Vulnerable Sector, Manila.

60 COMELEC 'COMELEC Wins Electoral Commission of the Year, Excellence in Election Management, and Two More Awards in London-Based International Think Tank's 2016 International Electoral Awards' (8 December 2016) <[www.comelec.gov.ph/?r=References/Announcements/08Dec2016pr](http://www.comelec.gov.ph/?r=References/Announcements/08Dec2016pr)>

## ADDITIONAL RESOURCES

- OSCE, *Handbook on Observing the Participation of National Minorities in Electoral Processes*
- UNDP, *Youth Participation in Electoral Processes: A Handbook for Electoral Management Bodies*
- The Carter Center, *Election Obligations and Standards: A Carter Center Assessment Handbook*

## Inclusive Electoral Processes: An Inclusive Voter Register as a Human Right

Voter registration is an essential preparatory step in the election, giving life to the principle of universal suffrage and the right to participate in public affairs, including the rights of minorities and internally displaced people. Voter registration is a complex and costly exercise, and the procedures, timelines, and criteria should be clearly stipulated in law.

There are different types of voter registration systems: Some countries update the voter list periodically in advance of election day, whereas other countries update the list continuously, adding and removing voters on a regular basis. Regardless of the method chosen, the state is obliged to deliver an inclusive voter list that allows all eligible citizens to exercise their right to vote on the date of the election. Procedures should be in place to prevent multiple registration of voters (allowing them to vote in more than one polling station) as well as to remove the deceased from the list and to promptly add voters that pass the age threshold for voting.

Information about the voter registration process has to be accessible, including in local languages or braille, to ensure universal suffrage. Voters must have the time and the opportunity to request corrections and submit complaints about the voter list. Voters' personal data – such as ethnicity – should be confidential, as it could be a motive for discrimination.

Special efforts might be needed to reach out to and include marginalized groups, such as minorities, migrants and IDPs, detainees, people with disabilities, or first-time voters.



### IDEA

- The lack of awareness of the process for preparing voter lists is a common challenge to inclusive voter registers. NHRIs can support the EMB in its outreach to marginalized groups in particular by **disseminating information about the voter registration process**, its requirements, and timelines. NHRIs could advocate for special measures for illiterate and minority voters, adapting information materials and campaigns.
- NHRIs could **inform citizens about their right to request corrections on the voter list** and the procedures to submit a request to the competent body. In addition, NHRIs can offer support to submit appeals prior to election day.

## Monitoring Human Rights on Election Day

It is very likely that a number of domestic election observers and perhaps international observation missions will be deployed to observe polling throughout the country. As election day monitoring is a resource-intensive activity, NHRIs should carefully consider their

engagement and choose their strategy based on the added value they expect to contribute with their intervention. NHRIs' biggest strength is their legal and thematic expertise, linking international human rights norms to the empirical reality in their respective countries. They can play a crucial role in assessing compliance of election legislation with international human rights obligations, enriching the analysis conducted by election observer organizations with a broader view of civil rights and freedoms as well as of intersectional discrimination and marginalization.

Election day observation is most valuable in an environment of closing political space, disenfranchisement, discrimination, violence, or poor implementation of polling procedures by polling station staff. NHRIs should, however, consult with election observers, the EMB, political parties, and voters before defining their strategy, avoiding overlap and duplication and focusing on monitoring human rights, in particular public freedoms, that other actors will not be monitoring. Further, NHRIs should consider any election day observation activities within the scope of their broader long-term strategy to promote and protect civil and political rights in the pre- and postelectoral period.

As there are many tools and manuals available on election observation, this section focuses on the specific aspects where NHRIs can make a unique contribution. For detailed guidance on "classic election observation," NHRIs can refer to the guidance developed for and by election observers.<sup>61</sup>

Depending on the context, NHRIs can decide to focus on some or all of the following aspects.

### **Voting Facilities and Special Facilities for Vulnerable Groups**

There are many technical aspects of the election process that an NHRI could assess on election day. Several election observation organizations have published handbooks that highlight the key issues to consider when observing election day. While review of those handbooks is highly recommended, below is a short, illustrative list of issues that an NHRI may wish to assess on election day.

- Are all voters able to exercise their right equally, regardless of their geographical location? Are there sufficient polling stations established?
- Are polling stations, including in remote areas, equipped with all necessary materials so that voters can exercise their rights?
- If there are separate polling stations to facilitate women's participation, are they equipped with all materials, and are voters able to cast a secret ballot?
- Are voters able to cast their vote in secret and without intimidation?
- Are all polling stations accessible for people with disabilities, and are people with disabilities able to cast a secret vote?
- Are voter identification requirements applied consistently according to the procedures, without discrimination against a particular group?
- Are state security forces acting in an impartial and appropriate manner?

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<sup>61</sup> See additional resources at the end of this section.

## Assessing Special Voting Facilities

To ensure universal suffrage, many countries establish special voting procedures for those who are unable to cast their vote at the polling station on election day. The same principles apply to these special voting facilities, including the right to a secret ballot. Special criteria and voter registration procedures may be established for each of these voting categories, and these are subject to the same standards that apply to the general voter lists. Special voting facilities and processes should be open to the scrutiny of observers.



### IDEA

NHRIs could **focus observation efforts on special voting facilities**. In some countries, the EMB may establish mobile polling stations, which visit the eligible voters (for example elderly, sick) in order to allow them to exercise their rights. NHRIs could focus on assessing this special procedure, making sure it supports universal suffrage without discrimination and allows voters to vote in secrecy.

In particular in cases of internal conflict, NHRIs might assess the right to vote of those who were evicted from their homes because of violence and fighting. Voting for internally displaced people might include the opportunity for displaced people to travel to cast their ballots or the opportunity to cast their votes in temporary IDP camps.

Similarly, NHRIs can assess measures to ensure the right to vote of those outside the country either by postal voting or voting at the state's embassy or consulates. In addition, NHRIs might assess access to voting for those in military facilities and places of detention.

### Protection Mechanism: Establishing a Hotline for Violation of the Right to Participate in Elections

It can be useful to establish a dedicated hotline service to allow voters and candidates to file a complaint whenever their participatory rights have been violated. Such a hotline would be separate from the NHRIs' regular complaint mechanism, if any, and could be established in collaboration with the election management body or domestic election observers, including a rapid reaction mechanism to address situations of discrimination as they arise.

Information about this hotline could be disseminated to vulnerable groups facing discrimination, particularly women, minorities, and people with disabilities.

## CASE STUDY

### Palestine Human Rights Commission Incident Hotline

The Palestine Human Rights Commission and the Central Elections Commission of Palestine entered into a memorandum of understanding to establish a joint complaint mechanism for the 2017 Local Bodies Election. The Palestine Human Rights Commission established a dedicated hotline for candidates and voters during the campaign period and on election day. The complaints were processed by the Palestine Human Rights Commission, which coordinated follow-up action and remedy. Complaints against the administration of elections were forwarded to the Central Elections Commission, and cases of intimidation, in particular by the security forces, were forwarded to the government.

### ADDITIONAL RESOURCES

- *The Carter Center, Election Obligations and Standards: A Carter Center Assessment Handbook*
- *EU, Handbook for European Union Election Observation*
- *OSCE, Handbook for Domestic Election Observers*
- *NDI, Building Confidence in the Voter Registration Process: An NDI Monitoring Guide for Political Parties and Civic Organizations*
- *NDI, Monitoring Electronic Technologies in Electoral Processes: An NDI Guide for Political Parties and Civic Organizations*
- *NDI, How Domestic Organizations Monitor Elections: An A to Z Guide*

### Monitoring Electoral Dispute Resolution

The general principle of equality before the law, as well as the rights to an effective and timely remedy and a fair and public hearing by an impartial and competent tribunal, applies to all stages of any election process.<sup>62</sup> There are different ways to handle election disputes; some countries establish dedicated tribunals, whereas in others, cases are referred to civil courts. They all must be independent and act in full transparency, according to standard judicial proceedings, and make judgments and deliberations public.<sup>63</sup> As election processes are time-sensitive, complaints and appeals must be resolved within a reasonable time, particularly challenges to administrative decisions of the EMB regarding candidacy, voter eligibility, or results.

Often, NHRIs have an *amici curiae* (friends of the court) role, providing legal advice to courts on cases of alleged human rights violations. They could offer this support to electoral tribunals as well. In addition, NHRIs can either engage in trial monitoring themselves, assessing the right to a fair and public hearing, or support civil society and domestic observers to do so.

NHRIs could focus on cases where criminal acts are alleged, assessing the role of the state prosecution and the impartiality of decisions.

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<sup>62</sup> ICCPR art. 2, 14, 16

<sup>63</sup> ICCPR art. 14



## IDEA

- In addition to monitoring trial proceedings themselves, NHRIs can support trial monitoring efforts by domestic election observers, offering trainings on court proceedings, including: applicable laws, filing requirements, burdens of proof, rules of evidence, and processes for appeals. This could include the development of standard checklists for court monitors, based on the local election dispute resolution legislation.
- Voters and candidates who have been victims of discrimination, intimidation, or violence should be encouraged to seek legal redress through the election dispute resolution process. In particular, NHRIs can support the resolution of gender-related offenses and violations, providing targeted information about the election dispute resolution process to women voters and candidates and offering support in filing complaints and compiling evidence. NHRIs can support minorities' access to electoral justice, providing information on dispute resolution procedures in local languages and offering language support and interpretation during proceedings.
- NHRIs can collect data about all complaints and appeals during an election process and draft opinions or legal analysis based on human rights, including recommendations for reform.
- NHRIs could provide trainings to the EMB and other electoral stakeholders on the rights to a fair trial and effective remedy and the local framework for court proceedings.

## ADDITIONAL RESOURCES

- *The Carter Center, Election Obligations and Standards: A Carter Center Assessment Handbook*
- *International IDEA Handbook on Electoral Justice*
- *OSCE, Resolving Electoral Disputes*

## Preventing Electoral Violence

NHRIs can make a difference and contribute to electoral conflict prevention and have recognized this role in the context of the Global Alliance of National Human Rights Institutions annual meeting, as well as in regional conferences and workshops.<sup>64</sup> In particular, NHRIs have committed to monitoring election violence and restrictions on civil and political rights during the campaign and election phases, as well as promoting dialogue between conflict parties.<sup>65</sup>

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<sup>64</sup> Global Alliance of National Human Rights Institutions (GANHRI) Annual Conference closing statement 'Early warning, conflict prevention and re-establishment of peaceful societies: The Role of National Human Rights Institutions' (Geneva, 8 March 2017); The Kyiv Declaration; Network of African National Human Rights Institutions (NANHRI) 'Kampala Declaration' (16 August 2002)

<sup>65</sup> The Kyiv Declaration

**Figure 3.** Preventing election violence along the election cycle



Working on electoral conflict requires a combined analysis of both the election and conflict cycles, identifying possible conflict analysis, prevention, and mitigation activities for each of the stages of the election.<sup>66</sup> With their unique set of networks among the government, the domestic and international human rights and humanitarian communities, as well as the security sector, NHRIs facilitate the cooperation of a diverse set of stakeholders and complement the EMB’s efforts preventing, monitoring, and mitigating electoral violence.

### Conflict Analysis

NHRIs’ work on electoral violence should be informed by a careful analysis of the conflict triggers and the particular risks associated with the different stages of the election process. There are multiple analytical tools that an NHRI can apply to develop their own conflict analysis before, during, and after an election process.<sup>67</sup> Table 1 provides a sample set of elements that could be considered, based on an analysis of the institutional factors, a mapping of key actors, and an assessment of the practices and relationships that might contribute to polarization and violence.

<sup>66</sup> Lisa Kamerud (International Foundation for Electoral Systems) *An Integrated Approach to Elections and Conflict* (White Paper, 2012)

<sup>67</sup> OHCHR has proposed a conflict analysis based on conflict causes, human rights risk equations and actor mapping. Alternatively, International IDEA has developed an Electoral Risk Management tool, complemented by three action guides, proposing electoral risk mapping based on factors internal and external to the electoral process. NDI has also developed a tool to mitigate violence through non-partisan citizen observation. See OHCHR ‘Chapter 8: Conflict Analysis’ *Manual on Human Rights Monitoring* (2nd ed. 2011) UN Doc HR/P/PT/7/Rev.1; Sead Alihodzic, Erik Asplund, and Catalina Uribe *Burcher Electoral Risk Management Tool: Internal Factors Guide, Electoral Risk Management Tool: External Factors Guide, The Prevention and Mitigation of Election-related Violence: An Action Guide* (International IDEA 2018); Julia Brothers and Michael McNulty *Monitoring and Mitigating Electoral Violence through Non-Partisan Citizen Election Observation* (NDI 2014).



**Table 1.** Elements That Could Contribute to Election Violence

|   |   |
|---|---|
| <p><b>Institutional Framework</b></p>     | <ul style="list-style-type: none"> <li>• Extent to which political and civil rights are protected in constitutional, legal, and regulatory framework and enforced in practice</li> <li>• Lack of independence of the EMB and/or of bodies mandated to implement parts of the election process (e.g., the body mandated to delineate electoral boundaries, register political parties, prepare the voter list)</li> <li>• Degree of inclusiveness produced by the electoral system and extent to which minority groups have a real chance to participate</li> <li>• Limited rights of the opposition</li> <li>• Incoherence between different elements of the legal framework for elections, particularly, unclear processes for announcing results, recounts, and/or conditions for declaring voting null and void</li> <li>• Strength of the rule of law</li> <li>• Restrictive environment for civil society participation (including excessive requirements to registration, funding, and implementation of activities)</li> </ul> |
| <p><b>Actors</b></p>                      | <ul style="list-style-type: none"> <li>• Lack of a human-rights-based approach to party programming and general lack of political party capacity or awareness of their participatory rights</li> <li>• Partisan civil society, i.e., domestic observers do not follow international standards for nonpartisan election observation</li> <li>• Relative transparency by EMB and perception about its relative independence</li> <li>• Lack of awareness of participatory rights amongst citizens</li> <li>• Civilian oversight of the security sector</li> </ul>   |
| <p><b>Practices and Relationships</b></p> | <ul style="list-style-type: none"> <li>• Practices of discrimination persist</li> <li>• Practices of corruption exist</li> <li>• Women are not equally participating and represented</li> <li>• Winner-takes-all and zero-sum approaches to decision-making and lack of multiparty dialogue</li> <li>• Lack of broad-based consensus on election framework, including the election system</li> <li>• Lack of codes of conduct for key actors (i.e., parties and candidates, nonpartisan election observers, media)</li> <li>• Perception of bias of state-funded media</li> </ul>   |

**Monitoring**

During the pre-election and election phases, NHRIs may decide to deploy monitors with a specific focus on election violence, ideally in coordination with domestic election observers. NHRIs will add value if they have strong networks or a physical presence in conflict areas where human rights violations can be expected. Monitoring could also extend to the post-election period, where NHRIs can closely follow the legal reform process and feed their human rights and electoral risk analyses into policy debate and discussions of reform. See specific suggestions below.



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## IDEA

- Map the different bodies involved in the implementation of the election cycle and identify unclear or overlapping roles as well as inconsistency in legal framework. During the postelection period, monitor election reform efforts and make sure these inconsistencies are addressed.
  - Identify hot spots and deploy monitors to watch campaign events, polling, and counting in those areas, referring human rights violations to the authorities and monitoring their response.
  - NHRIs could also focus on particularly sensitive aspects of the election process and, for example, prepare to monitor any recounts of votes. During the interim period, before final results are announced, the NHRI could appeal to voters' and candidates' patience and raise electoral stakeholders' awareness on the recounting procedures, monitoring their implementation.
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## Mediation

NHRIs have explicitly recognized their role in addressing human rights violations in conflict and post-conflict situations, including the identification of early signs of conflict and the promotion of dialogue between conflict parties.<sup>68</sup> NHRIs can play a key role in calling for inclusivity, transparency, and accountability during the election process, in line with their mandate to promote human rights and democratic values such as pluralism and nondiscrimination.

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<sup>68</sup> The Kyiv Declaration



## IDEA

- NHRIs can design their mediation efforts to assess the weakness of the existing formal dispute resolution mechanisms, including the process for submission of complaints and appeals against administrative decisions of the EMB during all stages of the process. This can include the establishment of an alternative complaint mechanism for voters and candidates by intervening to mediate a case wherever meaningful.
- NHRIs can take a proactive role and mitigate exclusionary politics and hate speech by issuing statements and calling for tolerance, inclusivity, and dialogue throughout the election cycle. NHRIs can also use public statements to disseminate information on different aspects of the process, using their unique access to marginalized groups. In some cases, NHRIs have issued statements calling for a peaceful election campaign, informing the public about their own monitoring efforts and the steps the NHRI would undertake if cases of hate speech or inflammatory discourse are identified.
- NHRIs can also decide to host local, multiparty mediation committees, for example through branch offices throughout the country, and can establish multiparty dialogue. NHRIs could facilitate the implementation of voluntary codes of conduct for parties and candidates, based on gaps in the protection of participatory rights in statutory legislation.
- Women participate in and are affected by electoral violence in different ways than men. While the majority of perpetrators of violence are men, women are most often the victims. NHRIs should make sure to include women in any mediation efforts and actively reach out to women's grassroots movements, assessing the barriers they face to exert their participatory right and developing tailored strategies to support women as victims of election-related violence.
- NHRIs can provide training to local civil society organizations and domestic election observers on mediation methodologies, strengthening the capacity of community-based organizations to respond to electoral grievances at the local level.
- NHRIs can provide training to the local media, building their capacity to report on participatory rights and electoral process. This could also include raising awareness of the rights of the media and their obligations during the electoral process, offering support to journalists under threat or reporting cases of intimidation aimed at influencing coverage of the election cycle or instances of electoral violence.
- NHRIs can provide training to security forces on human rights-compliant law enforcement, including during elections, and could call for the development of tailored policies to protect participatory rights. This also includes dedicated policies to protect the rights of women candidates and voters as well as minorities.

## ADDITIONAL RESOURCES

- NDI, *Monitoring and Mitigating Electoral Violence*
- UNDP, *Elections and Conflict Prevention: A Guide to Analysis, Planning, and Programming*
- UNDP, *Political Violence Against Women and Girls*
- IDEA, *Guide to Electoral Risk*
- OHCHR, *Human Rights Manual, Chapter 8: Conflict Analysis*

## CASE STUDY

### Comisionado Nacional de Derechos Humanos de Honduras

The 2017 general elections in Honduras were marked by postelectoral violence, resulting in the deaths of 31 people.<sup>69</sup> During all stages of the electoral process, from the campaign period to the announcement of results, the Comisionado Nacional de Derechos Humanos de Honduras (CONADEH) issued various public statements, calling on parties to compete in a peaceful manner and respect electoral results. CONADEH monitored the role of state security forces during the postelection protests and provided legal assistance to demonstrators. The CONADEH played an active role in calling for electoral reforms in the postelection period, highlighting the need for broad-based consensus on the election framework and stressing exclusion and marginalization as a key issue to be addressed. In the first half of 2018, the EMB and the government initiated a review of election legislation, proposing electoral reforms in Parliament in July 2018.

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<sup>69</sup> CONADEH Informe Anual (Tegucigalpa: 2017) <<http://app.conadeh.hn/descargas/INFORME%20ANUAL%20COMPLETO%202017.pdf>> accessed 5 December 2018

# Working with Election Stakeholders: Follow-up on Recommendations

## Encourage and pursue individual cases with authorities (if within NHRI mandate)

Identifying human rights violations lies at the heart of NHRIs' role, and almost all NHRIs have legal powers to investigate alleged violations, either in response to an individual complaint or of their own volition.<sup>70</sup> The Paris Principles do not require NHRIs to have this mandate, but, wherever this is the case, the NHRI needs to have the powers to adequately fulfill this function. The ICC's General Observations illustrate that this could include the ability to do any of the following:<sup>71</sup>

- Seek an amicable and confidential settlement of a complaint through an alternative dispute resolution process
- Settle complaints through a binding determination
- Refer its findings to courts of law or specialized tribunals for adjudication
- Refer complaints falling beyond its jurisdiction or in a concurrent jurisdiction to the appropriate decision-making body
- Seek enforcement through the court system of its decisions on the resolution of complaints
- Follow up and monitor the implementation of its decisions on the resolution of complaints
- Refer its findings to government in situations where a complaint provides evidence of a widespread or systematic violation of human rights.

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<sup>70</sup> Richard Carver, 'A New Answer to an Old Question. Human Rights Institutions and the Domestication of International Law' (2010) 10 HRLR 1

<sup>71</sup> See General Observations on the Paris Principles 1.10

Depending on their mandate and in coordination with the election management body (EMB), NHRIs may decide to set up a dedicated complaint mechanism for the electoral process, providing a rights-based approach to electoral complaints and targeting particular groups such as women or national minorities.

The Paris Principles establish that the procedures for receiving and investigating complaints must be available to the public and the possible steps for remedial action clarified from the outset. While this applies to all complaint procedures, it is particularly important in the context of elections as it can help protect the NHRI against allegations of inaction or political bias.<sup>72</sup>



#### IDEA

NHRIs could publish data on the number and nature of the complaints submitted, investigated, forwarded, or resolved, and analyze this evidence to assess the need for electoral reforms.<sup>73</sup> Data on complaints could also be included in the NHRIs' report to treaty bodies or the UPR, providing further evidence for situations of marginalization of and discrimination against particular groups in a society.

## Advocacy with National Stakeholders for Reforms and Follow-up to Election Monitoring Recommendations

### Postelection Reflections

After elections, domestic and international observers issue a comprehensive report including their analysis, findings, and recommendations. Often, the election management body invites parties and observers to conduct a joint review of the process, establishing lessons learned and priority improvements. NHRIs can actively seek to take part in this dialogue, submitting their own monitoring findings and recommendations based on participatory rights.

A dialogue between the legislature and the NHRIs, EMB, domestic observers, and other civil society organizations (CSOs) with relevant expertise can help to generate consensus on priority reforms. NHRIs have a unique perspective on the election process, human rights expertise, and networks among marginalized groups. For this reason, their involvement in postelection dialogues and reflections can help to promote a more holistic approach to participatory rights.

### National Action Plans on Human Rights

NHRIs often have strong relationships with human rights committees in the national legislature, providing advice on legislative reforms or briefings on substantial human rights issues. They could aim to involve elected representatives in a broad-based dialogue on

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<sup>72</sup> The Paris Principles do not require NHRIs to have quasi-judicial competence. However, General Observation 2.10 establishes that, wherever NHRIs have the mandate to receive and investigate complaints, complaint handling procedures must be written and publicly available.

<sup>73</sup> Publication or analysis on complaints should include aggregated data, unless explicitly authorized by the victims.

participatory rights.<sup>74</sup> This could take place in the context of postelection reflections or a national action plan for human rights, in which NHRIs are often closely involved.<sup>75</sup> Including details on participatory rights in a human rights planning process can help to: (1) generate political support for key reforms; (2) obtain commitments to implement the steps set forth in the action plan; (3) create specific targets and concrete objectives; and (4) allow for monitoring of their implementation.

### National Mechanisms for Reporting and Follow-up

National Mechanisms for Reporting and Follow-up (NMRFs) are public national organizations or structures that have a specific mandate to prepare reports for and interface with international and regional human rights mechanisms, such as treaty bodies, UPR, and special procedures. They can be ministerial, interministerial, or independent. NMRFs are also responsible for implementing treaty obligations and the recommendations received via these mechanisms.<sup>76</sup> NHRIs could support the government to conduct inclusive consultative processes as part of the NMRF, bringing and ensuring that data regarding participatory rights is collected by the government as part of its reporting obligations to NMRF mechanisms.

### Supporting a Rights-Based Review of the Strategic Framework of the Election Management Body

Many state bodies conduct strategic planning exercises to formulate long-term policy and organizational development objectives that go beyond annual budgeting and activity planning. EMBs around the world have adopted this methodology and prepare and review their strategic plans on a regular basis.<sup>77</sup> Usually, the strategic plans are organized in different thematic areas and include specific targets and activities for each. Here’s one example:

| Thematic Area             | Goal                                   | Activities  |
|---------------------------|--|---|
| Civic and voter education | To enhance citizen understanding       | Develop an operational plan for civic and voter education efforts |
|                           | To increase participation in elections | Cooperate with CSOs in civic and voter education                  |

<sup>74</sup> OHCHR, ‘Survey on National Human Rights Institutions, Report on the findings and recommendations of a questionnaire addressed to NHRIs worldwide’ (July 2009)

<sup>75</sup> OHCHR, Handbook on National Human Rights Plans of Action (29 August 2002) 10 UN Professional Training Series UN Doc HR/P/PT/10

<sup>76</sup> OHCHR ‘National Mechanisms for Reporting and Follow-up: A Practical Guide to Effective State Engagement with International Human Rights Mechanisms’ (2016) UN Doc HR/PUB/16/1, 2

<sup>77</sup> For more information, see Antonio Spinelli, Strategic Planning for Electoral Management, (IFES, October 2011)

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 **IDEA**

NHRIs could offer their expertise and advice to EMBs, participating as external stakeholders in the planning process and providing guidance on the relevant rights applicable to the different thematic areas of the plan, highlighting any salient issues and ensuring that the rights of vulnerable groups are given consideration. Since EMB strategic plans are public documents, the NHRI could review the plan and issue an opinion or brief comment without having to be invited to the planning process.

NHRIs could also offer support to the implementation of the strategic plan, in particular by supporting:

- The EMB's legal review and advice on proposed amendments to the legal framework.
  - Trainings on human rights for EMB staff.
  - The EMB in developing internal rules and codes of conduct, e.g., anti-discrimination policy, gender policy, and code of ethics.
  - The EMB in developing a human-rights-based civic education curriculum.
  - The EMB in working with media regulatory bodies and to develop joint activities on media, freedom of speech, and opinion.
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### **ADDITIONAL RESOURCES**

*IFES, Strategic Planning for Effective Electoral Management*  
*International IDEA, Handbook on Election Management Design*  
*The Carter Center, Election Obligations and Standards: A Carter Center Assessment Handbook*

### **Propose Measures to Improve the Participation and Inclusion of Marginalized Communities**

The rights of vulnerable communities are often at the heart of NHRIs' work, and many institutions have work plans on the rights of indigenous peoples, minorities, or people with disabilities. As a follow-up to monitoring the electoral process, further research and advocacy could be conducted to promote the political rights of those groups, highlighting inclusiveness as a key democratic principle. In particular, NHRIs could focus on providing data and evidence on the challenges faced by vulnerable communities and propose reforms to further ensure they enjoy their participatory rights.

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## IDEA

- NHRIs could provide analysis on situations of interspersed violations of rights, for example:
  - Underdevelopment, informal economies, and the right to participate
  - Gaps in access to technology and telecommunications and the right to participate, including digital divides and candidacy registration, voter information, and voter education materials<sup>78</sup>
- Work to strengthen participation at the community level, for example by assessing the possibility of introducing lower thresholds for minority parties or candidates or considering granting migrants voting rights for local elections.

## CASE STUDY

### Public Defender of Georgia and Advocacy for Minorities' Representation in Public Office

In its 2017 Report on Human Rights in Georgia, which is submitted on a yearly basis to the Parliament, the Ombudsman of Georgia notes the low level of participation of minorities in national and local government. While commending the efforts made by the Central Elections Commission of Georgia in raising awareness and training of its staff and the electorate on minorities' political rights, the Ombudsman sees further need to increase minority representation within the Elections Commission. In addition, the report mentions the lack of minority representation in regulatory bodies, most notably the board of trustees of the Georgian public broadcaster.<sup>79</sup>

## ADDITIONAL RESOURCES

- *OSCE, Handbook on Observing and Promoting the Rights of National Minorities in Electoral Processes*
- *Guidelines for States on the Effective Implementation of the Right to Participate in Public Affairs*

<sup>78</sup> Based on the ICU World Telecommunications/ICT Database estimates for 2017, in Africa, Asia and the Pacific, and in Arab states, fewer than half of households have access to the internet. Digital divides also exist regarding people with disabilities, as access to information in appropriate formats is limited. International Telecommunication Union (ITU) 'ICT Facts and Figures 2017' (July 2017) <[www.itu.int/en/ITU-D/Statistics/Documents/facts/ICTFactsFigures2017.pdf](http://www.itu.int/en/ITU-D/Statistics/Documents/facts/ICTFactsFigures2017.pdf)> accessed 5 December 2018

<sup>79</sup> Nino Lomjaria, Public Defender of Georgia 'Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia in 2017' (30 March 2018).

# Cooperation with Domestic Citizen Election Observers

## Joining Domestic Efforts on Election Reforms

**T**he need to cooperate with civil society as a key human rights stakeholder is recognized by the Paris Principles, and the vast majority of NHRIs report a strong relationship with civil society organizations (CSOs).<sup>80</sup> However, domestic election observers, as a distinct group within the broader community of human rights defenders, tend to have stronger relationships with the election management body and the legislature; their engagement with NHRIs is limited. While many observer groups frame their recommendations and advocacy in terms of compliance with international obligations, there are only a few cases where NHRIs are involved in joint legal reform advocacy efforts with domestic citizen observer groups.



### IDEA

NHRIs and CSOs can work together toward electoral reforms in the following ways, and others:

- **Conducting joint review of legislation:** A working group that conducts joint review of legislation could be established. The NHRI could provide the international human rights knowledge and legal analysis while domestic observers contribute their knowledge and experience on the electoral process and the functioning and performance of the election management body. The joint review could seek to complement the analysis prepared by domestic and international election observers, assessing the interdependence of civil and political rights in the country context and focusing on broader challenges to participation as well as the exercise of representative functions. The joint review could include a set of key recommendations, which could be the basis of joint advocacy.
- **Establishing a joint platform for advocacy:** A platform for advocacy means a group of actors advocating together or separately for the same set of recommendations. NHRIs and election observers can join forces and spread similar messages on the value of protecting participatory and related rights and formulate a series of recommendations for reform that they can promote with the legislature, the EMB, the government, or other relevant agencies (like the media regulatory body or journalist associations). Using the OHCHR framework for Human Rights Indicators, NHRIs could cooperate with CSOs to establish structural, process-oriented, and outcome indicators for the right to participate in their

<sup>80</sup> Paris Principles C (g) ; Francesca Jessup and Koffi Kouste 'Evaluation of OHCHR Support to National Human Rights Institutions: Final Report' (OHCHR, October 2015) para. 22

country, setting baselines and targets that then could serve as basis for joint advocacy and monitoring efforts.<sup>81</sup>

- **Engage in joint awareness-raising activities:** Joint public information campaigns can be important, particularly in closed political environments where there is a lack of political will for reforms to further protect human rights. Making the broader public aware of the role of participatory rights in a democratic society and the relevance of voter engagement in electoral reforms and promotion of human rights can help generate political will for reform and increase support for pro-democracy movements.
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## **CASE STUDY**

### **Jordanian Alliance for Electoral Reforms**

Jordanian Alliance for Electoral Reforms included the National Centre for Human Rights of Jordan. A group of 11 CSOs and the NCHR agreed on a set of key legal reforms based on their findings and observation of the 2010 elections. These recommendations were discussed with the Parliament's legal committee. Recommendations related to the independence of the EMB and campaign finance were included in the 2016-2021 National Action Plan for Human Rights.

## **ADDITIONAL RESOURCES**

- *Citizen Observers: A Guide for Citizen Observers on Electoral Reforms*
- *OSCE, Handbook on the Follow-Up to Electoral Recommendations*

### **Using Data from Election Monitors for Engagement at the International Level and Supporting Domestic Observer Submissions to Treaty Bodies and Special Procedures**

A comparative table of Human Rights Committee Concluding Observations issued in 2017 (see Appendix B) shows diverse recommendations on the implementation of Art. 25, often using diverging terminologies ("right to vote," "participation in elections," "guarantees of free and fair elections") and highlighting different issues. In many cases, Art. 25 and participatory rights were additionally assessed and reported on within other sections, while in still others, participatory rights were assessed without reference to Art. 25. As a general trend, the jurisprudence of the Human Rights Committee on the right to participate in public affairs in 2016 highlighted excessive restrictions on the right to participate, equal participation of women, participation of minorities, and independence of the election management body.

The implementation of the right to participate is also reviewed by the African, American, and European regional human rights mechanisms. As a summary of jurisprudence of the African Commission on Human and People's Rights and the African Court of Human Rights shows, arbitrary detention of political opponents, restrictions on the right to stand as a

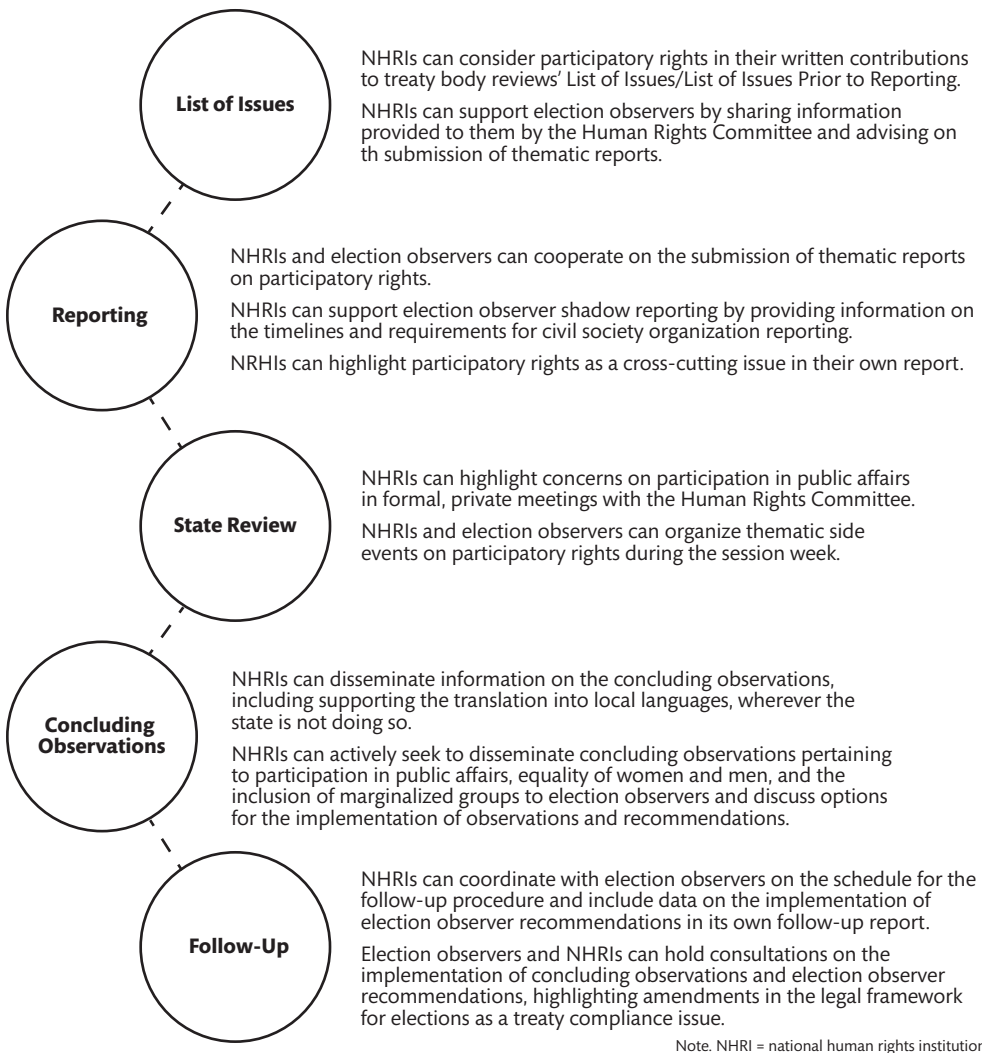
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<sup>81</sup> OHCHR, Human Rights Indicators: A Guide to Measurement and Implementation, (2012) UN Doc HR/PUB/12/5

candidate, or bias of state employees toward the incumbent party are deemed incompatible with the right to participate in public affairs.<sup>82</sup>

Being key to the fulfilment of all human rights, the right to participate in public affairs should appear at the center of treaty body and UPR reporting. Surprisingly however, less than 0.5 percent of UPR recommendations address political participation, often referring to elections only in a generic way.<sup>83</sup> As inclusive elections are a complex process affected by many other rights, these generic recommendations provide little practical guidance for their implementation, and monitoring their implementation is difficult.

**Figure 4.** Cooperation between NHRIs and election observers throughout the reporting cycle



82 Christof Heyns, 'Study on the Right to Equal Participation in Political and Public Affairs in Africa, presented at the Regional Consultation on Draft Guidelines on the Effective Implementation of the Right to Participate in Public Affairs' (5 September 2017)

83 Avery Davis-Roberts and David J Carroll, 'International Election Observer Recommendations and the UN Human Rights Mechanisms: Toward a More Robust System of Global Accountability on Democracy and Human Rights' (2017) 34 NJHR 311

Domestic observers are less familiar with the opportunities the international review mechanisms or special procedures present to advocate for electoral reforms. Strengthening the engagement of international and domestic election observer organizations with treaty and nontreaty bodies could foster a more systematic assessment of participatory rights at the international level. NHRIs can facilitate a stronger role for domestic observers within the international human rights system by integrating observer findings and recommendations into their own reporting and providing support to domestic observers.



#### IDEA

The following are some examples of ways NHRIs and domestic citizen observers can cooperate with, and strengthen the impact of the work of, domestic citizen observers:

- NHRIs could establish a standard framework for reporting on participatory rights and regularly include domestic election monitor findings and data in such reporting. This would also include reporting on participatory rights in midterm reviews of state obligations for mechanism reporting.
- NHRIs could submit thematic reports on the right to participate in public affairs to international human rights mechanisms.
- In situations of closing political space, NHRIs could support the interaction of domestic observers with other human rights defenders, in particular those working on nondiscrimination and civil rights and freedoms. They could hold a dialogue on the enabling environment for the right to participate and identify key challenges and solutions.
- NHRIs could also offer tailored training and capacity building on human rights mechanisms to election observers.
- NHRIs could facilitate broad-based and multistakeholder dialogue on the right to participate and the status of implementation of treaty body/UPR recommendations.
- NHRIs and election observers could work together to lobby with member states to include specific recommendations related to participatory rights in the UPR.

The focus of Geneva-based treaty body reviews (CEDAW, ICCPR, CRPD) is established at an early stage, ahead of the review, when the List of Issues is drafted, and then adopted two treaty body sessions ahead of the session in which the state will be reviewed. NHRIs could work with domestic observers 10-12 weeks ahead of the session in which the List of Issues will be adopted, supporting a submission on participatory rights to ensure that these will be part of the review.<sup>84</sup> CSOs also have the opportunity to submit reports and further evidence at a later stage, when the review has begun, but as the assessment will focus on the List of Issues adopted, a meaningful contribution can only be made if participatory rights are part of the review.<sup>85</sup>

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<sup>84</sup> Peggy Brett and Patrick Mutzenberg (CCPR Centre), UNHRC Participation in the Reporting Process: Guidelines for Non-governmental Organizations (NGOs), (December 2015)

<sup>85</sup> As obtaining consultative status as NGO with UN ECOSOC is a lengthy and bureaucratic process, NHRIs could offer information on the timelines and steps required and, at the same time, coordinate with other NHRIs and CSOs to advocate for a more efficient and streamlined administration of the process by UN DESA.

Although there is no special rapporteur for the right to participate in public affairs, NHRIs can encourage other special procedures with related mandates to consider electoral rights. For instance, the Special Rapporteur on Freedom of Assembly and Association as well the Special Rapporteur on Freedom of Expression have relevant mandates and regularly assess limitations on the rights to freedom of assembly, association, and expression and their impact on the right to participate in public affairs.<sup>86</sup> The Special Rapporteur on Violence Against Women focuses on violence against women in politics<sup>87</sup>. Ahead of a country visit, NHRIs could help domestic observers prepare summaries and key recommendations and facilitate an exchange with the rapporteur, working with all CSOs to disseminate findings and reports in their country (including translation into local languages wherever meaningful) and following up on the recommendations with their governments.<sup>88</sup>

Where civil society is facing threats or reprisals for reporting on elections and engagement with the UN, NHRIs should promote and protect their right to participate at the international level, including the establishment of a witness protection mechanism and offering legal aid or advocating for national laws that protect human rights defenders' right to participate in public affairs, including by monitoring compliance and engaging with international mechanisms.

## **CASE STUDY**

### **South Africa Human Rights Commission Referencing CSO Advocacy in Its Reporting to Human Rights Committee on Party Funding**

When the South Africa Human Rights Commission reported to the Human Rights Committee for South Africa's 2016 review under CCPR, it stressed that the right to access to information is important for fulfilling the right to participate in public affairs.<sup>89</sup> The SAHRC noted the work of a civil society coalition advocating for reforms that would require political parties to disclose their sources of funding. They seek an amendment of the Public Access to Information Act to include provisions for the disclosure of privately sourced funding by political parties and candidates.

### **Supporting CSOs and Individuals to Make Use of Optional Protocols, Mechanisms for Submission, Including Review of Case Law and Translation of Relevant Cases/Case Summaries into Local Languages**

Various human rights treaties with provisions on participatory rights receive complaints from individuals, provided the state is party to the respective optional protocol:

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86 A recent example of special rapporteur (SR) activity on elections is the joint statement of the SR for Human Rights in Cambodia, SR on Freedom of Expression, and SR on Right to Peaceful Assembly and Association, on media freedoms ahead of Cambodia's election. Professor Rhona Smith, Mr. David Kaye and Mr. Clément Nyaletsossi Voulé, 'Cambodia: UN experts express concerns about media freedoms ahead of vote' (OHCHR 15 June, 2018). <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23205&LangID=E>> accessed 18 December 2018.

87 Ms. Dubravka Šimonović, "'Stop violence against women in politics' urges the Special Rapporteur on violence against women, its causes and consequences' (OHCHR 21 June, 2016) <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21652&LangID=E>> accessed 18 December 2018.

88 NHRIs can also provide guidance to CSOs on the submission of complaints; see section 3.7 for further detail.

89 South Africa Human Rights Commission, Civil and Political Rights Report 2016/17, (March 2017) 60

- Human Rights Committee (CCPR)
- the Committee on the Elimination of Discrimination Against Women (CEDAW)
- the Committee on the Elimination of Racial Discrimination (CERD)
- the Committee on the Rights of Persons with Disabilities (CRPD)
- the Committee on Economic, Social and Cultural Rights (CESCR)
- the Committee on the Rights of the Child (CRC)

However, these instruments are rarely used to seek remedy for a violation of participatory rights. A search of the UN OHCHR jurisprudence database shows that only 1.2 percent of the communications received by the Human Rights Committee relate to Article 25.<sup>90</sup> Other committees have received even fewer complaints.

In addition, the special rapporteurs receive individual complaints and, once the documentation has been evaluated, can exert pressure on the state through confidential “communications,” which are appeals to the state to provide remedy to the violation and undertake corrective measures. In 2017, the Special Rapporteurs on Freedom of Expression and on Human Rights Defenders issued the most individual communications and received a response in roughly 50 percent of the cases.<sup>91</sup>



#### IDEA

Wherever available, NHRIs could bring further attention to these instruments and participatory rights, providing information in local languages about the procedures for submission. As appropriate, NHRIs also could offer support in preparing the submission, for instance if the victim is not fluent in one of the UN languages.

Wherever a victim fears retaliation for submitting a complaint against the state to a treaty monitoring body, and if within NHRI mandate, a complaint on behalf of the victim could be submitted. Further, the NHRI can monitor state responses to the complaint and the implementation of treaty body decisions. Information about the treaty body jurisprudence should be shared widely (in local languages, if the state does not do so), in particular to all human rights defenders and domestic election observers.

## CASE STUDY

### Individual Communication on Article 25: Delgado Burgoa vs. Plurinational State of Bolivia

In March 2018, in the case of *Delgado Burgoa vs. the Plurinational State of Bolivia*,<sup>92</sup> the Human Rights Committee adopted a decision in favor of the individual complainant, determining that the complainant’s rights under Art. 25 of ICCPR had been violated and

90 UN OHCHR, Jurisprudence Database, <http://juris.ohchr.org/en/Search/Results/>

91 See UN HRC Thirty-Fifth Session, ‘Communications report of Special Procedures’ (24 May 2017) UN Doc A/HRC/35/44; UN HRC Thirty-Fourth Session, ‘Communications report of Special Procedures’ (17 February 2017) UN Doc A/HRC/34/75; UN HRC Thirty-Sixth Session, ‘Communications report of Special Procedures’ (21 August 2017) UN Doc A/HRC/36/25. The complaints and communications are confidential.

92 UN CCPR ‘Views adopted by the Committee under article 5 (4) of the Optional Protocol concerning communication No. 2628/2015’ (2 May 2018) UN Doc CCPR/C/122/D/2628/2015

asking the state to provide compensation and take steps to avoid similar violations in the future. Rebeca Delgado, a former member of Bolivia's Parliament, was disqualified to run in the 2015 subnational elections on the basis of Circular 17/2014 issued by the Supreme Electoral Court of Bolivia. This circular established that national parliamentarians may not stand as candidates for various subnational government positions. According to the Human Rights Committee, this disqualification was in violation of Art. 25, as it restricted the former parliamentarian's political rights and was not based on reasonable and objective criteria established by law. The state of Bolivia must provide the victim adequate compensation, including all costs of legal representation, and take necessary steps to avoid similar violations in the future.



# Strengthening the Focus on Participatory Rights at the International Level

## Leveraging Regional and International Forums to Promote Participatory Rights

**R**egional and global political and human rights forums present additional opportunities to strengthen NHRIs' voice on the right to participate in public affairs. The Global Alliance for National Human Rights Institutions (GANHRI) is increasingly focusing its thematic work on the protection of civic space, advancing further exchange and joint efforts to protect participation of civil society.<sup>93</sup> In advance of, or in parallel to, high-level events such as the High Level Political Forum on Sustainable Development (HLPF) or the Commission on the Status of Women (CSW), NHRIs and election observers could organize side events and exchange on NHRIs' experience in monitoring and protecting participatory rights, providing room for a discussion of challenges and lessons learned and identifying capacity constraints or training needs.

Through their regional networks, NHRIs could, for example, identify gaps in data collection, engage in joint monitoring and reporting on participatory rights efforts, and support a global consensus on priorities for action in support of participatory rights. This data could then be used to highlight issues regarding participatory rights in regional human rights bodies or to jointly advocate for the explicit protection of participatory rights.<sup>94</sup>

As political participation is a cross-cutting right that is enshrined in various treaties, a demand for a common approach to assessing compliance could be raised at the Annual Meeting of Chairpersons of Treaty Monitoring Bodies. The need for more attention and a systematic review of participatory rights by treaty monitoring bodies could be raised through informal events and consultations or a thematic submission in the framework of GANHRI or in cooperation with domestic and international election observer organizations.

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<sup>93</sup> For further details see GANHRI's three position papers on civil society and SDG implementation here: Nine Eschke 'Space for Civil Society Participation in SDG Implementation' (GANHRI, 3rd Background Paper, July 2018); GANHRI 'Protecting and enlarging the space for public debates and participation of all civil society actors for the implementation of the SDGs and human rights' (Background Paper, 12 July 2016); GANHRI 'Protecting and enlarging the space for public debates and participation of all civil society actors for the implementation of the SDGs and human rights' (2nd Background Paper, July 2017).

<sup>94</sup> As is the case in the African Charter for Democracy, Elections and Governance, the Charter for Fundamental Rights in the European Union or the Inter-American Democracy Charter. For further detail see: European Union, Compendium of International Standards for Elections (link in Annex).

## Joining the Global Debate on Stronger Guidelines to Promote and Protect the Right to Participate in Public Affairs

The right to participate in public affairs is protected by ICCPR Art. 25. Provisions in CEDAW, ICERD, and CRPD complement the covenant. Through its General Comment on Art. 25, the Human Rights Committee has clarified the elements of the right to participate in public affairs, stressing the responsibility of the state to provide for full, effective, and equal enjoyment of electoral rights without discrimination.<sup>95</sup> General Comment 25 also highlights the freedoms of expression, information, assembly, and association as essential conditions for the right to participate.

As the implementation of Art. 25 varies globally, OHCHR initiated a series of reviews and consultations on the right to participate in public affairs, establishing the right to participate as a cross-cutting right whose implementation goes beyond elections. Discrimination remains a key obstacle to the enjoyment of participatory rights, whereas monopolization of decision-making and disillusionment with democratic institutions present serious additional challenges. Other key challenges include these:

- Shrinking of democratic space, including arbitrary laws that deny participation of political opponents, threats to those who speak out for participatory rights, and absence of free, pluralistic, and independent media.
- General disillusionment with representative institutions and decline in traditional forms of participation, such as party membership or voting on election day.
- Discrimination, stigma, and poverty, all of which limit the possibilities and incentives for participation by marginalized groups.
- Women's participation in single or lower houses of national parliaments reached a mere 23.4 percent in 2017, and women continue to be excluded from top-ranking positions.<sup>96</sup> Women who are outspoken as leaders continue to face harassment and stigmatization.
- Failure of governments to recognize indigenous peoples' rights and to promote their participation in decision-making on matters concerning natural resources in their areas or their human rights.
- Institutional discrimination and disenfranchisement of minorities.
- Failure to legally protect the right to participate for all, regardless of the level of their functional ability.
- Restrictions on citizenship at birth for minorities, migrants, or long-term residents, effectively disenfranchising these groups, which are often also disenfranchised in their country of origin.

OHCHR also recommended a review of General Comment 25 to include further clarifications and guidelines, such as the right of elected representatives to effectively exercise governmental functions, alternative forms of participation, and the participation of specific

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<sup>95</sup> UN CCPR, General Comment 25, para. 1

<sup>96</sup> Inter Parliamentary Union, 'Women in parliament in 2017: The year in review' (2018) <https://www.ipu.org/resources/publications/reports/2018-03/women-in-parliament-in-2017-year-in-review>

groups.<sup>97</sup> As the right to participate is enshrined in other treaties, in particular CRPD and CEDAW, OHCHR suggested that treaty bodies issue a joint statement or guidance on the right to participate in public affairs.<sup>98</sup> The 2018 draft guidelines on the effective implementation of the right to participate in public affairs were another important step in more fully documenting the right to participate.<sup>99</sup>

In line with these developments, NHRIs could start preparing thematic reports on challenges to the right to participate, pioneering a cross-cutting perspective on participatory rights and highlighting areas where state parties would need further guidance. This could also include submission of studies and opinions on emerging trends, such as the use of new technologies for participation and the growing influence of social media on electoral processes, providing a discussion on more detailed guidelines.

NHRIs have so far not played a very active role in the global dialogue on the concrete elements that make an election genuine and political participation meaningful. Given the trends of closing political space and the renewed international attention on the need to better protect participatory rights, NHRIs could become stronger advocates, prioritizing this issue in regional and global workshops and using treaty and state reviews as an opportunity to highlight their concerns and recommendations through side events or dissemination of publications.

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<sup>97</sup> See UN HRC 'Summary of the discussions held during the expert workshop on the right to participate in public affairs Report of the Office of the United Nations High Commissioner for Human Rights' (15 July 2016) UN Doc HRC/33/25, para. 42. For further analysis on gaps in international law see: The Carter Center and Democracy Reporting International: 'Strengthening International Law to support Democratic Governance and Genuine Elections' (Report, 2012).

<sup>98</sup> UN HRC Res 30/9 'Equal participation in political and public affairs'; HRC/33/25 'Summary of the expert workshop on the right to participate in public affairs'

<sup>99</sup> OHCHR, Guidelines, A/HRC/39/28

# Way Forward

**M**any NHRIs around the world have engaged on electoral processes, most of them deploying monitors to observe the campaign period or election day. There are many ways NHRIs can contribute to the protection and promotion of the right to participate in public affairs: monitoring the election process is only one of them. Compared to other electoral stakeholders, NHRIs are uniquely placed to bring international human rights standards to life in the local context, capitalizing on their combined knowledge of public international law and of the local framework and local needs. This handbook shows how NHRIs can lead the monitoring of civil and political rights in electoral contexts and has proposed ways in which NHRIs can actively seek constructive dialogue and cooperation with a wide variety of electoral stakeholders, effectively mainstreaming a human-rights-based approach throughout the election cycle and adding value to ensure genuine democratic elections.

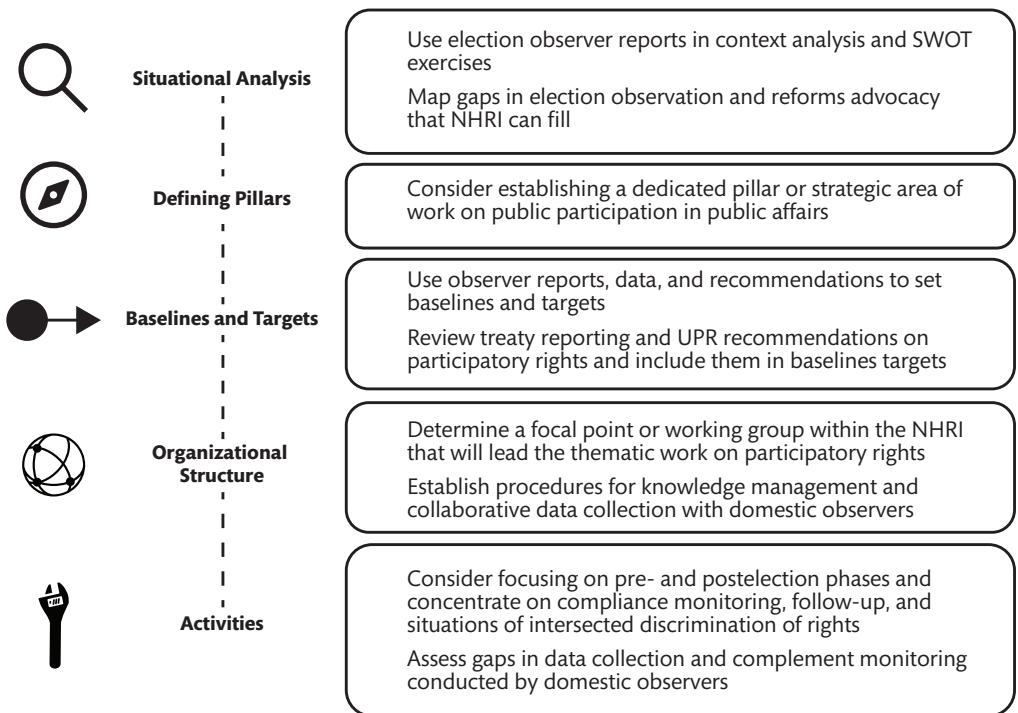
The right to participate in public affairs, however, also includes the right of elected representatives to exert government powers as well as the right of citizens to participate in policymaking. The OHCHR Guidelines on the Right to Participate in Public Affairs represent an important step in setting a new standard on participatory policymaking. Beyond the activities that are proposed in this handbook, NHRIs could use these as a basis for a discussion on democracy and participation in their countries. At the same time, NHRIs could foster dialogue on the guidelines at the international level, sharing experiences on NHRI engagement in promotion and protection of participatory rights, and streamlining monitoring and review of participatory rights by treaty and nontreaty bodies.

# Appendix A

## Notes on Strategic Planning of Election Engagement

NHRIs are unique independent state bodies in a dynamic position between the government, the parliament, the judiciary, and civil society, which contribute to a culture of human rights and reinforce the rule of law. The Paris Principles require NHRIs to have a broad mandate for the promotion and protection of all human rights, addressing a wide range of issues and working with different stakeholders at the national and international levels. To organize their work and establish priorities, many NHRIs engage in strategic planning efforts (see Figure 5).<sup>100</sup>

Figure 5. Checklist for integrating participatory rights into NHRI strategic planning



100 See for example, UNDP and OHCHR, Toolkit for Collaboration with National Human Rights Institutions, (December 2010)

Strategic planning helps NHRIs to organize their work more effectively, establishing a long-term strategy and objectives. As NHRIs are embedded in different contexts, their strategic plans vary greatly. Some are structured on the basis of specific rights, establishing targets and activities to protect and promote rights. Others set goals and targets for broad categories of promotion of rights, protection of rights, and organizational development. Whether specifically mentioned or not, engagement on participatory rights should be in line with the organization's strategic objectives and embedded in long-term priorities for action. See Table 2 for descriptions of the stages of strategic planning and descriptions of what NHRIs should do at each stage.

**Table 2.** Stages of Strategic Planning

| Stage   | Action  |
|---|---|
| <b>Situational Analysis</b>                             | <p><b>Use</b> reports and information from domestic and international election observers ahead of situational/SWOT analysis.</p> <p><b>Map</b> domestic observer and international observer engagement and thematic focus and identify the gaps that the NHRI could cover meaningfully.</p>   |
| <b>Setting Priority Areas or Strategic Plan Pillars</b> | <p><b>Consider</b> establishing a dedicated strategic objective on participation in public affairs, on the rationale that inclusive participation in public and political affairs is key to the realization of all human rights.</p>  |
| <b>Establishing Baselines and Targets</b>               | <p><b>Use</b> observer report data as baseline indicators and set target outcomes based on recommendations from observer reports.</p>   |
| <b>Activities</b>                                       | <p><b>Consider</b> focusing on particular elements of the process, not necessarily requiring deployment of large numbers of staff on election day. Examples include a review of the legal framework for elections or the establishment of dedicated complaint hotlines for women candidates. These would require fewer resources and could complement the systematic monitoring that election observers undertake.</p> <p><b>When</b> planning activities, take into account both the election cycle and the reporting schedule of human rights mechanisms.</p> |
| <b>Organizational Capacity</b>                          | <p><b>Determine</b> a focal point or designate a working group within the NHRI to lead work on participatory rights.</p> <p><b>Establish</b> procedures for knowledge management (collection of information and institutional memory) and communication with election observers.</p> <p><b>Define</b> training needs and a training plan.</p>   |
| <b>Internal Review and Evaluation</b>                   | <p><b>Regular</b> monitoring of achievements and review of internal lessons learned are important exercises, so sufficient time for reflection should be planned. The cyclical nature of both the human rights mechanisms (treaty body reviews and UPR) as well as the periodic schedule of elections can provide useful milestones that can be used to plan internal checks on the work conducted by the NHRI on participatory rights.</p>   |

## Aligning Elections Work Based on the Election Cycle and Treaty Body/UPR Cycles

The right to participate in public affairs receives more attention in human rights reporting where there is political instability, where no elections have been held in a long time, or where elections were held only recently.<sup>101</sup> Increasing the concreteness of recommendations

101 Avery Davis-Roberts and David Carroll, op.cit p. 321

on participatory rights, however, would help both NHRIs and election observers in their national advocacy efforts. Planning engagement on participatory rights based on treaty body and UPR cycles will help to make more effective contributions. NHRIs should thus establish a timeline for reporting on key issues related to participatory rights ahead of state reviews, coordinate with election observers, and plan their own activities (thematic reports, monitoring reports, legal reviews) accordingly.

### **Building Relationships with Key Electoral Stakeholders**

As a cross-cutting right, participation affects a variety of stakeholders: political parties, the election management body (EMB), the legislature, voters, election observers, and the media. When planning engagement on participatory rights, an NHRI should compile a list of all relevant actors and assess its relationship with the target audience. A specific way of engaging with each group may be required and, as the roles of the actors change along the election cycle, different strategies for engagement may be needed for each target group over time.

In their unique advisory function, NHRIs typically have closer relationships with the government and legislature. As the EMB plays a central role in facilitating the enjoyment of participatory rights, building a relationship with this institution is essential. Both NHRIs and EMBs are independent institutions of the state, while also being essential pillars of democratic governance. As such, regular exchange and cooperation can be beneficial. To avoid conflict, NHRIs should be clear about their unique role as both specialized advisor and watchdog. The relationship can take many forms, from regular courtesy meetings to working groups on specific aspects of the election process or institutionalized cooperation. By offering trainings and guidance on human rights standards to EMB staff, NHRIs can provide further incentives to reforms, complementing election observer advocacy.

### **Accreditation Requirements for Election Day Observation**

When considering the deployment of NHRI staff to monitor human rights around election day, it is important to review the legal framework to ascertain whether an NHRI is required to seek any kind of accreditation (similar to election observers) in order to have access to polling places. Often, there are established procedures for domestic and international nonpartisan election observers and for party agents. An NHRI should check its status with the EMB and, if necessary and meaningful, advocate for legal or regulatory changes.

### **Public Statements, Joint Statements with Domestic Election Monitors**

Among the many tools NHRIs can use to promote and protect human rights are public statements, press releases on the respect of human rights in the electoral cycle, and opinions on the legal framework. These can be employed to create awareness on a wide range of issues, including those related to participatory rights. Most citizen and international election observers publish statements at different stages of the election cycle to present their methodology and focus, to disseminate preliminary assessment of the process, and to announce key findings and recommendations included in their final observation report. They also issue public statements as part of their advocacy for reforms ahead of the next election.

Coordinating public outreach with domestic observers could help strengthen an NHRI's messaging on participatory rights. While NHRIs tend to focus on statements during the election process, these could be issued in other stages of the election cycle, for example using state reviews in treaty bodies or UPR. Country visits of special rapporteurs could also serve as additional milestones for public engagement in the postelection phase. Any statement should ideally include reference to the NHRI's long-term objectives regarding the right to participate in public affairs and related rights and its strategy to achieve these.

## **Internal Training and Capacity Development**

Promoting participatory rights is a complex exercise, as it involves many different stakeholders and multiple rights and treaty obligations. Developing staff capacity and institutional knowledge on participatory rights and rights-based election observation will be key to their effective promotion and protection.

There are plenty of specialized training resources on elections developed by and for the election observation community that follow a human-rights-based approach. NHRIs can reach out to the domestic and international election observers and technical assistance providers and inquire about tools and materials developed in their country. (For more information, see Annotated Bibliography.)

Further exchange among NHRIs at the regional and global level can also help to identify common challenges and lessons learned about their engagement on elections and participatory rights.

## **Establishing Internal Focal Points or a Working Group on Election Reforms**

Engaging on elections should be embedded in a long-term strategy on the promotion and protection of participatory rights, using findings and data gathered to underpin an NHRI's legal advice and reform advocacy. Establishing a focal point for participatory rights within the NHRI to oversee data collection, advocacy, and advice can help to ensure coherence and build internal expertise and institutional memory.

## **How to Establish Regular Communication and Cooperation Mechanisms with Domestic Observer Groups**

The Paris Principles require NHRIs to have strong relations and cooperate with civil society organizations. This can take multiple forms, from CSO members sitting on NHRI advisory boards to regular meetings or thematic groups. As a specialized form of human rights defenders, international and citizen election observers coordinate and cooperate with human rights CSOs but often have their own, separate coalitions or working groups and thus may not be represented among the CSOs with which an NHRI regularly meets.

By convening thematic meetings or workshops on participatory rights and actively reaching out to election observers and the electoral support community, NHRIs will be able to identify gaps and needs as well as opportunities for collaboration. Regular coordination meetings and exchange might foster agreement on joint messages vis-à-vis the EMB or the



legislature. In some cases, such as the Electoral Support Group in Nepal, these procedures are already in place. An NHRI could ask to participate, offering its expertise and support.

An NHRI might decide to nominate a focal point as primary point of contact for domestic observers, enhancing its accessibility to this group and increasing coherence and institutional learning.

### **Prioritizing Key Electoral Reforms**

The recommendations put forward by observers and an NHRI ideally should be aligned, as both use the international public law framework to assess participatory and related rights.

While the trend in election observation is to reduce the number of recommendations to a set of key issues, election observers may continue to make many recommendations, because they are assessing both the fulfillment of obligations and election administration.

NHRIs may wish to coordinate with observers on the key challenges affecting participatory rights and jointly propose legislative or regulatory reforms to address them. Key electoral reforms should also be included in reports to treaty bodies and as part of the regular Universal Periodic Review process. Here, NHRIs can support CSOs in preparing summaries ahead of state reviews or in-country visits and also could include key reforms in their own reporting on participatory rights. Reform recommendations ideally should be formulated in a clear and concise manner and mention the specific constitutional, legal, or regulatory change desired.

# Appendix B

## Human Rights Committee, 2017

### Concluding Observations on ICCPR Art. 25

20 reviews conducted; 14 states received recommendations on the right to participate in public affairs

| Mongolia        | Right to participate in public life  |
|-----------------|--|
| CCPR/C/MNG/CO/6 | <p>39. The Committee is concerned about disproportionate restrictions imposed by the 2015 electoral law on: (a) the right to stand for elections – including disqualification of candidates for overdue debts or taxes, not having completed compulsory military service or having a criminal record, regardless of the crime committed, and the requirement that civil servants planning to stand for elections must resign from their posts by 31 January of the election year; (b) the right to vote of any person serving any prison sentence; and (c) the freedom to campaign, due to the power of the National Audit Office to not approve specific campaigning acts (arts. 19, 21, 22 and 25).</p> <p>40. The State party should remove restrictions on the right to participate in public life, including the right to stand for elections, on the right to vote and on the freedom to campaign, and bring its electoral legislation and practice into compliance with the Covenant, including article 25.</p>   |
| Madagascar      | Participation in elections   |
| CCPR/C/MDG/CO/4 | <p>53. The Committee is concerned about the delays in and obstacles to the implementation of the national reconciliation process, which is crucial if all political actors are to take part in the forthcoming elections and accept their outcome. The Committee remains concerned by: (a) the current electoral map, which does not guarantee equality among districts; (b) reports that the Independent National Electoral Commission lacks independence; (c) the fact that the current complaints procedure sets overly short submission deadlines; and (d) the low participation rate, especially of women and persons with disabilities, in the electoral process (arts. 3, 25 and 26).</p> <p>54. The State party is encouraged to: (a) do everything in its power to speed up the national reconciliation process before the next electoral deadlines; (b) take all necessary steps to ensure that free and fair elections are held; (c) strengthen the independence of the Independent National Electoral Commission and ensure universal access to complaints procedures and effective remedies in the event of contested election results; and (d) promote and ensure the participation of all citizens in the electoral process, including women and persons with disabilities.</p> |

| Honduras        | Participation in public affairs and presidential re-election  |
|-----------------|---|
| CCPR/C/HND/CO/2 | <p>44. The Committee is concerned at reports of irregularities during the 2013 general election, including vote buying, shortcomings in updates of the electoral roll, the lack of transparency in campaign financing and the possibility that there might have been fraud in the transmission of the polling station records to the Supreme Electoral Court. It is also concerned at the murder of more than a dozen opposition activists and candidates during the last electoral campaign. The Committee is further concerned that, despite the constitutional limit on presidential terms, the current president is standing for re-election (arts. 6 and 25).</p> <p>45. In the light of the Committee's general comment No. 25 (1996) on participation in public affairs and the right to vote, the State party should adopt the necessary measures to:</p> <p>(a) Ensure that the next elections are free and fair; that the effective exercise of voting rights is guaranteed; and that persons with the right to vote, as well as activists and candidates, are protected from violence, threats, compulsion or manipulative interference of any kind;</p> <p>(b) Ensure a fair and impartial electoral process and ensure transparency in campaign financing;</p> <p>(c) Guarantee the security of ballot boxes and that votes are 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;</p> <p>(d) Respect the eligibility criteria set forth in the Constitution, in particular the presidential term limit.</p>    |
| Swaziland       | Participation in public affairs and corruption  |
| CCPR/C/SWZ/CO/1 | <p>52. The Committee is concerned that the concentration of power in the King, which, inter alia, gives him excessive powers of appointment over the Government, Parliament and the judiciary, is incompatible with article 25 of the Covenant. It is also concerned that the elections held in the State party in 2013 did not comply with international standards for free and fair elections, and that political parties as such are unable to register, contest elections, field candidates or otherwise participate in the formation of a Government. It is further concerned that neither the Elections and Boundaries Commission nor the Anti-Corruption Commission are adequately independent, impartial or effective (arts. 19, 21, 22 and 25).</p> <p>53. The State party should bring its constitutional framework into compliance with the Covenant, including with article 25, inter alia by:</p> <p>(a) Fostering a culture of political pluralism, ensuring freedom of genuine and pluralistic political debate, and allowing the registration of opposition political parties, including to contest elections, field candidates and participate in the formation of government;</p> <p>(b) Undertaking a constitutional reform process with the objective of devolving power to democratically elected branches of government, and guaranteeing the right of every citizen to take part in the conduct of public affairs and have access to public service on general terms of equality;</p> <p>(c) Guaranteeing free and fair elections; (d) Ensuring the independence and effectiveness of the bodies in charge of elections and anti-corruption.</p> |

|   |  |
|---|--|
| <b>Pakistan</b>                         | <b>Right to participate in public affairs</b>  |
| CCPR/C/P AK/CO/1                        | <p>47. While noting the adoption of quotas for women and minority persons in the national and provincial parliaments and in public services and quotas for persons with disabilities in public services, the Committee is concerned that the minority quota is applied only to religious minorities, and regrets the absence of sufficient information on the implementation of these quotas. It is also concerned by the removal of Ahmadis from the general electoral list and their registration on a separate voting list, the low level of exercise of the right to vote by women and remaining obstacles to effective access to voting for persons with disabilities and persons belonging to minorities, including gypsies (arts. 2, 25, 26 and 27).</p> <p>48. The State party should review its regime of temporary special measures, including quotas for minorities, to ensure that they apply to all persons belonging to religious, cultural and ethnic minorities and ensure that every citizen, on general terms of equality, is able to effectively participate in the conduct of public affairs and have access to public services. The State party should improve the election system and procedures with a view to ensuring that all voters are included on electoral lists and that all citizens can exercise their right to vote without obstacles.</p> |
| <b>Democratic Republic of the Congo</b> | <b>Participation in public affairs and elections</b>   |
| CCPR/C/COD/CO/4                         | <p>47. The Committee is concerned about reports of delays in voter registration by the Independent National Electoral Commission, particularly in Kasai, and delays in the implementation of the agreement of 31 December 2016 on the holding of presidential, legislative and provincial elections by 31 December 2017. It is also concerned about the acts of intimidation and violations of fundamental freedoms committed against opponents and candidates in the presidential election (art. 25).</p> <p>48. The State party should: (a) cooperate with all stakeholders in agreeing on an electoral calendar for the holding of free, peaceful and fair elections as soon as possible; (b) respect the constitutional right of every citizen to participate in public affairs; and (c) put an end to the intimidation of opponents and candidates in the presidential election and to violations of their Covenant rights, by taking the necessary measures to ensure their effective protection.</p>  |
| <b>Cameroon</b>                         | <b>Guarantees of free and fair elections</b>   |
| CCPR/C/CMR/CO/5                         | <p>43. While noting that the independence of the electoral oversight body Elections Cameroon is enshrined in law, the Committee is concerned about reports that this body's members are not fully independent and impartial in relation to the executive branch (art. 25).</p> <p>44. The State party should take the necessary steps to guarantee the independence of Elections Cameroon and ensure the successful conduct of elections in 2018 and beyond.</p>   |

|                  |  |
|------------------|--|
| <b>Australia</b> | <b>Right to vote</b>   |
| CCPR/C/AUS/CO/6  | <p>47. The Committee is concerned that section 93 (8) of the Commonwealth Electoral Act 1918 denies the right to vote to any person of “unsound mind” and that similar provisions are contained in state and territory electoral legislation. It is also concerned that Queensland still maintains a blanket denial of the right to vote in local and state elections for all prisoners serving a prison sentence, and that restrictions on prisoner voting have a disproportionate impact on indigenous peoples in view of their overrepresentation in prisons (arts. 10, 25 and 26).</p> <p>48. The State party should ensure that federal, state and territory electoral legislation does not discriminate against persons with intellectual and psychosocial disabilities by denying them the right to vote on bases that are disproportionate or that have no reasonable or objective relation to their ability to vote. It should also ensure that Queensland affords the right to vote to convicted prisoners, and review the impact of restrictions on prisoner voting on political participation by indigenous peoples.</p> |
| <b>Jordan</b>    | <b>Participation in public affairs</b>   |
| CCPR/C/JOR/CO/5  | <p>34. While the Committee welcomes the formation of the National Commission of Women and the increasing participation of women in politics, it notes that the percentage of women working in the industrial and public sector remains low (art. 25).</p> <p>35. The State party should take all measures, including the adoption of temporary special measures, necessary to further increase the participation of women in the private and public sectors, particularly in decision-making positions.</p>  |
| <b>Mauritius</b> | <b>Participation in public and political affairs</b>   |
| CCPR/C/MUS/CO/5  | <p>41. While noting that the State party has set up a Ministerial Committee to work on reforming the electoral system in the light of the Committee’s Views in the case of <i>Narain et al. v. Mauritius</i> (CCPR/C/105/D/1744/2007), the Committee is concerned about the lack of fair representation of the various components of the population of the State party in public and political affairs (art. 25).</p> <p>42. The State party should ensure that the new electoral system addresses obstacles to the participation in political life by, and adequate representation of, all components of its population.</p>  |
| <b>Serbia</b>    | <b>Participation in public affairs</b>   |
| CCPR/C/SRB/CO/3  | <p>40. The Committee remains concerned about: (a) the low level of representation of minorities in government bodies and public administration, including the Roma, and regrets the lack of relevant statistics; and (b) the allegations of attacks against political opposition figures and of serious cases of pressure exerted on voters (art. 25).</p> <p>41. The State party should: (a) strengthen its efforts to increase representation of members of the Roma community and other national minorities in State bodies at both the national and local levels, including, if necessary, through appropriate temporary special measures; and (b) ensure that an effective and independent election monitoring body is established and that allegations of attacks on politicians and intimidation of voters are promptly reported, investigated and addressed.</p>   |

|                               |   |
|-------------------------------|---|
| <b>Bosnia and Herzegovina</b> | <b>Participation in public affairs</b>  |
| CCPR/C/BIH/CO/3               | <p>11. The Committee recalls its previous recommendations (see CCPR/C/BIH/CO/1, para. 8, and CCPR/C/BIH/CO/2, para. 6) and reiterates its concern that the Constitution and Election Law of the State party continue to exclude persons not belonging to one of the State party's "constituent peoples", (Bosniaks, Croats and Serbs), from being elected to the House of Peoples and to the tripartite Presidency of Bosnia and Herzegovina. The Committee regrets that, notwithstanding its previous recommendations and the judgments of the European Court of Human Rights, legislative efforts to amend the State Party's electoral framework continue to stall. The Committee is also concerned at reports of widespread corruption and impunity among public officials that obstructs effective participation in public life (arts. 2 and 25-26).</p> <p>12. The State party should adopt an electoral system that guarantees equal enjoyment of the rights of all citizens under article 25 of the Covenant, irrespective of ethnicity. In that regard, the State party should, as a matter of urgency, amend its Constitution and Election Law to remove provisions that discriminate against citizens from certain ethnic groups by preventing them from fully participating in elections. The State party should step up its efforts to combat corruption, particularly among government figures, to ensure effective participation in public life.</p>  |
| <b>Turkmenistan</b>           | <b>Freedom of association and participation in public life</b>  |
| CCPR/C/TKM/CO/2               | <p>46. The Committee is concerned about the restrictions on freedom of association, including under the 2014 Voluntary Association Act, such as the compulsory registration of associations, provisions allowing wide monitoring powers of the authorities over the activities and finances of associations and the broad legal grounds for closing them down by court order. It is also concerned about the very limited number of registered non-governmental organizations working on human rights issues (art. 22).</p> <p>47. The State party should revise relevant laws, regulations and practices with a view to bringing them into full compliance with the provisions of articles 19 and 22 of the Covenant.</p> <p>48. While welcoming the legislative framework providing for a multiparty system, the Committee is concerned about excessive restrictions on the establishment and functioning of political parties, as well as provisions permitting representatives of the Central Election Committee and of the Ministry of Justice to monitor meetings of political parties (arts. 19, 22 and 25).</p> <p>49. The State party should take all measures necessary to guarantee the proper functioning of political parties free from unnecessary interference and ensure that any limitations on the establishment of a political party are construed narrowly and that the principles of legality, necessity and proportionality are strictly adhered to. It should, to this end, bring its regulations and practice governing the establishment, registration and functioning of political parties into full compliance with articles 19, 22 and 25 of the Covenant and relevant international standards.</p> |
|                               | <b>Prisoners' right to vote</b>   |
|                               | <p>50. The Committee is concerned about the general denial of the right to vote to all convicted prisoners, and recalls that a blanket denial does not meet the requirements of article 10 (3), read in conjunction with article 25 of the Covenant (arts. 10, 25 and 26).</p> <p>51. The State party should revise legislation denying all convicted prisoners the right to vote in the light of the Committee's general comment No. 25 (1996) on participation in public affairs and the right to vote (para. 14).</p>  |

| Bangladesh      | Right to political participation  |
|-----------------|---|
| CCPR/C/BGD/CO/1 | <p>29. The Committee is concerned that violence during elections, such as the excessive use of force by State actors during the January 2014 election, hinders the rights of voters to participate in free and fair elections (art. 25).</p> <p>30. The State party should ensure the safety and security of all individuals in the context of elections so that they may exercise their right to vote.</p> |

Among the 14 states that received recommendations on the right to participate in public affairs, six received additional recommendations based on ICCPR Art. 25: Mauritius (equality between women and men), Serbia (rights of people with disabilities), Madagascar (corruption and equality between women and men), Honduras (nondiscrimination and equality between women and men), Democratic Republic of the Congo (equality between women and men, freedom of expression, excessive use of force), and Cameroon (corruption).

Out of the 20 states reviewed in 2017, three did not receive recommendations on the right to participate in public affairs but received recommendations referencing Art. 25: Thailand (freedom of expression, rights of minorities); Lichtenstein (equality between women and men); and Dominican Republic (nondiscrimination, statelessness, equality between women and men). Thus, 17 out of 20 states reviewed in 2017 include references to Art. 25.

The references to Art. 25 outside specific recommendations on the right to participate in public affairs were not consistent. Swaziland received recommendations on the equality between women and men, including in public affairs, but without reference to Art. 25. Similarly, Madagascar received recommendations on the right to peaceful assembly of political opponents without making a reference to Art. 25.

# Appendix C

## Annotated Bibliography and Further Readings

### International Organizations Working on Elections and the Right to Participate in Public Affairs (Alphabetical)

**T**he following organizations actively work to promote credible elections and/or the right to participate in public affairs. A number of manuals, handbooks, and other resources on a range of relevant topics are available on their websites.

#### The Carter Center

The Carter Center, in partnership with Emory University, is guided by a fundamental commitment to human rights and the alleviation of human suffering. It seeks to prevent and resolve conflicts, enhance freedom and democracy, and improve health. The Carter Center has been a pioneer of election observation, monitoring more than 100 elections in Africa, Latin America, and Asia since 1989 and forging many of the methods now common in the field. <https://www.cartercenter.org/peace/democracy/index.html>

#### Democracy Reporting International (DRI)

DRI, established in 2006, promotes the accountability of state bodies and the development of democratic institutions worldwide. DRI also supports local ways of promoting the universal right of citizens to participate in the political life of their country, as enshrined in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). On its website, [www.democracy-reporting.org](http://www.democracy-reporting.org), NHRIs will find analysis on constitutional and legal provisions based on international human rights obligations.

#### Electoral Institute for Sustainable Democracy in Africa (EISA)

EISA is a nonprofit organization headquartered in Johannesburg, South Africa. It was founded in 1996, aiming to promote credible elections, citizen participation and strong institutions for sustainable democracy in Africa. EISA's project "African Democracy Encyclopedia" includes country profiles and comparative data on election-related matters in SADC. [www.eisa.org.za](http://www.eisa.org.za)

#### European Union (EU)

Election observation is a crucial EU activity aiming to strengthen democratic institutions, build public confidence in electoral processes, and help deter fraud, intimidation, and violence. The EU promotes a strong link between election observation and electoral



assistance through follow-up on election observation mission recommendations, aiming to improve future elections, and enhance the wider process of democratization. In the platform “learn4development,” NHRIs can find useful resources related to democratic governance, human rights, and training methodologies: <http://www.learn4dev.net/dashboard>.

### **International Foundation for Electoral Systems (IFES)**

IFES is an international, nonprofit organization that supports the building of democratic societies. IFES provides targeted technical assistance to strengthen transitional democracies. Founded in 1987, IFES has developed and implemented comprehensive, collaborative democracy solutions in more than 145 countries. IFES has also developed various research publications and tools that may be useful for NHRIs, available on its website. [www.ifes.org](http://www.ifes.org)

### **International Institute for Democracy and Electoral Assistance (International IDEA)**

International IDEA is an intergovernmental organization established in 1995 to advance democracy worldwide, viewing it as a universal human aspiration. International IDEA’s key impact areas of expertise are: electoral processes, constitution-building, political participation, and representation. It currently has 28 member states from all regions and has developed a wide range of knowledge resources, databases, and tools related to democratic standards and elections. [www.idea.int](http://www.idea.int)

### **National Democratic Institute (NDI)**

NDI is a nonprofit, nonpartisan organization headquartered in Washington, D.C., that works to support and strengthen democratic institutions worldwide through citizen participation and transparency and accountability in government. NDI has published numerous manuals on citizen election observation, available on its website. NHRIs might wish to use NDI’s sample checklists and forms as guidance for their own election monitoring efforts. [www.ndi.org](http://www.ndi.org)

### **Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR)**

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) provides support, assistance, and expertise to participating states and civil society organizations to promote democracy, rule of law, human rights, tolerance, and nondiscrimination. ODIHR observes elections, reviews legislation, and advises governments on how to develop and sustain democratic institutions. ODIHR has produced a wide array of knowledge resources and publications, available on its website. <https://www.osce.org/odihr>

### **Organization of American States (OAS)**

Through the Secretariat for Strengthening Democracy and the Department of Electoral Cooperation and Observation (DECO), the Organization of American States observes regional elections and provides technical cooperation that contributes to the modernization and improvement in the quality of services provided by electoral bodies. Since 1962, the OAS has deployed over 240 electoral observation missions. Reports and recommendations from OAS missions are available on the DECO website. <http://www.oas.org/en/spa/deco/>

## **United Nations Development Programme (UNDP)**

In 2009, UNDP launched the first-ever global project in electoral assistance—the Global Programme for Electoral Cycle Support. GPECS focuses on capacity development during the entire electoral cycle and provides direct support to the electoral institutions and processes in 18 countries worldwide. NHRIs might wish to consult the resources produced under this program, including assessment guides and manuals. [http://www.undp.org/content/undp/en/home/ourwork/democratic-governance-and-peacebuilding/inclusive-political-processes/electoral-systems-and-processes/global\\_programmeforelectoralcyclesupport/](http://www.undp.org/content/undp/en/home/ourwork/democratic-governance-and-peacebuilding/inclusive-political-processes/electoral-systems-and-processes/global_programmeforelectoralcyclesupport/)

UNDP and the EU have established a joint task force on electoral assistance, which has developed a plethora of resources that NHRIs may use, including e-learning programs. <https://www.ec-undp-electoralassistance.org>

## **United Nations Electoral Assistance Division (UN EAD)**

The Electoral Assistance Division was created in 1991 to provide advice to the Secretary-General on electoral matters. Since then, the United Nations has assisted over 100 member states and implemented more than 300 electoral projects. [www.un.org/Depts/dpa/ead](http://www.un.org/Depts/dpa/ead)

## **The Office of the High Commissioner for Human Rights (OHCHR)**

OHCHR is mandated to promote and protect the enjoyment and full realization, by all people, of all rights established in the Charter of the United Nations and in international human rights laws and treaties. OHCHR supports the establishment and strengthening of NHRIs and works closely with NHRIs to assist them in the implementation of their broad mandates to promote and protect human rights. [www.ohchr.org](http://www.ohchr.org)

## **Online Resources on Elections**

### **ACE Electoral Knowledge Network**

ACE is an online knowledge repository that provides comprehensive information and customized advice on electoral processes. The website contains in-depth articles; global statistics and data; an Encyclopaedia of Election Topics; information on electoral assistance, observation, and professional development; region and country-specific resources; daily electoral news; an election calendar; Practitioner Network; and more. [www.aceproject.org](http://www.aceproject.org)

### **Building Resources in Democracy, Governance and Elections (BRIDGE)**

BRIDGE is a modular training program that focuses on elections as the central process of democratic governance. It was developed by the Australian Election Commission, International Foundation for Electoral Systems, United Nations Development Program and the United Nations Electoral Assistance Division. [www.bridge-project.org](http://www.bridge-project.org)

### **Election Access**

To facilitate the inclusion of people with disabilities in political processes, [ElectionAccess.org](http://ElectionAccess.org) serves as a global clearinghouse of resources related to political participation and disability rights and is managed by IFES. NHRIs will find best practices, excerpts from legal documents, and publications on inclusion of people with disabilities here. [www.electionaccess.org](http://www.electionaccess.org)

### **Election Observation and Democracy Support (EODS)**

EODS is the European Union's project to support the development of the methodology used in training of observers and electoral experts serving in EU election observation missions, as well as capacity building of regional organizations and networks of citizen observers. EODS created a database of election-related jurisprudence in the Europe region. <http://www.eods.eu/elex-table>

### **Election Obligations and Standards Database**

The Carter Center has played a leading role in building consensus on standards for democratic elections. In 2010, the Center launched the Election Obligations and Standards Database, which consolidates more than 150 sources of international law related to human rights and elections. This database can help NHRIs in their assessment of the legal framework for elections and includes jurisprudence by international and regional bodies. <https://eos.cartercenter.org>

### **Global Network of Domestic Election Monitors (GNDEM)**

GNDEM facilitates exchange and cooperation among civil society organizations and domestic election monitors. <https://www.gndem.org>

### **International Knowledge Network of Women in Politics (IKNOW Politics)**

IKNOWPolitics is a unique platform that draws on the expertise of four partners: Inter-Parliamentary Union, UNDP, UNWOMEN, and International IDEA. It acts as a one-stop shop for experts in the area of women's political participation, as well as a platform that fosters exchange, dialogue, and knowledge creation for all who are engaged in promoting women's political participation. NHRIs will find publications and online resources such as e-learning and webinars on various topics related to equal participation of women in public affairs here: [www.iknowpolitics.org](http://www.iknowpolitics.org).

## Appendix D

# Definitions and Abbreviations

|         |  |
|---------|--|
| CCPR    | Committee on Civil and Political Rights (also known as the Human Rights Committee) |
| CEDAW   | Convention/Committee on the Elimination of Discrimination Against Women            |
| CHR     | Commission on Human Rights (Philippines)   |
| CERD    | Committee on the Elimination of Racial Discrimination                              |
| CESCR   | Committee on Economic, Social, and Cultural Rights                                 |
| CONADEH | Comisionado Nacional de los Derechos Humanos (Honduras)                            |
| COMELEC | Commission on Elections (Philippines)  |
| CRPD    | Convention/Committee on the Rights of Persons with Disabilities                    |
| CRC     | Convention/Committee on the Rights of the Child                                    |
| CSO     | Civil society organization   |
| CSW     | Commission on the Status of Women  |
| EMB     | Election management body   |
| GANHRI  | Global Alliance of National Human Rights Institutions                              |
| GNDEM   | Global Network of Domestic Election Monitors                                       |
| HLPF    | High-Level Political Forum on Sustainable Development                              |
| HRBA    | Human-rights-based approach  |
| ICC     | International Criminal Court   |
| ICCPR   | International Covenant on Civil and Political Rights                               |
| ICERD   | International Convention on the Elimination of All Forms of Racial Discrimination  |
| IDP     | Internally displaced persons   |
| NCHR    | National Centre for Human Rights (Jordan)  |
| NHRI    | National Human Rights Institution  |
| NMRF    | National Mechanisms for Reporting and Follow-up                                    |

|       |   |
|-------|---|
| OHCHR | Office of the High Commissioner for Human Rights  |
| SAHRC | South African Human Rights Commission             |
| SDG   | Sustainable Development Goals                     |
| SWOT  | Strengths, weaknesses, opportunities, and threats |
| UPR   | Universal periodic review                         |
| UNHRC | United Nations Human Rights Council               |

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THE  
CARTER CENTER



One Copenhill  
453 Freedom Parkway  
Atlanta, GA 30307  
(404) 420-5100

[www.cartercenter.org](http://www.cartercenter.org)