

MANUAL ON human rights MONITORING

Chapter 23

MONITORING HUMAN RIGHTS IN THE CONTEXT OF ELECTIONS

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A. Key concepts



- Every citizen has the right, without any discrimination and without unreasonable restrictions, to take part in the conduct of public affairs, to vote and to be elected to government. Free and fair elections are those held periodically, through universal and equal suffrage, by secret vote and the result of free political participation and the expression of the will of electors.
- Participation in the electoral process cannot be effective unless a wide range of rights are respected: freedom of expression and opinion, freedom of peaceful assembly, freedom of association, freedom of movement, freedom from discrimination, and freedom from fear and intimidation.
- The analysis of the legal framework related to elections provides a useful starting point for ascertaining potential election-related human rights concerns that would require follow-up prior to, during and after polling day. This analysis should include an assessment of the degree to which the relevant laws are properly implemented, so that rights are protected, respected and fulfilled.
- Free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies not only equal access to the media by political organizations, but also the existence of a free media environment.
- Women and men can be affected differently at every stage of the electoral process. Human rights officers (HROs) must consider the gender dimension of monitoring human rights in the context of elections by assessing the extent to which women and men are able to equally exercise their right to political participation.
- HROs should engage with a variety of national and international actors involved in different capacities in the electoral process. Bearing in mind the monitoring principles of independence and impartiality, HROs should aim at establishing partnerships that would allow for complementarity of efforts in monitoring, greater coverage of the electoral process and more effective advocacy and intervention for corrective action.
- The role of HROs in the context of elections encompasses documenting human rights violations and abuses related to the electoral process, including by identifying local and national trends and patterns of violations and abuses, and taking preventive and corrective measures on specific human rights issues through advocacy and intervention during the electoral process.



B. Introduction¹

Genuinely free and fair elections are a necessary and fundamental component of sustained efforts to protect and promote human rights. All citizens have the right to participate in government and public affairs through the casting of votes or by being elected through free and fair elections held periodically. In many countries, political participation also takes the form of plebiscites or referendums in which people express their choice of laws or policies. However, participation cannot be effectively exercised unless a wide range of other rights and fundamental freedoms are exercised without discrimination.

Elections occur as part of transitional processes after conflict, as an element of government processes of democratic societies or, in some instances, as part of a **pseudo-democratic** process. In the context of elections, the field presence may be involved in monitoring human rights issues related to the electoral process. This is distinct from general electoral observation and verification, which focuses on technical issues during elections. In fact, monitoring during elections does not differ significantly from regular human rights monitoring, but requires heightened attention to specific issues or groups of people. In some instances, human rights have been monitored during elections by a team dispatched from OHCHR Headquarters in countries that do not have a field presence, for example during the 2013 elections in Kenya.

1 Election observation

There is some degree of overlap between monitoring human rights during elections and election observation, since the latter is related to democratic rights more broadly. The fundamental difference is that election observation is usually a more passive approach that does not entail advocacy and intervention with the authorities to redress election-related human rights violations. The engagement of electoral observers in the period leading up to the voting process and in examining issues that are not purely technical may differ. For example, both the European Union and the Organization for Security and Co-operation in Europe (OSCE) deploy teams of long-term and short-term observers, with the core team deploying at least three months prior to an election. The African Union has also begun deploying longer-term election observer missions, as it did prior to the elections in Madagascar in October 2013. In other cases, the presence in the country of international observers is limited to the period of the elections and does not aim at long-term engagement with local actors.

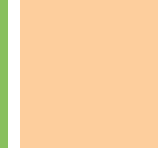


The Declaration of Principles for International Election Observation (October 2005), which has been endorsed by the United Nations Secretariat, defines election observation as:

“the systematic, comprehensive and accurate gathering of information concerning the laws, processes and institutions related to the conduct of elections and other factors concerning the overall electoral environment; the impartial and professional analysis of such information; and the drawing of conclusions about the character of electoral processes based on the highest standards for accuracy of information and impartiality of analysis.”

Note: See also “Secretary-General’s remarks at Ceremony of Endorsement for Principles of International Electoral Observation”, 27 October 2005. Available from www.un.org/sg/statements/?nid=1762.

¹ The material in this chapter draws upon *Human Rights and Elections: A Handbook on the Legal, Technical and Human Rights Aspects of Elections*, Professional Training Series No. 2 (United Nations publication, HR/P/PT/2).



Monitoring human rights during elections is essentially concerned with violations of rights that are relevant to the electoral process (e.g., freedom of association, prohibition of discrimination). Election observers may also look into human rights issues; for example, OSCE also considers laws relating to human rights and non-discrimination, monitors the media in the period of elections and assesses the participation of women and persons from minority communities. The Guidelines for African Union Electoral Observation and Monitoring Missions set out the principles governing elections in Africa, including that during elections States respect the rights to: participate freely in government, participate in electoral processes, association and assembly, establish or be a member of a political party, freedom of movement, campaign and express opinions with full access to the media, hearing of complaints of electoral malpractice before competent judicial authorities.² However, election observers may not have sufficient expertise to fully monitor human rights nor the capacity to cover the full range of human rights pertaining to elections. They frequently focus on the technical aspects of the electoral process, such as procedures related to voters' registration, ballot design, security of ballot papers, counting and election-related complaints and appeals.



Election observation activities

- **Legislative framework:** review the constitutional framework, electoral laws and laws relating to human rights and non-discrimination, and assess the complaints and appeals processes
- **Election administration:** assess election administration bodies, design and security of the ballot, and voter information and education
- **Registration of candidates and political parties:** monitor freedom of association and non-discrimination
- **Voter registration:** evaluate the general criteria for registration, systems of voter registration, accuracy of the voter register and its inclusiveness
- **Election campaign:** appraise freedom to campaign, campaign resources and use of public resources
- **Media:** assess media environment, legal framework for the media and media coverage of an election
- **Women's participation in elections:** evaluate participation as voters, candidates and electoral representatives
- **Participation of persons from minority communities:** monitor availability of voter information and education, equal opportunities to participate and representation in election commissions
- **Observing voting:** observe the role of elections officials, polling station procedures and special voting procedures
- **Observing the vote count and tabulation:** observe vote counting and assess the transparency and integrity of the process
- **Post-election observation:** observe the announcement of results and the implementation of election results, and assess complaints and appeals processes

Source: Adapted from OSCE Office for Democratic Institutions and Human Rights, *Election Observation Handbook*, 6th ed. (Warsaw, 2010).

2 African Union Declaration on the Principles Governing Democratic Elections in Africa, AHG/Decl.1 (XXXVIII).



2 Purpose of monitoring human rights during elections

Monitoring human rights during elections serves a number of purposes:


- Active monitoring through regular engagement and presence may strengthen the integrity of the electoral process and promote public confidence.
- The involvement of the field presence or ad hoc human rights monitoring teams can equally serve as a deterrent for violations before, during and after the elections.
- Field presences through their advocacy efforts may play an important role in responding to human rights violations and intervene for corrective action to ensure greater participation and non-discrimination.
- Human rights reporting can also contribute, providing an accurate account of the compliance of the electoral process with political rights and other related rights, and thus to the assessment of whether the elections were free and fair.

Monitoring human rights during elections can present some particular challenges. Often authorities lack clarity regarding the role of OHCHR during elections, especially in relation to the role of election observers. It is therefore important to explain to the authorities as early as possible how the field presence's role during the elections fits into the OHCHR mandate and what activities it will undertake during the electoral process. Greater United Nations involvement in the electoral process (e.g., by organizing and conducting, supervising, verifying or providing technical advice or other assistance) may cause some to question the ability of the field presence to independently monitor human rights during the electoral process. For instance, a human rights component integrated in a United Nations peace operation may have to manage perceptions of what may seem competing interests within the United Nations peace operation if the latter is directly involved in organizing and supporting the electoral process. The field presence should ensure that its impartiality and independence are maintained throughout the monitoring of elections and that it does not undermine established networks of contacts.

Monitoring human rights in the context of elections is an extremely labour-intensive task. It may require the field presence to obtain supplementary resources, including additional staff, communication equipment, office space and motor vehicles. It may be necessary to establish a presence in different parts of the country, especially in areas where there has been a history of violence or to prevent violations to vulnerable communities. The field presence should consider whether this is reasonable in view of established priorities, available resources and access, and if a significant positive impact can be expected on the electoral process and on human rights generally.



Principles of independence and impartiality

As in all other aspects of human rights monitoring, in the context of elections it is also essential to abide by basic monitoring principles, particularly independence and impartiality (see chapter on *Basic principles of human rights monitoring* ). In addition to ensuring respect for these principles, HROs should be attentive to how others working with the field presence may be perceived from the outside, particularly if national staff or their close relatives may be, or be perceived to be, politically active.

3 Election phases

The electoral process can be divided into three phases: pre-electoral, electoral and post-electoral.

The **pre-electoral phase** starts with the actual preparations for holding elections and lasts until the end of the electoral campaign. Activities during this phase are in preparation of the elections and may include amending laws, training election officials, educating voters, registering voters, printing ballot papers, compiling voter registers, registering candidates and electoral campaigning.

The **electoral phase** is the actual day (or days) dedicated to the casting of votes by eligible voters and ends with the closure of polling stations. In most countries campaigning is prohibited during the voting period.

The **post-electoral phase** is the period between the closing of polling stations and the announcement of the final results. It includes, for example, the sealing and safe transport of ballot boxes, the counting of ballot papers, independent oversight over the counting process, the collation of results, the declaration of provisional results, the resolution of electoral disputes and challenges of results, and the declaration of the final results. In some circumstances this phase may continue through to the appropriate implementation of the election results.

The boundaries between the different electoral phases are often not clearly demarcated and may overlap. Some activities may start during one phase and continue during another. For example, certain categories of persons may be eligible to cast their votes before the day of voting (special votes), including patients in hospitals, the infirm and elderly, members of the security forces who will provide security during voting, emergency personnel or those who will be absent from their constituency on the day of elections.



Free and fair elections

To be free and fair, elections must fulfil a number of requirements:

- **Periodic:** elections must be held at regular intervals as established by law. The period of time between elections should not be unreasonably long. At the very least, elections must be held often enough to ensure that the authority of government continues to be based on the free expression of the will of electors.
- **Genuine:** the electoral process must be conducted in an accountable and transparent manner, and it must represent the real and informed choice of voters. Elections should reflect the right of the people to change their government. Moreover, there must be a reasonable prospect that voters can vote incumbents out of office and are able to choose from an array of credible political options.
- **Free:** all citizens should enjoy their fundamental rights and should be able to cast their votes without intimidation, violence or administrative interference. Candidates should be free to present their views, and voters should be able to freely engage in election campaigns and learn about the views of the different candidates. The media should be able to cover electoral campaigns freely, without interference or unreasonable restrictions imposed by the authorities.
- **Fair:** all participants in the electoral process must be treated equally and impartially under the law and by the authorities. This implies equal distribution of public resources, electoral procedures free from fraud, and access by candidates and voters to effective redress for complaints, including through an independent judiciary. Candidates who receive the required number of votes to be elected should be duly installed in office.
- **Universal and equal suffrage:** all citizens should be given the right to vote. There should be an effective, impartial, non-discriminatory and accurate voter registration procedure that ensures all eligible citizens have the right to vote. There should be no restrictions on voting by women, persons belonging to minorities, persons with disabilities, internally displaced persons or other groups. However, States may impose reasonable restrictions, such as a minimum age limit to exercise the right to vote. Each citizen's vote should have the same value.
- **Voting by secret ballot** (or equivalent free voting procedures): implies that voters mark their ballots in a manner that cannot later be identified with a particular voter. This is essential for insulating the voting process from intimidation. It is based on the conviction that, to be truly free, procedures must guarantee that the content of one's vote is absolutely privileged. No one should be compelled by any legal or national authority to disclose it.
- **Free expression of the will of electors:** the will of the people should be the basis of government authority, and must be based on the enjoyment of political rights and fundamental freedoms before, during and after the election. Each voter must be able to cast his or her ballot free from intimidation, violence, administrative action or fear of retribution, and in an atmosphere of respect for human rights.
- **Honest counting and reporting of results:** officials carrying out the tasks of counting and tabulation should do so impartially, efficiently and accurately. All aspects of the counting process should be transparent. The tabulation of results should be visible and verifiable. Results should be publicly reported in a timely manner.

Source: Adapted from *Human Rights and Elections*. See also *Election Observation Handbook*, pp. 22–24, and Guy D. Goodwin-Gill, *Free and Fair Elections*, new expanded ed. (Geneva, Inter-Parliamentary Union, 2006).



C. Human rights in the context of elections

1 Key human rights standards

The right to take part in the conduct of public affairs, and the right to vote and to be elected to government are at the core of democratic governance based on the consent of the people.³ The right of political participation should be exercised through free and fair elections.

The **right to participate in free and fair elections** is intrinsically linked to a number of basic rights, the enjoyment of which is crucial to a meaningful electoral process. These **prerequisite** rights are:⁴

- The **right to freedom from discrimination**:⁵ the right to political participation must be enjoyed equally by all and without distinction or discrimination of any kind (e.g., based on race, colour, sex, sexual orientation and gender identity, language, religion, political or other opinion, national or social origin, birth or other status). An environment in which discrimination is tolerated facilitates intimidation and manipulation of the electorate, which cannot be permitted if elections are to be free and fair. The authorities have both a positive obligation to prevent discrimination and a negative one to refrain from discriminating. Certain types of positive measures are, however, permissible if they are of a remedial nature in view of correcting past discrimination (for example, setting a quota for women candidates) and do not amount to discrimination.
- The **right to freedom of expression**:⁶ the electoral process is a mechanism whose very purpose is the expression of the political will of the people. The right to express partisan ideas must, therefore, be firmly guarded during electoral periods. The exercise of this right carries with it special duties and responsibilities, and it can be subject to restrictions based on specific grounds (e.g., respect of the rights or reputations of others, or the protection of national security, public order, public health or morals).⁷ Expression that constitutes propaganda for war or incites violence or hatred must also be restricted.⁸ However, these restrictions must be clearly provided by law and must comply with the strict test of necessity and proportionality.
- The **right to freedom of opinion**:⁹ the unconditional freedom to hold a political opinion is imperative in the context of elections, since the true assertion of popular will is impossible in an environment where such freedom is absent or restricted in any way. The right to freedom of opinion is absolute and cannot be derogated from, restricted or interfered with in any manner.
- The **right to freedom of peaceful assembly**:¹⁰ public demonstrations and political rallies are an integral part of the electoral process and provide an effective mechanism for the public dissemination of political information. In order to be protected by law, an assembly must be peaceful. Any restriction on this right must be in conformity with the law (insofar as the latter respects international human

3 International Covenant on Civil and Political Rights, art. 25. The Universal Declaration of Human Rights (art. 21 (1)) refers to the right of “everyone” to take part in the government of his or her country, while the Covenant limits the right of political participation to “citizens”. This chapter is based on the latter, as in most countries the right to vote and the right to be elected to government derives from citizenship. In accordance with European Union (EU) legislation, EU member States allow EU residents to vote in local and European elections. Some countries allow foreigners to vote if they have been resident in the country for a certain number of years.

4 See *Human Rights and Elections*, paras. 31–51.

5 International Covenant on Civil and Political Rights, arts. 2 (1) and 3.

6 *Ibid.*, art. 19 (2).

7 *Ibid.*, art. 19 (3).

8 *Ibid.*, art. 20.

9 *Ibid.*, art. 19 (1)

10 *Ibid.*, art. 21.



rights standards), necessary in a democratic society and based on specific grounds (e.g., national security or public safety, public order, the protection of public health or morals or of the rights and freedoms of others) and the least restrictive means must be employed.

- The **right to freedom of association**:¹¹ this right has a broad scope and it includes the right to form and participate in political organizations. Respect for this right is vital during the electoral process as the ability to form and join political parties is one of the most important means by which people can participate in a democratic process. This right is very closely related to the right to freedom of peaceful assembly and permits limitations on the same grounds (e.g., in the interest of national security or public safety, public order, the protection of public health or morals or of the rights and freedoms of others). International law permits the imposition of lawful restrictions on members of the armed forces and the police in the exercise of these rights¹² (for example, banning them from joining political parties).¹³

Participants in the electoral process may face a variety of challenges depending on the circumstances in which the elections are held. For example, in situations of conflict or civil strife, individuals may be unable to move freely because of poor security or ongoing clashes between warring parties. Other concerns may include a real fear of harm by rival groups participating in the electoral process. In other situations, certain groups may face discrimination, preventing them from fully and freely participating in the electoral process. In these and other contexts, additional rights may also be relevant, such as:

- The **right to freedom of movement**:¹⁴ it is essential that all those participating in the electoral process are able to move without restriction and fear, and have access to all electoral events and related venues (e.g., voter registration, political rallies, polling stations). This applies not only to members of political organizations and their supporters, but also to voters and the general population. Restrictions are permitted only if provided by law and insofar as these are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the enjoyment of other civil and political rights.
- **Freedom from fear and intimidation**: participation in the electoral process must be conducted in an atmosphere characterized by an absence of intimidation and by respect for human rights and fundamental freedoms. All persons taking part in the elections, including candidates, electoral staff and voters, must have the confidence that they will not be targeted, threatened or intimidated in any way as a result of their participation. This principle is linked to the enjoyment of the **right to life**,¹⁵ the **right to personal integrity**¹⁶ as well as the **right to liberty and security of person**.¹⁷

Voter education, registration of voters and candidates, political meetings and rallies and media reporting are all common elements of an electoral process, and each must operate without unreasonable interference for the conduct of elections to be considered free and fair.

11 Ibid., art. 22.

12 Ibid., art. 22 (2).

13 See "Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association" (A/68/299), which addresses concerns about the exercise of these rights in the context of elections.

14 International Covenant on Civil and Political Rights, art. 12.

15 Ibid., art. 6 (1). See "Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns" (A/HRC/17/28), which concerns protecting the right to life in the context of policing assemblies.

16 International Covenant on Civil and Political Rights, art. 7.

17 Ibid., art. 9.



2 Issues to monitor

The degree to which an electoral process complies with international human rights standards provides the benchmark to determine if elections are free and fair. Generally, when monitoring human rights in the context of elections, HROs should aim at assessing if:

- All those involved in the elections are able to exercise their political rights and fundamental freedoms without hindrance, sanction or reprisal;
- The authorities have taken the necessary measures to protect the political rights and fundamental freedoms of all those involved to facilitate access to political and voting processes;
- In the event of human rights violations and abuses, the authorities react appropriately to prevent further violations and abuses and investigate any allegations thoroughly, holding those responsible accountable;
- The overall electoral process is conducted in a fair, free and non-discriminatory manner.

(a) Electoral legal framework

The analysis of the national legal framework related to elections provides a useful starting point for ascertaining potential election-related human rights concerns that would require follow-up before, during and after polling day. The degree to which the relevant laws are properly implemented should be assessed, so that rights are protected, respected and fulfilled. The political will of the authorities is a determinant factor in implementing an electoral process in an impartial, transparent and accountable manner.

Any elections should be based on accessible national laws and regulations that clearly and predictably set out the different stages of the electoral calendar, define responsibilities and establish independent electoral management bodies and procedures to deal with electoral disputes. The field presence should provide technical support to the authorities in the drafting or revision of laws, regulations and procedures that have an impact on the exercise of political rights and other essential associated rights. Such support could help to ensure that the necessary legal instruments are in place and measures have been taken to prevent human rights violations. Other United Nations departments may have the necessary expertise to advise the authorities on the technical aspects of electoral laws.

Regardless of the level of involvement of the field presence, becoming familiar with the relevant international and national legal frameworks is an essential step in monitoring human rights during elections. As early as possible, the field presence should undertake a comprehensive analysis of the domestic legal framework related to elections, to assess its compliance with human rights standards and identify aspects that may undermine the realization of free and fair elections, including provisions that discriminate against specific groups in society such as women, minorities or displaced populations. Besides electoral legislation, the field presence should also consider other sources of law applicable to the country that may have the effect of discouraging political participation, such as restrictive media laws and laws on non-governmental organizations (NGOs) or emergency and other exceptional legislation limiting fundamental rights.

The electoral legal framework should be in place well ahead of the start of the electoral process. Moreover, it should be clear and specific, to prevent potential abuse of discretion, discriminatory application or impingement upon the enjoyment of political rights and full participation by the population. Additionally, it should enjoy broad confidence among key stakeholders as well as be readily accessible to the public and translated into relevant languages.



Assessment of electoral laws and procedures

Aspects of electoral laws and procedures that could be assessed are:

- The extent to which the laws provide a sound basis for the conduct of elections in accordance with international human rights standards, including guarantees of political rights and fundamental freedoms.
- Laws that do not enjoy the confidence of political parties, civil society or the general public.
- Any legal provisions that directly or indirectly discriminate against specific individuals or groups.
- The establishment by law of an impartial and independent election management body exempt from provisions leading to discriminatory treatment, political bias or government pressure.
- The delimitation of electoral constituencies and its scope to dilute or discount the votes of particular areas or groups and thus manipulate results or discriminate against minority interests.
- Factors that disqualify persons from registering as voters, which must not represent impermissible discrimination and should aim at broad participation.
- The extent to which nomination procedures may provide unfair advantages to candidates of specific political parties and discriminate against other political organizations or groups within the country or women candidates.
- The inclusion of complaints and appeals processes that guarantee access to independent and transparent review and redress by anyone alleging restrictions on his or her right to vote and other political rights.

If there are shortcomings in the electoral legislation, the field presence may decide to engage with the authorities and, when deemed useful to advance its advocacy, to issue a public report or press statement expressing its concerns and making recommendations for improvements to the electoral legislation to bring it in conformity with international human rights standards.

(b) Media freedom and access

An independent and free media sector is essential to ensure that a wide range of viewpoints is expressed and communicated to the public. For elections to be truly genuine, political organizations and candidates must be able to communicate their political opinions in the media on an equal footing so that voters receive a diverse range of information to enable them to make an informed choice.

Media laws and regulations should provide for safeguards against political censorship, unfair advantage to certain political parties and unequal access during the electoral period, as well as overall interference with the right to freedom of expression. All candidates and parties must be granted unimpeded, equal and non-discriminatory access to the media. This is particularly relevant where the major media outlets are government-controlled. The State-owned and publicly funded media have a responsibility to provide balanced and impartial coverage of the campaigning by all parties and other aspects of the election process. All contesting opinions, including those critical of or opposing the incumbent party, should be fairly and equitably communicated. Depending on national regulations, the same level of responsibility for neutrality and balance would not be expected from private media. However, local media regulations may require private media to publish paid advertisements from all political parties.



Besides assessing political contestants' access to the media, HROs have to evaluate the extent to which the mass media are free to pursue their activities and report on political developments without unjustifiable restraint or fear of intimidation or reprisal. Journalists can become targets of threats quite easily since they are often public figures and are seen as opinion-makers. HROs should aim at engaging widely with journalists and representatives of media organizations to monitor their enjoyment of human rights in the context of elections, while at the same time engaging with them as a potential source of information regarding human rights incidents.

Fair and free media use also implies responsibility on the part of all persons and parties delivering messages or imparting information. No unreasonable limitations should be placed on the rights of political parties, candidates and others to freely state their views and opinions in the mass media provided messages do not infringe human rights standards, for example, by inciting hatred, discrimination or violence.



Assessment of media freedom

Some of the issues that HROs may consider when assessing media freedom and access are:

- The extent to which the legal framework guarantees freedom of the media.
- The level of equitable and non-discriminatory access to the media (especially publicly funded media) by contesting candidates and political parties.
- The ability of the media to work freely and to operate without censorship (including self-censorship), intimidation, obstruction or interference during the electoral period.
- The existence of any discriminatory reporting based on racial, ethnic, gender, religious or other background.
- Media coverage that may be regarded as incitement to violence or hate speech.
- Incidents of violence, threats or detention of journalists and representatives of media organizations owing to their reporting on the elections.
- Criminal prosecution and sanctions against journalists and representatives of media organizations based on their reporting on the elections.
- Incidents of harassment of media outlets by the authorities.
- Existence of a pluralistic and independent media environment that provides access to a broad range of political opinions.
- Biased or unfair media reporting, especially by public media against opposition parties.

Source: Adapted from European Commission, *Handbook for European Union Election Observation*, 2nd ed. (2008), p. 57.

While monitoring media freedom and access, HROs should under no circumstances address the media expressing their opinions or providing comments, publicly or off the record, regarding the overall electoral process, political parties or individual candidates. The decision to make substantive comments to the media or issue a press statement regarding the elections is the responsibility of the leadership of the field presence or specifically assigned United Nations officers.



(c) Role of security forces

The preparedness and actions taken by the authorities, specifically by security forces, to protect the population, maintain law and order, and ensure that people's political rights are respected are key to guaranteeing peaceful, free and fair elections.

Security during the election process includes:

- Physical security of buildings and materials, including during the printing and transporting of ballot papers;
- Personal security of voters, candidates, representatives of political parties, officials responsible for managing the elections, monitors/observers and the community;
- Security of information, computers, ballot boxes and completed voting papers and election communication systems.

HROs need to pay particular attention to the actions taken by security forces to address any problems that may arise during the electoral period, to manage political demonstrations and rallies peacefully, and to prevent any interference in the electoral process that results in restrictions on the rights of persons taking part. Also relevant are decisions regarding the maintenance of peace and order at polling stations during voting, which should be made by balancing concern for security against the potentially intimidating effect of a police, security or military presence.

A feature of numerous electoral processes is the use of violence by supporters of political parties to disrupt the campaigns or demonstrations of rival parties, or otherwise organize demonstrations where violent actions are carried out. Security forces must be able to contain such outbreaks of violence related to the elections and, when necessary, use force appropriately and proportionally, without endangering bystanders, in accordance with the law.



Monitoring of security forces

Some of the issues that HROs may monitor regarding the role of the security forces during elections are:

- Whether security during voter registration and throughout the election process is provided in a non-partisan and non-discriminatory manner. Whether the presence of security forces could be considered intimidating at any stage, for example on the day of voting.
- The manner in which election rallies of the incumbent party and opposition parties are policed, the security provided to candidates and participants at the rallies, and measures taken to ensure law and order (including the use of force).
- Measures taken to ensure security during the voting process, including the security of the polling stations, voters and election materials, and how the security forces react to situations that threaten the security of voters or the voting process.
- Measures adopted to prevent violence during the counting of votes and immediately following the announcement of results and whether the actions by the security forces are in accordance with international law (for example, the use of force and firearms).



In situations of internal strife, non-State armed groups may also have a serious impact on the ability of the population to exercise its political rights. Armed groups may attempt to intimidate sectors of the population, abduct or kill electoral staff, disrupt political campaigning or take actions to prevent voters from going to the polls. It is the responsibility of the security forces to address such concerns and ensure that the environment during the electoral period is free from fear and intimidation.

(d) Exercise of political rights and fundamental freedoms

Elections should be held in an environment in which all are able to exercise their political rights and where other essential rights are respected. Without being exhaustive, the list below provides guidance on key aspects to monitor in the context of elections.

Freedom of opinion and expression

- Were any political parties or candidates prevented, or in any form limited, from freely expressing their opinions and viewpoints in public?
- Were the media prevented, or in any form limited, from accessing information from public institutions?
- Were the media able to freely broadcast or print their opinions without restriction, censorship, violence, threats or intimidation?
- Were all political parties and candidates provided with equitable and non-discriminatory access to the media?
- Was there any incitement to discrimination, violence or hatred in the political campaign messages of political parties or candidates?
- Were all political parties and candidates able to present their messages on billboards and campaign posters?
- What measures did the authorities take to prevent the dissemination of material that incited hatred or violence and to hold the authors of such material accountable?
- Were any measures taken against any candidates, members of political parties, voters or others for exercising their right to freedom of opinion or expression?
- Were any candidates, members of political parties, voters or others subjected to pressure, threats or aggression designed to limit or prevent the free exercise of the right to freedom of opinion or expression?
- Were any campaign materials or media articles censored by the authorities without legitimate reasons (valid reasons may include the prevention of incitement to hatred or violence)?
- Were political parties, candidates and civil society organizations permitted to use new media such as social networking websites and blogs?

Freedom of peaceful assembly and association

- Were all political parties and candidates able to organize and conduct political meetings, rallies or demonstrations freely without interference or obstruction by the authorities or security forces in any part of the country, including in areas considered strongholds of rival political parties?
- Were the responses of security forces during political rallies and demonstrations in accordance with international standards? If force was used, was it necessary and proportionate?
- Were all political groups equally able to form political parties and were all citizens equally able to join the political party of their choice?
- Were all political parties and candidates equally able to access public resources?



- Were any measures taken against any candidates, members of political parties, voters or others for exercising their right to freedom of peaceful assembly and association?
- Was there any unreasonable official interference in the operation of political parties?
- Were any candidates, members of political parties, voters or others subjected to pressure, threats or aggression designed to limit or prevent the free exercise of the right to freedom of peaceful assembly and association?
- Were any candidates, members of political parties, voters or others prevented from freely exercising their right to freedom of peaceful assembly and association due to any discriminatory treatment?
- Were there any restrictions on civil society organizations or individuals to engage in peaceful demonstrations? Were these restrictions in accordance with international law?

Freedom of movement

- Were candidates, members of political parties, voters or others able to move freely and to attend political meetings, rallies or demonstrations anywhere in the country?
- Were voters able to travel freely to cast their votes on polling day?
- Were any measures taken against any candidates, members of political parties, voters or others for exercising their right to freedom of movement?
- Were any candidates, members of political parties, voters or others subjected to pressure, threats or aggression designed to limit or prevent the free exercise of the right to freedom of movement?
- Were any candidates, members of political parties, voters or others hindered in freely exercising their right to freedom of movement based on any discriminatory treatment?

Non-discrimination

- Were any candidates, members of political parties, voters or others prevented, or in any form limited, from exercising their political rights and fundamental freedoms based on discriminatory grounds?
- Were all eligible individuals equally provided with the opportunity to enjoy their political rights as voters and/or candidates?
- Were discriminatory criteria or requirements applied for the registration of voters, candidates or political parties?
- Did the vote of each person have equal value?
- Did any laws or practices result in indirect discrimination against candidates, members of political parties, voters or others?
- What measures were adopted by the authorities to ensure that persons with disabilities were able to exercise their political rights, including the right to vote?
- Did the authorities or electoral management body show partiality, act in a discriminatory manner or promote discriminatory policies against any candidates, members of political parties, voters or others at any time during the electoral process?
- Were special measures taken where necessary to increase the participation of excluded groups or persons in vulnerable situations?



Non-intimidation

- Were all candidates, members of political parties and voters able to participate in the electoral process in an atmosphere free from intimidation?
- Did the authorities attempt to influence voters' choices or in any way coerce them to divulge or change their political views?
- Did the security forces exercise restraint and refrain from unlawfully interfering in the electoral process?
- Was there any undue security presence at political meetings, resulting in intimidation?
- Were any candidates, members of political parties, political activists, journalists, civil society representatives or any other individuals active in the electoral process subjected to harassment, intimidation or threats by the authorities, security forces or candidates of the incumbent political party?
- What measures did the authorities take to prevent intimidation and to hold perpetrators accountable?
- Were any candidates, members of political parties, political activists, journalists, civil society representatives or any other individuals arbitrarily detained owing to their activities in the electoral process?
- Were any prospective candidates prevented from running because they were held in custody or were subject to administrative sanctions or criminal investigations?
- Were there any attempts to disrupt the election by groups opposing it?
- Did the security forces take the necessary action to prevent or stop election-related intimidation?
- Were there any party militias exerting pressure on voters?



Voter education campaigns

The authorities are responsible for taking positive actions to ensure that the electorate is not only able to participate, but also has the opportunity to become well informed regarding the different stages of the electoral process, including where, when and how to vote, as well as why voting is important. Non-partisan voter education and information campaigns should be organized particularly in contexts where there is little or no experience with democratic elections.

HROs should assess the extent and effectiveness of voter education campaigns in reaching out to marginalized and excluded groups in society or to populations with a traditionally lower voter turnout. The content of voter education campaigns needs to be impartial, unbiased and accessible to voters (e.g., by being culturally appropriate). Voter education campaigns should be extended throughout the country and accessible to people with different levels of literacy, in the predominant and minority languages. Voter education campaigns can strongly contribute to the effective exercise of political rights by communities.



3 Gender dimension

Women and men must be able to exercise their right to participate in all aspects of public life equally.¹⁸ HROs must consider the gender dimension of monitoring human rights in the context of elections by assessing the extent to which women and men enjoy equal access to political rights and opportunities.¹⁹

Women and men can be affected differently at every stage of the electoral process. In many countries, owing to limitations in law or other reasons, women's ability to be politically active or access positions in public affairs is severely curtailed. Women may also be more exposed to harassment, intimidation or coercion if political participation is seen as contrary to tradition. Even if women are entitled to equal protection by law, they may be subjected to indirect discrimination or suffer from cultural stereotypes that limit their opportunities to participate fully. For instance, laws may not be gender-sensitive or may disadvantage women in unexpected ways (e.g., with regard to citizenship regulations that apply differently to women and men); political parties may not present equal opportunities for women and men to be selected as candidates; requirements for monetary deposits for candidates may disproportionately disadvantage women since they are likely to be poorer than men; women may find it more difficult owing to family obligations to register to vote if registration centres are not easily accessible; disproportional illiteracy rates of women in relation to men may hamper the ability of women to understand voter education campaigns and voting procedures adequately; women may be portrayed by the media as less serious candidates or political leaders than men, thus affecting public perceptions and election results.²⁰

Depending on the legal, social or cultural circumstances, HROs may have to develop specific strategies to monitor the participation of women at the different phases of the electoral process, including their ability to register to vote, to be nominated as a candidate, to participate fully in a campaign as a voter or a candidate, and to impart and receive information freely. HROs should also assess the implementation of special measures by the authorities to minimize any potential disadvantages to women in the electoral process in relation to men. The Convention on the Elimination of All Forms of Discrimination against Women authorizes States to adopt "temporary special measures aimed at accelerating de facto equality between men and women" (art. 4 (1)).



Afghanistan

In 2009, during the presidential and provincial council elections in Afghanistan, the human rights component of the United Nations Assistance Mission in Afghanistan (UNAMA) developed checklists focused on women's participation during the different phases of the electoral process. The checklists attempted to ensure that HROs would integrate a gender dimension while monitoring political rights. Some of the issues covered were aimed at understanding to what degree cultural and traditional practices as well as the security environment affected women's and men's capacity to participate in the elections differently.

¹⁸ International Covenant on Civil and Political Rights, art. 3, and Convention on the Elimination of All Forms of Discrimination against Women, art. 7 (a)–(b).

¹⁹ See chapter on *Integrating gender into human rights monitoring*.

²⁰ Adapted from *Handbook for European Union Election Observation*, pp. 65–66.



Monitoring gender equality

HROs may consider some of the issues below when monitoring gender equality in elections:

- To what degree do electoral laws and regulations, or other domestic laws, encourage equal political participation of women and men and prohibit discrimination based on sex?
- What is society's attitude towards women's involvement in politics? What barriers (social, cultural, economic, etc.) to women's equal political participation are there?
- Are women and men equally involved in the planning of elections (e.g., on the boards of electoral commissions, in United Nations activities in support of the electoral process, in decisions on the composition of party lists, in the choice of election candidates)?
- What measures are in place to promote equality of participation? Do women and men have an equal opportunity to register to vote, to cast their votes and to run for office?
- Are women disadvantaged in relation to men by factors such as registration locations, literacy requirements, language used and documentation requirements?
- Are women able to access information regarding the electoral process on an equal footing with men?
- Are there provisions for voter education specifically targeted at women and are voter education campaigns reaching women?
- Is the attitude of political parties different towards women in politics?
- Do women have an equal opportunity to be nominated as candidates by their political parties and do political parties have a quota for women on their lists?
- Are there other special provisions for female candidates?
- What is the ratio of women to men among candidates? Does this differ among political parties?
- Are a certain percentage of seats earmarked for women or men or other groups and are there any other special measures favouring women?
- Do women candidates have opportunities for improving their skills (e.g., public speaking or campaigning)?
- Are female candidates able to access the media on the same terms as male candidates?
- Are women attending or speaking at political meetings, rallies or demonstrations?
- Is a culture of family or group voting resulting in women having less opportunity to vote than men or not being able to exercise their free choice?
- Do electoral bodies provide equal opportunities and employ equal numbers of women and men at all levels?
- Do electoral observation groups provide equal opportunities and employ equal numbers of women and men at all levels?
- Are there signs that violence during the electoral process has had a stronger disengaging effect on women?
- Are there instances during the electoral process in which violence, harassment or intimidation is gender-based?

Source: Adapted from United Nations, *Women & Elections: Guide to promoting the participation of women in elections* (2005).



4 Monitoring the rights of specific groups

HROs should monitor the provision, or absence, of specific measures intended to guarantee the exercise of political rights by individuals or groups that may not be able, for whatever reason, to visit the polls, or who may require additional support to exercise their rights. Individuals or groups in such situations include the sick and the elderly, prisoners, hospital patients, persons with disabilities, internally displaced persons and persons from minority groups. HROs need to assess the extent to which their political rights are protected not only by law, but also in practice. For instance, they may face difficulties in accessing voter education and political campaign material, undermining their ability to make an informed choice when casting their vote. In other situations, certain individuals or groups may be more easily exposed to harassment or intimidation without being able to either protect themselves or complain about it.

Electoral bodies may put in place special voting procedures aimed at extending the franchise to voters who may not otherwise be able to vote. Owing to their specificity, special voting procedures are usually more difficult to implement securely and, therefore, more susceptible to irregularities and abuse. Special polling facilities may be established in hospitals and prisons or others places of detention. Depending on the domestic legal framework, convicts may be disqualified from voting, but detainees who have not yet been convicted should not be deprived of their right to vote. Mobile polling stations may also be used to ensure that those who are elderly, ill or otherwise unable to visit a polling station are able to cast their vote. In other contexts, voting by post or early voting may also be permitted to accommodate voters who are unable to travel to a polling station on the day of voting.

Persons with disabilities have an equal right to participate in the electoral process. The authorities and electoral bodies must guarantee that persons with disabilities, including persons with intellectual disabilities or mental health problems, are given the same opportunities as other citizens to be involved in public affairs, and are not unlawfully deemed incapable of voting or standing for election because of guardianship procedures. HROs should monitor the implementation of specific measures by the authorities to encourage and support the participation of persons with disabilities in politics. Some of the measures are: making polling stations easy to find and enter or allowing persons with disabilities to vote in different locations; training electoral staff on how to support persons with disabilities; ensuring that voter education materials are easy to use and understandable by all (for example, in Braille for those with a visual disability); having public campaigns informing persons with disabilities about their right to vote; or allowing them to nominate someone to help them express their choice when voting or to use special voting procedures.

Other individuals and groups that may require additional support to exercise their political rights are **internally displaced persons (IDPs)**. As citizens, IDPs should retain all their political rights, including the right to participate in the electoral process as voters or candidates and to have access to the means necessary to exercise these rights. The authorities and electoral bodies need to take specific measures to ensure that this is possible, particularly if the displacement forced persons to change residence or caused them to lose their documentation. If possible, IDPs should be able to vote in their place of origin, but without being required to return there, particularly where security may be a concern.



They should not be assigned to an electoral district artificially. As any other citizen, IDPs should also be able to change their place of residence without discrimination, and in this instance be able to register and vote in their place of resettlement if they wish to do so. If the displacement was caused by conflict or if civil strife is ongoing, voter registration and access to information as well as participation in political events by IDPs may be severely curtailed or more easily subjected to manipulation. Where relevant, HROs should monitor the exercise of political rights by IDPs in elections.

In countries where there are **minority populations** of different national, ethnic, religious, cultural or linguistic backgrounds, HROs should monitor the exercise of political rights by such groups and their involvement in the electoral process. Monitoring should focus on any discriminatory treatment preventing them from registering as voters or standing for office as candidates. Additionally, some of the concerns listed above for IDPs may also apply to persons from minority groups. Long-standing discrimination and marginalization of a particular group often translate into less access to education or economic resources that may restrict their exercise of political rights if no specific measures are taken to address those concerns and promote their equal participation. Election materials, including voter education and ballot papers as well as relevant laws and regulations, should be disseminated in minority languages. Media coverage of election campaigns should also be available in these languages.



Children (persons below 18 years of age)

According to international human rights law, persons under the age of 18 have the right to participate in political activities, including meetings, rallies and campaigns. The Convention on the Rights of the Child guarantees their right to freedom of expression (art. 13) and the right to freedom of association and assembly (art. 15). These rights are strengthened by article 12, which stipulates that the child who is capable of forming his or her own views has the right to express those views freely in all matters affecting him or her. The nature of participation (whether with or without parental consent or supervision) will depend on the child's age and maturity. When monitoring the participation of children in political activities, HROs should assess the extent to which the authorities and the organizers of political gatherings, rallies or demonstrations ensure the strictly voluntary participation and the safety and protection of children present or close to such events. Some of the following aspects may be considered:

- How many children are participating in political events and what is their average age?
- Are children carrying sticks/batons, stones or other items that could be used as weapons?
- Is there any indication that children are not participating voluntarily?
- Are children placed at risk (e.g., front line of the rally or demonstration) and what is their role?
- What actions or measures are the security forces taking to protect children participating in political events?



Nepal

In Nepal, the law does not allow those under the age of 18 to participate in demonstrations, contrary to international human rights law. OHCHR-Nepal found that political parties frequently misused children, for instance by removing them from school to participate in demonstrations and making them carry sticks. At the same time, many children willingly chose to participate in political events and were very active. It was therefore important for HROs to monitor the participation of children in a manner that enabled them to draw a distinction between acceptable and unacceptable participation. OHCHR-Nepal and the United Nations Children’s Fund (UNICEF) published a position paper on “Protection of children with regards to political activities” in the run-up to the 2008 elections to prevent the manipulation of children during elections and to protect their right to participate in political activities.

D. Coordination

HROs should engage with a variety of national and international actors involved in different capacities in the electoral process. While some of these will already have established relationships with the field presence (e.g., main human rights organizations, national human rights commission), for others, particularly electoral bodies and election observation groups, steps will have to be taken to establish contact.

Bearing in mind the monitoring principles of independence and impartiality, HROs should aim at establishing partnerships that would allow for complementarity of monitoring efforts, greater coverage of the electoral process and more effective advocacy and intervention for corrective action. Regular contacts with civil society, the national human rights institution, the media, electoral bodies, domestic election observation groups and others will enable HROs to better assess the human rights situation during elections and take preventive action, if need be. This can include efforts to develop the capacities of national actors to monitor human rights during elections, including through the establishment of election monitoring networks. The level of impartiality of each organization will however need to be carefully assessed in order not to undermine community perceptions of the field presence’s impartiality.



Togo

Most serious human rights violations in Togo have been linked to election-based violence. OHCHR-Togo monitored elections in 2005, 2007 and 2010. In 2007 and 2010, OHCHR-Togo started election-related activities six months before the elections were due to take place. It developed a strategy to promote violence-free elections, involving not only monitoring, but also awareness-raising and advocacy directed at groups linked to the electoral process and more prone to be involved in violence. As the presence of OHCHR-Togo was limited, other key actors, such as the National Human Rights Commission and local NGOs, were involved in the campaign throughout the country. Other initiatives involved having an open-door policy during office hours to meet political organizations; setting up a 24/7 hotline to receive reports of violations and other election-related human rights concerns; and mobilizing the population using the media.



1 Election management body

Usually, the electoral process is administered by an election management body, the effectiveness and professionalism of which are a determinant factor in achieving genuine, free and fair elections. The election management body is the primary actor responsible for preparing, organizing and conducting the election in accordance with the electoral calendar, exercising the authority provided for in national laws. The election management body is also responsible for supervising the work of all levels of the election administration, ranging from polling station boards and regional bodies up to decision-making and overall coordination. All election management body staff should be provided with clear instructions and training with regard to their role and responsibilities, including their duty to act fairly and impartially.

There are different types of election management bodies. They may be created independently and administered separately from government institutions, operate under executive or judicial power or through a series of national or regional government agencies. Some may also include representatives from international organizations or receive international technical advice or other assistance. Whatever its type, the election management body should enjoy broad confidence among election stakeholders, undertake its activities independently, without being subjected to political pressure or interference, and always act in a transparent and accountable manner.

The election management body is an important source of human rights and other information with regard to the electoral process. It could also be a target for advocacy if it makes decisions, takes action or fails to take action that results in individuals or specific groups not being able to exercise their political rights. HROs should gather as much information as possible concerning its structure and working methods, and aim at regularly engaging with it to share information that could prevent violations. When relevant, HROs should attempt to establish contact at different hierarchical levels, particularly if the election management body is more susceptible to political pressure and influence.

2 United Nations partners

When other United Nations partners, such as the United Nations Development Programme (UNDP),²¹ the Electoral Assistance Division of the Department of Political Affairs (DPA)²² or components of peacekeeping operations,²³ provide technical advice or other assistance to the electoral process, it is essential that regular briefings are held among them. The briefings should aim at clarifying the roles and responsibilities of each and sharing relevant information related to the elections. When appropriate, a referral system can be set up for election-related human rights violations, in which the field presence should serve as the focal point for investigation and follow-up. If such communication is not in place, the field presence should actively work to establish information flow and briefings.

21 UNDP is the major implementing body for United Nations electoral support, providing technical assistance, mainly in development contexts, but often as important parts of integrated peacekeeping operations. It also engages with Member States on long-term capacity development, including the strengthening of electoral management bodies between elections. At the local level, UNDP country offices play a key role in the coordination of electoral assistance. See www.un.org/wcm/content/site/undpa/main/issues/elections/actors (accessed 4 March 2014).

22 The Under-Secretary-General for Political Affairs and head of DPA serves as the United Nations Focal Point for electoral assistance and is supported in that function by the DPA Electoral Assistance Division. In addition to its broad coordination role in electoral assistance, DPA oversees field-based political missions, which in many cases engage in electoral assistance activities as part of their conflict prevention or peacebuilding mandates. Ibid.

23 In peacekeeping and many post-conflict environments, assistance is generally provided through electoral components of field missions under the aegis of the Department of Peacekeeping Operations (DPKO). In those cases, the Electoral Assistance Division works closely with DPKO in planning and managing the electoral support aspects of peacekeeping operations. Ibid.



Cameroon

In advance of the 2011 presidential elections, the United Nations Centre for Human Rights and Democracy in Central Africa held regular briefings with UNDP, the main actor providing electoral support, to clarify the roles and responsibilities of each United Nations partner during the election. Such coordination briefings were especially important since other United Nations partners were also active during the election.



Afghanistan

In the context of the presidential and provincial council elections in 2009, the leadership of UNAMA issued a number of guidelines outlining the role of its different components (e.g., human rights, political affairs) and of relevant United Nations agencies (e.g., UNDP/ELECT) in the electoral process. The guidelines also established regional and national coordination mechanisms among them. In addition, the human rights component of UNAMA developed internal guidance defining the objectives and scope of monitoring activities and reporting obligations in the context of elections.

3 Election observation groups

Civil society organizations often participate in an electoral process through non-partisan voter education and election observation. International NGOs have specialized in election monitoring and often go beyond the technical aspects of the electoral process. They independently assess the fairness of the election and increase awareness in communities about the electoral process. The presence of such groups can make the process more transparent and thus promote public confidence in it. Electoral laws and regulations should provide guarantees for the rights of domestic and international non-partisan observer groups to independently observe all aspects of the electoral process, and to provide voter education to communities. Election observation groups can provide useful insights into the electoral process and help identify major trends, problematic areas and recurrent violations. Local groups have access to communities, especially minority and vulnerable groups, and can reflect their concerns about the electoral process. HROs should engage with these groups to gather information and corroborate incidents. HROs need to consider, however, the extent to which local groups play an impartial role and accurately report on election-related incidents.

International election observation groups, such as those managed by the European Union, the Organization for Security and Co-operation in Europe or the African Union, are also often present during elections. They, too, can be important partners to engage with to gather their views on the electoral process. They could also alert HROs to problems with the technical aspects of the elections that could result in discontent or disputes and even in violence. The observation group may represent a body that has influence with the authorities and may be able to support the advocacy efforts of the field presence on urgent human rights issues. HROs must bear in mind, however, that their roles are distinct and that they pursue different objectives.



Afghanistan

In 2009, in the context of the presidential and provincial council elections, the human rights component of UNAMA developed a political rights monitoring exercise jointly with the Afghan Independent Human Rights Commission. HROs and staff of the Commission actively monitored prioritized rights and principles (expression, association, peaceful assembly, movement, non-intimidation, non-partiality and non-discrimination) by conducting joint field visits, holding regular meetings, sharing information and intervening for corrective action regionally and nationally. The exercise also produced three joint public reports released at different stages of the electoral process: candidate nomination; electoral campaign; and polling day and vote counting.



Togo

OHCHR worked with local and international observers, including the European Union, the African Union and the Economic Community of West African States, especially in the sharing of information and analysis.

4 Diplomatic community

In some situations, the diplomatic community may play an important role in ensuring free and fair electoral processes by providing support to the election management body and exercising influence with different opposing groups to ensure respect for human rights and reduce the prospect of violence. It is important in such circumstances to engage with the diplomatic community to seek information, facilitate access to different groups and provide advice on human rights issues.




Georgia

Prior to the 2012 parliamentary elections, the United Nations country team established an ambassadorial working group co-chaired by the United Nations Resident Coordinator. OHCHR participated in this working group and provided advice to diplomats on human rights issues of concern during the elections.



E. Monitoring during the electoral process

HROs should ensure (a) that the human rights issues or cases they pursue concern allegations of violations of political rights or other essential rights listed above (see sect. C.1 ); and (b) that such violations are directly related to the electoral process. The role of HROs therefore involves documenting human rights violations related to the electoral process, including through the identification of trends and patterns of violations at the local and national levels, and undertaking preventive and corrective measures on specific human rights issues through advocacy and intervention during the electoral process.

1 Developing a monitoring strategy

Effective monitoring depends on thorough planning and preparation. The best approach to monitoring human rights in the context of elections is to devise a strategy that would define the main goal, prioritize key human rights issues, plan concrete activities and identify indicators to measure impact.²⁴ Such a strategy would not only help individual HROs set out clear priorities and focus their efforts, but also help key partners to better understand what role the field presence plays in the context of elections. Ultimately, through monitoring, HROs aim to have a positive impact on the overall environment so that it is conducive to free and fair elections.


(a) Local context and political environment

Knowing and understanding the local context is fundamental to effective monitoring.²⁵ The same applies when planning monitoring activities in the context of an electoral process. Knowledge of the local context and in particular of the political environment is a determinant factor in identifying which human rights issues are relevant and which warrant the attention of HROs during the electoral period. HROs should specifically gather information about the experience of previous electoral events, especially if there were shortcomings, in order to have an initial overview of potential human rights concerns and problematic geographical areas. Such background information will be a useful baseline to assess the current environment in which elections are due to take place.

(b) Resources and capacity

The type, extent and duration of the monitoring activities in the context of elections depend on the human and material resources available to the field presence. These aspects need to be carefully considered when deciding which activities to undertake. Some aspects of election-related monitoring may be part of the regular work of the field presence, but elections may require heightened activity, additional projects and more resources.

(c) Prioritization

The human rights issues related to an electoral process are many (see sect. C above ). To obtain greater impact, the field presence should aim at developing a strategy based on prioritized human rights issues. Such prioritization should, in turn, be based on an initial assessment of the potential human rights concerns and the main vulnerable populations. Furthermore, it should take into consideration the field presence's resources, capacity and access as well as the activities of other actors involved in monitoring the elections, to avoid duplication of efforts and to foment complementarity. The prioritization

²⁴ See chapter on *Strategic planning for human rights impact*.

²⁵ See chapter on *Gathering contextual information*.




may also consider whether the monitoring may have a greater impact if it has a specific geographic focus, for example on urban areas where violence is more likely to occur.



Gabon

In 2009, during the electoral period, OHCHR deployed a human rights rapid response mission with the main purpose of monitoring election-related violence, focusing on violations of the right to liberty and security of person.

(d) Timing

The integrity of an election depends as much on what happens in the pre- and post-electoral phases as on election day. The decision of when to initiate or stop monitoring human rights in the context of the elections is country-specific since this is dependent on the identified human rights concerns and the extent of election-related activities undertaken by the field presence. At a minimum, the field presence should monitor human rights violations from the start of the electoral process until one month after the elections results are announced. This may cover a period of four to six months, or longer. However, this may not be possible when ad hoc monitoring teams are deployed to countries without a field presence. In such instances, the ad hoc teams should be present on the ground for a significant period to fulfil the objectives of monitoring human rights during elections set out above (see sect. B.2 .



Timor-Leste

In 2004–05, the Human Rights Unit of the United Nations Mission of Support in East Timor (UNMISSET) monitored the sub-chief village elections. Owing to resource and logistical constraints, the Timorese Government decided not to hold elections in all districts at the same time, but to space them over a full year.

However, the earlier the decision is taken, the better, as HROs will be able to plan monitoring activities well in advance and ensure that all relevant contacts are established before the start of the election period. An early start to activities can also contribute to the prevention of human rights violations.



Afghanistan

Owing to capacity constraints, the human rights component of UNAMA started monitoring the 2009 presidential and provincial council elections only during the candidates' nomination period, failing to cover the initial voter registration process. This meant that HROs were slow to fully grasp some of the irregularities and discrimination that occurred during the first phase. These same issues not only reoccurred during the subsequent phases of the electoral process, but also interfered with them. Moreover, additional efforts had to be made to establish networks and contacts with relevant stakeholders involved in the election, particularly the national electoral commission.



(e) Coverage

The field presence's aim should be to monitor the situation countrywide and travel as widely as possible in order to obtain an accurate assessment of the human rights situation during the electoral process. Such an endeavour may however not always be realistic owing to limited resources or when ad hoc human rights monitoring teams are deployed to a country only in relation to the electoral process. Therefore, the emphasis should be on those areas considered to be the most volatile. Depending on the context, HROs can opt for visibility strategies and plan regular field visits to potential hot spots in order to maintain a presence and engage regularly with the community, local NGOs and other contacts.²⁶ If access to certain locations is problematic because of security concerns, the field presence should explore alternative monitoring strategies, including by gathering information from established contacts using the telephone or e-mail, or inviting members of more remote communities to visit the office of the field presence. At all times, HROs need to bear in mind the principle of "do no harm" and confidentiality, and ensure that protective measures are taken in order not to put individuals at risk of threats or retaliation.²⁷

With a view to ensuring greater coverage and complementarity, the field presence may undertake specific activities to strengthen the capacity of networks of national election observers to monitor and report on human rights violations during elections.



Guinea

In 2010, OHCHR-Guinea was involved in monitoring human rights in the context of the presidential elections. In the run-up to the polls, it trained 175 local human rights monitors operating across the country. It also engaged in conflict prevention activities, including holding talks with contending presidential candidates and their teams, and providing human rights training to security forces and youth groups. OHCHR-Guinea also worked closely with NGOs and other local partners throughout the country to monitor the human rights situation before, during and after the elections.

(f) Contacts

HROs should gather information on the main groups involved in the electoral process, such as contending political parties, electoral bodies, civil society organizations (including networks of national election observers), the media, relevant international NGOs and observer groups, and the diplomatic community. These key stakeholders should be analysed in the context of the elections through actor mapping to establish different interrelationships and routes of influence.²⁸ HROs should also attempt to identify and, as much as possible, engage with individuals or groups that may be deemed the most likely victims or perpetrators of election-related violence.

HROs should engage with all of these as early as possible, maintaining regular contact not only to gather their views on the election process, but also to make them aware of the role played by the field presence (or ad hoc human rights monitoring team) in it. HROs should ensure that contacts are aware that HROs are available to receive complaints regarding election-related human rights violations.

²⁶ See chapter on *Using presence and visibility*.

²⁷ See chapter on *Protection of victims, witnesses and other cooperating persons*.

²⁸ See chapter on *Gathering contextual information*.



When devising its monitoring strategy for the electoral period, the field presence should also consider the level of support from other international actors, such as United Nations agencies or diplomatic missions. The latter can play a crucial role in joint advocacy campaigns aimed at seeking corrective action for specific human rights violations.

Overall, fostering coordination and cooperation with local, national and international actors will ensure complementarity of efforts and greater or better coverage, information gathering, intervention and impact.



Preventive action

Continuous monitoring of the political, security and electoral environment which affects human rights could result in the early detection of possible concerns and allow HROs to recommend appropriate action to the authorities. HROs should focus on:

- Establishing and maintaining regular contact with key actors, and obtaining regular briefings on developments regarding the electoral process;
- Identifying groups and actors inclined to be involved in violence, and engaging in dialogue with them to emphasize respect for human rights;
- Addressing concerns with the authorities as early as possible, based on information gathered and analysis;
- Holding regular meetings with partners to coordinate activities and avoid duplication.



Togo

The 2010 OHCHR Election Project had a significant component for preventive action. OHCHR coordinated and cooperated with a range of local and international actors to ensure complementarity of efforts in awareness-raising, training, advocacy and preventive interventions.

2 Monitoring during different phases of the electoral process

HROs should be guided by the field presence’s monitoring strategy and prioritized human rights issues when monitoring the different phases of the electoral process.

(a) Pre-electoral phase

HROs should concentrate on **assessing the general environment** to determine the extent to which it is free from intimidation, violence and discrimination. It is also important to assess if such a safe and secure environment is likely to endure sufficiently to permit political parties to organize effectively throughout the country and voters to participate with confidence in the campaign and the elections.



During this period, HROs should also focus on **strengthening relations and contacts** with a variety of actors either by making themselves known to new contacts or by making more regular visits to already established contacts. Additionally, HROs should ensure that the main stakeholders understand the role of the field presence with regard to the elections, including which monitoring priorities will be pursued.

When violence and intimidation are likely, it is crucial for HROs to employ heightened **protective measures** in monitoring activities, particularly when engaging with human rights defenders, journalists and other individuals who may be more prone to be exposed to risk.

With regard to political campaigning, HROs should aim at observing the **main political events, rallies and demonstrations**, in particular those where there is a potential for human rights violations to occur.²⁹ When attending such events, HROs should neither participate nor act in a manner that could be interpreted as displaying partisanship or association with the event. As much as possible, HROs should stay at a reasonable distance from the centre of activity and avoid remaining in the same place for an extended period of time. Depending on the context, HROs should use **visibility or discretion strategies**, bearing in mind that too much exposure may aggravate tensions and/or be perceived as participation or encouragement, while too little visibility may reduce the deterrent effect on potential perpetrators of violations. If feasible, HROs should wear distinctive OHCHR insignia to distinguish themselves from other participants or observers at the event. At all times, HROs must be guided by the field presence's relevant security requirements, and in no circumstances should they endanger themselves or others for the purposes of gathering information.

Some of the issues to consider while monitoring a political event are whether:

- The general atmosphere is positive and peaceful and the extent to which candidates, political parties and their supporters are able to enjoy equal opportunities to exercise their freedoms of opinion and expression, assembly and movement;
- The campaign speakers use language that incites hatred or violence;
- The security forces act appropriately (absence of harassment or intimidation) and, if force is used, whether it is as a last resort in a legal, necessary and proportionate manner.

(See also sect C.2 (c) above )

(b) Electoral phase

The field presence should plan its monitoring arrangements for polling day in advance, including deciding which polling stations are going to be visited, in which geographical locations and by whom. The field presence may also decide to monitor the poll in prisons or detention facilities or, when relevant, in hospitals.

HROs should try to cover as many polling stations as possible on polling day as well as ensure that they are present before the opening and closing of the poll. In each of the areas visited, HROs should attempt to maintain regular contact with the main stakeholders (e.g., electoral staff, political parties, NGOs, the media, and domestic and international election observers) and respond to reports of election-related human rights incidents.

²⁹ See chapter on *Monitoring human rights in the context of demonstrations and public meetings*.



HROs must bear in mind that they are not observing the technicalities of the vote inside polling stations, but rather that they are focused on monitoring the human rights environment. In this context, HROs should consider significant events that may have an impact on voters' ability to exercise their right to vote.



Monitoring during the electoral phase

Events to monitor during the electoral phase that may have an impact on the ability to vote:

- Violence or disturbances;
- Road blocks;
- Threatening presence of political groups or militia in the vicinity of polling stations or along access routes to polling stations;
- Intimidation of voters;
- Presence of uniformed personnel, government officials or other unauthorized persons inside or close to the voting area of polling stations;
- Inappropriate actions by security forces, such as taking notes, video recording or photographing of voters or reporting on turnout figures or results;
- Political parties or others attempting to disrupt the electoral process.

During polling day, HROs should pay particular attention to the ability of more vulnerable groups to participate in the voting process without obstacles, pressure or intimidation.

(c) Post-electoral phase

HROs should obtain information on the securing of ballot boxes immediately after polling stations close and their safe transport to counting centres, to assess whether there could be potential disputes about this process that could lead to violence. It may not be necessary for HROs to be present during this process, but they could obtain the information from the election management body, electoral observers and representatives of political parties.

HROs should monitor the **areas around counting centres**, where supporters of contesting political parties, civil society organizations and others usually gather to obtain first-hand information on the counting, to express their support for their candidates and to indicate to the election management body that they are observing the counting process. The purpose of such gatherings or demonstrations could also be more sinister: to put pressure on the election management body to decide in favour of the political party they support. The potential for clashes between opposing groups in such circumstances is high. HROs present during such gathering could observe first-hand the events and the response of the authorities, especially the police. Their presence could also have a deterrent effect.

Through regular contact with observers inside counting centres, HROs could be alerted to issues that could give rise to discontent, possible violence and, consequently, human rights violations. Such issues could be allegations of vote-rigging or fraud, lack of independence of counting officers or failure of the election management body to apply rules rigorously to all parties. It is not necessary for HROs to be present inside counting centres to observe the technical process of tallying votes; that is the role of election observers.



HROs should observe and note the general level of satisfaction with the elections in the media and in public conversations. What are the issues of contention? What is the possibility of dissatisfaction turning into violent confrontation?



Republic of Moldova

In 2009, in the aftermath of the parliamentary elections, civil unrest ensued, leading to street protests in the capital and the destruction of parliamentary and presidential offices. The authorities responded repressively with widespread detention and use of force. The OHCHR Human Rights Adviser in the Republic of Moldova and the National Preventative Mechanism on Torture were able to jointly visit a detention facility that temporarily housed many of those detained in relation to the street protests, and to conduct interviews with detainees, many of whom alleged having been severely ill-treated in custody. Once made public, information collected by the Mechanism and the Adviser succeeded in shifting national and international attention from an initial focus on law and order to the cessation and redress of human rights violations, and facilitated the further engagement of the diplomatic community in restoring political and social stability in the country.

An effective and impartial complaint and appeals process is a fundamental element of any free and fair election. Another aspect for HROs to consider in the post-election period is therefore whether voters or candidates who have been denied the exercise of political rights have **access to redress**. HROs should continue to engage with their contacts during the post-electoral phase to keep abreast of election-related complaints that may lead to a situation of instability and violence after provisional or final results are publicly announced. It may also be important to assess the independence, impartiality, competence and efficiency of the election management body and the court or official body authorized to handle such complaints. The public may not have confidence in the ruling of an institution that is perceived to lack independence and impartiality. Those who feel aggrieved may therefore resort to other means of redress, including demonstrations and attacks on government property.

It will be important for the field presence to **prepare for the announcements** of provisional and final election results. Through the regular gathering of information, including about events during past elections, HROs may be able to predict the reactions of supporters of political parties that fail to gain the results they expected. HROs should be prepared to monitor demonstrations and possible incidents of violence, and the reaction of the authorities, including the use of force by the police. Are there specific hot spots that are likely to erupt on the announcement of the election results? Will specific vulnerable groups be targeted by demonstrators or the authorities? How are the authorities likely to respond? Are there likely to be large numbers of arrests and detentions? What will the response of the incumbent party be if it loses the elections? The involvement and advocacy efforts of the field presence in monitoring post-election violence may contribute to a return to normality in the country.



Monitoring during the post-electoral phase

- Specific aspects to monitor during the post-electoral phase may be:
- Any concerns about the sealing, handling and transport of ballot boxes;
 - The overall atmosphere and mood among those gathered outside counting centres;
 - Whether representatives of political parties are inciting hatred or violence;
 - Concerns emerging from counting centres regarding the fairness of the process;
 - Presence and attitude of political party supporters, government authorities and security forces in the vicinity of counting centres;
 - The presence of unauthorized persons assisting or directing the counting process;
 - Pressure or intimidation towards counting officials or other officials of the election management body;
 - The availability of fair procedures and mechanisms to deal with complaints arising from the elections, and how complaints are dealt with;
 - Demonstrations and possible civil unrest that may follow the announcement of provisional or final results;
 - The response of the authorities, especially the police, to demonstrations and civil unrest;
 - The arrest and detention of demonstrators, leaders of opposition parties, representatives of civil society and others;
 - The announcement of emergency measures by the authorities to contain the civil unrest, and the granting of emergency powers to the security forces.



Togo

- OHCHR-Togo developed and implemented a series of strategic interventions that, through a combination of education, monitoring and dialogue, reduced election-related human rights violations. These efforts:
- Identified and targeted groups and actors involved in the overall electoral process that were inclined to engage in violence such as: (a) youth militia groups that lacked political affiliation but were the most inclined to turn violent if incited by one group or another (through intensive dialogue and consultation, these youth groups became the best ambassadors for OHCHR to spread the message of non-violence); (b) the military and the security forces; (c) political parties/campaign teams; and (d) local government (prefectures);
 - Shared the same message with all target groups that elections are intimately related to the realization of human rights and that obstructing people from exercising their rights is to commit one or more human rights violations;
 - Partnered with other key actors and allies to spread the human rights message and engage in monitoring throughout the country. These partners included the National Human Rights Commission and civil society;



- Proactively engaged all political parties and relevant actors to develop trust in OHCHR (while avoiding the perception of being biased). An open-door policy was adopted whereby HROs would meet anyone involved in the elections, such as representatives of political parties or candidates, only during working hours;
- Conducted awareness campaigns through the media in all 21 local languages to mobilize the entire population around the message of non-violence. A communication expert was specifically recruited to package the message in a way that would have the greatest impact;
- Established an OHCHR-serviced 24/7 toll-free hotline where people could report election-related human rights violations. OHCHR followed up on these complaints and transmitted cases of concern to the relevant authorities (local government, administrative authorities, the Ministry of Security, etc.) for remedial action. The success of this initiative spawned the development of a similar hotline hosted by the National Human Rights Commission;
- Facilitated State buy-in of OHCHR election-related human rights initiatives through the establishment of good relations with the President, who officially endorsed the “non-violence campaign”. The Ministry of Security was also cooperative in dealing with the most serious cases of violence and ensured access to the police, as necessary;
- Provided human rights training to the United Nations country team and civil society, and enlisted their support in monitoring the Lomé area and other parts of the country during the electoral period; and
- Requested and received additional support from OHCHR Headquarters to reinforce the field presence during the pre-electoral period.

3 Reporting on the elections

Reporting on human rights in the context of elections should take place throughout the electoral process. The field presence may want to agree at the beginning of the monitoring which kinds of reports will be produced, including public reports, how frequently and how HROs deployed in different locations in the country will update the field presence’s headquarters on developments in their areas of responsibility.

It is important for the field presence to use the information gathered to intervene rapidly, including by issuing press releases highlighting particular problems or issues. Where the field presence is part of an integrated United Nations mission, the public reporting system will have to be agreed in advance. It is likely that the United Nations mission will issue regular reports, with a human rights section drafted by the field presence.

Within the field presence, it would be useful to assign an individual HRO, or a team of HROs, as the focal point for reporting on the elections. Such a role would encompass receiving all internal reports regarding the elections, analysing information to identify trends and patterns throughout the county, and transmitting relevant information back to HROs deployed in sub-offices. Internal reporting on the election should be as consistent as possible. Specific guidelines should be drafted and distributed



to HROs, clearly outlining the main aspects that need to be covered and addressed in each internal report. To foster consistency in reporting, the field presence may develop reporting templates and checklists for each electoral phase. The field presence should also put in place a system for HROs to quickly report on serious matters or human rights incidents related to the election, for instance by sending a flash report or urgent incident report.

Reporting on polling day should be planned for separately from other regular reporting on the elections, since there is an increased likelihood not only that more incidents will occur, but also that there will be more demand for updated information regarding developments during the day. The field presence can agree on a schedule for reporting on polling day with HROs requested to send in updated situation reports at specific times.

The field presence may consider convening a press conference and/or issuing a press statement during the electoral process. Contacts with the media can happen throughout the electoral period depending on the evolution of the situation on the ground as well as the level of involvement and advocacy strategies of the field presence with regard to the electoral process. For instance, it may decide to announce its involvement in monitoring the elections at the beginning of the electoral period with the aim of serving as a deterrent to potential perpetrators of violations. Likewise, it may issue press statements either before major election moments (e.g., nomination of candidates, start of the campaign period), calling for respect for human rights, or at end of each of them, expressing its main concerns and reporting on patterns of human rights violations it has documented. If human rights violations are mounting or election-related violence is ongoing, it may be particularly useful for the field presence to issue a press statement calling for respect for human rights and an end to the violence. Any press statement has to be carefully drafted to ensure that it is not viewed as partisan or perceived to be influencing the electorate in favour of or against any of the political parties or candidates contesting the elections.



Democratic Republic of the Congo

In 2011, in the context of the presidential and parliamentary elections, OHCHR issued a public report by the United Nations Joint Human Rights Office. The report documented a worrying number of human rights violations during the pre-electoral period. In the report, the United Nations Joint Human Rights Office urged the Congolese Government to intensify cooperation with civil society, to issue public messages calling for State agents to promote and respect human rights, and to fight impunity of State agents who perpetrated human rights violations. It further urged political parties to issue public statements promoting peaceful participation in the electoral process and calling on their supporters to refrain from violence and to respect national laws and the public order. The report also called on the international community to step up its support to the Government, civil society and other stakeholders in their efforts to train the security forces and judicial officers, to promote free and fair elections, and to monitor the elections.

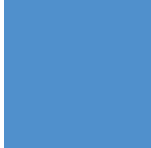


Georgia

In the run-up to the 2012 parliamentary elections, OHCHR issued a press statement after videos of torture in prisons were aired on local television channels a few days before the elections. The OHCHR statement focused on torture and prison conditions without referring to the electoral context.

Most election observation efforts no longer reach a clear determination of whether an election was “free and fair”. The findings are generally more nuanced, offering a determination of the extent to which particular international standards were met and suggesting specific areas where improvements are necessary. For example, in some countries elections were found to have complied with all the technical electoral standards, but the authorities had not fully respected human rights standards. Election observers will make their own determination and issue their own reports. They will take into consideration the nature and extent of the human rights violations during the electoral process and may make recommendations related to some of these rights, for example media freedom. It is therefore important to consider how OHCHR may share information as soon as possible with election observers to inform their determination, and to ensure that there are no contradictions in respect of human rights issues between their determination and that of OHCHR.

At the end of the election period, the field presence should draft a comprehensive report, which may or may not be public, describing the electoral process’s overall compliance with human rights standards and advancing specific recommendations to the main stakeholders. Such a report can be a useful advocacy tool to identify areas that require further improvement and attention by the authorities in order to guarantee greater respect for human rights in future electoral processes. The timing of any public report on human rights will be crucial and may have the greatest impact if released at the same time as the reports of election observers, if possible. A report that is released many months after the electoral process may have little or no impact. As an internal procedure, the field presence should also evaluate and draw lessons regarding its involvement in monitoring the electoral process as well as the impact it achieved.







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MANUAL ON human rights MONITORING

This chapter forms part of the revised *Manual on Human Rights Monitoring*. Following the success of its first edition, published in 2001, the Office of the United Nations High Commissioner for Human Rights has updated and restructured the *Manual*, to provide the latest and most relevant good practices for the conduct of monitoring work by human rights officers, under the approach developed and implemented by the Office.

The revised *Manual* provides practical guidance for those involved in the specialized work of human rights monitoring, particularly in United Nations field operations. This publication comprehensively addresses all phases of the human rights monitoring cycle, setting out professional standards for the effective performance of the monitoring function. It also outlines strategies to maximize the contribution of monitoring to the protection of human rights.

While each chapter has been made available separately, linkages with other chapters are highlighted throughout. A full reading of the *Manual* is thus recommended for a comprehensive understanding of human rights monitoring.

This tool has been tailored to the everyday needs of United Nations human rights officers in the field. The methodology it sets out would, nonetheless, be of equal relevance to others tasked with human rights monitoring functions. Its wider use and application by regional organizations, national human rights institutions, non-governmental organizations, relevant governmental bodies and others is strongly encouraged.



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