**UN Department of Political Affairs/Electoral Assistance Division:**

**Input for the OHCHR study on the right to participate in public affairs**

9 March 2015

1. This refers to a letter dated 16 January 2015 from Ms. Nathalie Prouvez, Chief, Rule of Law and Democracy Section of the Office of the High Commissioner for Human Rights (OHCHR). In her letter, Ms. Prouvez solicited the input of various UN agencies and departments for a study, requested by the Human Right Council in its resolution 27/24, on “best practices, experiences and challenges and ways to overcome them with regard to the promotion, protection and implementation of the right to participate in public affairs”. Specifically, Ms. Prouvez requested information on a) participation in the conduct of public affairs, b) the right to vote and to be elected and c) equal access to public service. On behalf of the Under-Secretary-General for Political Affairs, who is designated by the General Assembly as the UN system-wide focal point for electoral assistance, the UN Electoral Assistance Division offers the following input, focusing on the right to vote and to be elected - rather than the broader concept of participation in public affairs – and the role of UN electoral assistance.

**The context of UN electoral assistance**

2. The United Nations has provided electoral assistance for several decades now, supporting Member States in the implementation of their obligations under the ICCPR as well as other relevant conventions and political commitments. At present, the UN is providing electoral assistance to well over 50 Member States at their request. It has been just over 25 years since the General Assembly began its regular consideration of an agenda item on the role of the UN in enhancing the principle of periodic and genuine elections and the promotion of democratization. Over the years, the General Assembly has adopted a legal and institutional framework for UN electoral assistance, and defined the roles and responsibilities of the various actors within the UN system.

3. Electoral assistance can be provided to a Member State only upon request, or based on a mandate from the Security Council or General Assembly. Electoral assistance is provided in conformity with the principle of the sovereign equality of States and the realization that there is no single electoral methodology or system that is appropriate for all countries.

4. The General Assembly has designated the Under-Secretary-General for Political Affairs the United Nations focal point for electoral assistance, and has reaffirmed the clear leadership role of the focal point within the UN system, including in ensuring system-wide coherence and consistency, in strengthening UN electoral institutional memory and in the development, dissemination and issuance of electoral assistance policies. The focal point is supported by the Electoral Assistance Division, which also provides political and technical guidance to all UN entities involved in electoral assistance.

5. These UN entities include *UNDP* (the major implementing body for support to elections outside the peacekeeping or post-conflict context); *DPKO* and *DPA* (in peacekeeping or post-conflict environments, electoral assistance is generally provided through components of field missions under their aegis, with UNDP also frequently providing support); *OHCHR* (training and advice on human rights monitoring in the context of elections, campaigns for violence-free elections, advocacy for electoral laws and institutions, monitoring human rights violations during electoral processes); *UN-Women* (guidance and technical support on gender equality, including on women’s participation in electoral processes); *UNESCO* (promoting and supporting freedom of expression, strengthening the capacity of media to provide fair coverage of elections); *UNOPS* (supporting electoral activities, largely in post-conflict/peacekeeping environments, in partnership with DPA, DPKO and UNDP); the *UN Volunteers programme* (providing electoral staff to work in UNDP, and field operations of DPKO and DPA); the *Peacebuilding Fund* (supporting elections at critical junctures for peacebuilding); and the *UN Democracy Fund* (supporting projects to strengthen the voice of civil society, promote human rights and encourage the participation of all groups in democratic processes).[[1]](#footnote-1)

**Objectives and nature of UN electoral assistance**

6. The General Assembly has reaffirmed on numerous occasions – most recently in resolution 66/163 of 18 December 2013 – that while democracies share common features, there is no single model of democracy. Electoral assistance is therefore provided with the understanding that there is no “one size fits all” model or solution.

7. The Secretary-General has emphasized[[2]](#footnote-2) that, based on the extensive experience of the UN system, conducting genuine elections requires more than improving technicalities or comparing processes against international obligations, commitments and practices. Elections are fundamentally political, rather than technical events. More importantly, they are not an end in themselves. The purpose of an election is to ascertain the will of the people regarding their Government. In this respect, a genuine election is ultimately one in which the outcome reflects the freely expressed choice or choices. But it is not enough that an electoral process produces an electoral outcome. Citizens must have trust that this outcome does indeed reflect their will. In many situations, therefore, building this trust from the beginning is the key priority and the focus of UN advice.

8. This means that, while the UN would advise a requesting state on the implementation of its own international commitments, norms and principles with respect to elections and on the need for transparency and inclusiveness, UN assistance has evolved to look beyond a norm-based approach and to include other means to increase the credibility of electoral processes.

**UN tools to support the right to vote and be elected: types of electoral assistance**

9. The United Nations provides a few basic types of electoral assistance, of which technical assistance is by far the most frequent form. It can be defined as legal, operational and logistic assistance to develop or improve electoral laws, processes and institutions. The focus is on strengthening electoral institutions, building greater public information and outreach capacity, and helping in planning, preparing and conducting elections and referenda. Gender and human rights issues and implications are systematically considered in all aspects of technical assistance provided by any part of the UN system.

10. It is through technical assistance and advice that the UN typically can have an impact on protecting the right to vote and to be elected. For example, assistance and advice is often provided on the following areas:

- electoral laws and regulations (eg., advice on removing discriminatory provisions and legal obstacles to universal suffrage)

- electoral systems (eg., helping design systems that support the equality of votes)

- voter registration (eg., bringing about mechanisms that maximize the opportunity to vote)

- polling and counting (eg., advice on sound procedures to protect the secrecy of the vote and the integrity of the process)

- civic and voter education (eg., helping bring about greater participation through awareness and information campaigns)

- inclusive participation (eg., helping design measures for greater participation by women and other underrepresented groups, including through the application of temporary special measures)

- political finance and campaign finance regulatory environment (eg., developing mechanisms for levelling the playing field to allow a free expression of voters’ will)

- candidate registration (eg., advice on mechanisms that maximize the opportunity to run for office)

- electoral dispute resolution (eg., assisting with complaints mechanisms so that grievances can be addressed and the outcome will reflect the will of the voters).

This is by no means an exhaustive list.

**Key lessons and challenges in implementing the right to vote and be elected**

*Building confidence in elections; establishing “legitimacy”*

11. As noted above, the Secretary-General has recognized, based on UN experience spanning several decades, that conducting genuine elections requires more than improving technicalities and ensuring compliance with international commitments. The true measure of an election is whether it engenders broad public confidence in the process and trust in the outcome. This also touches on the relationship between respect for human rights related to elections and credibility. An election held in an environment where human rights are widely respected will probably lead to a credible outcome. However, in the experience of UN electoral assistance, it is not true that an election held in a challenging human rights environment cannot produce a credible outcome.

12. In the experience of the UN, measures that tend to enhance trust and confidence include broad political consultation on the rules of the game, including the electoral system and electoral laws; the appointment of electoral authorities that are -- and are seen to be -- honest, impartial and capable; transparency in electoral administration; state neutrality; inclusiveness, especially of politically marginalized groups, including minorities; and efforts to enhance the political participation of women. For the UN this means that the support available to Member States includes not just technical advice but also, if requested, mediation and good offices. Electoral assistance should complement other UN system activities in support of peaceful transitions, democratic governance, the rule of law, human rights and gender equality.

13. The UN recognizes that the overriding responsibility for a successful election and a peaceful aftermath lies with political leaders, in particular those holding office , often more so than with election management bodies (as essential as the perceived independence and fairness of election management bodies are for the credibility of electoral processes). Leaders need to encourage their supporters to engage in proper, peaceful behaviour; they need to commit to challenge results through legal means only; to accept final outcomes, as officially declared; and to be gracious in defeat and magnanimous in victory, including ensuring important political space for opposition.

*Finding a balanced approach to electoral fraud*

14. *Scale matters*. UN electoral assistance providers are often asked to help prevent or combat fraud in elections. Fraud arises not only in the aftermath of conflict or in transitional phases -- no country is entirely immune to this phenomenon. Electoral fraud is a perversion of democracy, and a violation of people’s rights. In most countries fraud constitutes a crime, and the UN ought to support efforts to limit it. However, an election in which fraud has occurred is not necessarily an overall fraudulent or “stolen” election. The scale and nature of the fraud committed can vary – from one or more polling stations to an entire district, from attempts to buy votes to outright ballot stuffing or manipulation of result sheets – and can be committed by more than just one candidate or party. A key question is whether it is sufficient to distort the will of the people to such an extent that the outcome is changed.

15. *A responsibility to prevent*. As noted above, the UN recognizes that the overriding responsibility for a successful election and a peaceful aftermath lies with political leaders. In this context, it should be recognized that fraud is a *political* *strategy*. Consequently, it is the candidates and leaders who need to take the lead in prevention efforts and in discouraging their supporters from committing fraud and violence.

16. *Balancing anti-fraud measures with the right to vote*. Naturally, an electoral management body will also want to take steps to prevent, detect and correct fraud when and where it occurs. Experience shows, however, that the stricter the anti-fraud measures, the greater the chance that people will be disenfranchised, as legitimate votes might get caught up in fraud filters and quality control measures. Fraud prevention and disenfranchisement are often the opposite sides of the same coin. Failure to recognize this dualism, or to balance properly the two objectives, can cause serious (if unintentional) violations of article 25 of the ICCPR, and damage to the political process.

*17. Managing the threat of false claims and the rejection of legitimate processes.* In the UN experience, there is a further aspect to wisely managing the phenomenon of electoral fraud. Claims that fraud was committed tend to resonate strongly in the media and in public opinion. But falsely claiming fraud without evidence or merit can be as damaging to the process as the commission of fraud itself. Both subvert the peoples’ will. Deliberately false or misleading claims of fraud are often associated with the unfortunate tendency – noted in a number of recent elections – of contestants refusing to accept legitimate outcomes. This phenomenon undermines electoral processes in a very fundamental way, as it erodes the legitimacy and stability of the political system. The likelihood of it occurring increases when results are very close, or when they are anticipated to be close. The degree of rejection can vary: sometimes it is in the form of political statements only; other times these statements are combined with threats of violence or challenges to the constitutional order.

*Preventing election-related violence*

18. Elections are competitions for power and influence, and can increase tensions. They can be a trigger for discord or violence – particularly in post-conflict situations. Violence can deprive citizens of the opportunity to cast their votes – for example by making parts of the country inaccessible, or by posing a physical threat to voters – and can affect whether the outcome is a genuine reflection of the will of the people. In recent years the UN has placed greater focus on preventing election-related instability and violence. It has done so by linking technical assistance with good offices and preventive diplomacy functions. Underlying this political approach is the recognition that election-related violence is a form of political violence, and that while it is often sparked by a single event,

such as an election, that event is rarely the root cause. The root causes of political violence are rather: a) systemic, long-standing and unresolved grievances (real or perceived) and a conviction that the exiting political order will not respond to the political demand and b) a belief by governments or leaders that they need to use violence in order to stifle opposition or intimidate their citizens into acquiescence.

*Designing and promoting inclusive processes*

19. In post-conflict and transitional contexts, the political grievances underlying the conflict and possibly remaining tensions often involve issues of exclusion and marginalization, and a general lack of trust. In these contexts, UN technical assistance will typically involve advice on ways to design electoral systems that can serve as a tool for reconciliation and dialogue by producing inclusive elected institutions. Inclusiveness and political participation, in other words, are pursued through advice and advocacy because they are effective confidence building measures. This includes promoting and advising on the removal of all barriers for the participation of women as voters, candidates and election officials, with temporary special measures as one of the means where this is needed and appropriate. (Despite a steady increase in the past two decades, the global rate of elected women in parliament remains low (22.2%) and their political participation, including appointed positions, still falls far short of expectations. Inclusiveness, of course, goes beyond the mere numbers of representation in an elected body; it also touches on participation as voters and in decision-making. UN assistance and advice, therefore, involve more than just quota mechanisms.

**UN experience in addressing challenges**

20. The UN is addressing these practical and conceptual challenges in electoral assistance by, among other things:

• recognizing that elections are fundamentally political rather than technical events; technical assistance cannot be a substitute for diplomatic/political engagement. Moreover, elections are not an end in themselves. A politically successful election is one that is peaceful and whose result is broadly accepted because it reflects the freely expressed choice of the electors;

• recognizing that conducting genuine elections requires more than improving technicalities or comparing processes. Conformity with standards is important, but not necessarily determinative of whether the electors’ will was respected;

• acknowledging that there are many models of democracy and election admiration; each country must choose what fits it best;

• focusing technical assistance and political engagement on practices that increase public trust and confidence in the process. In addition to promoting and supporting Member States in the implementation of their international commitments, this includes encouraging broad political consultation on the rules of the game; but also looking beyond the electoral rules to mitigate “zero-sum dynamics” in the political and legal order;

• recognizing that fraud prevention and disenfranchisement are flipsides of the same coin, and raising awareness about the human rights aspect of strict prevention measures;

* advising on a sound fraud management approach that emphasizes the responsibility of political leaders to prevent fraud and to abstain from making false claims that others committed fraud, that can discern the kind of fraud that is capable of changing outcomes, and in general, that aims to strike a balance for the rights of voters.

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1. For a fuller description of UN entities’ respective mandate and activities, see UN document A/68/301, *Report of the Secretary-General, Strengthening the role of the United Nations in enhancing the effectiveness of the principle of periodic and genuine elections and the promotion of democratization,* paragraphs 5 to 13. [↑](#footnote-ref-1)
2. A/68/301, paragraphs 45 and 47. [↑](#footnote-ref-2)