

Electoral transparency, participation and accountability

A guide to best practice in transparency, accountability
and civic engagement across the public sector

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The collaborative aims to expand the impact, scale and coordination of funding and activity in the transparency and accountability field, as well as explore applications of this work in new areas.

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For more information contact:

Transparency & Accountability Initiative

c/o Open Society Foundation
4th floor, Cambridge House
100 Cambridge Grove
London, W6 0LE UK

Tel: +44 (0)20 7031 0200

E: contact@transparency-initiative.org

www.transparency-initiative.org



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Contributors: National Democratic Institute for International Affairs (ADI)

Electoral transparency and participation

The will of the people expressed freely through authentic elections is the foundation for the authority of democratic government. The obligation of governments to organize genuine elections, which must be based on universal and equal suffrage, is interwoven with the right of citizens to participate in government and public affairs, free of discrimination and without unreasonable restrictions. The rights to vote and to seek election to public office are inseparable from these tenants recognized in the Universal Declaration of Human Rights and conventions that bind over 165 countries. In essence, citizens not only have a right to participate in elections, they have a right to know for themselves whether the

electoral process is valid. That knowledge, which is the basis for public confidence in elections and their resulting governments, cannot be achieved without transparency and monitoring by electoral contestants, citizen organizations and the media.

Genuine elections require that state institutions be politically impartial and that they act effectively to ensure that electoral processes are proper, otherwise misfeasance and forces of corruption can prevent them from being either free or fair. Election administration is central in this respect, but a significant number of other governmental agencies, as well as those seeking to be elected and those that monitor/observe, are vital to achieving authentic elections.

Initial steps

Goal

To establish a firm basis for public confidence in the impartiality and efficacy of electoral administration and related governmental institutions.

Justification

There is international consensus that election administration must be politically impartial and that it must effectively organize all of the complex, time-sensitive and large-scale processes that authentic elections require. International experience demonstrates that when there is a lack of public confidence in the impartiality and efficacy of election administration, suspicion and perceptions of malfeasance can destabilize a country, often leading to crisis and even widespread violence. Yet, in a great number of countries, there is no tradition of impartial and effective election administration, and in established democracies maintaining public confidence in administrative impartiality can often become a point of sharp controversy. A critical starting point for establishing confidence among the public, including electoral contestants, in election administration is establishing a legal framework that ensures its impartiality, effectiveness and transparency.

There is also international consensus that the political environment beyond the purview of election management bodies, and which is affected by an array of government institutions and other actors, can at times negate or substantially subvert electoral integrity. Visible and forceful steps to ensure political neutrality, proper actions and openness by state institutions are also starting points for establishing public confidence in the credibility of electoral processes. Assurances of commitment to proper actions by political competitors and by civil society actors are among such starting points as well.

Recommendations

1. Establish a legal framework that:

- Sets forth clear criteria for selecting electoral officials based on their ability to act impartially towards political competitors, demonstrated personal integrity and capacities to oversee complex electoral processes, and that requires all nominations to electoral commissions be made public, with a public comment period, before appointments can be finalized (the first criteria can be relaxed where election management bodies are designed to achieve political impartiality through a balanced number of political party representatives);
- Requires broad agreement of the political competitors (e.g., through a supermajority of legislators) concerning the appointment of members of election management bodies (EMBs, e.g., election commissions) and key administrative personnel;
- Includes budgetary procedures that guarantee the ability of election administration to act impartially (free and independently from political pressures), effectively (with timely and adequate funding), transparently (budget proposals and the budget documents made publicly available in a timely and easily accessible manner) and accountably (through legislative oversight and public scrutiny);
- Recognizes electoral competitors' right to observe all aspects of the election process to ensure their rights are respected, including to gather information and seek remedies;
- Recognizes the rights of citizens to associate through organizations that monitor electoral processes (e.g., nonpartisan citizen organizations and news media), and requires accrediting, without unreasonable restrictions, such organizations to observe all aspects of election administration, including, among others, voter registration, voting, vote counting and electoral results tabulation;
- Requires timely publication of an electoral calendar that includes the dates of all steps in the election process, through announcement of results and seating of elected officials.

2. Ensure that the legal and regulatory framework requires that election results be publically posted at the location where ballots are initially counted (e.g., polling stations) and be released immediately at each juncture of results tabulation, in a format that includes results recorded at the initial ballot counting location as well as in an aggregated form.

3. Ensure that the legal and regulatory framework requires that consolidated results be immediately made available through a searchable catalog (e.g., a website) that provides access to results recorded at the location where ballots were counted (e.g., polling stations) as well as aggregated results, and ensure that the data's format is reasonably structured for automated processing (analysis).

4. Issue publicly from the highest applicable government authority written orders to all state institutions to act in a politically impartial manner and to protect and promote the rights toward citizens and all electoral competitors without discrimination, and ensure that all state institutions provide publicly a plan for distribution and discussion of such orders.

More substantial steps

Goal

To increase public confidence in the credibility of elections and related governmental functions through enhanced public participation and transparency by government institutions.

Justification

Even where public confidence in electoral processes is established, it is easily shaken unless political contestants and the general public possess direct knowledge about how policies were established, decisions were made and how they were implemented. Participation in a variety of forms by political contestants, citizen organizations and media representatives provides direct knowledge, and if they credibly report their observations the public will have a firm basis for understanding. When this is augmented by direct public participation, through meeting attendance, public comment mechanisms, opportunities to seek and receive government held information and other means, understanding and corresponding confidence in electoral processes is further enhanced.

Advancing beyond rudimentary levels of confidence in general electoral performance, requires addressing some of the key elements, or subcomponents, of an electoral process, such as establishing the boundaries of electoral districts (which are central to equality of suffrage and nondiscrimination), qualification of political parties and candidates for the ballot, creation of the registry of eligible voters, ability of electoral contestants to reach the electorate via the mass media, as well as the conduct of voting, ballot counting and tabulation of results and the processing of electoral complaints and prosecution of electoral wrongdoers. Making government held information available in each of these areas and providing opportunities for electoral contestants, citizen organizations, the media and the public to scrutinize them is central to increasing public confidence in the credibility of elections and related governmental processes.

Recommendations

1. Require that EMBs at the national and lower levels announce meeting times and hold open public meetings.
2. Require that EMBs and the electoral contestants establish a liaison committee that meets regularly to discuss policy making issues before the EMB, as well as other electoral matters.
3. Require that the public, including political contestants, be timely notified of upcoming deliberations about adopting significant changes to electoral processes, such as moving to a system of electronic voting or electronic voter registration (e.g., electronic poll books or recording biometric data); conduct public consultations concerning such policy decisions, as well as technical requirements and related procurement processes, and provide for monitoring of all aspects of the design, testing, certification, operation and auditing of such electronic electoral technologies.
4. Require EMBs and other relevant governmental institutions to announce widely in advance intentions to make electoral related procurements that are over a specified amount, along with a clear description of the procurement decision making procedure, and require the public release of the names of all vendors or others that respond to procurement solicitations, as well as the name of the company that received the contract and the contract amount.
5. Provide to the public a searchable version of the voter registry that is reasonably formatted for automated processing, both in its preliminary and final forms, so that individual citizens may verify the accuracy of information or identify omissions and seek corrections, and so that citizen organizations can assist such activities and conduct broader voter registry verification exercises and political contestants can do the same.
6. Provide to the public data on the number of objections and claims for correction to voter registry information, along with the voting districts related to them and the disposition of the matters.
7. Provide publicly population data (including age), geographic and administrative district information that is relevant to determining the boundaries of election districts and information about the body charged with the process for delimiting election districts, and require that such bodies hold public consultations to receive input and answer questions concerning the boundary delimitation process.
8. Make immediately available voter turnout information, including the number of voters registered and the number of voters participating at the point of voting (e.g., polling station) as well as by aggregates for each electoral district and nationally, in addition to election results at the location of initial counting of ballots (e.g., polling station) and in the aggregate.
9. Publish a schedule of existing information from past elections about voter turnout, including the number of voters registered and the number of voters participating.
10. Publish the requirements for qualifying for the ballot; require that the qualification process be open to monitoring by representatives of the applicants, citizen organizations and the media.
11. Publish requirements for all state-owned and state-controlled mass communications media to remain impartial toward all electoral contestants, including sanctions for noncompliance, and provide that public requests for information and that data collected by governmental agencies that may monitor such media performance shall receive timely responses.
12. Require that EMBs produce within one year after major elections a comprehensive public report on the functioning of all elements of the electoral process, including lessons learned for fostering transparency, participation and accountability and actions to be taken to ensure effective administration and electoral integrity; and require that the report be presented to the legislature, which must conduct public hearings during citizens are allowed to present testimony.

Most ambitious steps

Goal

To solidify public confidence by broadening and deepening opportunities for participation, as governments mainstream public access to information related to electoral processes and proactively publish reasons for public policy decisions, as well as for procurement and other electoral related actions.

Justification

Public confidence in electoral processes is highest when political contestants and concerned civil society organizations (often through chosen experts) have a voice in policy formulation and decision making about electoral related processes. Proactively explaining the rationale and responding to inquiries about the procedures and rationale for policy formulation and decision making are essential for confidence building and developing an informed public.

Recommendations

1. Require that EMBs and other governmental institutions that play important roles in electoral processes must receive and respond to public requests for electoral related information under the assumption that information held must be made timely available.
2. Conduct training with personnel of EMBs and other government institutions that play important electoral roles (including at the sub-national level), concerning the public's right to information (RTI) in the electoral arena and procedures to timely provide that information; appoint a public information officer with the authority to ensure that such information is provided, and broadly inform the public of procedures for requesting information.
3. Require that EMBs at each level of administration regularly (at least twice annually) conduct public consultations in which citizens are permitted to make comments and suggestions on issues they choose, including about ways to make information available, that EMBs must receive written public comments (including by electronic means) and that they must provide a regular (at least annual) report analyzing such comments.
4. Make publicly available, in a searchable form that is reasonably formatted for automated processing, results recorded at the location where ballots were initially counted (e.g., polling stations) and aggregated results, as well as voter turnout information including the number of voters registered and the number of voters participating at the point of voting, for at least the three most recent past elections, along with the location of the voting locations (e.g., polling stations) and the boundaries for such polling districts.
5. Require EMBs and other relevant governmental institutions to include experts selected by political competitors and citizen organizations to participate in the budget development process and in the procurement process concerning contracts over a specified amount; provide a website that shows all electoral related procurements in process above that amount, along with descriptions of decision making procedures, and publish all electoral related contract awards over the specified amount.
6. Provide to the public, in a widely available format (e.g., a website), a calendar of all meetings scheduled as well as those held with vendors, their agents and politicians.
7. Establish and adequately fund an independent expert panel, including experts selected or approved by the political contestants and civil society organizations, to review concerns about development requirements (including source codes), certification and testing, production and delivery, maintenance and auditing of electronic voting, vote tabulation, voter registration and other sensitive electronic electoral technologies; provide unlimited access of the panel to reports related to such technologies; empower it to conduct real-time tests of technologies in use during elections, and require that it report publicly its findings (which may respect proprietary interests of vendors and other technology suppliers) in the period before, immediately following and within six months after an election, and annually in non-election periods.
8. Provide to the public an easily accessible and searchable database (e.g., a website) that is reasonably formatted for automated processing of up-to-date population data (including age), geographic and administrative boundary information, and provide a means for political contestants and the public to submit proposals for drawing electoral district boundaries that maximize equal suffrage and nondiscrimination; require that the governmental body charged with delimiting electoral districts receive and consider such proposals, hold public consultations and issue a report on the criteria, methodology and rationale for boundary delimitation.

Accountability in the electoral context

Democratic elections are accountability exercises. Through them citizens hold to account incumbents for their performance in office and promise to hold to account those who seek successfully to be elected. At the same time, for elections to be genuine there must be accountability for the conduct of the processes and for those who seek to subvert fair competition and free expression of the will of the electors. This requires administrative measures to ensure political impartiality of state institutions and personnel, vigorous enforcement of equality before the law and equal protection of the law. Effective remedies for infringements of electoral rights and providing access to justice mechanisms are essential for the electorate and electoral contestants to obtain redress.

Access to information about such mechanisms and the steps taken by governmental institutions to establish accountability in the electoral context is fundamental to creating and reinforcing public confidence in the integrity of elections.

Breaking impunity for those who violate the electoral related rights of citizens and electoral contestants is a critical step in establishing public confidence where a strong record of authentic elections is not yet established. Demonstrating that governmental institutions that play important roles in elections are committed to deterring malfeasance and prosecuting electoral offenders is important for maintaining and advancing public confidence where democratic elections are expected by the populace.

Initial steps

Goal

To establish confidence among the public and electoral contestants that their electoral rights will be protected and mechanisms for accountability are in place.

Justification

Elections serve two essential functions in any country: to provide the vehicle through which the people express their will as to who shall have the authority to govern in their interests; and to resolve peacefully the competition for governmental power. Unless the population is assured that citizens can participate in electoral processes free from the harms of violence, intimidation, threat of political retribution and other forms of coercion – and unless the population believes that votes will be accurately counted and honored – barriers may undermine participation and the credibility of the electoral mandate. Unless the political competitors believe that an election provides a real opportunity to reach their goals, they too may choose to not participate or actively boycott. Unless electoral competitors are assured that they will be able to participate free from harms such as violence, and that they will have access to redress, including effective remedies, they may either choose not to participate or to turn to “self-help”, such as returning political violence with more violence. Making information available about the laws, sanctions, remedies and how to access mechanisms for redress is important to mitigating potentials for electoral violence and to promote electoral participation.

Recommendations

1. Include in the legal framework for elections, provisions that any government employee who uses governmental office, resources or employee time to pursue the advantage or disadvantage of an electoral contestant shall be sanctioned, and provide a mechanism for complaints to be lodged and a review to take place through administrative procedures that provide due process of law protections.
2. Include in the legal framework provisions that any governmental employee acting in a manner that violates

the rights of prospective voters or electoral contestants (including through bribery, threats of political retribution concerning jobs, scholarships or service provision or other forms of coercion) shall be liable criminally and subject to specified, appropriate penalties.

3. Include in the electoral laws and/or criminal code specific definitions of electoral related crimes, along with appropriate penalties, and publish widely a compilation of such provisions.
4. Include in the legal framework for elections provisions that EMBs shall have powers and the financial resources to investigate on their own initiative possibilities of misfeasance and malfeasance, including any action that could affect an electoral outcome.
5. Require that EMBs must publish annually a report of the number of complaints received concerning electoral violations, actions taken, including investigations, and the outcomes of such cases.
6. Require that every governmental institution that plays an important role in electoral processes (including, among others, law enforcement agencies and public prosecutors) must publish annually a report of the number of complaints received concerning electoral violations, actions taken and the outcomes of such cases.
7. Require that all decisions (including the reasons for such decisions) by EMBs and other governmental institutions concerning the legal recognition and qualification of electoral contestants (including ballot qualification), legal recognition and accreditation of citizen organizations to witness the various elements of the election process, and accreditation of news media and international election observers to witness election processes (including appeals from any adverse rulings) be made publicly available in a timely fashion.
8. Publish widely an easily understandable guide to how citizens, including electoral contestants, can access mechanisms for redressing electoral violations, the required procedures and available remedies.

More substantial steps

Goal

To enhance public confidence in electoral integrity by better ensuring access to justice and furthering accountability of governmental officials in the electoral context.

Justification

Where the foundation is established for administrative and criminal accountability, as well as for the provision of remedies for electoral related harms, confidence in the electoral processes must be reinforced to assure the public and electoral contestants that administrative impartiality is being safeguarded and access to justice is being extended.

Recommendations

1. Ensure that access to electoral complaint mechanisms and judicial proceedings concerning electoral processes are not hindered by filing fees and deposits that are unreasonable in the national context and that requirements for lodging complaints or seeking redress (administrative or judicial) is defined broadly enough to allow the pursuit of any reasonable claim.
2. Publish clear requirements for all government personnel (including EMB personnel) concerning avoidance of

conflicts of interest and management of potential conflicts of interest (economic, political and otherwise) that could undermine electoral integrity, disseminate them to all personnel and appoint an ethics officer to whom questions about such requirements should be directed.

3. Promulgate clearly defined restrictions for EMB personnel, and other government employees whose work affects election processes, on accepting gifts (including subsidized trips) from vendors, other companies (both international and domestic) and politicians, and include meaningful sanctions for noncompliance with the restrictions.
4. Promulgate protections against firing or other political retributions for persons who lodge complaints or otherwise in good faith make known to the public information concerning wrongdoing by any governmental official or employee that would likely subvert the integrity of elections.
5. Require legislative hearings that are open to the public and that provide for public testimony, which review the conduct of electoral processes, including the performance of EMBs and other governmental institutions that play important roles in electoral processes, and hearings on the financial performance of EMBs, and require that a comprehensive report with findings and recommendations be issued as a result of the hearings.

Most ambitious steps

Goal

To solidify public confidence that accountability in the electoral context is insured, by broadening access to justice and public participation through access to information.

Justification

Public confidence in electoral processes is highest when electoral contestants, civil society and news media are able to access government information about accountability efforts, develop direct knowledge about measure taken and offer input concerning reinforcing accountability in the future.

Recommendations

1. Make publicly available an easily accessible and searchable database (e.g., a website) that is reasonably formatted for automated processing of the data and that includes data on:
 - The number of administrative investigations, actions and disposition of cases concerning malfeasance and significant misfeasance;
 - The number of incidents of electoral related violence, the types and scales of such incidents, which law enforcement and/or public security body responded;
 - The number of complaints and challenges to electoral results, the parties lodging the matter, the remedy employed (if any) and the outcome of the action;
 - The number of criminal investigations of electoral abuses, the number of electoral related prosecutions and the charges involved, the parties to the actions and the outcomes of the cases;

- The number and types of penalties, fines and incarcerations that were imposed by administrative or judicial tribunals in electoral related cases;
- The number of administrative and civil actions (cases) concerning vendors and other contractors that concern electoral related procurements and other contracts, the names of the parties in the case, the nature of the claims and the outcomes of the cases (including penalties, if awarded).

2. Require (at least annually) disclosure of personal financial assets of members of EMBs and key senior administrative EMB personnel (taking into consideration the security implications of whether such disclosure is made publicly available or reviewed by a confidential anticorruption panel).
3. Fund and require training programs for personnel of EMBs and all governmental institutions that play important roles in electoral processes (including law enforcement and prosecutors offices) at all levels concerning legal framework provisions, right to information requirements, access to justice mechanisms, complaint procedures and remedies, conflict of interests, gift restrictions, asset disclosure and other accountability measures relevant to electoral integrity.
4. Consider establishing within EMBs an inspector general or other such office to review possible instances of fiscal and other significant instances of misfeasance and malfeasance and consider establishment within EMBs at all levels and ombudsman or other such office to receive, investigate and address citizen complaints.

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c/o Open Society Foundation
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