

Human Rights and Election Standards A Plan of Action

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THE
CARTER CENTER



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

**Office of the United Nations
High Commissioner for Human Rights**

The Office of the United Nations High Commissioner for Human Rights (OHCHR) is mandated to promote and protect the enjoyment and full realization, by all people, of all rights established in the Charter of the United Nations and in international human rights laws and treaties. OHCHR is guided in its work by the mandate provided by the General Assembly in resolution 48/141, the Charter of the United Nations, the Universal Declaration of Human Rights and subsequent human rights instruments.

The Carter Center

A not-for-profit, nongovernmental organization, The Carter Center has helped to improve life for people in more than 80 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; and improving mental health care. The Carter Center was founded in 1982 by former U.S. President Jimmy Carter and former First Lady Rosalynn Carter, in partnership with Emory University, to advance peace and health worldwide.

Foreword

Democracy arises from people's desire for dignity, equality, justice, liberty, and participation—their desire for a voice. But obstacles to the right to equal participation have become increasingly formidable for many around the world in recent years. In many countries, civil society is threatened by laws and policies that sharply restrict the ability to associate freely and protest peacefully, and many people's rights to express opinions—including dissenting views—are violently suppressed. In addition, both online and offline, the boundaries between fact and fiction are becoming blurred through sophisticated use of propaganda. In many parts of the world, leaders are garnering support not by fostering engagement and inclusion but instead by enflaming xenophobic and antagonistic sentiment, and there is growing political polarization as individuals increasingly engage only with those with whom they agree. At the same time, socioeconomic inequalities intensify many people's sense of exclusion from political life.

These challenges create a heightened sense of urgency for those who work to advance the right to participate in public affairs. We must come together to find ways to engage as directly and forcefully as possible, strengthen the approaches that work, and chart new paths and forge new partnerships.

In 2015, The Carter Center and the Office of the United Nations High Commissioner for Human Rights (OHCHR) co-chaired the inaugural Human Rights and Election Standards conference, bringing together for the first time a large group of human

rights and elections experts to discuss an approach to election observation and assistance based on human rights. Participants agreed that although democracy involves far more than holding elections, genuine elections are essential to democratic governance and the right to participate in public affairs. Following the 2015 conference, OHCHR and The Carter Center convened a series of expert workshops, gathering over 100 human rights and election practitioners, as well as representatives of U.N. member states, to explore how the human rights and election communities can together advance a human-rights-based approach to elections. The result is this plan of action.

It is our firm hope and conviction that this plan will lead to increased cooperation and more regular interactions between the human rights and elections communities, with new and stronger partnerships. Greater reliance on international human rights norms and standards by the elections community—and increased use by the human rights mechanisms of the practical knowledge and information generated by elections practitioners—offers important new opportunities to advance genuine and inclusive participatory democracy.

Respect for human rights is a legal obligation for all states. It underpins the legitimacy of governments and political leaders. It builds states that are strong and secure because they are respectful of their people. And it is central to our shared belief in the value of human dignity.



Zeid Ra'ad Al Hussein
United Nations
High Commissioner for Human Rights



Jimmy Carter
39th President of the United States
Founder of The Carter Center

Human Rights and Election Standards: A Plan of Action

Through their joint initiative on Human Rights and Election Standards, the Office of the United Nations High Commissioner for Human Rights and The Carter Center have worked to bring the human rights and election communities closer and to foster stronger links and communication between them. This Plan of Action aims to advance human rights related to genuine democratic elections by charting a course of practical steps toward our shared goals.

The draft plan was developed based on the recommendations formulated through consultations that took place between 2015 and 2017. Going forward, organizations and individuals may agree on an ad-hoc basis to disseminating and acting upon the recommendations in this Plan of Action. The OHCHR and The Carter Center acknowledge the many individuals and organizations that contributed to the Human Rights and Election Standards consultations (see Acknowledgements).

Introduction

1. Genuine democratic elections expressing the will of the people are essential to securing the legitimate authority of governments and the promotion and protection of human rights. States around the world regularly hold elections and are obligated, in part through their ratification of key human rights treaties and through customary law, to respect and protect a core set of human rights and fundamental freedoms critical for democratic elections.

2. A well-established and evolving body of public international law related to elections and electoral and participatory rights serves as commonly accepted international norms and standards for genuine elections. Article 21 of the Universal Declaration of Human Rights highlights the role of elections in ensuring everyone is able to participate in the public affairs of their country. This is elaborated in the International Covenant on

Civil and Political Rights and other international and regional treaties and instruments. This legal corpus includes other human rights that, while not themselves explicitly electoral in nature, are relevant when considering elections as broad, participatory, and inclusive cyclical processes rather than single events.

3. The inclusion of elections as a means of ensuring the right to participate in public affairs in international and regional instruments means that elections are subject to human rights norms and standards, and scrutiny by international and regional human rights mechanisms.

4. Sustainable Development Goal target 16.7 aims to ensure responsive, inclusive, participatory, and representative decision making at all levels. Effective participation in public affairs through elections may be key in attainment of this target.

Election Observation and Assistance, and Human Rights Communities

5. A large range of organizations — intergovernmental and nongovernmental, international, regional, and national — provide support for genuine democratic elections. This election community includes technical assistance practitioners, election observation organizations, and various other groups that provide democracy support at the national, regional, and international levels. In parallel, the human rights community includes many national bodies, regional and international intergovernmental agencies, nongovernmental organizations, academic, and other organizations that work to advance human rights, including in the context of elections. It also includes international human rights mechanisms that monitor states' compliance with their human rights obligations.

6. The human rights and election communities share common foundational principles that guide their work and that are firmly rooted in the framework of public international law and international human rights law. These communities share common goals and methods of engagement on key issues. They focus on the need to proactively advance participatory democratic rights and freedoms and, in the case of election observation organizations, do so through the monitoring and assessment of state performance, albeit generally with few, if any, enforcement powers.

7. Election observation itself is conceptualized as a form of human rights monitoring and relies on data collection about key aspects and issues throughout the electoral process, evidence-based analysis, and the issuance of public statements and reports and recommendations to relevant stakeholders. Implementation of these recommendations forms the basis for follow-up activities, in which other electoral assistance providers are often involved.

8. Electoral assistance includes technical advice and assistance provided to governments or electoral institutions that is carried out in an objective, impartial, neutral and independent manner at the

request of states. The purpose of electoral assistance is generally not to assess or report on state performance.

9. For the human rights community, monitoring and assessment take many forms, including advocacy and evaluative activities by civil society organizations; country visits, communications, and thematic reports of special-procedures mandate holders; the review of states' reports by treaty-monitoring bodies and the issuance of general comments; and the peer-to-peer Universal Periodic Review process. The outputs of human rights mechanisms are recommendations to states on how to better advance and promote human rights and fundamental freedoms. These recommendations then become the basis for more concerted follow-up in the months and years that follow.

10. The human rights and election communities, as well as states under review, are increasingly considering ways to support the implementation of recommendations. This includes engaging new audiences and forging new partnerships to advance the realization of genuine democratic elections and human rights.

11. To date there has been relatively limited engagement and communication between the two communities. Electoral rights and processes receive insufficient attention from the universal and regional human rights systems. At the same time, the election community does not engage consistently with human rights organizations and mechanisms or the experts and state representatives involved in them.

12. Expanding collaboration and communication across the election and human rights communities will improve the promotion and protection of human rights and fundamental freedoms in electoral and political processes. This aims to support the continued evolution of international law on elections, good governance and the right to participate in public affairs. This in turn will facilitate the ability to hold governments and institutions accountable and will increase the capacity of individuals to claim their rights.

13. Elections lie at the intersection of three distinct but overlapping processes, involving political, technical, and human rights considerations. Genuine democratic elections are one means of facilitating the fundamental right to participate in public affairs. They are also one mechanism by which the will of the people, as the basis of the authority of government, is expressed. With due regard to diversity and pluralism, an election must reflect the freely expressed choice of the people, who must have confidence that the outcome of the election reflects their choice. Factors beyond the technical administration of the election process, including political considerations, can help create a context conducive to credible elections. While political initiatives (such as mediation, conflict prevention, or the use of good offices) may at times be required in support of electoral processes, these should be consistent with the international human rights framework.

General Principles for an Approach to Elections Based on Human Rights

14. Through the Human Rights and Election Standards consultative process, the following existing general principles were recalled as relevant to guide cooperative efforts going forward.

15. The universality of human rights, a cornerstone of international human rights law, means that human rights are inherent to all human beings everywhere. These rights are interrelated, interdependent, and indivisible. Further, the rights of equality and nondiscrimination require that all individuals must be treated equally and that no one should suffer discrimination on the basis of race, color, ethnicity, gender, age, language, sexual orientation or gender identity, religion, political or other opinion, national, social or geographical origin, disability, property, birth or other status.

16. States have the obligation under international law to respect, protect, and fulfill human rights. To do so, states should take proactive steps to facilitate the enjoyment of human rights, including by advancing the inclusion and effective

participation of all people, especially minorities, women, young people, indigenous peoples, persons with disabilities, persons deprived of liberty, people living in extreme poverty, internally displaced people, and others who are marginalized and experience barriers to equal participation. State institutions will require appropriate resources to meet these responsibilities. In addition, those working on elections should address the needs of these and other groups.

17. The right to participate in public affairs, including the right to vote and to stand for election, is an internationally recognized human right. As such, it is important to consider genuine democratic elections within an international human rights framework and using a rights-based approach.

18. Genuine democratic elections require an environment conducive to respect for and enjoyment of human rights and fundamental freedoms on an ongoing basis, without discrimination and without arbitrary or unreasonable restrictions. States should ensure accessibility and provision of reasonable accommodation. Key human rights, whether exercised online or offline, include but are not limited to:

- a. freedom of peaceful assembly and of association
- b. freedom of opinion and expression and access to information
- c. security of the person
- d. the right to remedy and access to justice

19. The principles and the recommendations included in this Plan of Action, while formulated primarily in the context of United Nations human rights mechanisms, apply equally to regional human rights mechanisms and to their cooperation with international human rights mechanisms in relation to their efforts on electoral and participatory rights.

20. In addition, the principles and many of the recommendations included in this Plan of Action could also apply to national human rights institutions, equality bodies, and civil society organizations working on human rights in relation to their efforts on electoral and participatory rights.

Action Steps

21. Acknowledging the aforementioned principles and shared objectives, organizations and individuals supporting this Plan of Action commit to disseminating and acting upon the following recommendations within the limits of their mandates.

Increase use of international human rights law and human rights mechanisms in the context of elections

22. Recognizing the value of the work of human rights mechanisms to understanding the overall human rights environment in which elections occur, election observation and assistance practitioners should ensure that they review and refer to human rights mechanism recommendations as part of their regular practice.

23. In addition, election observation organizations should submit data-driven findings from their work to human rights mechanisms as appropriate, including through formal submissions to the treaty-monitoring bodies and the UPR, use of the communications procedure of human rights mechanisms, and sharing reports with special-procedures mandate holders. The cyclical nature of the reporting schedule of the human rights mechanisms, as well as election processes themselves, can be beneficial to collaboration and concerted follow-up by the two communities, providing new and ongoing opportunities for engagement.

24. Conversely, international human rights mechanisms should continue to consider the reports of election observation organizations and civil society as part of their regular practice when drafting reports, comments and recommendations with a view to issuing more election-related recommendations. This may also apply to national human rights institutions.

25. Representatives of the election community and human rights mechanisms should continue to advocate for states to consider ratifying the

International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of all forms of Discrimination Against Women, the Convention on the Rights of Persons with Disabilities, and other treaties that advance participatory rights, as well as regional instruments on democracy and elections.

Identify and address gaps in international law

26. Recognizing that the election and human rights communities both contribute to international understandings of genuine, democratic elections, election practitioners and human rights mechanisms should cooperate, within the limits of their mandates, to identify and address gaps in the law. This could be accomplished in many ways. Suggestions raised during the consultative process included the following:

- a. Drawing on relevant instruments, the elections and human rights communities could draft a joint declaration of common principles on elections and human rights.
- b. An informal, ad-hoc advisory group composed of election and human rights experts could be formed to address how international human rights law can be applied to specific electoral issues (e.g., participatory rights for stateless people).
- c. States could request a thematic report on genuine elections and human rights to be submitted to the Human Rights Council.
- d. Human rights NGOs could bring more election-related individual complaints to treaty bodies to increase their jurisprudence on election-related questions.
- e. Guidelines could be elaborated on accessibility and reasonable accommodations for the full implementation of the right to vote for all in society.

27. In the light of new developments and jurisprudence since the drafting of General Comment No. 25 of the Human Rights Committee, organizations and individuals supporting this Plan of Action agree to support to the extent possible the committee's consideration of an update to the general comment.

Explore the need for new human rights mechanisms as appropriate

28. Recognizing that several special-procedure mandates are focused on rights and freedoms critical to genuine elections, but that no one single mandate focuses on the right to participate, the potential of a thematic mandate on the right to participate in public affairs should continue to be explored. This specific mandate could address all aspects of the right to participate in public affairs.

Improve communication and collaboration between human rights mechanisms and the election community

29. Continued collaboration and communication between election observation and assistance communities and human rights mechanisms can only progress through regular and sustainable communication and information sharing. In addition to the actions outlined above, a number of practical steps were suggested to facilitate communication, both formal and informal, including:

- a. inclusion of election practitioners, as appropriate, in regularly scheduled meetings of human rights mechanisms, such as the annual meeting of the special procedures, or briefings to the respective committees or chairs of the treaty bodies
- b. invitation by the appropriate bodies to representatives of regional and international human rights mechanisms to participate in the regularly scheduled meetings of the election community, such as the meeting of endorsers of the Declaration of Principles for International Election Observation or the Global Elections Organization (GEO) conference

- c. information sharing via email or a website on the schedule of upcoming election observation missions, country visits by special rapporteurs, treaty body follow-up missions, and deadlines for the submission of reports to the UPR or treaty bodies
- d. guidance on human-rights-based approaches to elections shared through existing tools and networks, such as the ACE Electoral Knowledge Network and the Building Resources in Democracy, Governance and Elections (BRIDGE) training program
- e. consultation with one another in countries of focus before, during, and after the course of election observation missions or country visits; this regular consultation should, as much as possible, be institutionalized to facilitate regular and consistent coordination
- f. the deployment of human rights experts as part of international election observation missions
- g. promotion of information sharing and common approaches to human rights and election standards issues between U.N. bodies and regional and subregional organizations

30. In addition, further workshops and conferences that regularly convene the election observation and election assistance and human rights communities to discuss specific issues should be held.

31. Both communities could strengthen links among agencies of the U.N., other mandates, and stakeholders for the promotion and implementation of this Plan of Action.

Support the role of civil society and NHRIs in promoting electoral rights

32. Genuine electoral processes are not an end in and of themselves but are a critical means of promoting a more stable political environment in which human rights, including the right to participate in public affairs, can be enjoyed. Civil society

plays an important role in monitoring human rights and elections processes and in advocating for change. The international human rights and elections communities have a responsibility to support this work of civil society within the limit of their mandates and can do this by:

- a. engaging with and hearing from organizations that work on a range of issues and topics, including human rights and those beyond election issues
- b. lending support to the voice of national civil society organizations by referencing their findings
- c. supporting collaboration and information sharing among human rights and election organizations that can raise awareness of, and follow up on, elections-related issues and recommendations
- d. building the capacity of civil society to engage effectively with international human rights mechanisms through the submission of data-driven reports that reference international obligations for genuine democratic elections

33. International election observation organizations may consider collaborating, as appropriate, with national civil society organizations on the submission of reports to international human rights mechanisms.

34. Election practitioners should give additional consideration to the potential role of national human rights institutions (NHRIs) in the promotion of environments conducive to human rights and genuine elections, including ways in which they can strengthen the capacity of NHRIs on election issues and follow-up to recommendations.

Develop better tools and training resources to facilitate effective collaboration

35. The regional and international systems of human rights mechanisms can seem complex and difficult to navigate. In order to facilitate increased cooperation between the election observation community and the regional and international

human rights mechanisms, a series of practical training tools should be refined or developed. These tools could include clear guidance on how to access and engage with the different mechanisms and how to work constructively with ministries of foreign affairs and Geneva missions. They could also include templates for the submission of election-focused reports and information to the special procedures, treaty bodies, and UPR processes.

36. The election community recognizes the contribution of organizations who coordinate civil society engagement with the United Nations human rights mechanisms. In engaging with the mechanisms directly or with civil society partners, election observer groups should consider continued cooperation with these organizations, including through participation in pre-session consultations when possible and appropriate.

Engage in education and awareness raising

37. In order to increase the impact of election-related recommendations of the election observation and human rights communities, both groups should consider means of raising public awareness of the function of elections as not only a technical exercise and a political contest, but also a human rights exercise. To do this, both communities should develop messaging that is easily understood by the general public. It would also be useful to sensitize the media on this issue, and to include this in voter and civic education programs. In addition, it would be beneficial for both communities to raise awareness among states of the impact of elections on human rights through side events, including at the Human Rights Council sessions.

Write and follow up on targeted recommendations

38. Common to the work of both the human rights mechanisms and the election observation community is the need for well-written, targeted recommendations and more consistent follow-up

on the implementation of recommendations once given. Representatives of both communities recognize that greater cooperation between them has the potential to increase opportunities for recommendation implementation.

39. In order to make recommendations useful, the election observation and human rights communities should consider drafting recommendations that are specific, measurable, attainable, relevant and time bound, as appropriate, as well as sensitive to the country context.

40. The election observation and assistance and human rights communities can work together throughout the election cycle to offer complementary and potentially joint analysis of the electoral and human rights environment and monitor and follow up on the implementation of election-related recommendations. Examples of such cooperation could include:

- a.** information sharing by election observation organizations with special-procedures mandates who can follow up on election observation recommendations during country visits or as part of their reporting responsibilities; conversely, special-procedures mandates could share key recommendations with election practitioners who could follow up on them in the course of their work
- b.** coordination between election observation organizations and other human rights mechanisms with treaty-monitoring bodies in the course of their follow-up activities to help promote implementation of recommendations or suggest special reports on key issues of focus by the treaty body
- c.** as appropriate, coordination with and provision of support to national stakeholders on recommendation implementation and follow-up exercises

Human Rights and Election Standards Initiative

41. The Human Rights and Election Standards initiative began with a conference held in Atlanta in February 2015. Envisioned as the first in a series of meetings and workshops, the launch conference was attended by leading election practitioners and experts and representatives of the human rights mechanisms at the United Nations, regional, and other intergovernmental organizations.

42. Following the 2015 launch, the first of three focused workshops was held in January 2016 in Atlanta. The workshop was attended by a number of thematic and geographic mandate special rapporteurs as well as election practitioners. Workshop participants considered the opportunities and challenges of increasing collaboration between special rapporteurs and the election community, as well as practical suggestions for continued collaboration.

43. The second workshop was held in June 2016 in Geneva and brought together members of key treaty-monitoring bodies and members of the election community. Workshop participants examined the opportunities and challenges of increasing collaboration between treaty monitoring bodies and the election community and made practical suggestions for continued collaboration.

44. The third workshop was held in February 2017 in Geneva and brought together election observation and assistance practitioners and representatives of states that have participated in the Universal Periodic Review process and have given or received recommendations on elections. During the workshop, participants discussed the use of the UPR to encourage democratic processes and how election practitioners can more effectively engage with the UPR process.

45. The fourth and final meeting was held in December 2017 at The Carter Center in Atlanta. During this meeting, the draft Human Rights and Election Standards Plan of Action was discussed, reviewed, and finalized. The Plan of Action will be disseminated widely in multiple languages and in an accessible format.

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