



SUMMARY OF ELECTION OBLIGATIONS AND STANDARDS FOR PARTICIPATION OF PERSONS WITH DISABILITIES



THE
CARTER CENTER



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Purpose of This Guide

This document is a short summary supplement to the Carter Center’s Election Obligations and Standards (EOS) handbook and database (<https://eos.cartercenter.org>). The EOS handbook provides detailed documentation regarding relevant international obligations, standards, and best practices for 10 main parts of the electoral process.

This supplemental EOS series aims to provide a more targeted view of obligations, standards, and best practices related to several specific topics. In this volume, you will find relevant obligations and standards for elections related to the participation of persons with disabilities, divided by each part of the election process cycle, followed by endnotes with international documentation and references. (Only the categories with relevant key issues to participation of persons with disabilities are included.)

The key issues and related obligations are presented in black text, followed by the relevant assessment criteria with text color based on the level of the source:

Green is used for international and regional treaties.

Blue is used for political commitments, such as declarations and other commitments that indicate state practice or customary law.

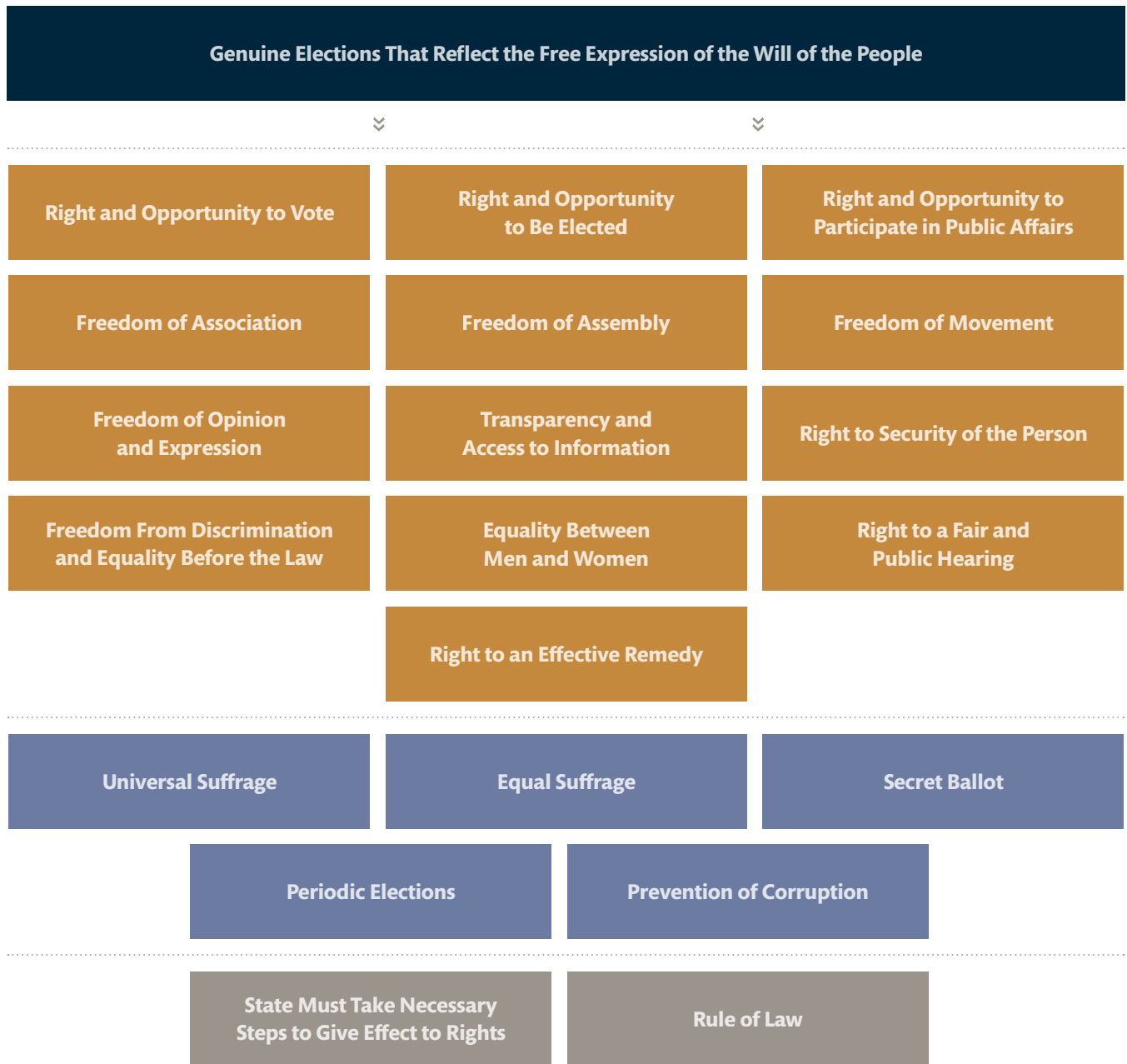
Gold is used for interpretive documents, such as the interpretation of treaty obligations by international courts or treaty monitoring mechanisms.

Background on Election Obligations and Standards

Public international law is the system of laws governing interactions between states. As such, it creates a framework of commonly recognized norms and standards for democratic elections that states have accepted and voluntarily obligated themselves to, through their signature and ratification of treaties, and through their membership in the community of states. The Carter Center’s EOS documents use a public international framework to provide a comprehensive tool to assist in reviewing and assessing key election issues.

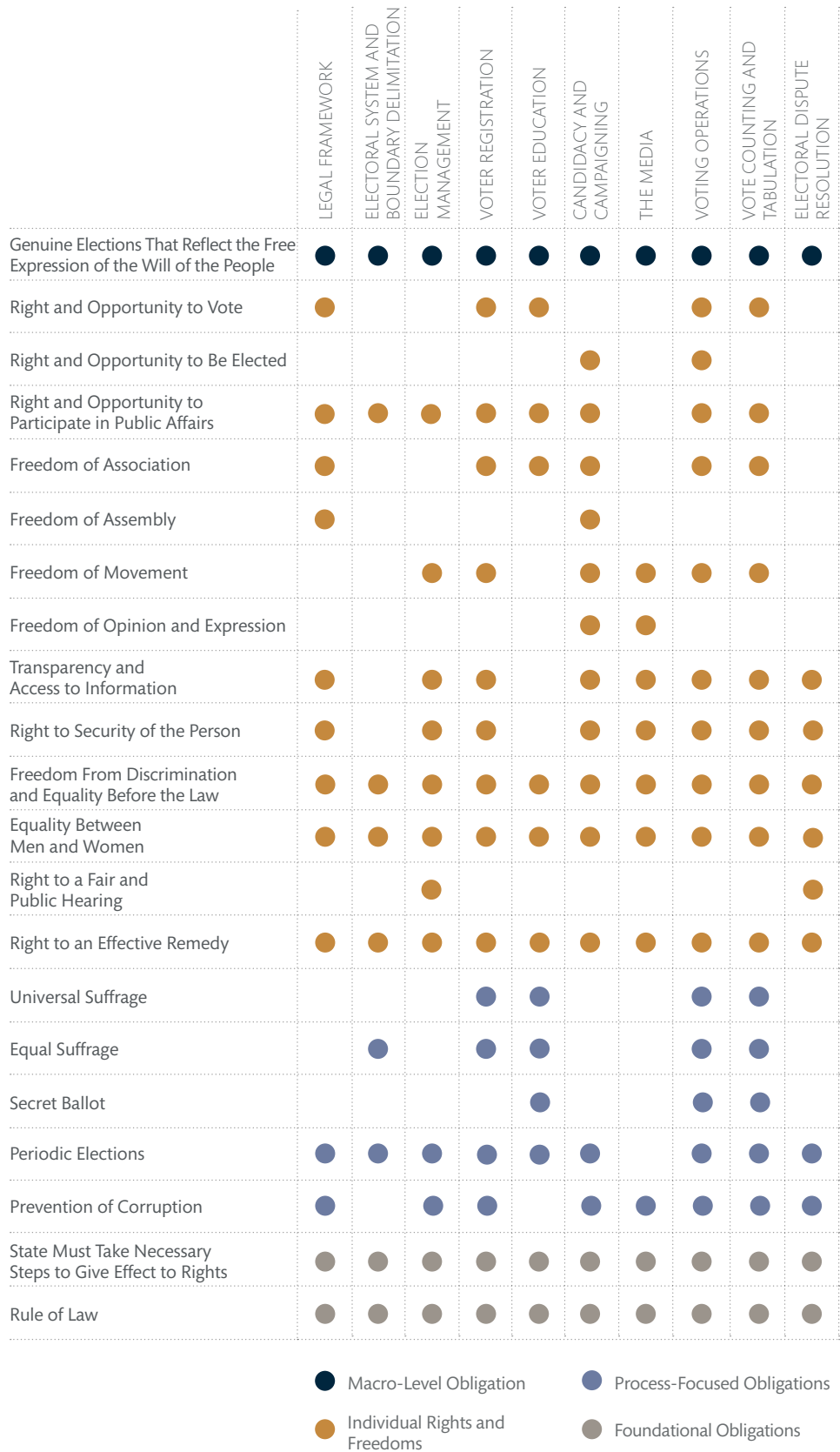
The EOS framework can be envisioned as a two-dimensional system, with 21 fundamental rights, obligations, and standards on one side (see Chart 1) and 10 categories or “parts” of the electoral cycle on the other (see Chart 2). Using this system, the EOS database categorizes key content derived from roughly 300 source documents of public international law, along with more than 400 assessment criteria, to aid analysts in their work. Chart 3 illustrates the intersection of the 21 main election obligations with the 10 main parts of the electoral process cycle.

Chart 1: Obligations for Democratic Elections



- Macro-Level Obligation
- Process-Focused Obligations
- Individual Rights and Freedoms
- Foundational Obligations

Chart 3: Relevant Obligations



Introduction*

Persons with disabilities (PWDs) enjoy the right to participate equitably in all aspects of the electoral cycle, including as voters, candidates, candidate and political party supporters, electoral management body workers, citizen, regional and international observers, civil society actors, and in the media. All aspects of an electoral process should be accessible to them, regardless of mobility, visual, hearing, or other ability challenges.

Since the Convention on the Rights of Persons with Disabilities was adopted by the U.N. in 2006, 177 countries have ratified the treaty. Regional intergovernmental bodies have adopted treaties to protect the rights of PWDs. Many countries have put into place a legal framework to protect the rights of PWDs to participate in political affairs, including elections. Beyond the gaps or conflicts in national legislation, the primary reasons that PWDs' rights are not fully realized are poor implementation of existing laws and regulations and persistent barriers to participation.

Barriers include sociocultural norms and beliefs that perpetuate views that PWDs remain hidden in society and lack the capacity to lead. Many PWDs do not have the financial means to engage in politics, or the support of those who do, including political party leaders. Countries often do not have the infrastructure to support PWDs' participation. Voter registration sites and polling stations frequently are in inaccessible government buildings, with insufficient transportation to and from those sites. Though sign language has become more commonplace for election-related national televised events, it is still used insufficiently at subnational events such as political debates and rallies. Provisions for the visually impaired remain insufficient as well, with limited use of braille.

The marginalization of people with disabilities leads to underreporting of their number, location, and educational status, which can impact targeted interventions to reduce barriers such as using temporary ramps or mobile voter registration, education, and voting units. This also undermines efforts to ensure that PWDs have access to information in the form and manner they require, for all aspects of an election. Some countries have introduced special measures, such as safe seats for PWDs, in constituencies, the electoral system, and/or subsidiary legislation to increase the number of PWDs in decision-making spaces. Insufficient and incomplete data on the number of PWDs can result in underrepresentation through special measures intended to correct this lack of representation.

Communities and government may pay lip service to addressing the needs of PWDs, but they do not take the steps necessary to prioritize and fully achieve equitable participation. There are financial costs to leveling the playing field for PWDs' participation in elections. Assistive procedures and technologies are required to address infrastructure barriers. Awareness and education campaigns are needed to increase public knowledge about the experience of PWDs in elections and to shift public opinion to support their full and equitable participation in all aspects of the election process.

Assessing PWDs' participation in an election based on democratic obligations and standards provides a more thorough and comprehensive analysis of positive legislation and practice where this exists and reforms needed to achieve equitable participation. Such an assessment informs development of a road map or action plan for realistic and incremental improvements that can be financed and put into place in the four- or five-year electoral cycle.

*This introduction was written by Rachel Fowler, who has more than 30 years of experience promoting human rights and democracy globally. As the Carter Center's country representative in Zambia, she directs programs that strengthen the participation of women, youth, and persons with disabilities in political affairs, including elections.

Summary of Issues and Assessment Criteria

Legal Framework

International Human Rights Obligations in the Legal Framework – Necessary Steps to Rights and Rule of Law

- The legal framework for elections included the protection of fundamental rights and made international obligations domestically binding.¹
- Participatory rights were protected at the highest level of the law (the constitution).²

Derogation of Obligations – Periodic Elections, Necessary Steps to Rights and Rule of Law

- When derogating obligations or restricting human rights, the least restrictive measures were taken, and no limitations were placed on nonderogable rights.³
- Prior to the derogation of human rights and electoral obligations, a state of emergency was publicly announced.⁴
- Any restrictions on rights were justified by law and subject to review.⁵

Rule of Law and the Legal Framework – Necessary Steps to Rights and Rule of Law

- The laws regulating elections were equally enforced and were not arbitrarily applied.⁶

State Authorities Responsible for Upholding Rights – Freedom of Association and Necessary Steps to Rights

- All branches of the government are responsible for protecting human rights, including those responsible for administering election processes.⁷

Freedom From Discrimination in the Legal Framework – Freedom From Discrimination and Equality Between Men and Women

- The legal framework for elections did not discriminate on the basis of prohibited grounds.⁸
- The legal framework for elections included guarantees of equality before the law.⁹
- The legal framework provided equal access to any place or service intended for use by the public.¹⁰

Universal Suffrage, the Right to Vote, and Voter Education/The Right to Vote, and Voting Operations – Right to Vote and Right to Participate

- The legal framework for elections was consistent with international human rights.¹¹

Special Measures – Freedom From Discrimination and Equality Between Men and Women

- Special measures were taken to ensure de facto equality for people with disabilities.¹²

Electoral System and Boundary Delimitation

Legal Framework for Electoral Systems and Boundary Delimitation – Right to Participate, Necessary Steps to Rights, and Rule of Law

- The laws regulating elections were equally enforced and were not arbitrarily applied.¹³
- The legal framework for elections was consistent with international human rights.¹⁴

Choice of the Electoral System – Freedom From Discrimination, Necessary Steps to Rights, and Rule of Law

- The electoral system did not discriminate against citizens on grounds prohibited by international law.¹⁵

Freedom From Discrimination in the Electoral System, Boundary Delimitation Process, and Electoral Dispute Resolution – Freedom From Discrimination and Equality Between Men and Women

- The electoral system did not discriminate against citizens on grounds prohibited by international law.¹⁶

Special Measures – Freedom From Discrimination and Equality Between Men and Women

- Special measures were taken to ensure de facto equality for people with disabilities.¹⁷

Key: **Green** = International and regional treaties; **Blue** = Political commitments; **Gold** = Interpretive documents

Election Management

Legal Framework and Election Management – Necessary Steps to Rights and Rule of Law

- The laws regulating elections were equally enforced and not arbitrarily applied.¹⁸
- The legal framework for elections was consistent with international human rights.¹⁹

Freedom From Discrimination and the Electoral Management Body (EMB) – Freedom From Discrimination and Equality Between Men and Women

- The EMB treated all citizens equally.²⁰

Special Measures – Freedom From Discrimination, Equality Between Men and Women, and Necessary Steps to Rights

- Special measures were taken to ensure de facto equality for people with disabilities.²¹

Voter Registration

Legal Framework and Voter Registration – Right to Vote, Necessary Steps to Rights, and Rule of Law

- The laws regulating elections were equally enforced and were not arbitrarily applied.²²
- The legal framework for elections was consistent with international human rights.²³

Universal Suffrage, the Right to Vote, and Voter Education – Right to Vote

- The right to vote was guaranteed by law and was subject only to reasonable and objective restrictions.²⁴

Voter Eligibility and Barriers to Registration – Right to Participate, Right to Vote, and Universal Suffrage

- Voter registration promoted universal suffrage.²⁵
- Limitations on universal suffrage imposed during the voter registration process were reasonable and objective.²⁶
- Voter registration promoted broad participation, and there were no barriers to participation by otherwise qualified eligible voters.²⁷

Freedom From Discrimination in the Voter Registration Process – Freedom From Discrimination and Right to Vote

- Eligibility requirements for voter registration were reasonable and objective and did not discriminate on the basis of prohibited grounds.²⁸
- Voter registration facilities were accessible to all.²⁹

Special Measures – Freedom From Discrimination and Equality Between Men and Women

- Special measures were taken to ensure de facto equality for people with disabilities.³⁰

Equal Access to Public Places – Right to Vote

- The legal framework provided equal access to any place or service intended for use by the public.³¹

Freedom of Movement for the Purposes of Voter Registration – Freedom of Movement

- Freedom of movement was respected throughout the voter registration process.³²

Safety, Security, and Voter Registration – Right to Security

- The state prohibited interference with registration, intimidation, or coercion of potential voters.³³

Key: **Green** = International and regional treaties; **Blue** = Political commitments; **Gold** = Interpretive documents

Voter Education

Legal Framework and Voter Education – Necessary Steps to Rights and Rule of Law

- The legal framework for elections was consistent with international human rights.³⁴
- The laws regulating elections were equally enforced and were not arbitrarily applied.³⁵

Universal Suffrage, the Right to Vote, and Voter Education – Right to Participate, Right to Vote, Universal Suffrage, and Necessary Steps to Rights

- The obligations of universal suffrage and the right to vote were advanced through voter education.³⁶
- All eligible voters were informed of their electoral rights before, during, and after election day.³⁷
- Voter education campaigns were responsive to the needs of the electorate.³⁸
- The state took proactive measures to promote voting by the broadest pool of eligible voters and to ensure that votes cast were counted.³⁹

Provision of Voter Education by the Electoral Management Body – Necessary Steps to Rights

- Voter education was provided by the EMB and was impartial and responsive to the needs of the electorate.⁴⁰

Freedom From Discrimination in Voter Education – Freedom From Discrimination and Equality Between Men and Women

- All citizens received voter education regardless of their race, color, sex, language, religion, political or other opinion, national or social origin, physical or mental ability, sexual orientation or gender identity, property, birth, or other status.⁴¹
- Locations used for voter education were accessible in a nondiscriminatory manner.⁴²

Special Measures – Freedom From Discrimination and Equality Between Men and Women

- Special measures were taken to ensure de facto equality for people with disabilities.⁴³

Right to an Effective Remedy and Voter Education – Right to Remedy

- There was a timely and effective means of seeking redress for violations of rights, including regarding voter education.⁴⁴

Candidacy and Campaigning

Legal Framework and Candidacy and Campaigning – Necessary Steps to Rights and Rule of Law

- The laws regulating elections were equally enforced and were not arbitrarily applied.⁴⁵
- The legal framework for elections was consistent with international human rights.⁴⁶

Internal Party Policies – Necessary Steps to Rights

- The participatory rights of citizens were protected and fulfilled by their parties in their internal management.⁴⁷

Candidature – Right to be Elected, Right to Participate, Freedom of Association, Freedom From Discrimination, and Rule of Law

- Every citizen had the right to be elected, subject only to reasonable restrictions.⁴⁸
- Candidacy requirements upheld freedom of association.⁴⁹
- The loss of the right to be elected was only imposed after adjudication by a court.⁵⁰

Key: **Green** = International and regional treaties; **Blue** = Political commitments; **Gold** = Interpretive documents

Equal Treatment of Candidates and Parties – Freedom From Discrimination and Equality Between Men and Women

- Regulations for candidacy and campaigning were not discriminatory.⁵¹
- No one suffered discrimination or disadvantage of any kind because of their candidacy.⁵²
- Candidates and political parties were able to compete with each other on an equal basis.⁵³

Special Measures – Freedom From Discrimination and Equality Between Men and Women

- Special measures were taken to ensure de facto equality for people with disabilities.⁵⁴

Equal Access to Public Places – Freedom From Discrimination

- Public places were accessible to all in a nondiscriminatory fashion.⁵⁵

The Media

Legal Framework and the Media – Necessary Steps to Rights and Rule of Law

- The laws regulating elections were equally enforced and were not arbitrarily applied.⁵⁹
- The legal framework for elections was consistent with international human rights.⁶⁰

Content of Voter Education Campaigns – Freedom of Expression

- Voter education efforts included information about all electoral rights, including equal suffrage, the right to vote and be elected, the right to an effective remedy, and the secret ballot.⁶¹

Advocacy of Hatred and Incitement to Violence – Freedom of Association and Freedom of Expression

- Advocacy of national, racial, and religious hatred that constituted incitements to discrimination, hostility, or violence was prohibited by law, and the law was enforced.⁵⁶

Freedom of Movement for Political Candidates and Their Supporters – Freedom of Movement

- Freedom of movement was respected for all electoral stakeholders, including candidates, parties, and their supporters during the campaign period.⁵⁷

Right to an Effective Remedy for Candidates and Parties – Right to Remedy

- There was a timely and effective means of seeking redress for violations of rights regarding candidacy and campaigning.⁵⁸

Hate Speech and Incitement to Violence – Freedom of Expression

- Advocacy of national, racial, or religious hatred that constituted incitement to discrimination, hostility, or violence was prohibited by law, and the law was enforced.⁶²

Freedom of Movement and the Media – Freedom of Movement

- Freedom of movement was guaranteed to all electoral stakeholders, including the media.⁶³



Voting Operations

Legal Framework for Voting Operations – Necessary Steps to Rights and Rule of Law

- The laws regulating elections were equally enforced and were not arbitrarily applied.⁶⁴
- The legal framework for elections was consistent with international human rights.⁶⁵

Freedom From Discrimination in the Legal Framework – Freedom From Discrimination

- Special measures were taken to ensure de facto equality for people with disabilities.⁶⁶

Special Measures – Freedom From Discrimination and Equality Between Men and Women

- Special measures were taken to ensure de facto equality for people with disabilities.⁶⁷

The Right to Vote and Voting Operations – Right to Vote and Freedom From Discrimination

- The right to vote was guaranteed by law and was subject only to reasonable and objective restrictions.⁶⁸
- Any restrictions on the right to vote were established in advance of election day.⁶⁹
- Poll workers were adequately trained in the determination of eligible voters.⁷⁰

Facilitation of Voting – Right to Vote and Universal Suffrage

- Voting operations facilitated broad participation.⁷¹
- Sufficient resources – human and material – were available at each polling station.⁷²
- There were an adequate number of polling places to accommodate voters.⁷³
- Polling places were located in public places that were easy to access.⁷⁴

Polling Places Accessible to Voters with Disabilities – Freedom From Discrimination and Right to Vote

- Polling places were accessible.⁷⁵
- Voting operations facilitated broad participation.⁷⁶

Assisted Voting – Right to Vote & Secret Ballot

- Impartial assistance for voters unable to vote independently was provided.⁷⁷

- Voters were made aware of their right to impartial assistance, if needed.⁷⁸

Proxy Voting – Universal Suffrage and Secret Ballot

- Proxy voting, if allowed, was strictly regulated.⁷⁹

Secrecy of the Ballot – Secret Ballot

- The legal framework offered clear guidance with regard to the secrecy of the ballot.⁸⁰
- Family and group voting was prohibited.⁸¹
- Polling stations were set up to ensure secrecy of the ballot.⁸²

Freedom From Discrimination in Voting Operations – Freedom From Discrimination

- The voting process did not discriminate against anyone on the basis of prohibited grounds.⁸³

Ballot Design and Voter Choice – Right to Vote

- Voters were able to verify their choice on their ballot and could alter their choice before casting their ballot.⁸⁴
- Ballots were understandable and user-friendly.⁸⁵

Freedom of Movement and Voting Operations – Freedom of Movement

- Freedom of movement was respected throughout the electoral process.⁸⁶

Partisan and Nonpartisan Observation of Voting Operations – Right to be Elected, Right to Participate, Freedom of Association and Access to Information

- Observers were able to access places used for voting.⁸⁷

Election Observation – Access to Information

- Observers were able to access places used for voting.⁸⁸

Deterrence of Fraud – Equal Suffrage and Secret Ballot

- Procedures did not diminish the value of the votes of particular individuals, groups, or geographic areas.⁸⁹

Safety, Security, and Voting Operations – Right to Security

- Potential voters were able to vote without intimidation or coercion.⁹⁰
- Safeguards were in place to prevent coercion of voters.⁹¹

Key: **Green** = International and regional treaties; **Blue** = Political commitments; **Gold** = Interpretive documents

Vote Counting and Tabulation

Legal Framework and Vote Counting and Tabulation - Necessary Steps to Rights & Rule of Law

- The laws regulating elections were equally enforced and were not arbitrarily applied.⁹²

Counting Cast Ballots – Right to be Elected and Universal Suffrage

- The state took proactive measures to promote voting by the broadest pool of eligible voters and ensured votes cast were counted.⁹³
- Vote counting and tabulation processes protected the right to be elected.⁹⁴
- The vote counting and tabulation process did not discriminate against anyone on the basis of prohibited grounds.⁹⁵

Determining Voter Intent – Necessary Steps to Rights

- The intent of the voter was taken into consideration when determining ballot validity.⁹⁶

Partisan and Nonpartisan Observation of Vote Counting and Tabulation – Right to be Elected, Right to Participate, Freedom From Discrimination, Freedom of Association, Access to Information, Prevention of Corruption and Necessary Steps to Rights

- Observers were able to access places used for vote counting and tabulation.⁹⁷

Protection of Ballot Secrecy – Secret Ballot

- Regardless of the balloting method used, secrecy of the ballot was maintained throughout the electoral process, including during voting and tabulation. It was not possible to link cast ballots to specific voters during counting and tabulation.⁹⁸
- The legal framework offered clear guidance on secrecy of the ballot throughout the election.⁹⁹

Freedom of Movement and Vote Counting and Tabulation – Freedom of Movement

- Freedom of movement was respected throughout the electoral process, including the immediate election period.¹⁰⁰

Electoral Dispute Resolution

Legal Framework and Dispute Resolution – Necessary Steps to Rights and Rule of Law

- Laws and procedures were not arbitrarily applied.¹⁰¹

Freedom From Discrimination and Electoral Dispute Resolution – Freedom From Discrimination

- The electoral dispute resolution process did not discriminate on the basis of prohibited grounds.¹⁰²
- Everyone was treated equally before the law and courts.¹⁰³

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- 11 U.N. (CRPD), General Comment 1, para. 6, 16, 26, 48, 49; U.N. (CRPD), General Comment 6, para. 49(a)
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- 95 U.N., ICCPR, art. 25; U.N., CRPD, art. 2; AU, AfCHPR, art. 2; OAS, ACHR, art. 1; LAS, Arab Charter, art. 3; CoE, ECHR, art. 14; EU, Charter on Fundamental Rights, art. 21(1); CIS, Convention on Human Rights, art. 20(2); U.N. (CESCR), General Comment 20, para. 32; U.N., ICCPR, art. 26; AU, AfCHPR, art. 19; OAS, ACHR, art. 24; EU, Charter on Fundamental Rights, art. 20; CIS, Convention on Human Rights, art. 20(1); LAS, Arab Charter, art. 3; ASEAN, Human Rights Declaration, art. 3
- 96 CoE, Council of Europe Handbook for Observers of Elections, para. 4.3
- 97 U.N., ICERD, art. 5; U.N., CRPD, art. 9; AU, Protocol to the AfCHPR on the Rights of Persons with Disabilities, art. 15(1), 21(2)c
- 98 U.N., ICCPR, art. 25; OAS, ACHR, art. 23; U.N., UDHR, art. 23; U.N. (CCPR), General Comment 25, para. 20
- 99 U.N., Human Rights and Elections, para. 10
- 100 U.N., ICCPR, art. 12(1); AU, AfCHPR, art. 12(1); OAS, ACHR, art. 22(1); LAS, Arab Charter, art. 26(1); EU, Charter of Fundamental Rights, art. 45(1); CIS, Convention on Human Rights, art. 22(1)
- 101 U.N. (CCPR), General Comment 25, para. 4; U.N. (CCPR), General Comment 25, para. 4
- 102 U.N., ICCPR, art. 26; AU, AfCHPR, art. 19; OAS, ACHR, art. 24; EU, Charter on Fundamental Rights, art. 20; CIS, Convention on Human Rights, art. 20(1); ASEAN, Human Rights Declaration, art. 3; U.N. (CCPR), General Comment 28, para. 21
- 103 U.N. (CCPR), General Comment 32, para. 8; U.N. (CCPR), General Comment 32, para. 11; CoE (Committee of Ministers), Annex to Recommendation (81)7, para. B.5

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