

Commonwealth Handbook on Election Observation



The Commonwealth

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Foreword



At the heart of the core values and principles of the Commonwealth is a shared commitment to democracy, no better demonstrated than through the holding of regular credible, transparent and inclusive elections. The Commonwealth Charter, which now sets out the values and aspirations that are shared by our 53 member countries, and by which they work together in a spirit of goodwill and mutual support, recognises the 'inalienable right of

individuals to participate in democratic processes, in particular through free and fair elections in shaping the society in which they live.'

Over several decades, election observation has emerged as a valuable multilateral mechanism for continually raising and refining national and international standards for electoral processes. Having first agreed Guidelines for the Establishment of Commonwealth Groups to Observe Elections in Member Countries at the 1991 Commonwealth Heads of Government Meeting (CHOGM) in Harare, the Commonwealth has established its position as a leader in election observation. In 2005, at the United Nations, the Commonwealth became one of the original signatories to the Declaration of Principles for International Election Observation. More recently, at the 2018 CHOGM in the United Kingdom, Heads of Government agreed Revised Commonwealth Guidelines for the Conduct of Election Observation in Member Countries.

Yet, just as electoral and democratic processes require constant refinement, so too must observation missions continuously adapt and improve their approach, ensuring they remain responsive to new and emerging challenges. This Handbook contributes to that process of improvement. As a distillation of insights and practical knowledge gained through more than 140 observation missions in 39 countries, it provides background and context on our Commonwealth election observation methodology and approach. It also offers Commonwealth observers practical guidance on each step of the process, from briefings to deployment to the report-writing stage.

Observer missions and their reports with recommendations serve a number of important functions before, during and after electoral processes - and for years to come. They can assure citizens of the integrity of the process and

commend good election management or provide specific recommendations for electoral reform. By doing so, observer missions are an important element in Commonwealth support and engagement alongside member countries, from pre-electoral assistance to post-electoral strategies. Observer reports provide a roadmap for continuing engagement and mutual support.

Our intention is that this Handbook should provide observers, and the governments and electoral commissions of our member countries in whose service ultimately they are deployed, with deeper understanding of how our Commonwealth observer missions are formed and how they function. Through greater clarity of shared understanding, the Commonwealth collectively will be better placed to carry forward its work alongside the governments and institutions of individual member countries, as we seek to strengthen further electoral democracy and the political rights of Commonwealth citizens now and for the future.

The Rt Hon Patricia Scotland QC
Secretary-General of the Commonwealth

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The Secretariat also extends its thanks to all those who have served as observers on Commonwealth election observation missions over the years.

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A blue-tinted photograph showing a close-up of hands working on a technical drawing or blueprint. One hand holds a small tool, possibly a compass or a fine-point pen, while another hand points to a specific area on the drawing. A ruler is visible on the right side of the drawing. The background is slightly blurred, showing what appears to be a workshop or office environment. The image is partially covered by a solid blue triangle on the left side.

1

Introduction and Background



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1.1 Purpose of the Commonwealth Handbook on Election Observation

This handbook provides a comprehensive overview of the Commonwealth's methodology for observing elections, including how its election observation missions are structured, how teams function on the ground, and how the teams assess an election against accepted Commonwealth and other international standards.

The target audience for this handbook is primarily members of Commonwealth Observer Groups (COGs)¹, for whom this handbook represents the framework for the conduct of their duties. By working to an agreed framework, Commonwealth teams are able to operate in a consistent and credible manner, ensuring missions are conducted in line with best international practices, increasing the value and impact of the work to support democracy among Commonwealth member states.

The handbook also serves the purpose of explaining to member governments, interested institutions and other individuals the Commonwealth's election observation work. This helps to provide transparency and accountability, and also to increase confidence in this aspect of Commonwealth work.

1 The Commonwealth Observer Groups, often referred to as COGs, are the main type of teams deployed by the Commonwealth to observe elections. However, the Secretary-General may decide to deploy a different form of team, such as a Commonwealth Expert Team (CET), or some other format. The various models are discussed further later in the handbook.

1.2 Overview of the Handbook

This handbook provides a background and context to the Commonwealth's election observation work and is also a practical guide which observer teams can use in-country to help guide them during their briefings, on deployment and during their deliberations when drafting their observation reports.

Section 1 provides an introduction to the handbook, an insight into the rationale and history behind the Commonwealth's support for democracy and human rights in member countries, why it conducts election observation and what the value of this endeavour is for the Commonwealth and member countries.

Section 2 provides an overview of the Commonwealth's methodology in determining when and where to deploy an observer team, how the teams are put together and some of the key methodological principles for how the teams operate on the ground. This includes the Code of Conduct for election observers.

Section 3 outlines the main regional, Commonwealth and other international standards for elections, which represent the main reference points and framework for the assessment of the electoral process by Commonwealth teams.

Section 4 provides a detailed explanation as to how Commonwealth teams assess the pre-election period. This includes their approach to conducting meetings with stakeholders and gathering information on all aspects of the electoral cycle, as well as providing suggested points of enquiry for teams on each of the key topics.

Section 5 provides a detailed explanation as to how COGs observe and assess the election period. This includes the methodology for deployment of observer teams in-country, advice on security, and how observers should operate on the day of the election in and around polling stations. The chapter includes suggested points of enquiry for aspects of the polling and counting procedures, as well as a discussion on the applicability of the Observer Code of Conduct for this sensitive part of the process.

Section 6 provides information and guidance to help observers in dealing with the media, and on the content and methodology for drafting and issuing statements and reports.

The Annexes include the Revised Commonwealth Guidelines for the Conduct of Election Observation in Member Countries, the text of the Declaration of Principles for International Election Observation (DoP), and a model for an election day aide memoire used by teams to help guide their observation of polling and counting.

1.3 The Commonwealth and Support for Democracy and Human Rights

The Commonwealth's 53 member **countries** span Africa, Asia, the Americas, Europe and the Pacific. Commonwealth members are among the world's largest, smallest, **most and least developed** countries, and also comprise a significant number of small states. In addition to the strength achievable from this diversity, all members subscribe to the Commonwealth's shared values and principles outlined in the Commonwealth Charter,² which recognises 'the inalienable right of individuals to participate in democratic processes, in particular through free and fair elections in shaping the society in which they live'.

The Commonwealth Ministerial Action Group (CMAG), under its strengthened mandate, is the custodian of the full range of fundamental political values, assesses the nature of infringements and recommends measures for collective Commonwealth action aimed at speedy restoration of democracy and constitutional rule. These infringements include the postponement of national elections without constitutional or other reasonable justification, and a national electoral process that is seriously flawed.

Commonwealth member countries recognise the inalienable right of individuals to participate in democratic processes, in particular through credible and legitimate elections, in shaping the society in which they live. The Commonwealth collectively asserts that governments, political parties and civil society are responsible for upholding and promoting democratic culture and practices, and that parliaments and local governments are essential elements in the exercise of democratic governance.³

The Commonwealth is committed to the Universal Declaration of Human Rights and other relevant human rights covenants and international instruments. The Commonwealth is also committed to equality and respect for the protection and promotion of civil, political, economic, social and cultural rights, including the right to development, for all without discrimination on any grounds as the foundations of peaceful, just and stable societies.

² The Commonwealth Charter was adopted on 19 December 2012.

³ Election management bodies also play a critical role in upholding and promoting democratic value, practices and procedures.

A key aim of the Commonwealth is to help build, support and strengthen democratic systems and institutions in member countries throughout the electoral cycle. This includes promoting regular elections and strengthening election management bodies, institutions and processes. To help achieve this, the Secretariat provides assistance on strengthening the rule of law and good governance. It also provides technical assistance to support electoral processes, promotes exchange of good practice between election management bodies through the Commonwealth Electoral Network, and regularly sends teams to observe and report on the conduct of elections in member countries. The aim of these programmes is to help build enduring democratic institutions, enabling citizen participation and representation at the national and local levels.

1.4 The Commonwealth and Election Observation

The Commonwealth has been observing electoral processes since 1967, when an observation mission was convened for the referendum on the sovereignty of Gibraltar. The original Commonwealth Guidelines on election observation were agreed to by Heads at the 1991 Heads of Government Meeting (CHOGM). Since then, the Commonwealth has deployed more than 140 observation missions.

The practices and methodology of Commonwealth Observer Groups have evolved to reflect best international practices. The Commonwealth's current observation activities emanate from the *Revised Commonwealth Guidelines for the Conduct of Election Observation in Member Countries* (see Annex 1), agreed to by Heads at the 2018 CHOGM. The following key points from the 2018 *Revised Guidelines* illustrate how Commonwealth methodology is rooted in best practice, notably in terms of usage of international standards as the basis for determining the credibility of a process, the need for the presence of minimum conditions prior to deployment of a team, the independent status of Commonwealth observer teams, and the need for a comprehensive analysis of the process by teams based on the electoral cycle:

- To consider deploying an Observer Group, the Secretary-General needs to receive an invitation or welcome from the government concerned or the respective election management body, and be assured there is broad acceptance of the presence of Commonwealth observers.
- The Secretary-General needs to be assured that the conditions for fair, credible, transparent and inclusive elections exist.
- Observers must be assured of free access to relevant electoral processes and materials, electoral actors and freedom of movement around a country, taking account of potential adverse security factors.
- Observers are invited by the Secretary-General, but the Group forms its own independent judgement and is not representative of member governments or of the Secretary-General.
- To reflect the broad nature of the electoral process and of the judgement ultimately to be made by Commonwealth observers, the Terms of Reference for a team should be drawn in general terms. In making their overall assessment, teams need to take account of, among other things:

- fairness and transparency of the registration process;
 - freedom of candidate nominations;
 - freedom of the campaign;
 - freedom of parties to get their message across to the electorate;
 - participation rights for women, youth, minorities and persons with disability;
 - neutrality of officials;
 - confirmation of the integrity of the voting and counting procedures;
 - ability of voters to cast their ballot in secret;
 - conducive atmosphere for voting and participation without intimidation;
 - integrity of the vote count; and
 - transparency of and access to the results process.
- Between elections, the Commonwealth will remain engaged with relevant authorities to follow up on recommendations, offering assistance as may be required.

1.4.1 The Commonwealth and the Declaration of Principles for International Election Observation (DoP)

The Commonwealth Secretariat was one of the original signatories to the DoP,⁴ which was signed at the United Nations in 2005. In addition to establishing a community of institutions involved in conducting international election observation, which has greatly facilitated co-ordination on the ground and enhancement of observation methodology, the DoP has established best practices for international observers, many of which are in line with the principles adhered to by the Commonwealth and as outlined in the 2018 *Revised Guidelines*.

The DoP underscores that election observation is not election monitoring, meaning observers have no executive function in the process and are not there to supervise events or to give instructions. Further, observers must not interfere or impede the process and must respect all laws and regulations.

4 See Annex 2.

International election observation is conducted to support the strengthening of a country's democratic institutions and practices. The spirit is one of co-operation and support with national stakeholders, with the aim of enhancing electoral processes over time. Observer teams can offer an informed and impartial analysis of a process, which can help to increase confidence, among parties and the public, in the outcome of an election and highlight shortcomings, should they exist, which can be improved upon in the future. The Commonwealth approach to election observation is rooted in these principles and is conducted in this spirit to help support member states enhance their democracies for the benefit of all their citizens.



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Commonwealth Observation Methodology



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2.1 The Decision to Observe

2.1.1 Invitation

In line with the 2018 *Revised Guidelines* and reflecting best international practice, in order to be able to deploy an observer team, the Commonwealth requires an invitation or welcome from a member country. In practice, the invitation can emanate from a variety of official sources, including the Head of Government, Minister of Foreign Affairs or Chair of the election management body.

Following receipt of the invitation, and under the direction of the Secretary-General, the process is managed internally by the Election Support Section (ESS) of the Governance and Peace Directorate. ESS is responsible for co-ordinating the Secretariat's election observation and election assistance programming.

The Secretariat is not in a position to respond positively to all invitations. Observer teams are best deployed when there is a value to their presence, when there is a welcome from stakeholders, and when the conditions for fair, credible, transparent and inclusive elections exist.

Declining an invitation may arise from a number of potential factors, including:

- limited time for preparation, as the Secretariat ideally requires notice ahead of election day in order to be able to put a team together and deploy in good time for the polls;
- the presence of Commonwealth observers will not add value to the process; this is possibly because there is full confidence in national institutions and the presence of international observers is not necessary, or because the process is deemed not to meet the basic requirements for legitimate competitive elections;
- adverse security conditions mean the safety and security of observers cannot be guaranteed; and/or
- adequate human and financial resources are not available.

2.1.2 Pre-election assessment visit

If there is a prospect for deploying an Observer Group, then a pre-election assessment visit, comprising two to three Commonwealth Secretariat staff, will usually be deployed. Ideally this is done some two to three months prior

to election day. The team deploys to the capital to meet with representatives of government, the election management body (EMB), representatives of a broad range of political parties, civil society organisations (including citizen observers and relevant women's and youth organisations), human rights bodies, and representatives of the media and the police, among others.

The team gathers information on a number of questions pertinent to the decision to deploy an observer team or not:

- Are there minimum conditions for fair, credible, transparent and inclusive elections?
- Will observers be able to receive accreditation and gain unimpeded access to all parts of the electoral process and in all parts of the country?
- Is there a broad welcome for the presence of Commonwealth observers among political parties and civil society?
- What is the current state of preparedness for the elections, and is there any chance of a delay?
- Are there any security risks, which may negatively impact on the deployment of a team?

In addition, the team assesses the political environment and identifies possible areas of support to the EMB ahead of the elections.

The team also undertakes some preliminary logistical planning in lieu of a later decision by the Secretary-General to deploy a team. This may include prospective deployment locations to reflect the size and administrative structure of the country in question and identification of a suitable base in the capital. Further, if any security risks have been identified, the team identifies realistic and suitable responses to these as part of their planning, including any budgetary implications (the issue of security is covered in more detail in Section 5).

Upon return to the Secretariat, the pre-election assessment team submits a report to the Secretary-General, including a recommendation regarding the prospective deployment of an observer team and the proposed size of the team. The decision to deploy a team or not is made by the Secretary-General, who will, in accordance with the 2018 *Revised Guidelines*, respond in writing to the respective authority.

2.2 Commonwealth Observer Groups

The main Commonwealth model for observing elections is a Commonwealth Observer Group (COG). On occasion, alternate teams may be deployed and some of these are discussed in Section 2.4, below.

2.2.1 Recruitment of team members

Observers are personally invited by the Secretary-General to be a part of the team and each observer is invited in their personal capacity and not as a representative of any government or organisation. COGs are usually led by a senior political figure, often a former Head of State or Head of Government. The head of a COG is referred to as 'the Chair'. Other teams are also led by a senior political figure or a senior member of an election management body.

COGs vary in size, ranging from between 10 and 25 members depending upon a number of factors, including the size of the country being observed. However, whatever the size of the team, it will reflect a broad range of Commonwealth nationalities. COGs should be gender balanced. Gender balance should also be taken into account when selecting a Chair.

In terms of the profiles of team members, in addition to the Chair of the COG, typically the team includes current or former Members of Parliament (MPs), members of election management bodies and election specialists, representatives of civil society, former diplomats, representatives of the media, gender specialists, youth representatives and current or former members of the judiciary.

2.2.2 Role of team members

- **Chair of the COG:**
 - overall head of the COG and responsible for its statements and reports;
 - the only person mandated to speak with the media on behalf of the COG: while other members may be interviewed on occasion (see Section 6.1 on Dealing with the Media), it is the Chair who is tasked with formally representing the COG and giving comments on the process;

- leads all press conferences and also takes the lead in meetings during the briefing programme;
- takes part in the full pre-election briefing programme to build up a comprehensive understanding of all aspects of the process;
- observes on election day and follows the count and tabulation;
- maintains contact with the observers throughout their deployment period; and
- briefs the Secretary-General on the general findings of the COG and submits the Final Report to the Secretary-General.

NB: In the exceptional circumstance of a deteriorating political environment, and if invited by the host government and other political actors, the Secretary-General may request the COG Chair to undertake a Good Offices role.

- **Observers:**

- take part in the full pre-election briefing programme to build up a comprehensive understanding of all aspects of the process;⁵
- are typically deployed in small teams to observe the environment for the polls, voting, counting and the post-election environment;
- report regularly to the Chair from their respective areas, to enable the Chair to build up a comprehensive picture of the conduct of the process during the deployment phase;
- take part in a debriefing upon return to the capital; and
- are present for the post-election meeting schedule for the drafting and editing of the Final Report.

NB: An observer's mandate and function commences upon arrival in the country under observation and ends upon departure from the country, regardless of any outstanding tasks that may require completion thereafter – such as those in relation to the finalisation of the COG Report. Once observers have departed the country at the official departure date, the COG is deemed to have been disbanded and members are no longer deemed to be Commonwealth observers.

5 Briefings for Commonwealth observers are conducted under the Chatham House Rule, whereby information disclosed during a meeting may be reported by those present, but the source of that information may not be explicitly or implicitly identified.

- **Staff team:**
 - supports the COG in all of its activities, including arranging the briefing programme and logistics for the entire mission, including deployment;
 - ensures an adequate security framework is established;
 - provides expert advice on the political, electoral and Good Offices context, as required;
 - supports the COG in the drafting of statements and the Final Report;
 - manages media relations for the Chair and arrange interviews, press conferences and dissemination of statements and reports; and
 - the staff team leader has delegated responsibility from the Secretary-General to maintain Commonwealth standards for election observation.

2.2.3 Mandate

COGs are provided with Terms of Reference from the Secretary-General. These represent the formal mandate for the team and reflect the methodology as outlined in the 2018 *Revised Guidelines*, as well as best international practice, with regard to the scope of enquiry of the team, the framework for analysis, and the expected conduct and outputs of the COG.

Standard Terms of Reference:

The Group is established by the Commonwealth Secretary-General at the written invitation or welcome of the [name of inviting authority]. The Group is to consider the various factors impinging on the credibility of the electoral process as a whole. It will determine in its own judgement whether the elections have been conducted according to the standards for democratic elections to which the country has committed itself, with reference to national election-related legislation and relevant regional, Commonwealth, including its Charter, and other international commitments.

The Group is to act impartially and independently. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgement accordingly. It would also be free to propose to the authorities concerned such action on institutional, procedural and other matters as would assist the holding of such elections.

The Group is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government, Electoral Commission and political parties taking part in the elections and to all Commonwealth Governments. Thereafter, the Final Report may be used to help inform relevant follow-up activities.

2.2.4 Advance observers

On occasion, the Commonwealth may deploy a small number of advance observers (which may include staff from the Secretariat as support). Advance observers, when deployed, are in-country up to two weeks before the arrival of the main COG. Their role is to meet a broad range of stakeholders – including, but not limited to, the election management body, political parties, civil society groups and other international observers – and travel to a cross-section of areas in the country to gather information on the conduct of the process and to observe the campaign and the electoral preparations.

In terms of the lines of enquiry and the conduct of meetings, the same framework exists for advance observers as for the COG more generally, and is reflected primarily in Sections 3 and 4. Advance observers will also have the opportunity to attend campaign events and assess whether campaign freedoms are respected.

Information gathered by advance observers is reported to the COG as part of the briefing programme, to enhance the depth and breadth of information collected by the team. Such an advance deployment also raises the profile of Commonwealth observers.

Once the COG is underway, the advance observers join the main Group and become regular team members, deployed to designated locations as part of the COG deployment plan.

2.2.5 Additional models

On occasion an Expert Team (CET) or an ad hoc team may be deployed, but these are very much the exception rather than the rule. These teams may or may not issue public statements, but will report to the Secretary-General and conduct themselves in accordance with the standard methodology in terms of their framework of assessment, scope of enquiry and code of conduct.

2.3 Key Methodological Aspects

- **Announcement of team:** Once the composition of the team has been finalised, the Commonwealth Secretariat issues a press release formally announcing the team and providing the names of the observers.
- **Timelines:** A COG is usually deployed for two to three weeks in total (other teams may be deployed for shorter periods). The staff team arrives in advance to make preparations and ensure all of the logistical arrangements are in place for the arrival of the Chair and the rest of the team. A COG can be divided into various indicative phases in relation to the election day (ED):

ED-7	observers arrive in-country
ED-6 to ED-4	arrival press conference, briefings and meetings with stakeholders
ED-3	observers deploy to regions
ED-2 to ED-1	orientation and meetings in area of responsibility
ED	observing voting & counting
ED+1	observe tabulation & post-election environment
ED+2	Preliminary Statement, ⁶ return of deployed observers to capital ⁷
ED+3	debriefing and commence report writing
ED+4 to ED+6	finalise report
ED+7	observers depart

- **Independence:** A COG is independent of any Commonwealth government and of the Commonwealth Secretariat. Observers participate in a personal capacity and not as a representative of any government or institution or group. Neutrality and impartiality are key elements in the Observer Code of Conduct (see 2.5). As such, observers should always conduct themselves in an independent manner and operate as part of

6 The timing for the issuing of a Preliminary Statement may vary. Ordinarily, it will be issued two days after the day of the election. In other cases, a statement may be issued the day after election day. The Chair will make a decision based on the prevailing conditions on the ground and the likely timing of the final results. Further, the timing and modalities for the Preliminary Statement may be co-ordinated with other international observer missions.

7 The timing for the return of observers may vary. In smaller states, for instance, the process may be truncated and return to the capital may be ED+1. The timetable for each mission will be determined by the organisers of the mission on the ground.

the Commonwealth team under the leadership of the Chair, and not with reference to their own respective national authorities or political leanings.

- **Comprehensive analysis:** The scope of enquiry for a team is to assess and consider all factors which may impact on the credibility of the electoral process. Although teams may only be in-country for two weeks, their line of enquiry (see Section 4: Assessing the Pre-Election Period) is across the electoral cycle and not solely on the election day itself.
- **Relations with host country (including accreditation):** Commonwealth observer teams are only deployed upon invitation or welcome. Relations with the host country are limited to protocol and formal relations to facilitate the arrival of observers in-country. The team will have a close working relationship with the electoral authorities and secures accreditation from them in order to be able to observe. On a COG, the Chair may also make a courtesy call on the Head of State. No financial support from the host country is sought or accepted and the team operates independently in terms of logistics and analysis. In case of a serious security threat, the team co-ordinates with relevant security forces in a country, as required and as appropriate.
- **Co-ordinating with other observers (including citizen observers):** Commonwealth teams co-operate and co-ordinate closely with other international and national citizen observers. As a signatory of the DoP, the Commonwealth recognises such co-ordination among international groups and support for national citizen observers as best practice. Regular co-ordination meetings will be held with other international observer groups, before and after election day, to share findings. In addition, in the field Commonwealth observers meet other teams deployed to their area and are encouraged to share information and to avoid unnecessary duplication. Citizen observers will be invited to make a presentation during the main briefing programme and Commonwealth teams in the field will meet citizen observers. Co-ordinating the timing and modalities for the issuing of the Preliminary Statement may be a further important consideration.
- **Relations with High Commissions:** Commonwealth observer teams enjoy a constructive working relationship with High Commissions (representing other Commonwealth governments) present in the country, but remain completely independent of them. High Commissions are kept updated as to the plans for the observation and are invited to a meeting to discuss the election as part of the briefing programme. High Commissions bear no organisational or financial responsibilities for Commonwealth observer teams.

2.4 Good Offices

In the exceptional circumstances of a deteriorating political environment, and if invited by the host government and other political actors, the Secretary-General may request the COG Chair to undertake a Good Offices role. This undertaking is outside of the regular work of the COG and is foreseen solely for the Chair in such an instance, not other members of the team.

The Secretary-General will agree the prospective value and modalities for such an engagement with the Chair. The staff team will support the Chair in this role.

If, for example, there is a serious deterioration in the political environment, the Chair could engage with relevant national stakeholders in an effort to urge calm and prevent any further escalation.

2.5 Code of Conduct

The Code of Conduct for observers is critical and is taken extremely seriously by the Commonwealth. The Code below is drawn from the one contained in the Declaration of Principles for International Election Observation, which was signed at the UN in 2005 and endorsed by the Commonwealth as one of the original signatories.

The Chair is responsible for the overall conduct of the COG and may reprimand observers who breach the Code. Observers found to be in serious breach of the Code may be removed from the COG. Staff members also have a duty to report any incidents to the necessary authorities.

Respect the laws of the country and the authority of electoral bodies

Observers do not enjoy any special privileges beyond being granted access to the electoral process. Throughout the entire duration of the mission, observers must respect all laws of the country and the authority of electoral bodies. Observers must follow any lawful instruction from the country's governmental, security and electoral authorities and maintain a respectful attitude toward electoral officials and other national authorities at all times. This includes not giving instructions or advice on how to organise the process, notably with regard to the example of one's own country, during the conduct of elections.

Respect the integrity of the international election observation mission and maintain proper personal behaviour

- Observers must respect the integrity of the COG, following instructions, attending all briefings, complying with the mission methodology and respecting this Code of Conduct. Once observation duties have been completed, then individuals should no longer represent themselves as a Commonwealth observer.
- Observers must maintain proper personal behaviour and the highest levels of professional conduct at all times, not undertaking any activity which may impugn the integrity of the Commonwealth mission. Observers must also refrain from any form of harassment or inappropriate advances to colleagues, national staff or any other person.

- Observers should exhibit sensitivity for host-country cultures and customs and exercise sound judgment in personal interactions, avoiding any behaviour which is unlawful and which could bring the COG and the Commonwealth Secretariat into disrepute.

Maintain strict political impartiality at all times

Observers must maintain strict political impartiality at all times, including when off duty. They must not express or exhibit any bias or preference in relation to contestants in the election or in relation to any contentious issues in the election process. Observers should also avoid wearing any colours or symbols which may be construed as partisan. Special attention should be paid to the use of social media while on duty as a Commonwealth observer. Posts could be misconstrued or misrepresent the mission and it is advisable to avoid use of social media while undertaking one's role as an observer.

Do not obstruct or interfere in the election processes

Observers must not obstruct any element of the election process. Observers may bring irregularities to the attention of election officials, but must do so in a discrete and non-intrusive manner. Observers may ask questions of officials, and may answer questions about their own duties, but should not seek to direct the election process in any way, should not offer advice and should not interfere in any aspect of the organisation of the election.

Provide appropriate identification

Observers will be provided with the official observer accreditation. This must be worn while on duty and shown to any official requesting to see it as proof of their observer status.

Maintain accuracy of observations and professionalism in drawing conclusions

Observers must ensure that all of their observations are accurate and comprehensive, noting positive as well as negative factors, distinguishing between significant and insignificant factors, and identifying patterns that could have an important impact or bearing on the integrity of the election process. Observers' judgments must be based on the highest standards for accuracy of information and impartiality of analysis and base all conclusions on factual and verifiable evidence

Refrain from making comments to the public or the media

The Chair is the head of the COG and is its official spokesperson. All other observers should not make any pronouncements on the conduct of the process, before, during or after the mission. Observers must refrain from making any personal comments about their observations or conclusions to media or members of the public before the Chair makes a statement, unless specifically instructed otherwise. Observers may provide some information about their own profile and can explain the nature of the COG and its activities. However, observers should refer the media or other interested persons to those individuals designated by the COG for substantive comments on the process or preliminary findings.

Co-operate with other election observers

The COG methodology includes close co-operation with other international and national observers. Observers must be aware of the other election observation missions, both international and national, and co-operate with them as requested.



3

International and Regional Standards for Elections

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3.1 Best Practices for Elections

Genuine democratic elections are an expression of sovereignty, which belongs to the people of a country, the free expression of whose will provides the basis for the authority and legitimacy of government. The rights of citizens to vote and to be elected at periodic, genuine democratic elections are internationally recognized human rights.

Genuine democratic elections are a requisite condition for democratic governance, because they are the vehicle through which the people of a country freely express their will as to who shall have the legitimacy to govern in their name and in their interests. Achieving genuine democratic elections is a part of establishing broader processes and institutions of democratic governance. Therefore, while all election processes should reflect universal principles for genuine democratic elections, no election can be separated from the political, cultural and historical context in which it takes place.

The Declaration of Principles for International Election Observation (2005)

Democracy is about far more than just elections, but elections are a vital component and a key test for the state of democracy in a country. There is no single model for a democracy or for an election system, but as the quote above from the Declaration of Principles exemplifies, the main reference for determining the credibility and legitimacy of those elections are the recognised international and regional instruments to which a country has committed itself.

The use of such instruments is provided for in the 1991 Guidelines for the Establishment of Commonwealth Groups to Observe Elections in Member Countries. Commonwealth Observer Groups will judge the credibility of an electoral process by assessing the conduct of an election against a series of international and regional instruments to which a country has voluntarily committed itself. These international and regional instruments provide a clear and common understanding of which political rights and fundamental freedoms need to be adequately provided for in order for an election to be credible.

Using these instruments also provides a transparent, consistent and legitimate framework for assessment of an election. In addition, international electoral best practices, which have become synonymous with credible electoral practice on the basis of their widespread use internationally, should also be considered as important requisites. While such best practices may not be necessarily directly referenced by international and regional instruments, they are also considered essential to the conduct of a credible process.

3.2 International and Regional Standards

There are a large number of international and regional instruments, comprising a mix of legally binding and political commitments. Collectively, these provide a comprehensive framework for assessing an electoral process. Observer teams need to identify which instruments – international and regional – an observed country has committed itself to and use these (as well as relevant national legislation) as the key reference for assessment.⁸

The various international and regional standards fall into different categories, namely treaty standards and non-treaty standards. Treaty standards, such as the International Covenant on Civil and Political Rights, the Convention on the Elimination of Discrimination against Women and the African Charter on Human and Peoples' Rights, are binding on signatory states. In contrast, non-treaty standards, such as the Universal Declaration of Human Rights and the Organisation of African Unity (OAU)/African Union (AU) Declaration on the Principles Governing Democratic Elections,⁹ are not binding.

In addition, there are so-called 'political commitments'. These may also contain standards that are not binding, but rather are pledges that governments make to each other to comply with certain standards of conduct. Examples of political commitments are the Organization for Security and Co-operation in Europe (OSCE) Copenhagen Document and the Commonwealth's own Harare Declaration, Affirmation of Commonwealth Values and Principles, and the Commonwealth Charter.¹⁰

The legal status of such standards is not a concern as such for observers. From the perspective of a Commonwealth observer team, the following standards provide a framework for what represents a credible and legitimate

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- 8 The pre-election assessment team will identify which key instruments the country in question has committed itself to. However, there are some excellent other sources, including the EU Compendium of International Standards for Elections, which can be a useful reference source as it provides a global overview of the various international and regional instruments and indicates which countries have committed to which instrument.
 - 9 However, this has a special status, as its normative status has been elevated by virtue of being referenced in the 2007 African Charter on Democracy, Elections and Governance.
 - 10 While these do constitute political commitments, the Commonwealth's unique mechanism for considering 'serious or persistent violations' of its values and principles by a member government does represent an extra level of scrutiny.

electoral process, against which an election can be assessed. At the end of the section, a list of key election principles and best practices are identified for use by observer teams in assessing an election process.

3.2.1 International standards

In the **Trinidad and Tobago Affirmation of Commonwealth Values and Principles** of 2009, Commonwealth Heads of Government reaffirmed, among other things, their 'belief in the inalienable right of the individual to participate by means of free and democratic political processes', as well as their 'commitment to the Universal Declaration of Human Rights and human rights covenants and instruments'. This reflected earlier commitments made by Commonwealth governments in the 1991 Harare Declaration.

In the section on Democracy in the Commonwealth, the 2013 **Commonwealth Charter** states: We recognise the inalienable right of individuals to participate in democratic processes, in particular through free and fair elections in shaping the society in which they live. Governments, political parties and civil society are responsible for upholding and promoting democratic culture and practices and are accountable to the public in this regard. Parliaments and representative local governments and other forms of local governance are essential elements in the exercise of democratic governance'. The Charter went on to reiterate the association's support for 'the role of the Commonwealth Ministerial Action Group to address promptly and effectively all instances of serious or persistent violations of Commonwealth values without any fear or favour'.

The Universal Declaration of Human Rights (UDHR) of 1948 is a non-binding resolution, but much of it has the status of international customary law. Article 21 of the UDHR states:

- 21.1: Everyone has the *right to take part* in the government of his [sic] country, *directly or through freely chosen representatives*
- 21.2: Everyone has the right of equal access to public service in his [sic] country
- 21.3: The will of the people shall be the basis of the authority of government; [and] shall be expressed in *periodic and genuine* elections which shall be by *universal and equal* suffrage and shall be held by *secret* vote or by equivalent free voting procedure

The International Covenant on Civil and Political Rights (ICCPR) of 1966 is arguably the principal reference for assessing the conduct of elections. It is legally binding on ratifying countries. Article 25 of the ICCPR states:

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2¹¹ and without unreasonable restrictions

- a. To take part in the conduct of public affairs, directly or through freely chosen representatives
- b. To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors

The ICCPR reinforces key aspects of the UDHR, but it also provides a number of critical new elements:

- The electoral rights and freedoms are to be provided to citizens of a country.
- Participation rights must be provided *de jure*, i.e. through legislation and regulations, and also *de facto*, i.e. in practice through the implementation of effective measures and procedures. Citizens must be afforded both the right and the opportunity to exercise that right.
- There is an acknowledgement that rights and freedoms may be limited to a reasonable degree, for instance, in having age limits for participation, citizenship or nationality requirements, or other minimum requirements for candidates such as requiring a financial deposit for candidacy, but such requirements must be reasonable and non-discriminatory.
- The purpose of providing participation rights and the various political rights and freedoms is ultimately so that voters can be free to express their will, including the right to seek legal redress in case of a complaint.

11 Article 2 of the ICCPR includes obligations to prohibit discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property or birth.

Other articles of the ICCPR are also of relevance in establishing the framework of electoral standards. For instance, Article 2 provides for the right to an effective legal remedy; Article 19 for freedom of expression; Article 22 for freedom of association.

In addition, the **UN Human Rights Committee General Comment 25** adds further explanation and clarifications on the various rights and freedoms outlined above. General Comment 25 relates to most electoral elements and is a helpful, practical and tangible tool for election observers, with its authoritative interpretation and explanation of the political rights and freedoms relating to 'The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service'.

The Convention on the Elimination of Discrimination against Women (CEDAW)¹² of 1979 provides an obligation on ratifying states to ensure women enjoy full and equal rights to men, notably in terms of the right to vote and the right to participate as candidates.¹³ It also provides that 'temporary special measures'¹⁴ may be considered in order to accelerate 'de facto equality between men and women'.¹⁵

The International Convention on the Elimination of Racial Discrimination (ICERD) of 1966 provides an obligation on ratifying states to, among other things, 'guarantee the right to everyone, without distinction as to race, colour or national or ethnic origin, to equality before the law in the enjoyment of Political rights, in particular the right to participate in elections – to vote and to stand for election – on the basis of universal and equal suffrage'.¹⁶

3.2.2 Regional standards

Across the regions of the Commonwealth, there are many regional standards and commitments which respective Commonwealth states have entered into. In many senses, the criteria on elections identified in these are consistent with the criteria identified above and summarised below. Commonwealth observer teams in the field will identify the relevant commitments (international and regional) for the observed country and use these as the reference points.

12 See also General Recommendation 23 on Political and Public Life (1997), issued by the Committee Established to Monitor States' Compliance with the Commitments of CEDAW.

13 Article 7, CEDAW.

14 This could include, for example, a quota system or a requirement for parties to have a certain number of women on their candidate lists in a proportional list system.

15 Article 4, CEDAW.

16 Article 5, ICERD.

Africa

In Africa, at the regional and sub-regional levels, there are a number of treaty and non-treaty standards entered into by governments. Some of the key ones are the African Charter on Human and Peoples' Rights (1981); the African Charter on Democracy, Elections and Governance (2007); the ECOWAS Protocol on Democracy and Good Governance (2001); and the SADC Principles and Guidelines Governing Democratic Elections (2004).

- African Charter on Human and Peoples' Rights (1981), Chapter 3, Article 3, contains the following principles:
 - Respect for human rights and democratic principles
 - Promotion of a system of government that is representative
 - Holding of regular, transparent, free and fair elections
 - Promotion of gender equality in public and private institutions
 - Effective participation of citizens in democratic and development processes and in governance of public affairs
 - Strengthening political pluralism
- African Charter on Democracy, Elections and Governance (2007), Chapter 7, Article 17, includes a commitment by state parties to regularly holding transparent, free and fair elections in accordance with the Union's Declaration on the Principles Governing Democratic Elections in Africa. It also includes the following commitments by state parties:
 - establish and strengthen independent and impartial national electoral bodies responsible for the management of elections;
 - establish and strengthen national mechanisms that redress election-related disputes in a timely manner; and
 - ensure fair and equitable access by contesting parties and candidates to state-controlled media during elections.

The Americas and the Caribbean

In the Americas and the Caribbean, there are a number of treaty and non-treaty standards entered into by governments. Some of the key ones are the American Declaration on the Rights and Duties of Man (1949), the American Convention on Human Rights (1969), the Inter-American Democratic Charter (2001) and the Charter of Civil Society for the Caribbean Community (1997).

- Article 23 of the American Convention states, among other things, that:
Every citizen shall enjoy the following rights and opportunities:
 - to vote and to be elected in genuine period elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters.

Asia

In the Asia region, there are no formal treaties relating to the conduct of elections. Throughout the region, states have committed themselves to international instruments, and these represent the main reference point for observer teams.

However, the Association of Southeast Asian Nations (ASEAN), which contains three Commonwealth members,¹⁷ has issued a Political-Security Community Blueprint which aims to 'promote political development in adherence to the principles of democracy, the rule of law and good governance, respect for and promotion and protection of human rights and fundamental freedoms.'¹⁸

Europe

In Europe, there are a number of treaty and non-treaty standards entered into by governments. Some of the key ones are:

- Charter of Fundamental Rights of the European Union (2000/2010).
- Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms (1950).
- OSCE Document of the Copenhagen Meeting (1990). The 1990 OSCE 'Copenhagen Document' is a commonly referenced political commitment in the OSCE region and includes in paragraph 7, among other things, the following commitments:

To ensure that the will of the people serves as the basis of the authority of government, the participating states will:

- hold free elections at reasonable intervals;
- guarantee universal and equal suffrage to adult citizens;

¹⁷ Brunei Darussalam, Malaysia and Singapore.

¹⁸ Section II.7, ASEAN Political-Security Blueprint, adopted at the 14th ASEAN Summit.

- ensure that votes are cast by secret ballot, or by equivalent free voting procedures, and that they are counted and reported honestly;
- respect the right of citizens to seek political or public office, individually or as representatives of political parties;
- respect the right of individuals and groups to establish, in full freedom, their own political parties and provide such parties with the necessary legal guarantees to enable them to compete with each other on the basis of equal treatment;
- permit political campaigning to be conducted in a fair and free atmosphere;
- provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals participating in the electoral process; and
- ensure that candidates who obtain the necessary number of votes required by law are duly installed into office.

The Pacific

In the Pacific region, the 2000 Biketawa Declaration of the Pacific Islands Forum committed Forum members to good governance, described as 'the exercise of authority (leadership) and interactions in a manner that is open, transparent, accountable, participatory, consultative and decisive but fair and equitable'.

Under the Biketawa Declaration, Forum members further commit to:

- belief in the liberty of the individual under the law, in equal rights for all citizens regardless of gender, race, colour, creed or political belief, and in the individual's inalienable right to participate by means of free and democratic political processes in framing the society in which he or she lives; and
- upholding democratic processes and institutions which reflect national and local circumstances, including the peaceful transfer of power, the rule of law and the independence of the judiciary, just and honest government.

Additional regional commitments to good governance by Pacific Islands Forum members include the:

- Framework for Pacific Regionalism – one of the four objectives of which is strengthened governance, legal, financial and administrative systems;
- Forum Eight Principles of Accountability;
- Forum Principles of Good Leadership, which include respect for and upholding of democratic processes and institutions, the rule of law and the independence of the judiciary and the legislature;
- Aitutaki Declaration; and
- Boe Declaration, focused on an expanded concept of security, which recognises the importance of good governance in underpinning stability and security.

The Pacific Islands Forum Secretariat is a signatory to the United Nations *Declaration of Principles for International Election Observation & Code of Conduct for International Election Observers*.

Pacific Islands Forum members have also embraced the 2030 Agenda for Sustainable Development, which includes Sustainable Development Goal 16 – Peace, Justice and Strong Institutions.

3.3 Key Election Principles

The role of Commonwealth election observers is to assess the conduct of an election against the relevant national legal framework and its alignment with international and regional standards to which a country has committed itself, and to determine if the process was indeed fair, credible, transparent and inclusive. In conducting an analysis and assessment, observer teams must also assess the election against national legislation by judging the extent to which national legislation reflects international and regional obligations. Subsequently, teams will assess the extent to which the legislation was respected.

Based on the Commonwealth as well as the other international and regional instruments above and the numerous other relevant obligations and commitments, the key electoral principles are identified below. These should be considered in conjunction with Sections 4 and 5, which identify specific lines of enquiry for respective parts of the process.

Periodic Elections

Elections should be held at reasonable intervals and with respect to established dates, term limits and constitutional deadlines, to ensure the authority of government continues to be based on the free expression of the will of electors.

Genuine Election

The electoral process should be administered in a fair and impartial manner and in accordance with established laws and procedures. In addition, to be genuine the election has to be truly competitive, providing a real choice for voters.

Universal Suffrage

Voting rights should be afforded to all eligible adult citizens. Any limitations on the exercise of such rights must be based on objective and reasonable criteria.

Equal Suffrage

The electoral system should ensure the principle of 'one-person, one-vote', meaning votes have roughly equal weight. This principle has particular resonance for the drawing of electoral boundaries.

Right to Stand for Election

All persons, parties or groups who wish to stand for election should be free to do so without discrimination, within an open and transparent registration process. Democratic elections require a pluralistic environment.

Right and Opportunity to Vote

Eligible citizens qualifying to vote should be offered reasonable opportunity to do so through the provision of an effective and responsive system of voter registration and the provision of accessible polling places.

Women's Participation

The equal rights of men and women to the enjoyment of all civil and political rights should be ensured. Special provisions may also be considered to help promote women's participation.

Secret Vote

Voters should be free to cast their ballot in secret. Voters requiring assistance should be helped in an appropriate manner.

Free Expression of Will of the Electors

Voters should be free to express their will, without undue influence or intimidation, and votes should be counted and reported honestly.

Right to an Effective Legal Remedy

In case a person or party feels their rights have been infringed, they should be able to seek a timely and effective legal remedy – this applies to all aspects of the electoral process.

Equal Treatment and Non-Discrimination

All citizens should be treated equally, with no distinctions in the enjoyment of their electoral rights. This applies also to persons with a disability, for whom special provisions may be required.

Freedom of Association

Individuals or groups should be free to form a political party and there should be reasonable and transparent legal and administrative provisions for this. The right to freedom of association is essential for the enjoyment of electoral rights.

Freedom of Expression

Contestants should be free to promote their political messages to the electorate and the electorate should be free to receive political and election-related information, without undue restrictions or impediment. State-owned media has a particular obligation to report in a balanced and non-biased manner, providing access to all contestants.

Freedom of Movement

Freedom of movement for parties and voters during the campaign and voting periods is vital for the exercise of electoral rights.

Freedom of Assembly

People should be free to assemble for campaign meetings, without obstacle and on the basis of equal treatment.

Transparency

Management of the electoral process, including the counting and tabulation of results, needs to be transparent in order to ensure it is accountable and enjoys the full confidence of participants.

Use of State Resources

State resources should not be used to the undue benefit of any one political party, including the party in power. This relates also to the election coverage provided by state-owned media.

Non-Violence

The electoral process should be free from violence, so all voters and contestants can enjoy their electoral rights free from intimidation, harassment or harm.



4

Assessing the Pre-Election Period



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4.1 Methodology

4.1.1 Briefing programme

A comprehensive briefing programme, usually lasting three days, is arranged for an observer team to provide an opportunity to meet a balanced cross-section of stakeholders. This will usually be held in the same hotel as observers are accommodated during stays in the capital.

The briefing programme usually commences with a comprehensive presentation by the staff team, and advance observers where relevant, on the arrangements for the mission, key political and electoral issues and a thorough briefing on the electoral system and the methodology for observing election day and the count.

Meetings will be arranged with senior representatives of:

- The election management body
- Political parties and/or candidates (including the main ones, plus a broad cross-section of others)¹⁹
- National human rights and citizen observer groups
- Relevant women's organisations
- Relevant youth organisations
- Relevant persons with disabilities (PWD) organisations
- Relevant organisations representing minority communities
- The media
- Relevant government agencies, including those responsible for legal, finance, women's, youth and disability issues
- The police
- Other international observers
- High Commissions and other members of the diplomatic community

19 Commonwealth teams have an open-door policy towards any political party or relevant stakeholder which wishes to meet. However, in practical terms, there may be occasions when the team is unable to meet every party but will ensure it meets a broad range of parties and candidates.

Briefings are conducted under the Chatham House Rule, whereby information disclosed during a meeting may be reported by those present, but the source of that information may not be explicitly or implicitly identified.

4.1.2 Approach to meetings

Meetings are led by the Chair and facilitated by the staff team. For some meetings, such as with the election management body, the Group may visit the premises of the organisation. The aim is to gain a comprehensive overview of the various opinions on and details of the pre-election period, enabling the team to identify the key issues affecting the electoral process. As mentioned in previous chapters, Commonwealth methodology provides for an analysis and assessment of all factors impinging on the credibility of the electoral process across the electoral cycle.

To this end, the information gathered during the briefing is critical for the observers. At the conclusion of the briefing programme, observers are expected to understand the practices and procedures for polling, and appreciate key issues and concerns that may feed into their Preliminary Statement and Final Report.

The approach to each briefing should be neutral. The meetings should not be used to confront interlocutors, to express opinions or offer recommendations. Under the Code of Conduct, the requirements for impartiality and non-interference relate not only to the actions of observers, but also to the tone and perception of their questioning.

Prior to commencing the briefings with stakeholders, observers should ensure they are familiar with the electoral system, key electoral issues, the profiles of the main political contestants and other relevant issues as detailed in the Secretariat's Political Brief.

When asking questions and gathering information, observers should:

- prepare questions and discussion points in advance;
- be aware of the time allocated for a meeting to ensure everybody has a chance to ask questions;
- avoid leading questions;
- avoid offering examples from their own country or making comparisons with other elections;
- ask for detailed information in the event of a specific concern or allegation being raised;

- check the accuracy of information by cross-checking with other stakeholders;
- protect the identity of sources; and
- allow interlocutors a chance to ask questions of the team.

In introducing the mission, the Chair will:

- introduce the mission and explain its intended coverage and approach;
- explain that the team will assess the election in accordance with relevant Commonwealth, regional and international standards and will conduct itself in accordance with the Declaration of Principles;
- explain that the Commonwealth has been invited by the host authorities and that the COG is independent and impartial; and
- outline the main timelines for the mission, including when the Preliminary Statement and Final Report will be issued (see Section 6), as relevant.

Such an introduction and approach will also be used by observers when holding meetings in the field. For example, upon deployment, observers will likely meet regional and local-level representatives of the EMB, political parties and civil society organisations (CSOs) etc.

4.1.3 Advance observers

On occasion the Commonwealth may deploy advance observers to be present for up to two weeks prior to the arrival of the observer team. Advance observers will meet some of the same stakeholders in the capital, but will make it clear that such meetings are preliminary ones pending the arrival of the team. In addition, advance observers will have an opportunity to meet stakeholders, such as electoral officials, representatives of parties, civil society organisations and the police, at the regional level.

The role of the advance observers can be summarised as observing, assessing and reporting on:

- the electoral preparations by the election management body, and the extent to which the process is on track and enjoys the confidence of stakeholders, with first-hand information gathered also on the work of electoral offices at the regional level, as far as possible;
- the electoral campaign, and the extent to which basic freedoms have been respected and the process has been free from violence;

- the handling of pre-election disputes and whether an effective legal remedy is available; and
- the role to be played by other observers and the initial findings of other long-term groups.

Advance observers collate their findings and make a written and oral presentation to the observer team as part of the main briefing programme.

Advance observers will meet with the election management body, a range of political parties/candidates, relevant civil society groups, the police, other international observer missions and other relevant actors. Their aim is to build up a clear picture on the conduct of the electoral preparations and political campaign, so they are able to supplement the work of the COG itself. The conduct of meetings by advance observers, in terms of methodology, approach, code of conduct and the points of enquiry, is the same as for all Commonwealth observers and is presented above in 4.1.2 and below in 4.2.

4.2 Assessing the Pre-Election Period

In developing its understanding of the pre-election period, a Commonwealth observer team develops its line of enquiry across a broad range of electoral elements, as reflected below. However, in addition, it also considers a broader line of enquiry regarding the general environment for the polls, including reports of human rights violations.

4.2.1 Legal framework

The legal framework for an election can comprise a broad range of legislation and associated procedures and regulations. Key relevant documents may include:

- The Constitution
- The election law
- Law on the election management body
- Law on political parties (including on campaign financing)
- Law on the media, communications and cybercrime
- Law on non-governmental organisations (NGOs)
- The criminal code and relevant national security legislation (including regulations which may impact on freedom of assembly and freedom of movement)
- Regulations issued by the election management body

The key concerns for the team are:

- Does the legal framework provide the basic conditions for competitive, inclusive, transparent and credible elections?
- Is the legal framework in compliance with relevant regional and international standards?
- Is the legislation fairly and competently enforced/implemented?

- What, if anything, could be changed to improve it for future elections?
- Is there adequate awareness raising by the relevant authorities to promote a broad understanding of the legal framework?

Legal framework – points of enquiry

- Do stakeholders have broad confidence in the legal framework, and do they consider it to be an adequate basis for genuinely competitive, inclusive, transparent and credible elections?
- If not, what do they believe should be clarified, added, amended?
- Do any legal provisions directly or indirectly discriminate against particular individuals or groups?
- Have there been any late changes to the legal framework/ procedures which may cause confusion or a lack of confidence?

4.2.2 Role of the election management body

Relevant electoral principles include:

- Genuine and competitive election
- Transparency
- Women's participation
- Equal treatment
- Right to an effective legal remedy

Elections are ordinarily administered by an election management body (EMB). EMBs can take a number of forms, with countries deciding on a model based on their specific administrative or legal history, political circumstances or size of the country.

Some EMBs are composed of independent persons not politically aligned in any way. Others comprise individuals explicitly representing or reflective of political contestants, ensuring confidence through a political balance. In other instances, there may be more of a mixed approach, with members drawn from the political parties contesting the polls and a Chair drawn from the judiciary or recruited through an impartial process. In some instances, there may be a

small office, staffed by state officials tasked with the role on a temporary basis. This is not an exhaustive list, but is intended to reflect some of the types of EMBs Commonwealth teams may come across.

The critical point is that an EMB, of whatever form, must be impartial and fair in how it manages the process, acting in a transparent manner and maintaining the confidence of political contestants and the public alike. Ultimately, the EMB exists to serve the public and the political contestants in a poll. It should not be subject to or inclined towards undue influence from any quarter, including from government.

Role of the election management body – points of enquiry

- Is there broad confidence in the role of the EMB?
- Was the nomination and appointment process transparent and fair, and does composition of the EMB meet the respective criteria (depending on model chosen)?
- Is the EMB acting in a fair, effective and independent manner?
- Are there any problems relating to the budget of the EMB?
- What is the level of confidence in regional electoral offices?
- Are the respective roles and delineation of duties between national and regional offices coherent?
- Are women well represented in the EMB, at both the national and regional levels?
- Has the EMB conducted training of election officials?
- Has the EMB met deadlines?
- Is the EMB acting inclusively and transparently?
- Has the EMB adequately communicated with stakeholders and the public?
- Has the EMB consulted effectively with political contestants?
- Is the level of voter education conducted by the EMB adequate?
- Is the EMB adequately enabling participation of citizen observers, where relevant?

4.2.3 Voter registration

Relevant electoral principles include:

- Universal suffrage
- Right and opportunity to vote
- Women's participation
- Right to an effective legal remedy
- Transparency

Universal suffrage and the right to vote are critical electoral principles. If an election fails to meet these two principles, then it will probably fail to meet the required standards for credibility. It is also critical that voter registration is an inclusive process and that it maintains political and public confidence.

The criteria for voter eligibility, such as age, residency and citizenship, need to be reasonable and registration procedures need to be clear and understood and viable in the context. There are different systems for voter registration, including passive systems (where citizens have to present themselves for registration) and active systems (where the EMB will reach out to the community, possibly door-to-door). Special measures might be required to ensure the process is inclusive to women, minorities and persons with disability.

Once completed, it is vital that the register is accurate and can be kept updated, taking account of new registrants, deaths, migration and emigration, as far as possible. It should also be a very transparent process and provide for public scrutiny of draft lists, including through the possible use of the EMB website and other IT platforms.

If a system of biometric voter registration is adopted (including use of fingerprints and/or photo ID), then the EMB needs to ensure such an undertaking is viable and is affordable. Whichever system is adopted, the same principles will apply. The process must have integrity, while at the same time ensuring the inclusion of eligible persons, and with a reasonable burden of proof of identification on citizens, thereby maintaining public confidence.

Procedures need to be targeted to ensure accessibility for all sectors of society, with comprehensive information programmes to support the process at each step, guaranteeing a participatory and transparent process, an efficient

system for complaints, and the potential for observation of the process by political parties and civil society. Given the cost and time involved, a system should be implemented which is also sustainable.

Voter registration – points of enquiry

- Are the voter registration procedures as detailed in the law and regulations, reasonable and viable?
- Has the voter registration process generally captured eligible citizens, thereby providing for universal suffrage?
- Is there broad confidence in the inclusivity and integrity of the voter register?
- Are there any allegations of 'padding' of lists or inclusion of dead persons or duplicates on the lists?
- If there have been lapses, what are the reasons for this?
- Have any shortcomings particularly affected specific communities or regions?
- Are there any special issues related to refugees or internally displaced persons (IDPs) or a mobile work force which may affect the inclusivity and/or integrity of the list?
- Has the registration process been adequately transparent?

4.2.4 Electoral system (including constituency boundaries)

Relevant electoral principles include:

- Equal suffrage
- Women's participation

The choice of an electoral system in a country will reflect the various historical and contemporary experiences of that country. Observers would not normally raise questions against an electoral system unless it was evidently manipulated in a way so as to undermine the integrity of the process, for instance, through gross imbalances in the demarcation of electoral constituencies.

There may be opinions as to the relative merits of majority systems, such as first-past-the-post, as against proportional systems, such as party list systems, but all such systems are legitimate and have their respective pros and cons. What is critical is that there is a broad consensus on the electoral system, and it was introduced through an inclusive dialogue. Having said this, there can be disagreements about the impact of a particular system on a particular party or minority group, but there is no particular system that can be described as the 'international standard'.

Observers should seek to understand the system, how it works, how it was adopted and what the impact can be politically. Ultimately, however, the assessment of a team will be as to whether or not the system provides for basic political rights and freedoms and whether it is inclusive, for example, with regard to women's participation.

If there is a quota for women, then again this should be assessed to ensure that the law is respected in the implementation. For instance, if parties have an obligation to include x number of women as candidates on their party lists, then the team should check this is respected.

Observers take account of issues relating to the drawing of electoral boundaries/constituencies and also check in the law that there is a transparent and regular mechanism for assessing and redrawing electoral boundaries to ensure equal suffrage is maintained. Electoral constituencies should be drawn in a manner that ensures they are of roughly equal size, thereby ensuring equal

Electoral system – points of enquiry

- Is there broad confidence in the electoral system?
- Does it provide an undue advantage to any party? If so, what sort of advantage?
- Is equal suffrage provided for in the drawing of electoral boundaries?
- Does a mechanism for the regular and transparent review of electoral boundaries exist?
- Has there been any manipulation in the drawing of electoral boundaries?
- Are there any anomalies in the electoral system, such as high vote thresholds, which may create disproportionate results?

suffrage. Differences might be acceptable where they are relatively minor, where it is due to a specific geographic anomaly, or where there is broad agreement on the importance of greater representation by the various groups in the society.

4.2.5 Party and candidate registration

Relevant electoral principles include:

- Genuine election
- Freedom of association
- Right to stand
- Women's participation
- Right to an effective legal remedy

Freedom of association and the right to stand in an election are key civil and political rights to ensure a genuine competitive process. The legal framework has to provide adequately for the right of parties to register and contest the elections and for candidates to be registered. The registration of parties may well be regulated by law and this is often administered by the election management body. Any restrictions on the registration of prospective parties should be reasonable and any requirements for parties to submit

Party and candidate registration – points of enquiry

- Is the right to form and join a political party fairly established in law?
- Has there been any obstruction to the establishment or operations of a party?
- Are procedures for the registration of candidates reasonable and fairly implemented?
- Are the legal procedures and administrative arrangements conducive to the participation of women and minorities?
- Have complaints and appeals been fairly managed?
- Are voters offered a genuine choice between political alternatives?

documentation must also be reasonable and fair, with equal treatment of all submissions. Further, the administration process has to be transparent and any decision to deny registration has to be fully transparent and accountable.

For candidates, the process also needs to be reasonable, timely and conducted on the basis of equal treatment. In case of a complaint, there should be the prospect for a timely legal challenge to seek redress. For instance, in case of a requirement for the submission of signatures or a financial deposit, these must be reasonable requirements in the context and for the level of office sought. Further, individuals should also have the opportunity to stand as an independent candidate.

Procedures may well place a special emphasis on ensuring the registration of women and minorities, with the possibility of special mechanisms as deemed necessary to encourage and enable their timely and effective registration.

4.2.6 Electoral justice (complaints and appeals)

Relevant electoral principles include:

- Right to an effective legal remedy
- Free expression of will of the electors
- Equal treatment
- Transparency

Electoral justice helps to create a democratic environment in which electoral outcomes are accepted by the electorate and the competing candidates. Electoral justice is therefore important in order to provide for the integrity of elections for both individuals and the wider interests of society, as well as helping to negate the chances for violence.

The types of disputes and challenges may take a number of forms, including fundamental rights, administrative challenges, criminal cases and legislative matters. The system for managing such complaints will, or should, likewise mirror the nature of the complaints outlined above, notably in terms of EMBs with primary responsibility for handling administrative matters and courts for civil and criminal matters.²⁰ All aspects of the electoral cycle must be accountable, with people able to seek legal redress in case of a perceived

20 The system adopted in a country to handle election-related complaints and appeals varies. In some instances, there may be a mixed approach, with a complainant able to go to either a court or the electoral body. In other cases, a special election tribunal may be established, specially tasked with handling such complaints.

limitation on their rights and also for dealing with alleged infringements of the law and election regulations.

The mechanisms created to deal with complaints and appeals can vary. In some instances, special electoral tribunals or electoral courts are created. In others, the administration of complaints and appeals is left to the election management body or the courts.

The identification of unlawful electoral practices can be contained in a wide variety of documents, including, the election law and EMB regulations (for instance, relating to the behaviour of election officers, state officials, the media etc.). Many countries also make use of codes of conduct, which can provide a useful high-profile affirmation of the rules and regulations and good practices closer to the period of an election. However, the extent to which such codes are legally binding varies.

Ultimately, the key consideration for the management of complaints and appeals is that the process needs to be accessible, timely, effective and transparent. In addition, it is critical that citizens are adequately informed of their rights and how to pursue a complaint in case of alleged infringement and that the process established for dealing with such complaints is coherent, i.e. with clear delineation of responsibility between the respective bodies tasked with ruling on a complaint and appeal.

Electoral justice (complaints and appeals) – points of enquiry

- Has a body been created or nominated to deal with complaints and appeals?
- Is the body fully operational and effective?
- Is an effective and timely mechanism for the resolution of complaints and appeals in place, including for challenges to election results?
- Are complaints and appeals being managed in a transparent and fair manner?
- Are stakeholders adequately informed of the process for complaints and appeals?
- Is the process coherent?
- Ultimately, is there confidence in the outcome of decisions?

4.2.7 Election campaign (including the media and campaign finance)

Relevant electoral principles include:

- Free expression of will of the electors
- Equal treatment
- Freedom of expression
- Freedom of movement
- Freedom of assembly
- Non-violence

The election campaign is high profile and lies at the heart of a competitive and open process. There should be equal opportunities for all contestants to conduct their campaigns, with no restrictions or unfair practices in the provision of permission for campaign meetings and rallies. Further, there should be no unreasonable restrictions which limit freedom of movement and freedom of assembly. Regulations and codes of conduct related to the campaign need to be clear and provide an inclusive framework for all stakeholders.

The environment for the campaign is also important. No candidates or parties or their supporters should be subject to harassment or intimidation and the campaign should be free from violence. Security forces and the police, where mandated to provide security, must do so in a reasonable manner, providing equal treatment and support for all contestants.

Freedom of expression must also be provided for, with contestants able to freely disseminate their campaign messages to the public and for all contestants to gain reasonable access to the media on the basis of equal treatment. State-owned media, in particular, must provide fair and balanced coverage for all contestants and not be the 'mouthpiece' for the party in power.

The media needs to be free to gather and report information on the election, without any undue pressures or intimidation of journalists. The media has an important role to play in terms of disseminating information to citizens regarding the electoral choices and ensuring they are adequately informed. While privately owned media may have a lower level of regulation placed on it compared to State-owned media, overall it is important for voters to have access to a broad range of information and a wide range of opinions.

Incumbents should not use their office for the undue benefit of their campaign. State resources, including funds, personnel, material and resources, should not be used for the benefit of the incumbent. Where public buildings, for instance, are used for campaign events, they should be available to all contestants on the basis of equal treatment.

There should be a law or at least regulations on political financing, regulating party funding and campaign expenditure. Such provisions need to ensure a transparent and accountable process for monitoring the use of money during a campaign. There is no single model for how this should be done, but a good practice includes an obligation for parties and candidates to disclose funding sources and provide timely and public reports and accounts on their campaign expenditure. In some instances, there may be limits on campaign expenditure, in which case the process needs to be transparent and accountable to ensure these have been adhered to.

Election campaign (including campaign finance) – points of enquiry

- Are freedoms of assembly and movement provided for and respected?
- Have parties been able to conduct their campaigns in a fair and free manner?
- Have state resources been misused at all for the interest of the ruling party/candidate?
- Have there been any reports of violence or intimidation during the campaign?
- Are there any problems or obstacles faced by women candidates?
- Are regulations on campaign financing adhered to in a transparent and accountable manner?
- Are any limits placed on campaign spending and if so, are these respected?
- Is there reported misuse of money/gifts during the election campaign?

The media – points of enquiry

- Is freedom of expression provided for?
- Is there a pluralistic and independent media environment?
- Have there been any instances of hate speech/incitement in the media?
- Is state-owned media providing balanced and fair coverage of all contestants?
- Are there instances of intimidation or harassment of journalists?
- If there is a media code of conduct, is it being respected by the media?
- Did any media break the campaign silence?
- Are there any administrative or other obstacles in the fair granting of broadcast licenses?
- If there is an independent media regulatory authority, is it effective and is it operating in an independent and balanced manner?

4.2.8 Citizen observers

Relevant electoral principles include:

- Freedom of expression
- Freedom of movement
- Transparency
- Non-violence

The presence of non-partisan citizen observer groups is increasingly common during elections in all parts of the world. Citizen engagement in support of their own democratic process can add to confidence in the outcome of an election and can help to promote the integrity and accountability of the process. Such engagement by citizen observers is an important participation right, reflecting the right of all citizens to take part on the conduct of public affairs, as expressed in Article 25 of the ICCPR.

Where the regulations allow for the participation of citizen observers, it is important that there are mechanisms in place to enable their full and active engagement, just as for international observers. Rights will include access to the process, including voting and counting, freedom of movement, and freedom from intimidation or violence.

Citizen observers – points of enquiry

- Do the law/regulations provide for citizen observers?
- Are they afforded full and reasonable access to the process, in line with the rights afforded to international observers?
- Have citizen observer groups reported facing any obstacles in securing accreditation?
- Have such groups reported any intimidation or violence against them?
- Have citizen groups been subject to any threats or harassment?

4.2.9 Voter education

Relevant electoral principles include:

- Right and opportunity to vote
- Equal treatment
- Free expression of will of the electors

There needs to be a comprehensive programme of voter education for voters, including for the voter registration process as well as election day. This needs to reach all parts of the country and may require special programmes to ensure it is also accessible to minorities, persons with disability and illiterate persons.

The election management body will usually have prime responsibility for this, and civil society may also play an active role. Overall, the information needs to ensure voters are aware of the election, when it is taking place, where and how to vote, and the array of political contestants from which they can choose. Broader civic education should also ensure they are aware of the civil and political rights and the nature of the positions/institutions being elected.

Voter education – points of enquiry

- Is a timely and effective programme of voter education being implemented by the election management body?
- Is civil society also conducting education programmes related to the election and broader democratic rights?
- Are voter education campaigns impartial?
- Are such campaigns aimed at all parts of the country and all sectors of society?

4.2.10 Participation and inclusion (women, youth, minorities and persons with disability)

Relevant electoral principles include:

- Right and opportunity to vote
- Women's participation
- Equal treatment
- Equal suffrage
- Free expression of the will of the electors

The electoral process needs to be organised and managed in a manner which ensures the full participation of all eligible citizens. There should be no barriers to the full and active participation, for example, of women, youth, minorities or persons with disability. In fact, special measures may be foreseen to ensure their full and active participation as voters and candidates. This may include, for example, a special quota for women in the electoral system, special EMB strategies to ensure youth voter registration, production of voter education and materials in minority languages, and arrangement of polling stations to ensure unimpeded access for persons with disability. Access for citizen observers is also important.

A Gender Checklist for Observers is provided in Annex 4. This is intended to facilitate the comprehensive assessment of the level of women's participation in the electoral process, including any barriers to women's participation (including gender-based violence), the existence of any special measures to enhance women's participation and level of representation, the involvement

of women in leadership positions in parties and as candidates, the role of women in the EMB and CSOs, media coverage of women in the elections, and the extent of women's participation as voters.

Participation and inclusion – points of enquiry

- Are there any legal impediments to the full and active participation of all sectors of society?
- Did the registration of voters result in any gaps in the broad registration of all citizens?
- Are there any special measures for the representation of women?
- What percentage of the overall number of candidates and elected representatives are women?
- Are there any societal factors which undermine the full participation of women in the electoral process?
- Were citizen observers able to gain accreditation and undertake their duties without obstacles?
- Are minorities reasonably represented as voters and candidates?
- Are there any barriers, such as language, to the participation of minorities?
- Are persons with disability fully engaged in the electoral process? If not, what sort of barriers do they face?
- Are there any special measures to assist persons with disability in the voting process? How effective are these?



5

Observing and Assessing the Election Period

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5.1 Preparations and Management of the Observation

Commonwealth observer teams are co-ordinated by the Secretariat's Election Support Section of the Governance and Peace Directorate. Ordinarily, the staff team is drawn from a range of staff from the Secretariat. The staff team is headed by a staff team leader and provides full support to the observer team throughout the entire duration of the mission.

As outlined in Section 2, a pre-election assessment visit will have been conducted prior to the deployment of the observer team. During this visit, many of the preliminary arrangements for the deployment of the observers will have been made, as will the preliminary plans and arrangements for the deployment of observers around the country.

Observers are sent materials, such as previous reports on elections in the country and a political brief, in advance to help familiarise them with the situation in the country, and an Administrative Note, with full logistical information.

5.2 Observer Briefings and Materials

Observers receive a written background brief on the country, its politics and its electoral framework. In-country, other materials will usually also be distributed, including the election law, other relevant reports, and examples of Commonwealth observer reports, including the most recent from the country being observed, if available and relevant.

Briefing schedules can vary somewhat but will include a briefing by the staff team and meetings with a broad range of stakeholders as outlined in 4.1.1.

Prior to deployment, observers will receive a separate briefing from the staff team on the polling and counting procedures, how the team should observe and report, and the administrative and logistical arrangements for deployment.

5.3 Deployment Methodology

The COG deployment plan is developed during the assessment visit and is agreed with the Chair at the outset of the mission. Commonwealth deployment methodology is designed to reflect best observation practice, while at same time maximising the expertise the available team members. In order to supplement numbers, some staff members may also be deployed as partners to observers.

The deployment plan seeks to ensure coverage based on the following priorities:

- Geographical coverage: north–south–east–west
- Main population centres (usually selected as the base for the observation in the regions)
- Areas of large minority groups (can be of special interest in some circumstances)
- Known hot spots (if there have been specific problems pre-election; however, these need to be balanced against other areas for representative coverage)

In addition, the deployment plan will take account of any security concerns and known logistical challenges, possibly resulting in some areas being avoided as a duty of care towards the team.

5.4 Working in Teams and Orientation in the Field

Observers are deployed in **small** teams and allocated a deployment area. This will ordinarily be outside of the capital. The Chair will usually remain in the capital and be partnered with the staff team leader. All other observers can expect to be deployed outside of the capital and are expected to follow the direction of the team on deployment locations.

Each team is provided with a suitable vehicle with a driver. In case other transportation arrangements are required for deployment to an area, all of these will be made by the staff team and in such a case the team will be met by their driver upon arrival in their respective area. In addition, all accommodation arrangements are made by the staff team and each team is provided with necessary financial resources to cover all deployment costs. Each observer is also provided with a mobile phone for work use. In some cases, satellite phones may also be deemed necessary.

In some instances, deployment locations may be fairly basic in terms of amenities and the conditions may be arduous. As such, all observers must be prepared for such a scenario and should be fit for such duty.

Observers usually have two full days in their area before election day. At some point, teams will touch base with other international observers to discuss co-ordination and to share information. But more generally, pre-election days in the field can be spent meeting relevant stakeholders, such as the regional electoral authorities, relevant civil society groups and regional representatives of political parties, as well as becoming acquainted with the general area and deciding on a route for the observation on election day. The team's driver will often be a source of knowledge for this, helping to decide on what is viable. It can also be helpful to identify and meet with the regional electoral office and potentially with police and civil society as well.

5.5 Security

The emphasis for the Commonwealth is on a duty of care to the observers and, in case of any significant concerns, then some areas may be avoided for the deployment. Observers are provided with a comprehensive insurance and this covers medical emergencies (including medical evacuation). In case special arrangements are required, such as police escort, then this will be arranged. However, experience has shown this is very much the exception. Deployment teams are advised to meet the local police in their area, partly as a protocol, but also because this can be useful in the event of a deterioration in the environment.

The staff team consults broadly on the issue of security, both during the pre-election assessment visit and again after deployment to the country for the observation. Among others, the team will consult with Commonwealth High Commissions in-country, the election management body, police, government sources, other international observer teams and other relevant organisations where applicable, such as the UN. Relevant travel advisories will also be checked. The staff team will have an evacuation plan for the worst-case scenario and observers will be made aware of this.

Commonwealth Observer Groups will have a designated security officer or, depending on the circumstances, at least a staff team member designated with a security function. This person will, through regular contacts with national and international interlocutors, maintain an overview of the security environment and will also be the person to respond in the event of an adverse situation. Security concerns may impact and place limits on the deployment and mobility of teams. It is imperative that the entire team follow such security instructions.

The security situation in a country can deteriorate unexpectedly and/or rapidly, for instance, in the wake of the announcement of the election results. As such, teams need to maintain close communications at all times and be responsive to the instructions given by the team responsible, under the authority of the Chair. Failure to follow such instructions may not only endanger the observer in question, but also his/her team partner and their national support staff. As such, failure to follow security instructions is not acceptable.

Commonwealth teams co-ordinate closely with other international observers. This is helpful in terms of the observation and is also useful for security purposes. Some organisations may have been present on the ground for some weeks and can be a source of information on security and safety

matters, including road conditions. In addition, in case of a problem or a concern, such teams can be a useful contact for local advice and even support. The staff team stands ready to provide assistance at all times, but in some cases a local contact may be more practical.

The provision of mobile communications and a high-quality vehicle are primarily to aid the observation, but also serve an important security and safety function. Communications are critical and Commonwealth teams remain in regular contact throughout the deployment. Road accidents can be a more tangible concern. The provision of a high-quality vehicle and driver helps the team deal with adverse road or weather conditions.

The overriding directive given to observers is that if in doubt in a situation or if a team member is concerned for their safety, then they should err on the side of caution. Observers should never put themselves or a team member at risk and they should in particular avoid a situation which is, or which has the potential to become, violent or dangerous.

5.6 Observation Methodology

- **Mobile observation:** Teams are usually based in a hotel in a large town in the region of responsibility. This also often coincides with the location of the relevant regional election office (see below). However, each team develops a plan to ensure a broad coverage of polling stations in their respective area, encompassing a good mix of urban and rural areas. Teams travel throughout the day, spending a minimum of 20 minutes in each polling station. It is good practice to identify a final polling station of the day somewhere back towards the location of the relevant regional election office and hotel (see below), so as to avoid too much travelling at night at the completion of the process
- **Observing the opening:** Observers will be at the opening of their first polling station 20–30 minutes before the commencement of polling. It can be helpful for this reason to select a polling station somewhere reasonably close to the hotel, as this can be quite early in the morning.
- **Observing the voting:** After observing the opening, observers proceed on their route, which will have been discussed and agreed among the team the day before (including with their driver). Upon arrival at each polling station, observers identify and introduce themselves to the head of the polling station, including showing their accreditation. However, observers must be sensitive to the workflow faced by polling staff and should pick a convenient moment for this. The team will stand in a suitable location, finding a balance between getting a good view of the process while at the same time being relatively discreet and unobtrusive.
- Observers are provided with an aide memoire to facilitate their observation at each polling station and this indicates the types of information to be collected and reported on (see 5.8 below and Annex 3).
- The day can be a long one and observers will take breaks to ensure they are in good shape for the end of the day. This is also important for the driver. Observers should also find time to enable the driver to vote, wherever feasible.
- **Observing the count:** Observers will get to their final polling station of the day some 20–30 minutes before the close of polling, to observe how this is managed. They will remain to follow the count of ballots at that

polling station. If the system does not provide for counting at the polling station but rather the packing up of ballots and delivery to a regional counting centre, then observers will follow this.

- **Observing the tabulation:** Observers follow the delivery of the vote count from their polling station to the regional count centre (systems in each country vary and local advice will be given by the staff team depending on the system used). Observers also usually remain in the deployment area the day after the election and can return to the tabulation to follow the process further. The length of time spent in the area afterwards will vary.
- **Meetings:** On deployment, time and conditions permitting, observers meet with regional-level election officials and representatives of parties, candidates and civil society groups in their respective areas. They also meet with other international observers, if present, and the police.
- While visiting polling places, observers meet with polling officials. They also talk with party agents and local observers. Inside the polling station, this should be done discreetly. In addition, observers can speak with voters, but should not do so inside the polling station or while voters are waiting in line, as this may be misconstrued.
- **Co-ordination with other international observers:** Observers are informed if other international observer teams are present in their area and will be provided with contact details. If the other groups have had long-term observers, then these can be a very useful source of information and contacts. Making such connections is also important for security and safety, as mentioned above.
- The Commonwealth team can also discuss with other international observers, co-ordination for the election day route in order to avoid unnecessary duplication. However, if the Commonwealth team feels strongly that a particular area is important for it to cover, then this can still be done, but teams should avoid unnecessarily being in the same polling station at the same time as other international teams.

5.7 Code of Conduct on Election Day

The Code of Conduct was discussed in detail in Section 2. However, it is worth reiterating a few key points here as they relate specifically to observation in the polling stations and across election days:

- **Non-Interference:** Observers should not give instructions inside a polling station and should not get actively involved in any organisational aspect. Commonwealth teams have no executive authority and will only observe the process and report on it. If specific problems or questions emerge locally, then these should be discreetly raised with the Presiding Officer (Head) of the Polling Station and/or the regional electoral officials. It is then for them to deal with the issue if they choose and for Commonwealth teams to observe and report on how they respond. It is also possible for a problem to be related to the COG Chair, who can follow up with the national-level election management body as appropriate.
- Questions should always be asked in an open and polite manner, never in an accusatory or condemnatory manner. Observers must never give instructions or advice on how to manage the process.
- **Impartiality:** The Commonwealth team is impartial and neutral. The team is not concerned with the outcome of the election *per se*, but rather the quality of the process leading to a result. For observers, impartiality can relate to behaviour, comments and also perception. Observers should be careful of unguarded comments in the polling station, as they relax, and even in their car. Observers should also avoid being seen to be too close to the supporters or representatives of a particular party or candidate. Observers should also be careful of which colours they wear on election day, to avoid the perception of partiality in case it is a party colour.
- Observers should also refrain from giving a lift in their car to anybody else, in case they are known locally as a supporter of a particular party and this is misconstrued.
- **No comments on the process:** In line with the Code of Conduct, the Chair is the spokesperson for the team and the only person therefore mandated to offer comments on the process on behalf of the team.

Observers should refrain from being drawn into such comments, or anything that could be construed as a comment, by media questions as they go about their observation duties.

- Observers can explain their duties to the media, how Commonwealth observers are organised and deployed, and that the Chair will issue a statement after the polls to reflect the overall conclusion of the entire team after consideration of all of the reports and upon completion of the process.

5.8 Key Points of Enquiry

Observers are provided with an aide memoire (see Annex 3), which guides them through the various questions and issues related to the opening, voting and counting processes, as well as the general environment for the polls. Some of the key points of enquiry for the respective stages follow below.

5.8.1 The general environment

As observers travel around their area prior to election day and on the day, observing and meeting stakeholders, they observe the general environment for the polls. The environment needs to be conducive to the free expression of the will of electors, with freedom of movement and assembly provided for.

- If a period of campaign silence is provided for, has it been respected?
- Are there instances of violence and/or intimidation?
- Are large groups of party supporters evident, in a manner that may be a form of intimidation?
- Is the presence of police/security helpful or a concern?
- Are the conditions conducive to voters participating without fear or inducement?

5.8.2 EMB preparations and opening

Polling stations need to be open on time, with materials and staff present. Procedures need to be transparent to prove integrity of the process.

- Is the polling station ready to open on time, with officials and materials present?
- If there is a queue, is it orderly and well managed?
- Is the process suitably transparent and accountable, with the box proven to be empty prior to commencement of voting?
- Is the ballot box properly secured/sealed according to regulations?

5.8.3 Voting and participation

The right to vote and secrecy of the vote need to be provided for. There also need to be safeguards for the integrity of the process through checks on voter identity.

- Is the queue well managed at each polling station?
- Is the identity of voters suitably checked and proven?
- Is the voter register proving reliable, enabling registered persons to vote?
- Are ballots being handled in the correct manner?
- Are voters able to vote in secret?
- Is the ballot box secure?
- If ink is required to be applied, is it being applied?
- Are any unauthorised persons involved in the process?
- Are citizen observers and party agents able to adequately follow proceedings?
- Are women, youth and minorities well represented as voters?
- Is there any tension or violence?
- Are women well represented as poll officials?

5.8.4 Vote count

The vote count needs to be conducted in a transparent, fair and honest manner to ensure the confidence of stakeholders.

- At the close of polling, were those legitimately waiting to vote able to do so?
- Is the paperwork properly completed and the materials secured?
- Is the counting of ballots done transparently?
- Is the determination of invalid ballots reasonable, fair and consistent?
- Have there been any substantive complaints?
- If provided for, is a copy of the results provided to party agents and also posted at the polling place?
- Are the results generally accepted by those present?
- Are materials suitably secured and delivered to the next level of administration, without delay or interference?
- If transmission is by phone, is it done promptly and without a problem?

5.8.5 Tabulation and results

The tabulation and final results need to be transparent, accountable and timely to ensure broad confidence in the outcome.

- Is the delivery of materials and the results managed in an effective manner, ensuring integrity of the process?
- Is the tabulation done in a transparent manner, including the inputting of data into a computer network, if relevant?
- Do party agents and citizen observers appear to have confidence in the process?
- Have there been any substantive complaints?
- Are the results announced according to the stated timelines?
- The tabulation process can be drawn out: observers need to plan their coverage of the process carefully and decide what is feasible. But wherever possible, observers should seek to get a thorough understanding of the tabulation process, including the inputting of data, handling of complaints and final determination of results.

5.8.6 Post-election environment

Observers also observe the post-election environment, assessing how the process and results are being received. Again, follow-up meetings with parties and relevant civil society organisations are helpful in this regard. There may be tensions in the post-election period and teams should be aware of this and refrain from taking risks if the environment is hostile or deteriorating. Communication with the Chair, staff team leader and the designated security representatives, as well as other international teams in the area, will be critical during this sensitive phase.

5.9 Reporting and Debriefing

The staff team and the Chair remain in contact at all times during deployment, but with a particular emphasis during the day of the election, with observers able to report back on key findings. Teams collect a wide variety of information and ultimately the Commonwealth team needs to take account of the reports of all the teams and draw an overall conclusion based on the information gathered during the briefing programme and from the observations during deployment. In this sense, the Commonwealth team will seek to identify major trends and incidents.

Teams will be in constant contact throughout the day by phone, exchanging perspectives and enabling the Chair to remain updated on the process in case of a need to respond to issues or questions as he/she deems fit.

Teams have an aide memoire (see Annex 3) for use in each polling station. This guides teams through the process. It also provides a coherent and consistent reporting tool. Each report should reflect the joint and agreed findings of a team.

Insofar as possible, observations should be substantiated, and teams should retain their reports and/or notes from each polling station visited. These are used for the initial debriefing (possibly by phone at the end of the day or in the capital, depending on the logistical plan), which is covered below.

Prior to issuing the Preliminary Statement, the Chair meets with representatives of other international observer teams and citizen observer groups to share preliminary findings and conclusions. This will be an important opportunity for the team to clarify its findings and ensure they reflect the broader experience of other teams, which may have had a far larger presence than that of the Commonwealth.

Upon return to the capital, observers gather to debrief on their findings. In many respects, this is a confirmation process because there will have been extensive discussion and feedback throughout the deployment period, but it is an important opportunity to go through all of the issues to ensure nothing is missed and clarifications are provided as required. At the conclusion of the debriefing, while it is recognised that the experience of teams deployed to different areas may vary, there should be a consensus on the key findings.



6

Statements, Reports and Follow-Up



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6.1 Dealing with the Media

6.1.1 Media strategy

Commonwealth Observer Groups have a strategy for a well-managed, high-visibility approach, holding press conferences to issue an Arrival Statement at the outset of the mission and a Preliminary Statement one to two days after the close of polls. The Chair of a COG will also likely give various media interviews. Other forms of Commonwealth teams may have a less high-profile approach, with some formats not issuing public statements at all, and in such instances, teams will be advised on the appropriate approach to dealing with the media.

Visibility for the team enhances its role and increases the impact it makes. Ensuring the general public is aware of the presence and role of the Commonwealth team can help increase general levels of confidence in the process. Furthermore, such visibility can also help to promote and reinforce the role of the Commonwealth in the country. However, whatever the level of visibility pursued, the team's media strategy needs to be managed carefully to ensure it meets the needs of the team in a given context.

The staff team usually includes a media officer. The role of the media officer, among other things, is to establish and co-ordinate relations with the media, arrange press conferences and ensure the wide distribution of COG statements. The media officer will also arrange one-on-one media interviews for the Chair.

6.1.2 Dealing with the media – guidelines for observers

In some instances, observers may find themselves approached by the media while on deployment. The following points provide guidelines for such interactions:

- In case of any questions from the media, observers should be open in explaining the role and mandate of the mission and about the work of the observers themselves, but should avoid making comments on the substance of the process. Such enquiries can simply be referred to the Chair via the media officer.

- The rule on refraining from commenting on the conduct of the process applies also to observers' use of social media during the mission. It is good practice to refrain from use of social media during the course of the mission, to avoid any problems or misunderstandings.

6.2 Announcement of the Commonwealth Team

Prior to the deployment of a team, the Secretary-General issues a press release announcing the team and providing the names and profile of observers. This is released by the Secretariat through its regular media distribution channels, including via its website and social media. A special effort will also be made to ensure pick-up by media in the country to be observed.

Such statements can be found at: www.thecommonwealth.org/media

6.3 Arrival Press Conference and Statement

Once all observers have arrived, a press conference is arranged to introduce the COG. The Chair leads the press conference, presenting the Arrival Statement and taking questions from the media.

The basic aim of the Arrival Statement is to explain the mandate and methodology of the COG. The Arrival Statement also provides an ideal opportunity to re-emphasise that the team has been invited and that it is impartial and will not seek to interfere in the process at all.

At the arrival press conference, media often want to ask questions about the conduct of the process so far, but the team will avoid engaging on the process thus far. The focus should instead be to stress how:

- the team will be looking at all of the factors impinging on the conduct of the elections;
- all aspects of the process should be conducted in accordance with national legislation and regional and international standards for elections, and the Commonwealth team will be assessing the process against these; and
- the team will present its findings and conclusions in its Preliminary Statement following the election.

6.4 Comments by the Chair (Including Election Day)

The Chair refrains from making any substantive comments on the process prior to the Preliminary Statement. However, there may be occasion when he/she feels it is required, for instance, in case of a serious incident (such as significant election-related violence) or if the process has hit a major problem (such as a delay or a major organisational shortcoming). In such a case, the Chair can decide if it is more appropriate for such a comment to be made in the form of a statement or in a direct interview.

On the day of the election, the Chair will inevitably be asked questions regarding the process. Again, the emphasis at this time will be on explaining how the Commonwealth team as a whole is operating and that the intention is to issue a Preliminary Statement after the election reflecting on the overall findings of the team. It is not helpful to make comments based solely on personal experience.

6.5 Preliminary Statement

The Preliminary Statement is arguably one of the most important outputs for an observer team. It presents the preliminary findings and conclusions on the entire process and is issued at the time of highest and most intense media and public interest. The Preliminary Statement comprises the key findings and conclusions of the mission up to that point. It is also important to remember that the Preliminary Statement receives the largest amount of media coverage and so is critical in defining the mission in the perception of stakeholders, the media and the public.

It is called a 'Preliminary Statement' because it is issued prior to completion of the entire process. Ideally it is issued prior to the election results, having been announced so that the focus remains on the process and not the outcome *per se*. If there are any further developments, for good or bad, then these will be reflected in the team's Final Report.

A Preliminary Statement will usually be arranged in the following way:

- **Headline**
A short headline capturing the overall findings, indicating the key positives and negatives reflective of the key issues from the pre-election, election day and (as far as possible) results and post-election.
- **Introduction**
A brief overview of the mandate and organisation of the Commonwealth team and explaining that the statement is preliminary, pending completion of the process and will be followed by the Final Report at a later stage.
- **Key preliminary findings**
A bullet point list providing a succinct overview of the key findings and a preliminary conclusion. It needs to be made clear that this is a Preliminary Statement, while important parts of the process, such as results, are ongoing.
- **Legal framework**
Provide an explanation as to whether or not the legal framework delivers the basic conditions for credible, competitive elections. Also reflect on any areas where the legal framework may be lacking.

- **Election administration**

Some detailed findings on the status of the election management body, including reflections on its structure and composition, and if it enjoys widespread confidence. This section can also include some observations on its effectiveness and how well it managed the process and prepared for election day. Depending on the system in the country, this section can also provide some comment on how well election disputes were managed by the EMB.

- **Election campaign and the media**

Some detailed findings on the conduct of the campaign. This will include the extent to which key freedoms were provided, if there were any violent incidents or major infringements during the campaign, and also if there was misuse of state resources at all. This section can also include reflections on the extent to which the media provided a balanced coverage of the campaign, with special comment on the extent to which state-owned media met its obligations.

- **Participation and inclusion**

Some findings relating to the participation and inclusion of women, youth, minorities and persons with disability throughout the electoral process, notably as voters, candidates and, if known at this stage, elected representatives. Highlight also any major obstacles or shortcomings as appropriate, as well as any special initiatives which may have facilitated such participation.

- **Voting, counting and tabulation**

Provide the main findings from the reports of observers on the conduct of voting, counting and tabulation. This will include reflections on the quality of the opening, voting and ballot count, with special reflection on the principles of the right to vote, secret vote, voters being free to express their will, and the transparency and honesty of the process. Beware of isolating the findings from election day, which may, for instance, give a very positive impression when the findings related to the pre-election period may be more critical. In such a circumstance, the findings of the Commonwealth team can be taken out of context to give an undue impression.

6.6 Other Statements

At the discretion of the Chair, the Commonwealth team may also issue other statements, including, potentially, a joint statement or communiqué with other international missions. For example, if the Chair feels there is an issue of pressing concern, such as relating to electoral violence or a major disruption in the process, then he/she may determine that a statement is required. In such an instance, the Chair may issue a unilateral statement on behalf of the COG or may decide to be part of a joint statement issued by the various international groups in-country.

6.7 Final Report

The Final Report contains more detailed findings on the various stages of the electoral process, as well as an overall assessment of the entire electoral process and the mission's final conclusions. The report also includes a series of recommendations for future elections.

The recommendations are a critical aspect of the Final Report. The spirit of an observation mission is one of collaboration and support for the host country and the recommendations offered in a Final Report are one of the main support tools, offering suggestions for improvements to the electoral process for future elections. They can also link directly to the post-election follow-up (see 6.8 below).

Recommendations should be practical and implementable, with some tangible link to ongoing discourse in the country and reflective of best practices and international standards. Ideally, the mission should strive to offer a relatively limited number of high-value recommendations and should ensure they are written in a clear manner. It should be made clear for whom the recommendation is intended; for example, is it targeting the work of the EMB or a prospective change in the legal framework and is therefore aimed at the parliament, or does it relate to the conduct of political parties or the media, etc.

The Final Report is worked on in-country by the team, usually for the three or four days following redeployment to the capital and completed prior to departure of the observers. It contains a detailed description of the various electoral processes and substantive and substantiated analysis and observations.

It will include a letter of transmittal to the Secretary-General, signed by the Chair and all of the observers. Once completed, it is given to the Secretary-General, who will in turn distribute it to the host government, election management body, and representatives of parties and CSOs the team met as part of the briefing. Following this, the report is placed on the Commonwealth web portal for public consideration.

The report shall be organised in the following manner:

- Table of Contents
- Signed Letter of Transmittal
- **Executive Summary (including key conclusions and recommendations)**

- A fairly concise presentation of the COG's main conclusions from each section; also present the overall conclusion as to whether or not the electoral process was fair, credible, transparent and inclusive.
- Additionally, present the COG's recommendations, clearly indicating at which institution/stakeholder the recommendation is aimed. Ensure recommendations, which need to be based on electoral standards and good practices, are worded in a clear and coherent manner to ensure they are understandable and implementable.
- **Chapter 1 – Introduction**
 - Provide information regarding the organisation of the COG.
- **Chapter 2 – Political Background**
 - Provide the relevant historical and political context for the elections, including recent information regarding the political contestants for the observed elections. Be careful not to provide too much historical information, which although interesting, is not strictly relevant for the report.
- **Chapter 3 – Legal Framework and Election Administration**
 - For the legal framework, provide an explanation of the key legal instruments which provided the framework for the polls, as well as an explanation of the election dispute mechanisms and the electoral system.
 - Provide an overview of the legal status, structure and operations of the election management body, including an explanation of how key aspects such as boundary delimitation, voter registration, candidate/ party registration and other relevant aspects are organised.
 - Identify aspects of the legal framework and election administration considered to be issues of concern.
 - List recommendations related to this section.²¹
- **Chapter 4 – Participation and Inclusion**
 - Provide an overview of the legal and regulatory framework related to the participation of women, youth, minorities and persons with disability, and also for the participation of citizen observers.

21 In short, for sections such as this, the chapters will provide: 1) description of process, 2) identification of problems, 3) recommendations for change, so there is a logical and coherent flow.

- Provide feedback and analysis based on the findings of the COG related to issues of participation and inclusivity for the above groups.
- Notably, there should be a comprehensive consideration of issues relating to women's participation. See Gender Checklist (Annex 4).
- Identify key areas of concern related to any obstacles or shortcomings in participation and inclusivity.
- List recommendations related to this section.
- **Chapter 5 – Election Campaign and Media Coverage**
 - Outline the main framework for the conduct of the election campaign, as provided in relevant laws, regulations and codes of conduct.
 - Provide also an outline as to how political parties are registered and funded, as applicable.
 - Provide an overview of the conduct of the campaign.
 - Provide an analysis of issues of concern related to the conduct of the campaign, such as any limitations on campaign freedoms, instances of violence, misuse of state resources, lapses in legislation/regulation.
 - Outline the media environment and legal framework for media coverage of the election.
 - Provide an overview of how fair and balanced the media was in its coverage of the election and any reports of limitations on media freedoms.
 - Identify other issues related to the media, such as those related to media laws.
 - List recommendations related to this section.
- **Chapter 6 – Voting, Counting and Tabulation**
 - Outline the procedures for voting, counting and tabulation.
 - Provide feedback and analysis based on the reports of observers.
 - Identify issues of concern related to the conduct of voting, counting and tabulation, including those related to the regulatory framework, as applicable.
 - List recommendations related to this section.

- Annex 1 – Biographies of Chairperson and Observers
- Annex 2 – Deployment Plan
- Annex 3 – Arrival Statement
- Annex 4 – Preliminary Statement
- Annex 5 – Other Statements (as relevant)

How to present recommendations

- Recommendations will appear in two places in the report: at the end of the respective section and collated together at the end of the executive summary.²² Ideally, there should not be too many recommendations and the team should avoid overly granular ones which will not have a major impact on the process.
- It is helpful if the team identifies for which institution/actor the recommendation is intended. In cases where it is a recommendation for changes to the legal framework, then it will likely be the parliament which is the responsible institution.
- The team may consider organising a smaller number of priority recommendations for the Executive Summary, with the remainder identified only in each chapter. These will be the major recommendations which seek to address major shortcomings in the process.
- Recommendations should be specific, constructive and based on international standards and best electoral practices, and not merely an individual observer's personal preference based on the experience from their own country.

22 This is repetitive, but the recommendations of a COG are one of the main outputs and contributions the team will make.

6.8 Follow-Up

Commonwealth election observation has far greater impact and value when the recommendations offered by a COG and other observers are addressed to reduce the risk of shortcomings in future elections. The Secretariat follows the electoral cycle approach to strengthening elections and will engage through technical assistance and advice during the post-election and pre-election periods. The recommendations in the Final Report are used as a basis for discussing possible support with the EMB and other key stakeholders.

The 2018 *Revised Guidelines* make provision for follow-up activities; for example, a return visit may also be undertaken by the Secretariat to discuss the findings and recommendations of the COG with relevant authorities and actors, with a view to highlighting suggested reforms, their responses and potential Commonwealth assistance. A 'mid-term' follow-up mission may be undertaken upon request to assess the extent of reform and to identify areas that still need to be addressed in preparation for the next election.

In conducting its follow-up, the Secretariat also remains in close co-ordination with other relevant organisations which provide assistance and observation, to encourage synergies and mutually reinforcing programmes.



Annexes



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Annex 1

Revised Commonwealth Guidelines for the Conduct of Election Observation in Member Countries

1. Introduction

- 1.1 The Commonwealth Charter recognises 'the inalienable right of individuals to participate in democratic processes, in particular through free and fair elections in shaping the society in which they live'. The original Commonwealth Guidelines on election observation were agreed to by Heads at the 1991 CHOGM. Since then, the Commonwealth has deployed 137 observation missions to 38 of the organisation's 53 member countries. During this period, election observation has become integral to the Secretariat's work in advancing the Commonwealth's political values and principles. However, since 1991, there have been many developments in the approach to election observation and in the conduct of elections.
- 1.2 These revised Commonwealth Guidelines for the Conduct of Election Observation adopt best practice, as also reflected in the Declaration of Principles on International Election Observation, and will ensure the ongoing integrity, value and impact of Commonwealth observer missions as they continue to support the strengthening of electoral democracy and the political rights of Commonwealth citizens.

2. Establishing Commonwealth Observer Groups

- 2.1 Commonwealth election observation is only considered with the written invitation or welcome of a government or the election management body. Such an invitation needs to be timely. The decision to deploy a Commonwealth Observer Group (COG) rests with the Secretary-General, who will respond in writing.
- 2.2 In determining whether to deploy a COG, the Secretary-General needs to be assured that the conditions for fair, credible and inclusive elections exist, cognisant of the Terms of Reference for a Commonwealth Observer Group, and there is a broad welcome for the presence of a

Commonwealth team. COGs must also be assured of free access to relevant electoral processes and material, electoral actors and freedom of movement around a member country. Adverse security factors which may impact on observers may also be taken into account. A Secretariat pre-election assessment team is usually deployed some two to three months in advance of a prospective COG in order to verify these criteria.

3. Composition

- 3.1 COGs are independent, including of the Secretariat. Members of a COG are invited by the Secretary-General to be a part of the team and each member is invited in their personal capacity as an eminent Commonwealth citizen, not as a representative of any member country, government or political group. COGs are usually led by a senior political figure, often a former Head of State or former Head of Government, referred to as the Chair. In addition to the Chair, typically a COG will include current or former Members of Parliament, election officials, representatives of civil society, media, gender specialists, youth representatives and former members of the judiciary.
- 3.2 The size of a team will vary, depending largely on the size of the member country being observed. Team members are drawn from any Commonwealth member country except from the one being observed. To the extent possible, the team should reflect a broad range of regions of the Commonwealth and the diversity of member countries. COGs should be gender balanced. Gender balance should also be taken into account when selecting a Chair.
- 3.3 COGs are supported by a staff team from the Secretariat. The staff team will support the COG in all its activities and will also assist the COG with Commonwealth methodology and best international practice for election observation.

4. Terms of Reference

- 4.1 The role of a COG is to offer an independent, informed and impartial analysis of the electoral process, taking account of all factors which may impinge on the overall credibility of an election. The standard Terms of Reference are attached as Annex 1. A COG has no executive role and will not interfere in the electoral process. Commonwealth observers are required to abide by a code of conduct, in line with best international practice.

- 4.2 In conducting its analysis and in making their overall assessment, a COG will take account of, among other things: the inclusivity of voter registration; freedom of candidate nominations; freedom of the campaign; balance and tone of media coverage; participation rights for women, youth, minorities and persons with disability; neutrality of officials; integrity of voting and procedures; right of voters to cast a secret ballot; absence of violence and intimidation; integrity of the vote count; and results tabulation.
- 4.3 The COG is required to issue a public statement of preliminary findings and conclusions, as well as a Final Report, including recommendations. The COG may take into consideration issues raised by stakeholders in response to the Preliminary Statement in its Final Report.

5. Good Offices

- 5.1 In the exceptional circumstance of a deteriorating political environment, and if invited by the host government and other political actors, the Secretary-General may request the COG Chair to undertake a Good Offices role.

6. Method of Working

- 6.1 A COG will usually be present for the final stages of the campaign through to the results process. During this period, the COG will receive a thorough briefing in the capital and will meet a broad range of relevant national stakeholders and others, including international observers and Commonwealth diplomats, prior to members of the COG being deployed across the member country to follow voting and counting in a representative array of regions.
- 6.2 The Commonwealth may also deploy a small number of advance members of the COG prior to the arrival of the main Group.
- 6.3 The Chair will issue a Preliminary Statement within 48 hours after polling, at a press event in the capital. In some circumstances, the Chair may choose to delay the issuing of the statement and may also decide to issue a second statement later as required. The Final Report of the COG will be issued in a timely manner, initially to key national stakeholders and then made public.

- 6.4 Commonwealth teams are expected to co-operate closely with other observer teams throughout their deployment, including co-ordination and the sharing of information. On occasion, as deemed appropriate by the Chair, the Commonwealth team may also issue a joint statement with other international observers relating to a specific concern.

7. Cycle of Engagement on Democracy Support

- 7.1 Commonwealth election observation has far greater impact and value when the recommendations offered by a COG, and other observers, are addressed so as to reduce the risk of shortcomings in future elections. Ideally there should be some form of domestic mechanism in place in each member country to review the conduct of an election and take forward prospective reforms as required.
- 7.2 Commonwealth engagement in consultation and agreement with a host member country may include the deployment of a pre-election assessment mission, a COG, a post-election return visit to deliver the Final Report, a mid-term follow-up mission to assess the status of reforms, and observation of other aspects of the electoral cycle.
- 7.3 As a final stage of the COG, a return visit may be undertaken shortly after the publication of the Final Report to discuss the findings and recommendations with relevant authorities and actors with a view to highlighting suggested reforms, their responses and potential Commonwealth technical assistance. Subsequently, the Secretariat will remain in contact with the relevant authorities to follow progress.
- 7.4 A 'mid-term' follow-up mission to an observed member country may be undertaken upon request to assess the extent of reform and to identify areas still needing to be addressed in preparation for the next election. Further Commonwealth technical assistance and/or engagement, carried out in partnership and consultation, may also be considered as a result of the findings of a follow-up mission.
- 7.5 The Commonwealth upon request may also observe other parts of the electoral process outside of the framework of a COG and at different times in the electoral cycle, such as voter registration. In such a case, a small expert team may be deployed.

8. Financial

- 8.1 The Commonwealth remains committed to funding its own election observation, recognising its work in this field as a core activity in promoting Commonwealth values and principles.
- 8.2 The costs of each observer mission are covered by the Secretariat. No funds are sought from the host member country being observed. In accordance with international transparency standards, information on funding of COGs will be published consistent with Commonwealth governance procedures and provided upon request to a member country.

9. Coherence with other Commonwealth Assistance

- 9.1 The promotion of Commonwealth political values through the conduct of election observation is consistent with, and undertaken in coherence with, broader Commonwealth activities, including Good Offices as well as other initiatives.

United Kingdom
20 April 2018

Annex 1 – Standard Terms of Reference for Commonwealth Observer Groups

'The Group is established by the Commonwealth Secretary-General at the written invitation or welcome of the [name of inviting authority]. The Group is to consider the various factors impinging on the credibility of the electoral process as a whole. It will determine in its own judgement whether the elections have been conducted according to the standards for democratic elections to which the member state has committed itself, with reference to national election-related legislation and relevant regional, Commonwealth, including its Charter, and other international commitments.

The Group is to act impartially and independently. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgement accordingly. It would also be free to propose to the authorities concerned such action on institutional, procedural and other matters as would assist the holding of such elections.

The Group is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government, Electoral Commission and political parties taking part in the elections and to all Commonwealth Governments. Thereafter, the Final Report may be used to help inform relevant follow-up activities.'

Annex 2

DECLARATION OF PRINCIPLES FOR INTERNATIONAL ELECTION OBSERVATION

and

CODE OF CONDUCT FOR INTERNATIONAL ELECTION OBSERVERS

DECLARATION
OF PRINCIPLES
FOR INTERNATIONAL
ELECTION OBSERVATION

Commemorated October 27, 2005, at the

United Nations, New York

and

CODE OF CONDUCT
FOR INTERNATIONAL
ELECTION OBSERVERS

Commemorated October 27,
2005, at the United Nations,
New York

Endorsing Organizations as of October 24, 2005:

African Union

Asian Network for Free Elections (ANFREL)

The Carter Center

Center for Electoral Promotion and Assistance (CAPEL)

Commonwealth Secretariat

Council of Europe European Commission for Democracy through Law
(Venice Commission)

Council of Europe – Parliamentary Assembly Electoral Institute of
Southern Africa (EISA) European Commission

European Network of Election Monitoring Organizations (ENEMO)

Electoral Reform International Services (ERIS)

IFES

International IDEA

Inter-Parliamentary Union

International Republican Institute (IRI)

National Democratic Institute (NDI)

Organization of American States (OAS)

Organization for Security and Cooperation in Europe, Office of Democratic
Institutions and Human Rights (OSCE/ODIHR)

Pacific Islands, Australia & New Zealand Electoral Administrators'
Association (PIANZEA)

Pacific Island Forum

United Nations

*This Declaration and the accompanying Code of Conduct for International
Election Observers remain open for endorsement by other intergovernmental and
international nongovernmental organizations. Endorsements should be recorded
with the United Nations Electoral Assistance Division.*

DECLARATION OF PRINCIPLES FOR INTERNATIONAL ELECTION OBSERVATION

October 27, 2005

Genuine democratic elections are an expression of sovereignty, which belongs to the people of a country, the free expression of whose will provides the basis for the authority and legitimacy of government. The rights of citizens to vote and to be elected at periodic, genuine democratic elections are internationally recognized human rights. Genuine democratic elections serve to resolve peacefully the competition for political power within a country and thus are central to the maintenance of peace and stability. Where governments are legitimized through genuine democratic elections, the scope for non-democratic challenges to power is reduced.

Genuine democratic elections are a requisite condition for democratic governance, because they are the vehicle through which the people of a country freely express their will, on a basis established by law, as to who shall have the legitimacy to govern in their name and in their interests. Achieving genuine democratic elections is a part of establishing broader processes and institutions of democratic governance. Therefore, while all election processes should reflect universal principles for genuine democratic elections, no election can be separated from the political, cultural and historical context in which it takes place.

Genuine democratic elections cannot be achieved unless a wide range of other human rights and fundamental freedoms can be exercised on an ongoing basis without discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, including among others disabilities, and without arbitrary and unreasonable restrictions. They, like other human rights and democracy more broadly, cannot be achieved without the protections of the rule of law. These precepts are recognized by human rights and other international instruments and by the documents of numerous intergovernmental organizations. Achieving genuine democratic elections therefore has become a matter of concern for international organizations, just as it is the concern of national institutions, political competitors, citizens and their civic organizations.

International election observation expresses the interest of the international community in the achievement of democratic elections, as part of democratic development, including respect for human rights and the rule of law. International election observation, which focuses on civil and political rights, is part of international human rights monitoring and must be conducted on the basis of the highest standards for impartiality concerning national political competitors and must be free from any bilateral or multilateral considerations that could conflict with impartiality. It assesses election processes in accordance with international principles for genuine democratic elections and domestic law, while recognizing that it is the people of a country who ultimately determine credibility and legitimacy of an election process.

DECLARATION OF PRINCIPLES FOR INTERNATIONAL ELECTION OBSERVATION

International election observation has the potential to enhance the integrity of election processes, by deterring and exposing irregularities and fraud and by providing recommendations for improving electoral processes. It can promote public confidence, as warranted, promote electoral participation and mitigate the potential for election-related conflict. It also serves to enhance international understanding through the sharing of experiences and information about democratic development.

International election observation has become widely accepted around the world and plays an important role in providing accurate and impartial assessments about the nature of electoral processes. Accurate and impartial international election observation requires credible methodologies and cooperation with national authorities, the national political competitors (political parties, candidates and supporters of positions on referenda), domestic election monitoring organizations and other credible international election observer organizations, among others.

The intergovernmental and international nongovernmental organizations endorsing this Declaration and the accompanying Code of Conduct for International Election Observers therefore have joined to declare:

Genuine democratic elections are an expression of sovereignty, which belongs to the people of a country, the free expression of whose will provides the basis for the authority and legitimacy of government. The rights of citizens to vote and to be elected at periodic, genuine democratic elections are internationally recognized human rights. Genuine democratic elections are central for maintaining peace and stability, and they provide the mandate for democratic governance.

- 2 In accordance with the Universal Declaration of Human Rights, the International Covenant for Civil and Political Rights and other international instruments, everyone has the right and must be provided with the opportunity to participate in the government and public affairs of his or her country, without any discrimination prohibited by international human rights principles and without any unreasonable

restrictions. This right can be exercised directly, by participating in referenda, standing for elected office and by other means, or can be exercised through freely chosen representatives.

- 3 The will of the people of a country is the basis for the authority of government, and that will must be determined through genuine periodic elections, which guarantee the right and opportunity to vote freely and to be elected fairly through universal and equal suffrage by secret balloting or equivalent free voting procedures, the results of which are accurately counted, announced and respected. A significant number of rights and freedoms, processes, laws and institutions are therefore involved in achieving genuine democratic elections.
- 4 International election observation is: the systematic, comprehensive and accurate gathering of information concerning the laws, processes and institutions related to the conduct of elections and other factors concerning the overall electoral environment; the impartial and professional analysis of such information; and the drawing of conclusions about the character of electoral processes based on the highest standards for accuracy of information and impartiality of analysis. International election observation should, when possible, offer recommendations for improving the integrity and effectiveness of electoral and related processes, while not interfering in and thus hindering such processes. International election observation missions are: organized efforts of intergovernmental and international nongovernmental organizations and associations to conduct international election observation.

DECLARATION OF PRINCIPLES FOR INTERNATIONAL ELECTION OBSERVATION

- 5 International election observation evaluates pre-election, election-day and post-election periods through comprehensive, long-term observation, employing a variety of techniques. As part of these efforts, specialized observation missions may examine limited pre-election or post-election issues and specific processes (such as, delimitation of election districts, voter registration, use of electronic technologies and functioning of electoral complaint mechanisms). Stand-alone, specialized observation missions may also be employed, as long as such missions make clear public statements that their activities and conclusions are limited in scope and that they draw no conclusions about the overall election process based on such limited activities. All observer missions must make concerted efforts to place the election day into its context and not to over-emphasize the importance of election day observations. International election observation examines conditions relating to the right to vote and to be elected, including, among other things, discrimination or other obstacles that hinder participation in electoral processes based on political or other opinion, gender, race, colour, ethnicity, language, religion, national or social origin, property, birth or other status, such as physical disabilities. The findings of international election observation missions provide a factual common point of reference for all persons interested in the elections, including the political competitors. This can be particularly valuable in the context of disputed elections, where impartial and accurate findings can help to mitigate the potential for conflicts.

- 6 International election observation is conducted for the benefit of the people of the country holding the elections and for the benefit of the international community. It is process oriented, not concerned with any particular electoral result, and is concerned with results only to the degree that they are reported honestly and accurately in a transparent and timely manner. No one should be allowed to be a member of an international election observer mission unless that person is free from any political, economic or other conflicts of interest that would interfere with conducting observations accurately and impartially and/or drawing

conclusions about the character of the election process accurately and impartially. These criteria must be met effectively over extended periods by long-term observers, as well as during the more limited periods of election day observation, each of which periods present specific challenges for independent and impartial analysis. International election observation missions should not accept funding or infrastructural support from the government whose elections are being observed, as it may raise a significant conflict of interest and undermine confidence in the integrity of the mission's findings. International election observation delegations should be prepared to disclose the sources of their funding upon appropriate and reasonable requests.

- 7 International election observation missions are expected to issue timely, accurate and impartial statements to the public (including providing copies to electoral authorities and other appropriate national entities), presenting their findings, conclusions and any appropriate recommendations they determine could help improve election related processes. Missions should announce publicly their presence in a country, including the mission's mandate, composition and duration, make periodic reports as warranted and issue a preliminary postelection statement of findings and a final report upon the conclusion of the election process. International election observation missions may also conduct private meetings with those concerned with organizing genuine democratic elections in a country to discuss the mission's findings, conclusions and recommendations. International election observation missions may also report to their respective intergovernmental or international nongovernmental organizations.

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- 8 The organizations that endorse this Declaration and the accompanying Code of Conduct for International Election Observers pledge to cooperate with each other in conducting international election observation missions. International election observation can be conducted, for example, by: individual international election observer missions; ad hoc joint international election observation missions; or coordinated international election observation missions. In all circumstances, the endorsing organizations pledge to work together to maximize the contribution of their international election observation missions.
- 9 International election observation must be conducted with respect for the sovereignty of the country holding elections and with respect for the human rights of the people of the country. International election observation missions must respect the laws of the host country, as well as national authorities, including electoral bodies, and act in a manner that is consistent with respecting and promoting human rights and fundamental freedoms.
- 10 International election observation missions must actively seek cooperation with host country electoral authorities and must not obstruct the election process.
- 11 A decision by any organization to organize an international election observation mission or to explore the possibility of organizing an observation mission does not imply that the organization necessarily deems the election process in the country holding the elections to be credible. An organization should not send an international election observation mission to a country under conditions that make it likely that its presence will be interpreted as giving legitimacy to a clearly undemocratic electoral process, and international election observation missions in any such circumstance should make public statements to ensure that their presence does not imply such legitimacy.

- 12 In order for an international election observation mission to effectively and credibly conduct its work basic conditions must be met. An international election observation mission therefore should not be organized unless the country holding the election takes the following actions:
- a Issues an invitation or otherwise indicates its willingness to accept international election observation missions in accordance with each organization's requirements sufficiently in advance of elections to allow analysis of all of the processes that are important to organizing genuine democratic elections;
 - b Guarantees unimpeded access of the international election observer mission to all stages of the election process and all election technologies, including electronic technologies and the certification processes for electronic voting and other technologies, without requiring election observation missions to enter into confidentiality or other nondisclosure agreements concerning technologies or election processes, and recognizes that international election observation missions may not certify technologies as acceptable;
 - c Guarantees unimpeded access to all persons concerned with election processes, including:
 - i* electoral officials at all levels, upon reasonable requests,
 - ii* members of legislative bodies and government and security officials whose functions are relevant to organizing genuine democratic elections,
 - iii* all of the political parties, organizations and persons that have sought to compete in

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the elections (including those that qualified, those that were disqualified and those that withdrew from participating) and those that abstained from participating,

iv news media personnel, and

v all organizations and persons that are interested in achieving genuine democratic elections in the country;

- d* Guarantees freedom of movement around the country for all members of the international election observer mission;
- e* Guarantees the international election observer mission's freedom to issue without interference public statements and reports concerning its findings and recommendations about election related processes and developments;
- f* Guarantees that no governmental, security or electoral authority will interfere in the selection of individual observers or other members of the international election observation mission or attempt to limit its numbers;
- g* Guarantees full, country-wide accreditation (that is, the issuing of any identification or document required to conduct election observation) for all persons selected to be observers or other participants by the international election observation mission as long as the mission complies with clearly defined, reasonable and non-discriminatory requirements for accreditation;
- h* Guarantees that no governmental, security or electoral authority will interfere in the activities of the international election observation mission; and

- i Guarantees that no governmental authority will pressure, threaten action against or take any reprisal against any national or foreign citizen who works for, assists or provides information to the international election observation mission in accordance with international principles for election observation.

As a prerequisite to organizing an international election observation mission, intergovernmental and international nongovernmental organizations may require that such guarantees are set forth in a memorandum of understanding or similar document agreed upon by governmental and/or electoral authorities. Election observation is a civilian activity, and its utility is questionable in circumstances that present severe security risks, limit safe deployments of observers or otherwise would negate employing credible election observation methodologies.

- 13 International election observation missions should seek and may require acceptance of their presence by all major political competitors.
- 14 Political contestants (parties, candidates and supporters of positions on referenda) have vested interests in the electoral process through their rights to be elected and to participate directly in government. They therefore should be allowed to monitor all processes related to elections and observe procedures, including among other things the functioning of electronic and other electoral technologies inside polling stations, counting centers and other electoral facilities, as well as the transport of ballots and other sensitive materials.

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15 International election observation missions should:

- a establish communications with all political competitors in the election process, including representatives of political parties and candidates who may have information concerning the integrity of the election process;
- b welcome information provided by them concerning the nature of the process;
- c independently and impartially evaluate such information; and
- d should evaluate as an important aspect of international election observation whether the political contestants are, on a nondiscriminatory basis, afforded access to verify the integrity of all elements and stages of the election process. International election observation missions should in their recommendations, which may be issued in writing or otherwise be presented at various stages of the election process, advocate for removing any undue restrictions or interference against activities by the political competitors to safeguard the integrity of electoral processes.

16 Citizens have an internationally recognized right to associate and a right to participate in governmental and public affairs in their country. These rights may be exercised through nongovernmental organizations monitoring all processes related to elections and observing procedures, including among other things the functioning of electronic and other electoral technologies inside polling stations, counting centers and other electoral facilities, as well as the transport of ballots and other sensitive materials. International election observation missions should evaluate and report on whether domestic nonpartisan election monitoring and observation organizations are able, on a nondiscriminatory basis, to conduct their activities without undue restrictions or interference. International election observation missions should advocate for the right of citizens to conduct domestic nonpartisan election observation

without any undue restrictions or interference and should in their recommendations address removing any such undue restrictions or interference.

- 17 International election observation missions should identify, establish regular communications with and cooperate as appropriate with credible domestic nonpartisan election monitoring organizations. International election observation missions should welcome information provided by such organizations concerning the nature of the election process. Upon independent evaluation of information provided by such organizations, their findings can provide an important complement to the findings of international election observation missions, although international election observation missions must remain independent. International election observation missions therefore should make every reasonable effort to consult with such organizations before issuing any statements.
- 18 The intergovernmental and international nongovernmental organizations endorsing this Declaration recognize that substantial progress has been made in establishing standards, principles and commitments concerning genuine democratic elections and commit themselves to use a statement of such principles in making observations, judgments and conclusions about the character of election processes and pledge to be transparent about the principles and observation methodologies they employ.

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- 19 The intergovernmental and nongovernmental organizations endorsing this Declaration recognize that there are a variety of credible methodologies for observing election processes and commit to sharing approaches and harmonizing methodologies as appropriate. They also recognize that international election observation missions must be of sufficient size to determine independently and impartially the character of election processes in a country and must be of sufficient duration to determine the character of all of the critical elements of the election process in the pre-election, election-day and post-election periods – unless an observation activity is focused on and therefore only comments on one or a limited number of elements of the election process. They further recognize that it is necessary not to isolate or over-emphasize election day observations, and that such observations must be placed into the context of the overall electoral process.

- 20 The intergovernmental and international nongovernmental organizations endorsing this Declaration recognize that international election observation missions should include persons of sufficiently diverse political and professional skills, standing and proven integrity to observe and judge processes in light of: expertise in electoral processes and established electoral principles; international human rights; comparative election law and administration practices (including use of computer and other election technology); comparative political processes and country specific considerations. The endorsing organizations also recognize the importance of balanced gender diversity in the composition of participants and leadership of international election observation missions, as well as diversity of citizenship in such missions.

- 21 The intergovernmental and international nongovernmental organizations endorsing this Declaration commit to:

- a familiarize all participants in their international election observation missions concerning the principles of accuracy of information and political impartiality in making judgments and conclusions;
 - b provide a terms of reference or similar document, explaining the purposes of the mission;
 - c provide information concerning relevant national laws and regulations, the general political environment and other matters, including those that relate to the security and well being of observers;
 - d instruct all participants in the election observation mission concerning the methodologies to be employed; and
 - e require all participants in the election observation mission to read and pledge to abide by the Code of Conduct for International Election Observers, which accompanies this Declaration and which may be modified without changing its substance slightly to fit requirements of the organization, or pledge to abide by a pre-existing code of conduct of the organization that is substantially the same as the accompanying Code of Conduct.
- 22 The intergovernmental and international nongovernmental organizations endorsing this Declaration commit to use every effort to comply with the terms of the Declaration and the accompanying Code of Conduct for International Election Observers. Any time that an endorsing organization deems it necessary to depart from any of terms of the Declaration or the Accompanying Code of Conduct in order to conduct election observation in keeping with

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the spirit of the Declaration, the organization will explain in its public statements and will be prepared to answer appropriate questions from other endorsing organizations concerning why it was necessary to do so.

- 23 The endorsing organizations recognize that governments send observer delegations to elections in other countries and that others also observe elections. The endorsing organizations welcome any such observers agreeing on an ad hoc basis to this declaration and abiding by the accompanying Code of Conduct for International Election Observers.
- 24 This Declaration and the accompanying Code of Conduct for International Election Observers are intended to be technical documents that do not require action by the political bodies of endorsing organizations (such as assemblies, councils or boards of directors), though such actions are welcome. This Declaration and the accompanying Code of Conduct for International Election Observers remain open for endorsement by other intergovernmental and international nongovernmental organizations. Endorsements should be recorded with the United Nations Electoral Assistance Division.

CODE OF CONDUCT FOR INTERNATIONAL ELECTION OBSERVERS

International election observation is widely accepted around the world. It is conducted by intergovernmental and international nongovernmental organizations and associations in order to provide an impartial and accurate assessment of the nature of election processes for the benefit of the population of the country where the election is held and for the benefit of the international community. Much therefore depends on ensuring the integrity of international election observation, and all who are part of this international election observation mission, including long-term and short-term observers, members of assessment delegations, specialized observation teams and leaders of the mission, must subscribe to and follow this Code of Conduct.

Respect Sovereignty and International Human Rights

Elections are an expression of sovereignty, which belongs to the people of a country, the free expression of whose will provides the basis for the authority and legitimacy of government. The rights of citizens to vote and to be elected at periodic, genuine elections are internationally recognized human rights, and they require the exercise of a number of fundamental rights and freedoms. Election observers must respect the sovereignty of the host country, as well as the human rights and fundamental freedoms of its people.

Respect the Laws of the Country and the Authority of Electoral Bodies

Observers must respect the laws of the host country and the authority of the bodies charged with administering the electoral process. Observers must follow any lawful instruction from the country's governmental, security and electoral authorities. Observers also must maintain a respectful attitude toward electoral officials and other national authorities. Observers must note if laws, regulations or the actions of state and/or electoral officials unduly burden or obstruct the exercise of election-related rights guaranteed by law, constitution or applicable international instruments.

Respect the Integrity of the International Election Observation Mission

Observers must respect and protect the integrity of the international election observation mission. This includes following this Code of Conduct, any written instructions (such as a terms of reference, directives and guidelines) and any verbal instructions from the observation mission's leadership. Observers must: attend all of the observation mission's required briefings, trainings and debriefings; become familiar with the election law, regulations and other relevant laws as directed by the observation mission; and carefully adhere to the methodologies employed by the observation mission. Observers also must report to the leadership of the observation mission any conflicts of interest they may have and any improper behavior they see conducted by other observers that are part of the mission.

CODE O F CONDUCT FOR INTERNATIONAL ELECTION OBSERVERS**Maintain Strict Political Impartiality at All Times**

Observers must maintain strict political impartiality at all times, including leisure time in the host country. They must not express or exhibit any bias or preference in relation to national authorities, political parties, candidates, referenda issues or in relation to any contentious issues in the election process. Observers also must not conduct any activity that could be reasonably perceived as favoring or providing partisan gain for any political competitor in the host country, such as wearing or displaying any partisan symbols, colors, banners or accepting anything of value from political competitors.

Do Not Obstruct Election Processes

Observers must not obstruct any element of the election process, including pre-election processes, voting, counting and tabulation of results and processes transpiring after election day. Observers may bring irregularities, fraud or significant problems to the attention of election officials on the spot, unless this is prohibited by law, and must do so in a non-obstructive manner. Observers may ask questions of election officials, political party representatives and other observers inside polling stations and may answer questions about their own activities, as long as observers do not obstruct the election process. In answering questions observers should not seek to direct the election process. Observers may ask and answer questions of voters but may not ask them to tell for whom or what party or referendum position they voted.

Provide Appropriate Identification

Observers must display identification provided by the election observation mission, as well as identification required by national authorities, and must present it to electoral officials and other interested national authorities when requested.

Maintain Accuracy of Observations and Professionalism in Drawing Conclusions

Observers must ensure that all of their observations are accurate. Observations must be comprehensive, noting positive as well as negative factors, distinguishing between significant and insignificant factors and identifying patterns that could have an important impact on the integrity of the election process. Observers' judgments must be based on the highest standards for accuracy of information and impartiality of analysis, distinguishing subjective factors from objective evidence. Observers must base all conclusions on factual and verifiable evidence and not draw conclusions prematurely. Observers also must keep a well documented record of where they observed, the observations made and other relevant information as required by the election observation mission and must turn in such documentation to the mission.

Refrain from Making Comments to the Public or the Media before the Mission Speaks

Observers must refrain from making any personal comments about their observations or conclusions to the news media or members of the public before the election observation mission makes a statement, unless specifically instructed otherwise by the observation mission's leadership. Observers may explain the nature of the observation mission, its activities and other matters deemed

appropriate by the observation mission and should refer the media or other interested persons to the those individuals designated by the observation mission.

Cooperate with Other Election Observers

Observers must be aware of other election observation missions, both international and domestic, and cooperate with them as instructed by the leadership of the election observation mission.

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Maintain Proper Personal Behavior

Observers must maintain proper personal behavior and respect others, including exhibiting sensitivity for host-country cultures and customs, exercise sound judgment in personal interactions and observe the highest level of professional conduct at all times, including leisure time.

Violations of This Code of Conduct

In a case of concern about the violation of this Code of Conduct, the election observation mission shall conduct an inquiry into the matter. If a serious violation is found to have occurred, the observer concerned may have their observer accreditation withdrawn or be dismissed from the election observation mission. The authority for such determinations rests solely with the leadership of the election observation mission.

Pledge to Follow This Code of Conduct

Every person who participates in this election observation mission must read and understand this

Code of Conduct and must sign a pledge to follow it.

PLEDGE TO ACCOMPANY THE CODE OF CONDUCT FOR INTERNATIONAL ELECTION OBSERVER

I have read and understand the Code of Conduct for International Election Observers that was provided to me by the international election observation mission. I hereby pledge that I will follow the Code of Conduct and that all of my activities as an election observer will be conducted completely in accordance with it. I have no conflicts of interest, political, economic nor other, that will interfere with my ability to be an impartial election observer and to follow the Code of Conduct.

I will maintain strict political impartiality at all times. I will make my judgments based on the highest standards for accuracy of information and impartiality of analysis, distinguishing subjective factors from objective evidence, and I will base all of my conclusions on factual and verifiable evidence.

I will not obstruct the election process. I will respect national laws and the authority of election officials and will maintain a respectful attitude toward electoral and other national authorities. I will respect and promote the human rights and fundamental freedoms of the people of the country. I will maintain proper personal behavior and respect others, including exhibiting sensitivity for host-country cultures and customs, exercise sound judgment in personal interactions and observe the highest level of professional conduct at all times, including leisure time.

I will protect the integrity of the international election observation mission and will follow the instructions of the observation mission. I will attend all briefings, trainings and debriefings required by the election observation mission and will cooperate in the production of its statements and reports as requested. I will refrain from making personal comments, observations or conclusions to the news media or the public before the election observation mission makes a statement, unless specifically instructed otherwise by the observation mission's leadership.

Signed

Print Name

Date

ACKNOWLEDGEMENTS

The Declaration of Principles for International Election Observation and the Code of Conduct for International Election Observers were developed through a multi-year process involving more than 20 intergovernmental and international nongovernmental organizations concerned with election observation around the world.

The process began informally in 2001 at the initiative of the National Democratic Institute for International Affairs (NDI) and the United National Electoral Assistance Division (UNEAD) and included an initial meeting at the UN in New York and a meeting in Washington co-hosted by the OAS and NDI.

Building on that foundation, the UNEAD, The Carter Center, and NDI formed a joint secretariat and launched the formal phase of the process in October 2003 at a meeting held at The Carter Center in Atlanta. This was followed by a September 2004 meeting in Brussels, which was hosted by the European Commission. An ongoing consultative process transpired among the participating organizations, which resulted in a consensus document that was offered for organizational endorsements beginning in July 2005.

The secretariat was comprised of Carina Perelli and Sean Dunne for UNEAD, David Carroll, David Pottie and Avery Davis-Roberts for The Carter Center, and Patrick Merloe and Linda Patterson for NDI. The secretariat members prepared the documents, with Mr. Merloe serving as the lead drafter, drawing on a substantial body of existing documentation from organizations involved in election observation. During the process, the secretariat received critical input and comments from many of the participating organizations.

The process was supported by financial assistance from the United Nations, the United States Agency for International Development (USAID), the European Commission, the Republic of Germany and the Starr Foundation, as well as a number of individual contributors.

Annex 3

Model Aide Memoire for Observation Reporting

Electoral Preparations and Election Day Background

1. Have election officials received training?
2. Are women well represented as election officials in your area?
3. Were election materials distributed in good time and held securely?
4. Have there been any reported campaign 'incidents' in your area?
5. Is there general confidence in the impartiality of election officials?

Election Day Environment

1. Are any campaign activities being undertaken on election day?
2. Are police and security officials behaving appropriately?
3. Are there reports of 'vote buying' in your area? What form do these reports take?
4. Are there reports or evidence of misuse of state resources?

Polling, Counting and Results Procedures

1. Were most people able to be found on the voter list?
2. Was the ID of voters properly checked?
3. Was the indelible ink applied to all voters?
4. Was secrecy of the vote adequately provided for?
5. Were party representatives and observers generally present at polling stations?
6. Were people waiting in line to vote at the close able to do so?
7. Was the vote count transparent and fair?
8. Were party representatives able to get a signed copy of the results?
9. Were the results for the polling station posted for public viewing?
10. Were there any disagreements about the outcome?
11. Are you aware of any formal complaints being lodged against the process?

12. Were results promptly delivered to Regional Election Officers?
13. Was the process at the regional level transparent and well organised?

Annex 4

Commonwealth Checklist on Gender Inclusive Elections

This checklist has been designed to strengthen the gender recommendations of Commonwealth election observation missions.

This checklist will be useful to the following:

- Commonwealth election observers
- Commonwealth staff members on pre-election assessments and election observation missions
- Election management bodies, the legislature, political parties, civil society, the media and other stakeholders involved in elections

Barriers to women's political participation

- ☐ Are there barriers preventing women from fully participating in politics? e.g. traditional and cultural barriers, lack of adequate financing, violence.

Electoral management bodies (EMBs)

- ☐ Is the EMB committed to gender mainstreaming? Where and how is this reflected?
- ☐ Does the EMB have a balance of male and female commissioners and/or officials?
- ☐ Does the EMBs support female candidates? e.g. reducing and/or waiving nomination fees.
- ☐ Does the EMB collect sex-disaggregated data in all/parts of the electoral process?
- ☐ Is there a gender breakdown of the voter register?

Political parties

- ☐ Has gender been mainstreamed in the constitution, manifesto, policies and structures of the political party?
- ☐ Does the party have a code of conduct or other measures to address gender-based violence?

- ☐ Are women involved in the processes to select candidates for the party?
- ☐ Is the party's list of candidates at all governance tiers for the election/s balanced?
- ☐ Do women hold leaderships roles in the party?
- ☐ Is there a women's wing? How have they supported women in the electoral process?
- ☐ Are there women running as independent candidates for the election/ elections?

Civil society organisations (CSOs)

- ☐ Are women's rights organisations among the CSOs consulted by the EMB and others involved in the conduct of the elections?
- ☐ Do CSOs promote gender equality as part of voter education?
- ☐ Do CSOs have programmes that support women candidates? e.g. mentoring, capacity building.

The media

- ☐ Does the media afford equal voice to women and men candidates and voters?
- ☐ Does coverage of women candidates promote or challenge gender stereotypes?
- ☐ Are there instances of sexism or misogyny perpetuated through new media?

Pre-Election

Legal framework

- ☐ Has the country ratified key international, regional and sub-regional instruments and protocols on women's political participation? Have these been domesticated into enforceable national legislation?
- ☐ Does the national constitution explicitly promote gender equality?
- ☐ Does the electoral law guarantee the equal rights of men and women to participate in the electoral process?
- ☐ Are there special measures to enhance women's political participation? e.g. constitutional or legislated quotas, safe constituencies, voluntary quotas.

The campaign

- ☐ Are there campaign finance regulations? If yes, how do these impact on the equal participation of women and men?
- ☐ Are women visible in campaign events, as candidates, voters, spokespersons and commentators?
- ☐ Are campaign rules clear and gender aware?
- ☐ Do campaign rules include protection from violence, including gender-based violence?

Election

Polling day

- ☐ Have special provisions been made for women and men with particular physical disabilities, pregnant women, the elderly and those with children?
- ☐ Are there provisions for 'special votes' for those who may not be able to make it to the polling station?
- ☐ Are all voting stations accessible and safe, including safe from gender-based violence?
- ☐ Were women equally represented as polling officials?
- ☐ Were there any incidents of women being pressured to vote in a certain manner?

Post-election

Election outcome

- ☐ Are there incidents of post-election violence and how did this affect women's political participation?
- ☐ Did women assume any leadership positions consequent upon the election results?
- ☐ How many and what proportion of women are appointed to cabinet positions?
- ☐ Do gender considerations and data form part of the EMB and election commission reports?

Recommendations on enhancing women's political participation

Based on the assessment, what recommendations can be made for enhancing women's political participation? These may include:

- Introduction of special measures
- Constitutional, legislative, electoral and political party reforms
- Gender-sensitive civil and voter education
- Specific recommendations for mainstream and new media, civil society, the EMB etc.



Over the last four decades, the Commonwealth has contributed to the development of best practice in international election observation and its observer missions have evolved to continually reflect the highest standards.

This has contributed to the emergence of observation as an invaluable mechanism to support the strengthening of the democratic institutions, processes and practices in member countries through the provision of informed and impartial analysis of electoral processes and recommendations for improvement.

Drawing on more than 140 observation missions in nearly 40 countries, *The Commonwealth Handbook on Election Observation* provides a comprehensive overview of the Commonwealth's methodology for observing elections. It is designed to provide Commonwealth observers with the framework for the conduct of their duties. It also serves to communicate to member governments, as well as other interested institutions and individuals, how Commonwealth observer missions operate and assess elections against accepted national and international standards.