

## SECTION FOUR

# Checklist for Evaluating a Legal Framework for Democratic Elections

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This checklist is designed to assist the review of election laws and proposed amendments to election laws, as well as the consideration of broader legal frameworks for democratic elections. It also can be used by those charged with legislative drafting. The principles of inclusiveness, transparency and accountability and the related concepts of electoral fairness and developing public confidence are imbedded in the checklist.

The checklist covers 16 headings. Under each heading goals are suggested for that element of the legal framework. A number of criteria or indicators are suggested to help determine whether that element achieves appropriate goals for promoting a democratic legal framework. In addition, 228 questions plus sub-questions are presented under the headings to guide analysis of the legal framework and to help determine if each element comports with principles and practices for democratic elections.

It must be emphasized that the checklist does not present a scoring system. Not all questions are applicable to any specific legal framework; specific weight cannot be assigned to each question or sub-question, and it is impossible to score a legal framework in order to determine whether it rates a particular "grade." All legal frameworks operate in a national context with political, cultural and social conditions that must be considered and dynamics that demonstrate political will to move decisively in a democratic direction or that indicate movement toward other forms of governance, even if incremental progress is made in the electoral arena.

It is important nonetheless to evaluate whether legal frameworks guarantee electoral related rights and promote democratic practice. This checklist presents considerations that contribute to understanding whether guarantees are present, and it helps to identify problematic elements in an electoral framework that should be addressed and improved.

### THE ELECTORAL SYSTEM

**Goal: Ensure that the people have genuine opportunities to participate in government, directly and/or through freely chosen representatives.**

Criteria or Indicators - The Legal Framework:

- Sets periodic nature of elections and tenure for elected office;
- Defines offices to be elected and their powers and responsibilities;
- Provides means for competitive elections, respecting the right to vote (i.e., to make a free and informed choice among rightful contestants for office) and the right to be elected;
- Limits all restrictions on the exercise of electoral related rights to exceptions that are necessary to protect rights, proportionate to the clear need to restrict and geared to ensure full exercise of rights; and
- Prohibits discrimination on the basis of race, color, gender, language, religion, national or social origin, property, birth or other status, physical challenges or disabilities or political or other opinion.

Questions to Consider:

1. Does the law recognize political parties as electoral competitors?
  - a. If so, do requirements for legal recognition meet international principles for inclusion and fairness?
2. Does the law allow non-party or independent candidates?
  - a. If so, do the requirements meet international principles for inclusion and fairness?
3. What form of representation is used? (Plurality/majority, proportional or mixed system)
  - a. How many seats are in the legislature?
  - b. How many seats are filled through the election law?
  - c. Are the seats elected on a staggered basis or all at once?
  - d. Is the legislature unicameral or bicameral?
  - e. If bicameral, are both houses elected or is one appointed and, if so, by whom?
  - f. Are there provisions for run-offs in the parliamentary system?
  - g. If a mixed system is used, how many seats are filled under each sub-system?
4. Does the law provide an explicit system for translating the number of votes into the number of seats won?
  - a. What system is used, including for the allocation of "remainders"?
5. Is there a threshold of votes required before a party can win any seats?
  - a. What is it, and how does it compare to international principles and practice?
6. Does the law require a minimum level of voter turnout for the election to be valid?
  - a. If yes, what is it, and how does it compare to international principles and practice?
7. Are there provisions for filling casual vacancies?
8. Does the electoral law provide for the appointment of some Members of Parliament by the President?

- a. If so, how many?
- b. Do they enjoy voting rights in Parliament?
9. Is the president elected directly or indirectly?
  - a. If indirectly, is the president elected by parliament or by another body or procedure?
  - b. If the president is elected indirectly, how does the system address equal suffrage issues?
  - c. Are there one or two rounds, or is it a preferential system?
10. On what basis can elections be called? (Regularly scheduled, extraordinary or special, or some other manner?)
11. Who has the power to call elections and under what conditions?

### STRUCTURE OF THE LEGAL FRAMEWORK

**Goals: Provide clarity, predictability and consistency with other electoral related laws and assure impartial application of legal provisions.**

Criteria or Indicators - The Legal Framework:

- Presents key elements of the legal framework for elections in an easy to find, consolidated place or cross-referenced places;
- Sets forth legal provisions in clear and understandable terms;
- Avoids conflicts of laws; and
- Incorporates international obligations and/or commitments concerning democratic elections.

Questions to Consider:

12. Which constitutional provisions are relevant to elections?
  - a. Is the electoral framework (law, decrees, regulations and by-laws) consistent with the constitution?
13. Does the constitution incorporate human rights and/or treaty obligations into the constitutional or legal framework of the country?
  - a. What legal effect do the country's international commitments and/or obligations have, and how would they impact the legal framework for elections? (E.g., is the doctrine of "direct effect" respected, or do international obligations have to be enacted separately into domestic law?)
  - b. Are there special mechanisms for women voting?
  - c. Are there guarantees that women will be elected to a certain number of offices? (E.g., through electoral quotas or mandating the number of women and/or where they are placed on party lists that appear on the ballot?)
  - d. Are there legal provisions ensuring voting rights and/or rights to be elected for minorities of various types? (E.g., according to race, national origin, language and/or religion?)
  - e. Are there legal provisions concerning potential voters of other statuses? (E.g., physical challenges or disabilities, refugees or internally displaced persons, young voters, persons convicted of crimes?)
  - f. Is the vote compulsory or non-compulsory?
  - g. Are there penalties for those who do not vote in compulsory systems?
  - h. If the vote is compulsory, what is the punishment, and does it meet criteria for proportionality and due process?

14. Is there a single law affecting all types of elections (i.e., presidential, legislative, local, etc.)?
15. Does the primary election law contain definitions of terms used in the law, apply them consistently and provide a means to resolve differences in those terms and terms used in other election related laws?
16. Is there a comprehensive electoral code encompassing all electoral related issues, and what additional laws make up the legal framework for elections? (E.g., laws defining parliamentary and other institutions and laws concerning political parties, mass communications media, non-governmental organizations [NGOs], penal and civil codes, laws on the use of government office and political activities of government employees, financial disclosure requirements, parliamentary rules of procedure on seating of winners, etc.?)
17. Are there clear cross-references between the different laws concerning electoral matters, and is there a mechanism to identify and eliminate conflicts of laws in the legislative and/or legal processes?
18. When there are questions of interpretation of electoral related laws, what entity has final authority? (E.g., the election commission, the supreme or constitutional court, the legislature, or another body?)
19. Does the law provide for the promulgation of election related regulations and/or other means to direct administrative preparations and other matters?
  - a. If so, what body has that power?
  - b. What process is required to issue such regulations or other instructions?
  - c. What body applies the regulations and provides redress for violations of them?
20. Who prosecutes violations of the electoral law?

### ELECTORAL DISTRICTS

**Goals: Ensure “equality of the vote” (equal suffrage), relating to the proportions of voters to representatives and ensure against discrimination in boundary delimitation.**

*Criteria or Indicators - The Legal Framework:*

- Defines the permissible ratio of citizens per elected representative in legislative chambers;
- Sets parameters that are consistent with international principles for deviations between electoral districts concerning the ratio of citizens to representative in legislative chambers;
- Provides the acceptable bases upon which electoral district boundaries may be drawn, in light of existing administrative divisions, geographic barriers and other factors; and
- Prohibits drawing of electoral boundaries in ways that divide populations and their voting power based on discrimination concerning race, color, language religion, national or social origin, or political or other opinion (sometimes referred to as gerrymandering).

Questions to Consider:

21. Are electoral districts established on a permanent basis (e.g., in accordance with the constitution), or can the district boundaries be changed?
  - a. If so, when are they changed? (E.g., prescribed periodic intervals, upon conducting a census or other ways?)
  - b. Is a partial boundary delimitation possible?
  - c. If so, under what circumstances?
22. What are the criteria upon which electoral districts are drawn? (E.g., size of population, size of electorate, effects of geographical constraints, administrative boundaries?)
23. Are there anti-discrimination provisions in the rules on delimiting electoral districts, such as preventing the division of communities on the basis of racial, linguistic or other characteristics?
  - a. If so, how do they compare to international principles?
24. Who has the authority to change the boundaries of electoral districts? (E.g., the legislature, the courts, a boundaries commission or other body?)
  - a. How are members of the boundary demarcation body chosen?
  - b. What are its powers?
25. Does the law require that the demarcation body consult with political parties and civic groups and/or provide for public comment?
  - a. If so, what process and level of involvement is required?
  - b. What consultation procedures exist on boundary revision proposals and drafts?
  - c. Do news media have access to the delimitation process?
26. Does the law establish a voter-per-representative ratio for election districts?
  - a. If so, what is it, and how does it compare to international principles?
27. Does the law establish acceptable variances in voter-per-representative ratios between districts?
  - a. If so, what are the acceptable variances, and how do they compare to international principles?
28. Is there a process by which the drawing or revision of an electoral district can be challenged?
  - a. If so, what are the challenge procedures?
  - b. Do they provide effective remedies?

**ELECTORAL MANAGEMENT BODY AND ADMINISTRATION**

**Goals: Ensure impartiality, effectiveness and transparency in election administration.**

Criteria or Indicators - The Legal Framework:

- Sets a clear mechanism for appointment to the election management body (EMB) of individuals whom the electoral contestants and the public believe are both impartial and competent to conduct genuinely democratic elections OR whom the political contestants and the public believe, in combination, will impartially and competently conduct democratic elections;

- *Sets a mechanism for appointment of election officials below the EMB whom the political contestants and the public believe will impartially and competently conduct democratic elections;*
- *Requires transparency in the conduct of all elements of the election process for the benefit of the public and electoral contestants;*
- *Provides accountability mechanisms for proper discharge of duties of electoral officials; and*
- *Provides mechanisms for regular and consistent communications with electoral contestants.*

Questions to Consider:

29. Is the body that is responsible for managing elections (EMB) part of a ministry, a free standing body under the executive branch, an independent body that is responsible to the legislature, a separate branch of government under the constitution, or other governmental form?
30. Under what guidelines or rules does the EMB work?
31. Is the EMB permanent or temporary?
  - a. If temporary, how far before scheduled elections is the EMB assembled?
  - b. Is the period of time provided sufficient for the EMB to effectively discharge its duties?
32. What is the exact composition of the EMB?
  - a. Does the composition guarantee the impartiality and competence of the EMB?
  - b. Does the EMB include independent experts, political party representatives, a mixture of the two or some other set of persons?
  - c. Does the law require that some EMB members or the EMB chair be a judge or lawyer?
  - d. If judges are required, who appoints judges to the bench?
  - e. Are there effective mechanisms for independence of the judiciary?
33. By what procedure are EMB members selected?
  - a. Appointed by political parties as party representatives?
  - b. Appointed by political parties as independent actors?
  - c. Appointed at the discretion of the executive?
  - d. Nominated by the executive and confirmed by the legislature?
  - e. By simple or super majority?
  - f. Nominated by political parties and then appointed by the executive?
  - g. Are any of the members appointed or nominated by civil society organizations?
  - h. If so, are the organizations nonpartisan?
34. How is the EMB chair selected?
35. Are there limits on the power of the chair?
36. Are all or some of its meetings open to the public?
37. Do political parties have access to the EMB's work?
  - a. What kind of access? (E.g., representatives on the EMB or by party representatives or agents to the EMB?)
38. Do domestic nonpartisan monitors have access to the EMB's work?
  - a. If so, what kind of access?
39. Do news media have access to the EMB?
  - a. If so, what kind of access?
40. What is the structure for regional or local EMBs?

- a. How are they established?
- b. How much power is delegated to the regional/local EMBs?
- 41. Does the EMB and its subordinate bodies have the powers to enlist needed support from other sectors of the government? (E.g., civil servants, teachers, security personnel, military?)
  - a. If so, are there safeguards concerning the impartiality of such people?
- 42. Are there mechanisms to ensure accountability of electoral officials in the discharge of their duties? (E.g., auditor general office, an ombudsman office, procedures for citizens to file complaints concerning the failures of officials to properly discharge their duties, internal personnel disciplinary procedures?)
  - a. Do these mechanisms provide for timely resolution of issues or complaints?
  - b. Do they meet minimum due process requirements?
  - c. Are there requirements to release public reports and statistics about such procedures and their operation?
- 43. Are safeguards for ballot security included in provisions concerning ballot design, review, printing, distribution and collection?
- 44. Are the timelines provided in the law and regulations concerning each element of the election process realistic in light of national conditions and the need for building and maintaining public confidence?
  - a. Are the timelines for each element of the election process consistent with one another?
  - b. Do the timelines concerning counting ballots, tabulation of results and announcement of winners meet needs for both accuracy and timeliness?
  - c. Do timelines for electoral complaints and appeals allow for timely resolution of electoral outcomes?
- 45. Do EMB members have immunity from prosecution?
  - a. If so, what types and for how long?
- 46. Are the actions of the EMB subject to challenge or legal review?
- 47. Can EMB members be removed from office?
  - a. If so, for what reasons and by whom?
- 48. Is there a budget for the EMB?
  - a. What governmental entity provides the budget (parliament, a ministry or other?)
  - b. If so, how much discretion does the EMB have over its spending?
  - c. Is there a special budget for elections?
  - d. To whom and how does the EMB account for its fiscal activities?
- 49. What is the breadth of the EMB power? (E.g., responsible only for mechanical administration, control over media access, prosecution of violations?)
- 50. Are the EMB and its subordinate electoral bodies required to provide transparency in their operations?
  - a. Are the EMB and its subordinate bodies required to conduct open public meetings?
  - b. If so, are all meetings public or only certain types of meetings (and which types)?
  - c. Are the records of electoral administration available as public documents that can be obtained through a regular process at the EMB or other body?

- d. Are the disaggregated vote tallies from the polling sites and intermediate tabulation centers made immediately available to the public as part of the vote tabulation process?
- e. Are ballots, voting machines and other sensitive materials available for public inspection before, during and after an election?
- f. Are adequate transparency measures provided for verification of the integrity of electronic electoral technologies?

### MONITORING

**Goal: Provide transparency for electoral competitors and the general population to establish the warranted degree of public confidence in the electoral process.**

*Criteria or Indicators - The Legal Framework:*

- Recognizes the right of citizens to seek, receive and impart information concerning all elements of the election process;
- Provides that representatives of parties, candidates and groups supporting and opposing referenda and other ballot initiatives have the right to be present, observe, raise concerns and seek redress concerning all elements of the election process;
- Provides that civil society organizations concerned with electoral integrity have the right, at a minimum, to be present and monitor all elements of the election process;
- Provides that news media have the right to be present and monitor all elements of the election process;
- Provides for the possibility of international election observers to be present and observe all elements of the election process; and
- Requires the accreditation for access to electoral related facilities of representatives of political parties, party candidates, and groups supporting or opposing referenda or other ballot initiatives, domestic nonpartisan election monitors from civil society organizations, media and international observers.

*Questions to Consider:*

51. Are representatives of parties, candidates, referenda and ballot initiative groups granted access to all elements of the election process? Including among others:
  - a. Printing and distribution of ballots and other sensitive electoral materials;
  - b. Polling site selection process;
  - c. Training programs for electoral officials;
  - d. Voter registration processes and verification of voter registries;
  - e. Ballot qualification review process;
  - f. Polling site operations, including voting and counting of ballots;
  - g. Tabulation of results at polling stations through district and all other counting centers until final results are determined;
  - h. Electoral complaints and appeals processes; and
  - i. All applications of electronic electoral technologies at policy formulation, decision making concerning design, testing and purchasing, as well as at training and use?



52. Are domestic nonpartisan election monitors recognized by law, regulation and/or any other means?
  - a. If so, are they provided access to all elements of the election process, including the processes listed in the previous question?
  - b. What is involved in the accreditation process?
  - c. Is accreditation required to be conducted in an effective and timely manner?
  - d. Is accreditation provided to organizations, which then accredit individuals under their mandate?
  - e. Is there a separate law on legal registration of nongovernmental organizations?
  - f. If so, does it contain any unreasonable restrictions that would hinder domestic election observation? (E.g., restrictions on receiving funding or assistance from international organizations?)
53. Are news media recognized in electoral law and/or regulations?
  - a. If so, are they provided access to all elements of the election process?
54. What is the accreditation process for news media?
55. Are international observers granted access to the election process?
  - a. If so, what is the accreditation process?
  - b. What is the scope of their access?
56. Are any restrictions placed on representatives of political parties, candidates, referenda and ballot initiative groups, domestic election monitoring organizations, news media and/or international election observers?
  - a. If so, what are the restrictions and do they correspond to constitutional regulations and international principles?
57. Does the law provide an opportunity for citizens to inspect the accuracy of the voter registry?
  - a. If so, are party and candidate representatives, civil society election observers, news media and international observers allowed to witness the process and/or inspect the registry?
58. Do the law or regulations require that a copy of polling station vote tally sheets be posted publicly for a period of several days following the polling process?
59. Do the law or regulations require that official copies of the vote tally sheets be provided to representatives of the political parties, candidates and ballot initiative groups at the polling stations, district or other intermediate tabulation centers and at the final vote tabulation center?
  - a. Are copies also to be provided to domestic nonpartisan election monitors, media representatives and international observers?
60. Do the law or regulations allow electoral contestants and/or civil society organizations to conduct voter registration audits?
61. Do the law or regulations allow parallel vote tabulations (PVTs or quick counts) and/or exit polls?
  - a. What conditions or restraints, if any, are placed on such activities, and how do they correspond to constitutional requirements and international principles?

### VOTER REGISTRATION AND VOTER LISTS

**Goals: Ensure eligible citizens a genuine opportunity to exercise the right to vote, prevent ineligible people from voting and block multiple voting.**

Criteria or Indicators - The Legal Framework:

- Sets clear criteria, consistent with international principles, for eligibility to vote;
- Provides a process for establishing identity and eligibility to vote that is easily used by members of the electorate and safeguards against fraud;
- Establishes a voter registration process that is accurate and inclusive of all eligible voters, including those first coming of age to vote;
- Sets forth an easily accessible process for citizens to check and correct the voter registry;
- Allows representatives of political parties, candidates, ballot initiative groups and civil society organizations to monitor the voter registration process and to verify the accuracy of the voter registry and its voter lists; and
- Produces voter lists that facilitate ease of voting, prevent disenfranchisement and avert illegal voting.

Questions to Consider:

62. What are the voter eligibility criteria set forth in the constitution, law and regulations?
  - a. Do the criteria fit international principles concerning limiting restrictions to age of majority, citizenship and residency?
  - b. Do the criteria address mental capacity?
  - c. If so, are they consistent with international principles to provide due process protections against overly restrictive limitations on the right to vote?
  - d. Do the criteria address voting rights of those in military service?
  - e. If so, are they consistent with international principles favoring extension of the right to vote?
  - f. Do the criteria address persons with criminal convictions?
  - g. If so, are they consistent with international principles concerning proportionality of restricting civil rights and the restoration of those rights?
  - h. Do the criteria address citizens who are outside of the country during the election period, refugees and internally displaced persons?
  - i. If so, are they consistent with international principles concerning the right to vote?
63. What type of process is used to create the voter registry?
  - a. Is voter registration citizen initiated (people going to registration centers)?
  - b. Is it state initiated (an enumeration process is conducted)?
  - c. Is it state created (the civil population registry is used to create the voter registry)?
  - d. Is it a mixed system? If so, what is the mix?

64. Is voter registration a continuous or periodic process?
  - a. If periodic, how long before the election does the voter registration start and end?
65. Do the legal provisions set a realistic timeframe for creating a voter registry and voter registration lists?
  - a. How long does the registration process last?
  - b. When is the registry closed to new entries?
  - c. When is the preliminary list made publicly available?
  - d. How long is the claims and objections period for citizens to check and correct entries in the voter registry?
  - e. When is the corrected registry made publicly available, and is there a chance for citizens and/or parties, candidates and election monitors to review it before the final voter lists are created?
  - f. When do the final voter registry and voter lists begin their journey to the polling sites, and does this process meet time requirements?
  - g. Can prospective voters be challenged on election day, and can the challenge be resolved in time for the citizen's vote to be counted?
66. Do the law and regulations provide for public education about the time, place and elements of the voter registration process?
67. How is identification of citizens verified during the registration process?
  - a. What evidence of qualification is required? (E.g., birth certificate, passport or other government issued identification, witnesses who swear under oath?)
  - b. Is the process of obtaining birth certificates and/or other government identification easily accomplished, or does it present a barrier to being included on the voter registry?
68. Do the law and regulations provide that the voter registration process be conducted in a manner that is easily accessible to all eligible citizens?
  - a. Are the locations required to be physically accessible?
  - b. Are they to be at sites that are easily reached by citizens?
  - c. Are the hours of operation to be conducive to all eligible people, including women, older people and those coming of age to vote since the last election?
69. Are voter identification cards issued?
  - a. If so, are they issued upon registration or at some other point in time?
  - b. Is the process of providing voter cards secure and efficient?
70. Where are the lists published? (E.g., an Internet website, newspapers, at schools or other neighborhood facilities, at a district office or city hall and/or other location?)
71. Is there any provision for supplementary registration after the final list is published?
72. Are citizens who reach voting age shortly before or on election day allowed to vote?
  - a. If so, are there separate provisions regarding their registration?
73. Does the law provide for registration at polling sites on election day or adding a person to a supplemental voter list on election day?
  - a. If so, how do such persons establish their eligibility?
  - b. What safeguards are there to prevent such persons from voting at multiple polling sites?

74. Does the law allow for voting by citizens not present in the country at the time of the election?
  - a. If so, what is the procedure? (Embassy voting, absentee ballots or other?)
  - b. What are the timetables to be entered into a corresponding voter list?
  - c. In what district are their votes registered? (E.g., their national home, the capitol, other place?)
75. If refugees and internally displaced persons are allowed to vote, are the procedures provided sufficient to ensure against disenfranchisement and against illegal voting?
76. Are voters given the opportunity to verify the accuracy of the voter registry and to correct errors?
  - a. Are such procedures clearly defined?
  - b. How broadly are the procedures publicized, in what medium and by whom?
  - c. How much time are voters given to make corrections to the registry?
  - d. Are electors or anyone else given the right to object to registrations believed to be wrong?
77. Do political parties, candidates and ballot initiative groups have the right to monitor the voter registration process?
  - a. If so, are the provisions adequate to verify the integrity of the process?
78. Are political parties, candidates and referenda and ballot initiative groups provided a copy of the voter registry to conduct verifications and/or to use in voter mobilization efforts?
  - a. If so, at what point in the voter registration process and how far before the election is this to happen?
79. Do domestic nonpartisan election monitors and/or the news media have the right to monitor the voter registration process?
  - a. If so, are the provisions adequate to verify the integrity of the process?
80. Do domestic nonpartisan monitors receive a copy of the voter registry for verification purposes and/or to use in voter mobilization efforts?
  - a. If so, when does this happen?
81. Are electoral contestants and/or nonpartisan domestic election monitors provided access to the voter registry to conduct voter registration audits?
82. Does the EMB enlist an independent source to conduct voter registration audits, and are the results made available to the public?
83. Is the voting list contained in an electronic registry?
  - a. If so, does the law provide transparency measures concerning the decision making process regarding the benefits of using such technology, the design requirements, the procurement process, the testing and the operation of electronic technologies in registering voters, compiling the voter registry and production of voter lists?
  - b. Are transparency provisions and other safeguards provided to ensure that electronic voter lists cannot be linked to electronic voting technologies or otherwise compromise secrecy of the ballot?

## VOTER EDUCATION

**Goals: Ensure that the electorate is sufficiently informed about voter registration, voting choices and voting procedures to provide a genuine opportunity for exercising the right to vote and to make an informed choice among electoral contestants.**

Criteria or Indicators - The Legal Framework:

- Provides clear responsibilities to the EMB for conducting voter education activities;
- Allows electoral contestants and civil society organizations to conduct voter education without undue restrictions;
- Requires the military to allow voter education to reach its personnel; and
- Sets provisions concerning the roles of the news media in voter education.

Questions to Consider:

84. Does the law state who is responsible for and who else may conduct voter education?
  - a. If so, what is the responsibility of the EMB?
  - b. What is the responsibility of other government agencies?
  - c. Are there provisions that require the news media to conduct voter education?
  - d. Are there provisions that address the role of civil society organizations in conducting voter education?
  - e. If so, do they contain any unreasonable restrictions?
85. Do the law and regulations contain provisions for voter education concerning the voter registration process?
  - a. Concerning criteria for voter eligibility?
  - b. Concerning how to establish identity, eligibility and the processes to acquire necessary identification?
  - c. Concerning dates, times and places to register to vote, if a voter has to appear at a registration center?
  - d. Concerning the dates, times, types of information and the process by which enumerators will canvas the various locations, if the government is creating a registry based on an enumeration process?
  - e. Concerning the process by which the government will transfer voter data from the civil population registry to the voter registry?
  - f. Concerning whether there is a supplemental voter registration process and/or whether eligible voters can register on election day?
86. Do the law and regulations contain provisions for voter education concerning checking and correcting entries on the voter registry?
  - a. Concerning the dates, times and places to check and correct names?
  - b. Concerning the correction (sometimes called the claims and objections process) procedures? (E.g., correcting a voter's own information, objecting to the entry of persons a voter knows to be deceased, underage or otherwise ineligible; whether political parties, candidates, ballot initiative groups and/or other organizations may initiate a correction procedure?)

- c. Concerning reviewing the corrected voter registry or lists?
87. Do the law and regulations contain provisions concerning supplying the electorate with information about the political parties, candidates, referenda or other ballot initiatives and positions of groups that support or oppose them?
- Does the EMB have the responsibilities of producing and distributing a voter guide on these matters?
  - Are there provisions that require the news media to provide information on these matters? (E.g., requirements for the government controlled media and publicly funded media, requirements or guidelines for the privately owned media?)
  - Are there provisions requiring the military services to allow the political contestants to provide information to military personnel?
88. Do the law and regulations require voter education concerning where, when and how to vote, as well as concerning secrecy of the ballot?
- If so, what is the EMB's responsibility on these matters?
  - Are the military and any other governmental agencies required to distribute such information to their personnel?
  - Are the news media required to provide the public with information on these matters? (E.g., requirements for the government controlled media and publicly funded media, requirements or guidelines for the privately owned media?)

#### LEGAL RECOGNITION AND STATUS OF POLITICAL PARTIES

**Goals: Ensure freedom of political association and political pluralism.**

*Criteria or Indicators - The Legal Framework:*

- Sets rules that are consistent with international principles for legal recognition of political parties and other political organizations;
- Provides due process protections against undue restrictions and/or arbitrary application of legal provisions;
- Provides clear rules for disclosing financing and expenditures; and
- Establishes transparency in party recognition and legal status.

*Questions to Consider:*

89. Does the constitution contain provisions that pertain to political party formation, legal recognition and/or functioning?
- If so, what are they?
90. Is there a separate law on political parties and other political organizations? (E.g., candidate support groups and groups that support or oppose referenda or other ballot initiatives?)
- If so, is it consistent with constitutional provisions?
  - Does it contain provisions that affect the roles of parties in the electoral context?
  - If so, how, and do the provisions correspond with international principles?

91. What provisions are there in the election law and regulations that pertain to political parties and other political organizations?
  - a. Are they consistent with constitutional provisions?
  - b. Are they consistent with the political party law?
  - c. If not, which law controls?
  - d. Are they consistent with international principles?
92. What governmental body receives applications for legal recognition, and what body makes the decision on recognition?
93. What are the requirements for a party or other political organization to receive legal recognition?
  - a. What documentation must accompany an application?
  - b. Is there a time limit on how long an application may be considered before a decision is made?
  - c. On what grounds can an application be rejected under the law?
  - d. If the application is rejected, must reasons be presented in writing to the party or other political organization?
  - e. Do rejected parties and other political organizations have the opportunity to correct faulty applications?
  - f. Do they have the right to appeal rejections?
  - g. If so, what is the appeal procedure and timing?
94. Can a party's or other political organization's legal status be suspended or terminated?
  - a. If so, under what circumstances?
  - b. Who makes the determination?
  - c. What procedure is required?
  - d. Is there an appeals process?
  - e. How long can a suspension last?
  - f. What process is provided for reinstatement to full legal status?
95. Are there restrictions on the platforms of political parties and other political organizations?
  - a. If so, what are they?
  - b. Are they consistent with constitutional provisions?
  - c. Are they consistent with international principles for freedom of expression?
96. Do the laws contain provisions concerning the methods by which political parties select their candidates for elections?
  - a. Are primary elections required?
  - b. Are there provisions on selection of candidates by party conventions, caucuses or other means?
  - c. Are there requirements concerning women or minority candidates? (E.g., quotas, requirements for specific placement on party lists in proportional representation systems, separate voting for women and/or minority candidates?)
97. Do political parties and other political organizations receive government funds or other direct government support? (E.g., offices, telecommunications, transportation, etc.?)
  - a. If so, what are the requirements for receipt of funds or support?
  - b. Is the provision of such funding and support consistent with international principles concerning fairness and nondiscrimination?
98. Are political parties and other political organizations required to report income and expenditures?

- a. If so, when are reports due?
  - b. To whom are the reports due?
  - c. Is any of the information available publicly?
  - d. What penalties or other accountability measures are there to help enforce reporting and financing related requirements?
99. Do political parties and other political organizations have to meet certain requirements in order to compete in elections? (E.g., having received a threshold percentage of votes in a previous election, collection of signatures on petitions, minimum support indicated on opinion polls?)
- a. If so, are these procedures consistent with international principles?
100. Can the participation of parties and other political organizations in an election be terminated during the election campaign period?
- a. If so, under what circumstances?
  - b. Is there an appeals process?
  - c. Are these procedures consistent with international principles?
101. Are the procedures relating to political parties and other political organizations open to monitoring by representatives of the parties, organizations, domestic election monitoring, news media and international election observers?

#### BALLOT QUALIFICATION

**Goals: Ensure a genuine opportunity to exercise the right to be elected and apply proper criteria for candidacy and listing on the ballot.**

Criteria or Indicators - The Legal Framework:

- Sets clear criteria, consistent with international principles, for eligibility of political parties and candidates to stand for election to public office;
- Sets clear criteria, consistent with international principles, for qualification of referenda and other ballot initiatives to be presented at an election;
- Provides a ballot qualification process that is free from undue restrictions and arbitrary or discriminatory application; and
- Establishes a clear and realistic timeline for ballot qualification.

Questions to Consider:

102. What are the requirements set forth in the constitution and the election law concerning eligibility to seek elected offices?
- a. Are they consistent with each other?
  - b. Are they consistent with international principles concerning the right to seek election and nondiscrimination?
103. Are there requirements in other laws that affect qualification to seek elected office? (E.g., the political party law, criminal law, bankruptcy law?)
- a. Are they consistent with the constitution?
  - b. Are they consistent with the election law, and if not which law controls?
  - c. Are they consistent with international principles?



104. Who may nominate parties, candidates, referenda and ballot initiatives for the ballot? (E.g., parties must submit names of party candidates, and certain party officials must sign the application, self-nomination, nomination by a group of citizens?)
105. Does the law provide that citizens may challenge the qualification for the ballot of a party, candidate or referendum or other ballot initiative?
  - a. If so, what are the requirements for making a challenge?
  - b. What are the elements of the process for processing such challenges?
106. Does the law regulate how political parties may select candidates for the ballot and for election?
  - a. If so, are the requirements consistent with international principles?
107. Are non-party, independent candidates permitted to be listed on the ballot?
  - a. If so, what are the requirements?
  - b. Are they consistent with international principles concerning the right to seek election?
108. At what stage in the election process does application for listing on the ballot take place?
109. How long is the ballot qualification process open?
110. How long before the election are the final decisions for ballot qualification announced?
111. What are the elements of the ballot qualification process?
  - a. When the parties, candidates and referendum and ballot initiative groups apply for inclusion on the ballot, what materials do they have to submit?
  - b. Does the application require filing names and information about party leaders, candidate support group leaders or referendum and ballot initiative group leaders?
  - c. If so, is the information required overly burdensome or irrelevant to seeking election?
  - d. Is financial disclosure information required concerning the prospective candidate and that person's family members?
  - e. If so, are the requirements unreasonable?
  - f. Is a monetary deposit or fee required?
  - g. If so, does the fee present an overly burdensome barrier to seeking to be elected?
  - h. Are signatures required to demonstrate support for ballot qualification?
  - i. If so, how many?
112. If signatures demonstrating support for ballot qualification are required, are the requirements overly burdensome?
  - a. Are voters restricted to signing in support of ballot qualification of only one party or candidate, which is inconsistent with promoting pluralism and ballot secrecy and places an unfair burden on signature collectors to verify that persons only sign one ballot petition?
  - b. Do the number of signatures required, in light of timelines for signature collection and national conditions, create an undue burden?
  - c. If signatures must represent geographic or other diversity, are the requirements unreasonable?

113. What is the process for verifying the genuineness of signatures and their compliance with the law?
  - a. Who conducts this verification procedure?
  - b. Is the signature verification process realistic? (E.g., the timelines, number of persons and other resources assigned to the task and the methodologies are appropriate?)
  - c. Do the political parties, candidates and referenda and other ballot initiative groups have the right to observe the signature verification process?
  - d. Do domestic nonpartisan election monitors and news media have the right to monitor the signature verification process?
  - e. Do international election observers have the right to witness the signature verification process?
114. If signatures are ruled invalid, do the qualification procedures safeguard the party, candidate or initiative group affected?
  - a. If a signature is ruled invalid, do the valid signatures on the petition still count toward ballot qualification, or are they arbitrarily ruled invalid?
  - b. If a signature is ruled invalid, is there a way for the affected party, candidate or group to appeal the ruling?
  - c. If the number of signatures ruled invalid is high enough to cause the party, candidate or ballot initiative group to fail to meet ballot qualification requirements, is there an opportunity for them to submit additional signatures before the qualification process expires?
115. Are there any restrictions on platforms that would cause disqualification for being listed on the ballot? (E.g., advocating war or violence, succession, hatred based on race, color, ethnicity, gender, religion, political or other opinion or other status?)
  - a. If so, what are they?
  - b. Are they consistent with the constitution?
  - c. Are they consistent with international principles for restriction on political expression?
116. Does the law contain provisions concerning candidatures of women or specific population groups?
  - a. Are there quotas of women candidates, separate ballots for women candidates or requirements for the intervals at which women must appear on party lists?
  - b. If so, are the provisions consistent with international principles?
  - c. Are there quotas for minority group members, separate ballots for minority groups or other ballot requirements concerning qualification of candidates from minorities?
  - d. If so, are the provisions consistent with international principles?
117. What are the rules regarding candidate withdrawal?
  - a. When can a candidate withdraw from the ballot?
  - b. Must a candidate state reasons for the withdrawal? If so, what are the acceptable reasons?
  - c. Does anyone have the power to replace the candidate with another one, and if so who has that power?
118. Can a person be nominated as a candidate for more than one party?
119. Are there requirements for electoral coalitions or alliances, and how do they affect ballot qualification and appearances on the ballot?

120. Are candidates and/or parties assigned symbols to appear on the ballot?
  - a. If so, do the provisions limit possibilities for confusion of symbols?
  - b. How are symbols assigned?
  - c. When are symbols assigned?
  - d. Does the timing allow sufficient opportunity for campaigning for support?
121. Do candidates and/or parties have an opportunity to review sample ballots and seek corrections before their production?
  - a. If so, what is the procedure?
  - b. Who makes the final determination about ballot appearance?
122. What is the process for reviewing the wording of referenda and other ballot initiatives?
  - a. Who has the final authority to rule on the wording of referenda and other ballot initiatives?
  - b. Do citizens have the right to challenge the wording or the appearance of referenda and other initiatives on the ballot?
  - c. Do referendum and ballot initiative groups have the right to appeal rulings on ballot qualification and wording of referenda and other ballot initiatives?
123. Do political parties, candidates and referendum and other ballot initiative groups have the right to observe ballot production and distribution?
124. Do domestic nonpartisan election monitors and news media have the right to observe ballot production and distribution?
125. Are international election observers allowed to witness ballot production and distribution?

### ELECTION CAMPAIGN

**Goals: Ensure that those seeking election or supporting or opposing referenda and other ballot initiatives are free and have fair conditions to organize, impart information and seek electoral support, and ensure that citizens are able to learn about those who are seeking election and understand that they may make their electoral choices free from intimidation, threat of retribution and other forms of coercion.**

Criteria or Indicators - The Legal Framework:

- Requires political impartiality of electoral and other governmental officials concerning the use of government resources, use of government employees' time on their jobs, assigning permits and all other matters regarding campaigning activities by electoral competitors;
- Requires strict adherence to equality before the law and equal protection of the law in safeguarding the rights of electoral contestants and their supporters and in provision of effective remedies for violations of their rights;
- Sets requirements for respecting freedom of peaceful assembly, association, movement and political expression in relation to campaigning for electoral support; and
- Requires conditions where the electorate may seek and receive information from the electoral competitors and the electoral competitors may impart information and seek support of the electorate, all free from violence and any form of coercion.

Questions to Consider:

126. Do the law and regulations prohibit using government resources for the advantage of any electoral contestant?
  - a. If so, what are the penalties for violating this provision?
  - b. What are the provisions for enforcing the requirement?
  - c. Are there provisions requiring public reports on the application of these rules?
127. Is there a prohibition against candidates currently in the government using benefits of their positions for electoral gain?
  - a. If so, what are the penalties for violating this provision?
  - b. What are the provisions for enforcing the requirement?
  - c. Are there provisions requiring public reports on the application of these rules?
128. Do the law and regulations prohibit government officials, including military officers and police commanders, from pressuring or coercing subordinates to support, take actions on behalf of, or otherwise campaign for a particular political contestant?
  - a. If so, what are the penalties for violating this provision?
  - b. What are the provisions for enforcing the requirement?
  - c. Are there provisions requiring public reports on the application of these rules?
129. Do the law and regulations prohibit government employees from campaigning for any electoral contestant during the hours of their employment?
  - a. If so, what are the penalties for violating this requirement?
  - b. What are the provisions for enforcing this requirement?
  - c. Are there provisions requiring public reports on the application of these rules?
130. Do the law and regulations prohibit discrimination and arbitrary decisions in the assignment of permits and government facilities to assemble and to demonstrate support for electoral contestants?
  - a. Are there means for political contestants to appeal decisions concerning such matters?
  - b. Does the appeals process provide for timely rulings?
131. What is the length of the official election campaign period?
  - a. Is this set by the constitution, law or regulation?
  - b. Is campaigning for electoral support allowed before the beginning of the official campaign period?
  - c. If not, what are the penalties for campaigning, and are there provisions to ensure that they are fairly enforced?
  - d. Do such restrictions correspond to international principles for political expression?
  - e. Does the law require the campaign to end a certain number of days before election day?
  - f. If so, how many days, and what activities are prohibited?
  - g. Do such restrictions correspond to international principles for political expression?
132. Do the law and regulations contain prohibitions against anyone interfering with, disrupting or preventing campaign activities or using violence against any candidate, campaign activist or participant?
  - a. If so, what are the penalties?
  - b. What are the enforcement mechanisms of the EMB and other administrative bodies?

- c. If criminal prosecutions are taken concerning such matters, may administrative actions also go forward?
  - d. If members of political parties, candidate support groups or referendum and other ballot initiative groups are held to be responsible, are parties, party leaders, candidates and leaders of referendum and other ballot initiative groups also subject to penalties?
  - e. If so, do the penalties correspond with international principles?
133. Is there a code of conduct for the election campaign?
- a. If so, is it contained in the electoral law, or is it a voluntary code?
  - b. What issues does it address?
  - c. Does it apply to parties, candidates and referendum and other ballot initiative groups?
  - d. Do parties have to sign the code?
  - e. How is it enforced?
  - f. Does it contain a mechanism to raise grievances for violations of the code?
134. Do the law or regulations provide for government security teams to be assigned to any candidates?
- a. If so, are the provisions consistent with international principles for freedom of movement, political expression and nondiscrimination?
135. Are there restrictions on the printed, broadcast or Internet materials that political parties, candidates and referendum or other ballot initiative groups can distribute during the campaign?
- a. If so, what are they?
  - b. Do the restrictions correspond to international principles?
136. Are there restrictions on canvassing in public places? (E.g., government controlled parks, squares and arenas, schools, commercial shopping malls?)
- a. If so, do the restrictions correspond to international principles for restrictions of freedom of expression?
137. Are there restrictions on public meetings, demonstrations/rallies?
- a. If so, do the restrictions correspond to international principles for freedom of peaceful assembly, association and political expression?

## CAMPAIGN RESOURCES

**Goals: Ensure fair conditions for exercising the right to seek to be elected and provide the electorate with information that is relevant to making electoral choices.**

Criteria or Indicators - The Legal Framework:

- Provides for fair and equitable access to state owned or controlled facilities for election campaign activities;
- Provides for fair and equitable allocation of public financing for election campaigning, where public funds are made available;
- Sets clear rules and equal treatment of electoral competitors concerning private contributions for election campaigning, where such contributions are allowed; and
- Sets clear rules and equal treatment for electoral contestants concerning campaign expenditures, where such requirements are provided.

Questions to Consider:

138. Do the law and regulations include clear provisions stating that the allocation of all state controlled facilities for meetings, rallies and other campaign activities must be done on an equal basis among the electoral contestants?
139. Is public funding provided to electoral contestants for campaigning?
  - a. If so, is this done on the basis of equal funding or based on a fair and equitable formula that provides fair treatment?
  - b. Do such provisions correspond to international principles for nondiscrimination?
140. If private contributions are permitted to fund election campaigning, do the law and regulations provide for equal treatment of all electoral contestants?
141. Do the law and regulations limit private campaign contributions?
  - a. Do such limits apply to “in kind” contributions of supplies, materials and other matters?
  - b. What are the mechanisms for enforcing such limits?
  - c. Do the limitations correspond to international principles for campaign regulation of political expression?
142. Do the law and regulations provide that political parties, candidates and groups supporting or opposing referenda and other ballot initiatives must file reports disclosing campaign contributions and/or campaign expenditures?
  - a. If so, what types of information are required?
  - b. When and how often does such information have to be reported?
  - c. What government agency receives such reports?
  - d. Are reports made available to the public?
  - e. If so, how soon after they are filed and by what medium? (E.g., Internet posting, paper copy?)
  - f. What are the penalties for failure to file reports or filing incorrect or false reports?
  - g. How are the provisions enforced?

**MEDIA**

**Goals: Ensure fair and equitable treatment of the electoral contestants and help ensure the electorate receives sufficient, accurate information about the electoral contestants and about issues that are important to the election, so that voters may make an informed choice.**

Criteria or Indicators - The Legal Framework:

- Prohibits government officials from exerting pressures on the media to provide an advantage to any particular electoral contestant and prohibits retribution against journalists and media personnel for providing accurate and balanced coverage of electoral contestants and issues that are important in the electoral context;
- Sets requirements for unpaid access to government owned or controlled media on a fair and equitable basis for political parties, candidates and groups supporting or opposing referenda and other ballot initiatives;

- Sets requirements for purchase of paid political advertisements on an equal basis for all electoral contestants;
- Provides for equitable access by all electoral contestants to independent publically funded and privately funded media;
- Provides rules for accurate and balanced news coverage of all electoral contestants in government owned or controlled media;
- Provides guidelines for accurate and balanced news coverage of all electoral contestants on independent publically funded and private media; and
- Establishes mechanisms for electoral contestants to seek redress in the event their electoral rights are infringed by the media.

*Questions to Consider:*

143. Do the law and regulations prohibit government censorship of the media concerning any electoral related matters?
144. Do the law and regulations prohibit government officials from exerting any pressures against the media in order to obtain an advantage or to harm the interests of any of the electoral contestants?
  - a. Does the prohibition address offering or threatening to withhold government subsidies or advertisements, access to newsprint, broadcast licensing and similar matters?
  - b. Does it address threatening or initiating libel and criminal libel actions?
145. Are there provisions in the media law or other laws that cover such matters?
  - a. If so, are the provisions consistent with the constitution?
  - b. Are such provisions consistent with the election law?
  - c. If not, which law controls?
  - d. Are the provisions consistent with international principles concerning media freedoms?
146. Does the law limit media liabilities during an election campaign for re-publishing statements of electoral contestants?
147. Do the laws and regulations provide for access to government owned and controlled media for all electoral contestants?
  - a. If so, is the access provided on a fair and equitable basis?
  - b. If different categories of contestants are established and different amounts of time are provided to contestants in the categories, is the minimum amount of time provided sufficient for voters to understand the contestant's basic electoral platform?
  - c. If different categories of contestants are established, are there clear, objective and fair criteria for placing electoral contestants into different categories?
  - d. Do the criteria correspond to international principles for political expression and non-discrimination?
  - e. Do the rules provide the sides supporting and opposing referenda and other ballot initiatives sufficient access for voters to understand the pros and cons of the referendum and ballot issues?
  - f. Do the rules provide equal time for those supporting and opposing a referendum or other ballot initiative?
  - g. Do the laws and regulations provide a clear and fair method for assigning broadcast times and print space to the electoral contestants, including those supporting and opposing referenda and other ballot initiatives?

- h. Are the media times and space assigned convenient for voters to learn about the contestants?
- 148. Do the laws and regulations provide clear requirements for independent public media and private media to provide unpaid access to electoral contestants on a fair and equitable basis?
  - a. If so are rules for assigning access times or space consistent with international principles for political expression?
- 149. Do the laws and regulations provide for paid political advertisements?
  - a. If so, do they require that all electoral contestants must be charged the same fees for advertisements?
  - b. Do the laws and regulations require that the fees for political advertisements must not exceed normal commercial advertising rates?
- 150. Do the laws and regulations require that government owned or controlled media must provide accurate and equitable news coverage of all electoral contestants?
  - a. Do they require that activities of high government officials be counted as coverage of electoral contestants?
  - b. Do the rules include provisions concerning order of electoral contestants in broadcast coverage and placement in print media?
  - c. Do the rules include the lengths of coverage of the electoral contestants?
  - d. Do the rules address types of broadcast footage, size of photos, use of personal voice and direct quotes?
- 151. Do the laws and regulations require that government owned or controlled media make clear distinctions and separations between news coverage and editorial opinion?
- 152. Do the laws and regulations present clear guidelines on the foregoing issues concerning news coverage of electoral contestants that are applicable to independent publicly funded and privately funded media?
- 153. Do the laws and regulations address mechanisms for ensuring effective remedies if the rights of electoral contestants are violated by the news media? (E.g., expedited complaints process concerning implementation of media access rules, paid political advertising rules and rules concerning news coverage?)
  - a. If so, what entity considers such complaints and awards effective remedies?
  - b. Are the right to reply, corrections and retractions among the remedies available?
  - c. Can the EMB/regulatory body order government owned or controlled media to provide additional time to an electoral contestant to create more even amounts of access or coverage?
- 154. Do the laws and regulations address special electoral information activities, such as debates, town meetings and other forums?
  - a. If so, are there clear rules for ensuring fair and equitable treatment of the electoral contestants?
- 155. Do the laws and regulations address requirements for the media to broadcast or print voter education materials provided by the EMB or other sources?
- 156. Do the laws and regulations address reporting results of public opinion surveys?(E.g., disclosing who funded the survey, its dates, sample size, margin of error and confidence interval?)



- a. If so, do the rules correspond to international principles for freedom of expression?
157. Do the laws and regulations address coverage of election day processes, including voting, counting, tabulation, projections of results and official results?
- a. If so, do the rules correspond to international principles for freedom of expression?
158. Does the government officially recognize and credential certain reporters for access to government events and facilities?
- a. If so, how are credentials obtained, and are there safeguards in the credentialing process to prevent coercion to gain favorable coverage or damaging coverage of specific electoral contestants?
159. Are there self-regulatory associations of journalists and/or media owners?
- a. If so, do they provide a complaint mechanism and remedies that voters and electoral contestants can employ?

## VOTING

**Goals: Ensure that all eligible voters have a genuine opportunity to freely cast a secret ballot, illegal voting is prevented, the will of the voters is registered, fraud is prevented and transparency provides a basis for public confidence in the electoral process.**

### Criteria or Indicators - The Legal Framework:

- Establishes procedures to secure violence free, intimidation free and coercion free environments inside and around polling sites;
- Provides an equal and genuine opportunity to vote to women and men, minority and majority population groups, young and older people, illiterate people and people with physical challenges and disabilities;
- Sets identification and voting procedures that prevent disenfranchisement, illegal voting and ballot box stuffing or equivalent fraud in electronic technologies;
- Sets procedures to ensure the secret ballot;
- Establishes mechanisms to guarantee ballot security before, during and after voting takes place;
- Provides for the presence and unhindered access to all procedures - except secret balloting - for representatives of political parties, candidates, groups supporting and opposing referenda and ballot initiatives, domestic nonpartisan election monitors, news media and international election observers; and
- Establishes mechanisms to fix election day problems immediately and procedures concerning electoral complaints.

Questions to Consider:

160. Do the law and regulations provide a security framework for polling sites and surrounding areas on election day?
  - a. If so, who is in charge of the security arrangements outside the polls?
  - b. Do security arrangements for outside the polls address prevention of intimidation of voters, vote buying and other forms of coercion?
  - c. Who is in charge of security arrangements inside polling sites?
  - d. Are police and military prohibited from entering polling sites unless asked by electoral officials?
  - e. Once asked, who determines when they should leave?
  - f. Are unauthorized persons prohibited from entering and remaining inside polling sites?
161. Do the law and regulations provide criminal charges and penalties for electoral related violence, intimidation, coercion, vote buying, illegal voting, ballot box stuffing, ballot box stealing or destroying and other forms of fraud?
  - a. If so, what are the penalties?
162. Do the law and regulations provide that the chief electoral officer at a polling site has the power to control proceedings and remove anyone who disrupts or blocks the proceedings?
  - a. If so, are security personnel obliged to follow the electoral official's instructions and requests for assistance?
163. Does voting take place on a single day or over multiple days?
  - a. If polling is over multiple days, how many days?
  - b. What are the requirements for maintaining ballot security before, during and following voting day or days?
  - c. Are eligible people allowed to cast ballots by mail, by going early to a special facility, by mobile ballot box taken to sick and otherwise immobile voters or other special voting procedures?
  - d. What are the requirements for maintaining ballot security before, during and following such special voting procedures and for guaranteeing secrecy of the ballot?
  - e. Are there special polling sites for military personnel on bases and/or ships at sea, people in hospitals and/or persons in prisons?
  - f. What are the requirements for maintaining ballot security and secrecy of the ballot in such locations?
164. What are the voting hours?
  - a. Are they sufficient to allow all eligible citizens a genuine opportunity to vote?
165. What are the requirements for locating polling sites?
  - a. Do the requirements correspond to international principles against discrimination concerning women and minority groups?
166. Are polling sites required to be accessible to voters with physical challenges and disabilities?
167. How many voters are assigned to polling sites, and can the maximum number be easily processed in the number of hours provided and in light of national voter turnout times and rates?
168. What are the procedures for informing voters of their polling site and are they sufficient to adequately inform voters?
169. Are there provisions requiring voter education signs or directions at the polling site?

170. Does the ballot contain symbols for the electoral contestants so that illiterate people can easily identify their electoral choice and cast a secret ballot?
171. Are there special balloting procedures for blind people, so that they can make their electoral choice by secret ballot?
172. Does the law require that electoral officials account for all ballots before voting begins and demonstrate to all persons present that ballot boxes and voting machines contain no votes?
173. Do the law and regulations require election officials to maintain control over all unused and spoiled ballots, as well as control of the ballot boxes or voting machines, throughout and following the voting process and to account for all ballots originally provided to the polling site?
174. Do the law and regulations require election officials to reconcile the number of voters who cast ballots with the number who signed the voter list for the site?
175. Do the law and regulations require an action by polling site officials to validate a ballot before it is issued to a voter?
  - a. If so, is the procedure easily executed?
  - b. Is it likely to be free of partisan interference with voting procedures?
176. Do the law and regulations provide for use of electronic voting machines?
  - a. If so, is a voter verified paper audit trail required for each vote?
  - b. Is secrecy of the ballot ensured should voters request assistance in using the machines?
  - c. Must party representatives, candidates, groups supporting or opposing referenda and other ballot initiatives, as well as domestic nonpartisan observers be allowed to monitor the set up and activation of the electronic equipment and verification that it is properly running?
  - d. Do the law and regulations provide that such representatives be provided access to monitor the design, testing, certification, procurement, election official training and delivery phases of putting electronic technologies into place?
  - e. Are election officials required to follow clear and specific procedures during the voting process?
  - f. Are security procedures clearly set concerning the electronic technology?
  - g. Is polling day testing required of a random sample of electronic voting machines in a manner that protects security of the vote registered on the machines?
  - h. Are clear and secure troubleshooting procedures provided concerning the machines?
  - i. Are voters provided the alternative of using a paper ballot?
  - j. Must a sufficient number of paper ballots be on hand at the polling site in case they are needed if voting machines breakdown or malfunction?
177. Do the law and regulations provide clear and reasonable means for establishing a prospective voter's identity and eligibility to vote? (E.g., a voter registration card or other government issued identification or other document that establishes name, residence and other criteria?)
  - a. Are required identity documents easily available to all prospective voters in order to prevent disenfranchisement?

- b. Are the required identity documents a reliable means of preventing impersonation of eligible voters?
178. If a person establishes her or his identity but that person's name and other information is not on the official voter list, is there a method for the person to cast a ballot?
    - a. Can such persons apply to a court or election authority to establish eligibility and polling site assignment and return with a certification entitling the person to cast a regular ballot?
    - b. Are there procedures for such persons to cast provisional, challenged or tendered ballots and later validate its being included in the official results?
    - c. Do such procedures protect against disenfranchisement and illegal voting?
  179. Do the law and regulations provide clear procedures to protect casting a secret ballot?
    - a. Does the law require that a private place be provided to mark a ballot or indicate an electoral choice on a machine, where no one can see or otherwise determine how a person voted?
    - b. If electronic technologies are used in the election process, is it impossible to link the electronic voter book with the electronic voting machines to determine how persons voted, and is it impossible to otherwise identify how a person voted?
    - c. If sequential numbers appear on ballots and ballot counterfoils, is it impossible to trace how a person voted?
  180. Do the law and regulations provide procedures to guard the ballot box or voting machines in a way that secures the secret ballot, and guard against a person leaving the polling site with an unmarked ballot or ballots?
  181. Do the law and regulations establish procedures to prevent multiple voting? (E.g., requiring voters to sign the voter list, marking the person's voter registration card and/or placing ink on a voter's finger before she or he leaves the polling site?)
  182. Are there provisions defining the circumstances in which voting at a polling site can be adjourned or closed?
    - a. If so, what are they?
    - b. Who has the decision making authority?
    - c. Is there an appeals procedure and/or way to ensure extra hours are added to vote at the site?
  183. Do the law and regulations provide for representatives of the political parties, candidates and groups supporting or opposing referenda and other ballot initiatives to be present from the time the polling site prepares to open until it completes operations and closes?
    - a. If so, do they have the right to witness and monitor all procedures in the polling site?
    - b. Are they allowed to raise concerns and seek remedies on the spot?
    - c. Can they challenge the eligibility of a prospective voter?
    - d. Do challenge procedures safeguard against disenfranchisement of eligible voters?
    - e. Are the representatives allowed to file complaints and seek remedies before, during and/or after voting takes place?

184. Do the law and regulations provide for the presence of domestic nonpartisan election monitors?
  - a. If so, do they have the right to monitor all procedures in the polling site?
185. Do the law and regulations provide for the presence of news media in the polling sites?
  - a. If so, do they have the right to witness all procedures in the polling site?
186. Do the law and regulations provide for the presence of international election observers in the polling sites?
  - a. If so, do they allow them to witness all procedures that take place in the polling site?

### VOTE COUNTING

**Goals:** Ensure that the will of the voters is accurately and honestly counted, recorded and reflected in the official results, fraud is prevented and transparency procedures provide a basis for public confidence in the process.

*Criteria or Indicators - The Legal Framework:*

- Sets clear procedures to secure ballots and sensitive materials in preparation for ballot counting;
- Provides for counting in an open and transparent manner that allows verification by representatives of political parties, candidates, groups supporting and opposing referenda and other ballot initiatives, domestic nonpartisan election monitors, news media and international observers;
- Provides safeguards against improper rulings on ballot invalidity, crediting votes to the wrong electoral contestants, improper and/or inaccurate recording of voting results and improper and/or inaccurate transmission and consolidation of results;
- Safeguards the accurate reporting of results; and
- Provides mechanisms for lodging complaints about vote counting, tabulation and reporting of results, including challenges to electoral outcomes, and provides effective remedies.

*Questions to Consider:*

187. Are representatives of political parties, candidates, groups supporting or opposing referenda and other ballot initiatives, nonpartisan domestic election monitors, media and international observers permitted to observe all procedures concerning counting, recording, transmission of vote tallies and transportation of sensitive electoral materials, including ballots and electronic devices that recorded votes and voter turnout?
  - a. If so, are clear procedures provided to allow representatives of the electoral contestants, including those concerned with referenda and other ballot initiatives, to raise concerns about how procedures are implemented, challenge a ruling on ballot validity and/or the accuracy of the count, request recounts on the spot and/or file complaints and protests?

188. Do the law and regulations set clear procedures for ending the voting process and securing all sensitive materials, including unused ballots and all devices that allow votes to be electronically recorded?
189. When non-electronic paper ballots are used, do the law and regulations require that the ballot box be inspected for potential tampering before it is opened?
  - a. Are the contents of the ballot box required to be observed before ballots are removed?
  - b. Is it required that ballots be taken from the box in plain view?
  - c. Is it required that each ballot be ruled valid or invalid according to clear and specific rules that honor the clear intent of the voter?
  - d. Must rulings on ballot validity be made in a manner that allows representatives of electoral contestants, media and domestic and international election observers to see the basis of the ruling?
  - e. Must decisions concerning which electoral contestant was selected by the voter be made in a manner that allows representatives of electoral contestants, media and domestic and international election observers to see the basis of the ruling?
  - f. Must ballots be sorted for the count in a manner that clearly indicates which electoral contestant was chosen on the ballot?
  - g. Must the count of the ballots and scoring of votes for each electoral contestant be done in a manner that is easily monitored by those present?
  - h. Must documents that record the official vote count for the electoral contestants be verified and signed by more than one election official, and are representatives of the electoral contestants allowed to sign the tally sheets?
  - i. Must a certified copy of each tally sheet be posted at the polling site for a number of days in a manner that is accessible to the public?
  - j. Must certified copies of the tally sheets be provided to the representatives present of the political parties, candidates, groups supporting or opposing referenda and other ballot initiatives, and must copies be provided to representatives present of the media, domestic nonpartisan election observer organizations?
190. Do the law and regulations set clear procedures that prevent disenfranchisement and illegal voting when processing provisional, challenged or tendered ballots?
  - a. When and where are such ballots reviewed and by what process?
191. When optical scanned ballots are used, do the law and regulations require that the ballots be removed from the machines in plain sight and be sorted and verified against the count registered on the machine?
192. When electronic voting machines of any type are used, do the law and regulations provide clear procedures for reconciling the votes recorded on the machines with the official record of voter turnout at the polling site? (E.g., the number of people who signed the voter registry?)
193. When electronic voting machines of any type are used, do the law and regulations set clear procedures for removing electronic devices that recorded the votes, securing them in a tamperproof manner and transporting them in accordance with clear security procedures?

194. When electronic voting is used, do the law and regulations require that a post-election verification procedure be conducted on a random sample of electronic voting machines, regardless of whether there is a challenge to the official results?
195. If vote tallies are transmitted electronically (e.g., by telephone, fax or Internet) from the polling site to a central vote tabulation center, do the law and regulations provide procedures that allow easy verification of the accurate transmission and recording of the tallies at the tabulation center?
196. Do the law and regulations allow for the conduct of parallel vote tabulations (PVTs or quick counts) and exit polls by political parties, candidates, groups supporting or opposing referenda or other ballot initiatives, media, domestic nonpartisan election monitors and international election observers?
  - a. If so, are there any restrictions on such activities, and do they correspond to international principles for freedom of expression?

#### RESULTS TABULATION AND RESULTS ANNOUNCEMENT

**Goals: Ensure that the will of the voters is accurately and honestly tabulated, recorded and reflected in the official results, fraud is prevented and transparency procedures provide a basis for public confidence in the process.**

Criteria or Indicators - The Legal Framework:

- Provides for result tabulation and announcement in an open and transparent manner that allows verification by representatives of political parties, candidates, groups supporting and opposing referenda and other ballot initiatives, domestic nonpartisan election monitors, news media and international observers;
- Provides safeguards against improper rulings on ballot invalidity, crediting votes to the wrong electoral contestants, improper and/or inaccurate recording of voting results and improper and/or inaccurate transmission and consolidation of results;
- Safeguards the accurate reporting of results; and
- Provides mechanisms for lodging complaints about tabulation and reporting of results, including challenges to electoral outcomes, and provides for effective remedies.

Questions to Consider:

197. When standard paper ballots and/or electronic vote recording devices are moved from the polling site to a counting center, do the law and regulations set clear security procedures for their transport?
  - a. Must representatives of the parties, candidates, groups supporting or opposing referenda and other ballot initiatives be allowed to accompany the transport, and are media, domestic nonpartisan election monitors and international observers allowed to accompany the transport?

198. Do the law and regulations provide set procedures for election officials at centers for tabulation and reporting of overall results to follow in the receiving of vote count reports, recording them, making consolidated tabulations of votes, transmission of the tabulations to centralized levels for further tabulation and/or announcement of results, and storage or transportation of sensitive electoral materials, including ballots and electronic devices that recorded votes and voter turnout?
199. Do the law and regulations provide for the presence at centers for results tabulation and determination (at all intermediate and central levels) of representatives of parties, candidates, groups supporting and opposing referenda and other ballot initiatives, media, domestic nonpartisan election monitors and international election observers?
  - a. Are such representatives permitted to observe all procedures concerning receiving of vote count reports, recording them, making consolidated tabulations of votes, transmission of the tabulations to centralized levels for further tabulation and/or announcement of results, and storage or transportation of sensitive electoral materials, including ballots and electronic devices that recorded votes and voter turnout?
  - b. If so, are clear procedures provided to allow representatives of the electoral contestants, including those concerned with referenda and other ballot initiatives, to raise concerns about how procedures are implemented, challenge a ruling on ballot validity and/or the accuracy of the count, request recounts on the spot and/or file complaints and protests?
200. If provisional ballots are reviewed, determined to be valid and included in the vote tabulation at intermediate or central vote tabulation centers, do the law and regulations provide clear procedures that safeguard against disenfranchisement and illegal voting?
  - a. Do the law and regulations require that representatives of the parties, candidates, groups supporting or opposing referenda and other ballot initiatives be able to monitor the procedures and raise concerns and challenges?
  - b. Do the law and regulations require that domestic nonpartisan election monitors, media and international observers be able to witness the procedure?
201. Do the law and regulations require that a copy of all tally sheets, showing the vote numbers entered from all levels, starting with polling site and including all intermediate levels up to the aggregated totals for each vote tabulation center (i.e., disaggregated results as well as aggregated results) be displayed for public inspection?
  - a. Is it required that certified copies of such tally sheets be provided to representatives present from parties, candidates, groups supporting and opposing referenda and other ballot initiatives, and is it also required that certified copies be provided to representatives present of the media, domestic nonpartisan election monitoring organizations and international election observers?
  - b. Is it required that disaggregated and aggregated voting results be made available in a timely manner on an EMB Internet website?
202. Are partial official voting results required to be released to the public, and if so at what intervals?
203. Do the law and regulations set a clear and reasonable timeframe for the release of preliminary official voting results?



204. Do the law and regulations set clear bases and procedures for challenging voting results at the polling site level, intermediate vote tabulation center level and the final vote result tabulation level?
205. Are there provisions for preserving ballots and other sensitive electoral materials, including electronic devices upon which votes were registered, voter verified paper trails from electronic voting, and devices that sent, received and recorded electronic transmissions of voting results?
206. What are the procedures and timing for formal declaration of the results?
207. Is a date specified for the swearing in of winning candidates following the announcement of results?
  - a. If so, under what criteria can the swearing in of winning candidates be delayed?

### COMPLAINT MECHANISMS

**Goals: Ensure due process, equality before the law, equal protection of the law and effective remedies and promote public confidence in the impartiality and competence of administrative and judicial tribunals reviewing electoral complaints and challenges.**

*Criteria or Indicators - The Legal Framework:*

- Sets clear complaint procedures for all elements of the election process that address who has standing to file complaints or other legal actions, what administrative body or court has jurisdiction concerning the complaint or other legal action, what administrative law or judicial procedures apply, including rules for burdens of proof, presenting evidence and witnesses, the timelines for filing complaints or other legal actions, processing and ruling on them and for any appeals processes;
- Provides for timely resolution of electoral related complaints and other legal actions;
- Provides redress for electoral related complaints, including effective remedies and accountability for violators of electoral rights; and
- Includes transparency mechanisms that promote public confidence in the process.

*Questions to Consider:*

208. Do the law and regulations set clear procedures for the filing of electoral complaints, challenges or other legal actions concerning all elements of the election process? (E.g., delimitation of electoral districts, party legal recognition, ballot qualification, voter registration, provisions for campaign financing, access to and treatment by the news media, campaigning activities, voting, counting and tabulation processes and determination of election outcomes?)

209. Do the laws and regulations provide that such legal actions will be determined by a competent judicial, administrative or legislative body (e.g., legislative bodies often address delimitation of election districts) and that all matters concerning fundamental rights will be provided judicial review?
210. Do the procedures set forth in the law and regulations address who has standing to file in each type of complaint, which body has jurisdiction, what administrative law or court procedures apply, including filing requirements, burdens of proof, rules of evidence and timelines for processing the legal action and for appeals procedures?
211. Are such matters also addressed in the administrative law code, civil code and/or criminal code?
  - a. If so, are the provisions consistent?
  - b. If they are inconsistent, which law controls?
  - c. Are the provisions consistent with constitutional requirements?
  - d. Do the provisions correspond to international principles concerning due process of law, equality before the law and equal protection of the law?
212. Do the provisions of the law and regulations provide effective remedies for each type of electoral complaint, challenge or other legal action?
  - a. Does the remedy correct the harm and prevent further harm in the matter addressed, including timeliness of the remedy?
213. Do the law and regulations provide for effective enforcement of remedies?
  - a. What body is charged with enforcement, and does it have adequate powers and resources to enforce the remedy?
214. Do the law and regulations address whether only individuals responsible for violations of the election law and regulations can be held accountable, or can leaders of political parties, candidates, leaders of groups that support or oppose referenda and other ballot initiatives, editors and publishers of news media, leaders of domestic nonpartisan election monitoring organizations be held liable for actions of their personnel and/or activists?
  - a. If liability can pass beyond individual actors, what penalties may be applied?
  - b. Are they consistent with constitutional requirements?
  - c. Are they consistent with international principles for freedom of association, freedom of expression, and requirements for due process of law?
215. Are there special administrative bodies within the EMB or other government agencies to process electoral complaints?
  - a. If so, how are persons appointed to the bodies?
  - b. Are there adequate safeguards to ensure an impartial and competent resolution of the complaints?
216. Are there particular courts charged with processing electoral related cases?
  - a. If so, how are the judges appointed or selected?
  - b. Are there adequate safeguards to ensure impartial and competent resolutions of the complaints?

217. Does the EMB have the power to independently investigate and take action concerning violations of the election law and regulations?
  - a. If so, what body within the EMB has such power, and do its procedures correspond to international principles for due process of law?
218. Does the EMB have a process by which citizens and electoral contestants can file complaints concerning actions by electoral officials or other governmental officials that violate electoral related rights?
  - a. If so, do the procedures provide administrative penalties for those officials who are determined to be responsible?
  - b. Are due process rights of such officials protected by the procedures?
219. Does the EMB have an internal process by which it can identify actions by electoral officials or other governmental officials that violate electoral related rights?
  - a. If so, do the procedures provide administrative penalties for those officials who are determined to be responsible?
  - b. Are due process rights of such officials protected by the procedures?
220. Do the law and regulations provide clear procedures for appeals of decisions by administrative, judicial or legislative bodies concerning electoral related complaints?
  - a. Do the procedures clearly set requirements for where appeals are to be filed, the timing for filing appeals and for processing them, the bases on which appeals bodies may reverse prior rulings, and procedures for further appeals, if any, for each type of complaint concerning all elements of the electoral process?
221. Must electoral complaint proceedings be open to the complainant and the public?
222. Must decisions on electoral complaints and appeals provide reasons for the decisions?
  - a. Must decisions on electoral complaints and appeals be in writing?
  - b. Must decisions be published?
223. Are written complaints and answers to them part of a public record?
224. Do the law and regulations clearly specify under which conditions a recount or re-election may be ordered?
  - a. What body has jurisdiction concerning recounts and re-elections?
  - b. Are clear procedures set forth concerning standing, burdens of proof, rules of evidence and timelines for processing such legal challenges?
  - c. Do the law and regulations specify clear procedures for conducting recounts and re-elections when they are ordered?
  - d. Do the procedures for recounts and re-elections provide for the presence of representatives of political parties, candidates and groups supporting or opposing referenda and/or other ballot initiatives affected by recounts or re-elections, and do they provide for nonpartisan election monitors, media and international observers?
225. Do the constitution, law and regulations provide the specific conditions under which an election may be cancelled or postponed, in whole or in part?

- a. What body has the power to order the cancellation or postponement?
  - b. Is there a procedure to appeal or review that decision?
  - c. Do the provisions correspond to international principles concerning states of emergency and concerning interruptions of democratic processes?
226. Do the law and regulations define electoral related crimes?
- a. If so, are the provisions consistent with the criminal code?
  - b. If there are inconsistencies, which law controls?
  - c. What body is responsible for prosecuting electoral related crimes?
  - d. Do the procedures safeguard due process rights of persons accused in such proceedings?
227. Do the law or regulations provide for mediation or arbitration or other non-judicial means of dispute resolution?
- a. If so, how is the process initiated?
  - b. Who or what body presides over the process?
  - c. What types of matters can the process consider?
  - d. What types of dispute resolution steps can the process provide?
  - e. Is a public record of the proceedings provided?
228. Is there a voluntary code of conduct for the political parties, candidates and other electoral contestants?
- a. Does the code of conduct provide a mechanism for electoral contestants to raise grievances concerning violations of the code, the law and regulations and/or other matters?
  - b. If yes, how is the grievance mechanism triggered, and who facilitates or presides over it?
  - c. Does the grievance mechanism have character of facilitated dialogue, mediation or other means for resolving disputes or grievances?
  - d. Is a public record of the process provided?