



International Commitments and Obligations for Democratic Elections

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Introduction: Presentation Outline

- Context**
- Key Instruments incorporating International Commitments and Obligations for Democratic Elections**
- Key Principles underpinning the Instruments on Democratic Elections**
- How the Instruments reflect these principles and how they relate to democratic elections**
- From instruments to Institutions, to Individuals**
- Where are we now; *what is the state of play in terms of our commitment to implement said instruments?***

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Context

- ❑ International commitments & obligations for democratic elections resulted from the pressing need, following the end of 2WW, to promote world peace, stability and democracy through a codified regime of human rights & freedoms which were **universal, indivisible, and inter-dependent**
- ❑ Before the 1940s, the World had known nothing but the scourge of two wars, colonialism, totalitarianism, slavery and exploitation.

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Key instruments containing International Commitments & Obligations to Democratic Elections

- Universal Declaration of Human Rights, 1948
- International Convention on Civil and Political Rights, 1966
- European Convention on Human Rights/Protocols, 1950
- African Charter on Human and People's Rights, 1986
- OAS Democratic Charter, 2001
- African Charter on Democracy, Elections and Governance, 2007
- Election Management, Observation & Monitoring Instruments: AU, OSCE, OAS, SADC, ECOWAS, etc.
- ASEAN Charter on Democracy – still *work in progress*

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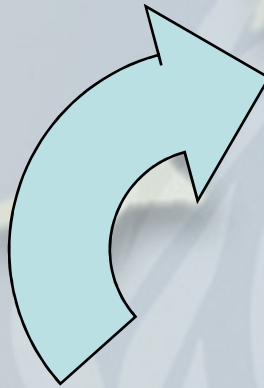




Common thread running through all Key Instruments

Liberty Principle:

Civil and Political Rights Institutions
and Processes at nation state level &
exclusive - Europe
16th Century



Solidarity Principle: Consolidate
theory that HRs are both universal
& interdependent:
Increased international
cooperation to
standardize/harmonized electoral
practices: electoral assistance and
election observation

Equality Principle:

Human rights as indivisible and
universal – applicable to all without
discrimination:
19th Century:
1948 Universal Declaration & other
instruments



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SOLIDARITY

Election Management &
Observation Instruments:
AU, OSCE, OAS, SADC,
ECOWAS

EQUALITY PRINCIPLE

ASEAN Charter on Democracy
OAS Democratic Charter
African Charter on Democracy, Elections
& Governance

LIBERTY PRINCIPLE

African Charter on Human and People's Rights
European Convention on Human Rights/Protocols
International Convention on Civil and Political Rights
Universal Declaration of Human Rights

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Principles

Liberty

Equality

Solidarity

*Legal force
(Binding)*

*Legal force
(Non- Binding)*



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The Three Key Universal Principles

Order of implementation

1. Liberty:

1. Civil Rights date back to the 16th Century (European Political Thought on “*Natural or Rights*” etc).
2. Known as “**1st Generation Rights**”:
 1. Rights to Life, Happiness, Freedom of Thought and Expression, Right to Fair Trial, Property Right etc.
 2. From 18th Century onward, included **Political Rights**, such as the right to partake in elections and influence government
 3. These would collectively become known the **Civil and Political Rights and Fundamental Freedoms** (although more freedoms would be codified later in the 20th Century).



The Three Key Universal Principles

Order of implementation

1. Equality Principle:

1. The Universal Declaration of Human Rights of 1948 and other supplementary instruments sought to realize the Liberty and Equality Principles – how?
2. By extending civil and political rights, including the right to vote based on universal adult suffrage, for the first time, beyond male (and sometimes white only) property owners.

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The Three Key Universal Principles

Order of implementation

1. Solidarity Principle:

- The Universal Declaration of Human Rights of 1948 and other supplementary instruments further sought to advance the **Solidarity Principles** – how?
- By promoting the understanding that **Human rights are universal, indivisible, and interdependent**: All nations, individually and collectively, have an obligation under international law, not only to protect the civil and political rights of citizens, but to create equal opportunities citizens to realize their fullest potential via education, culture, employment, etc.
- These rights are known as the **2nd Generation rights: socio-economic and cultural rights**

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•Common thread running through all Key Instruments

- Apart from the 3 Universal Principles, the Key Instruments mainstream democratic elections as the sole mechanism to legitimize:
 - access to and exercise of political power; &
 - change of government

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What do the Key Instruments say about Equality, Liberty and Solidarity, and Elections?

- Universal Declaration of Human Rights, Article 21:
“The people shall participate in government through elected representatives. The will of the people shall be the basis of the government set up via periodic and genuine elections by universal and equal suffrage, and by secret ballot and free voting procedures” [paraphrase]

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What do the Key Instruments say about Equality, Liberty and Solidarity, and Elections?

- Both the European Convention on Human Rights (Protocol 1, Article) and African Charter on Human and People's Rights (Article 1(3) guarantee *“the right to regular, free and fair elections”*

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What do the Key Instruments say about Equality, Liberty and Solidarity, and Elections?

- The AU Principles for Democratic Elections, Article 3 state:
 - *“Holding democratic elections should be the basis of authority for representative government...”*
 - *“Elections are an important dimension in conflict prevention, management, and resolution. “*
 - *Democratic elections should be free, fair, regular, and based on the rule of law, independent judiciary, competent, impartial, well-staffed and well-equipped EMB”*

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What do the Key Instruments say about Equality, Liberty and Solidarity, and Elections?

- AU Charter on Democracy, Elections & Governance
 - Objective:
 - “...Promoting free and fair *elections to institutionalise legitimate authority of representative government*”
 - Principles:
 - “*Regular, free, transparent elections*”
 - “*Gender equality and non-discrimination*”
 - “*Independent and impartial EMB*”
 - “*Equitable and fair access to the media*”



What do the Key Instruments say about Equality, Liberty and Solidarity, and Elections?

- OAS Democratic Charter:
 - Essential elements of representative democracy:
 - *“Respect for Human Rights*
 - *Fundamental Freedoms*
 - *Holding of free, regular elections based on secret balloting and universal suffrage as the expression of the sovereign will of the people*
 - *Pluralistic system of political parties and organisations”*

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What do the Key Instruments say about Equality, Liberty and Solidarity, and Elections?

- SADC Principles Governing Democratic Elections:
 - Key objective:
 - *Foster full participation of all citizens in the political process through:*
 - *Freedoms of association;*
 - *Equal opportunity for political contestants' (equitable access to the media);*
 - *Independent & impartial EMBs*
 - *Timeous announcement of results*
 - *Voter education*

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From Instruments to Institutions

- Various organisations have worked, and continue to work, to support the institutionalization of the norms and principles in the said instruments:
 - UN systems
 - Various international, regional and national courts/tribunals
 - European Union/Commission; African Union/Commission/RECs; OAS/ASEAN etc.
 - International IDEA
 - IPU
 - Amnesty International
 - Human Rights Watch

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How have they worked?



- To implement the **Liberty Principle**, more legal frameworks at national level, incorporate/entrench the Bill of Rights as the basis for, *inter alias*, promoting free and fair elections
- To implement the **Equality Principle** through the universal suffrage, voting rights have now been extended to migrants (IOM), prisoners, women (Women organisations), and those with physical disability, enabling them to register and vote without discrimination & prejudice
- IDEA produced a Handbook on Electoral System Design to clearly showed how, for example, single-mandate districts undermine the Equality Principle and engender unrepresentative governments through high wastage of votes, compared to PR electoral systems

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How have they worked?



- To implement the **Equality Principle**, organisations such as IPU, IDEA & UNIFEM have worked together and separately to produce cutting-edge publications on promoting gender parity in decision making – taking the gender agenda beyond number and to capacitate women to become effective actors in public decision-making
- To promote the **Principles of Equality and Solidarity**, organisations such as the AU, Carter Centre, NDI, IDEA, EU have come together devise mechanisms for harmonized norms and standards, for election observation and monitoring.
- The same can be said about this week’s training, i.e. that it seeks to achieve solidarity and equality in the way we promote democracy and elections around the world

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How have they worked?



- With the **Equality and Solidarity Principles in mind**, more countries have established independent & impartial EMBs which execute their mandate in a non-discriminatory and transparent manner
- There are efforts to foster equitable access to the (state) media and other public facilities

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How have they worked?



- Public funding of political parties is becoming common, and so are codes of conduct for political parties, media and observers.
- There is reform of electoral dispute resolution systems to guarantee cost-and time-effectiveness
- Most countries invite and welcome election observation and monitoring

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Beyond Institutions, we have Individuals

- We have those individuals and groups (CSOs), the unsung heroes and heroines, who work tirelessly to fight state abuse of human rights
- They include journalists, lawyers, politicians and human right activists who defy state authority and constantly face imprisonment and torture: *from Aung San Suu Kyi in Burma to Jestina Mukoko in Zimbabwe, and many others in Iran, Egypt, Myanmar, Moldova, etc.*

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Despite all the Instruments, Democracy is on the wane, since 2007

- According to Freedom House 2008 preliminary survey findings, freedom has retreated in much of the world in 2008, the third consecutive year of global decline
- Sub-Saharan Africa & the former Soviet Union saw the most reversals – with about 8 of the countries experiencing democratic setbacks
- Recent election-based violence in Nigeria, Kenya, and Zimbabwe and unconstitutional change of governments and instability in several countries did not help to improve the region's democratic record

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Despite all the Instruments, Democracy is on the wane since 2007

- Despite the plethora of international and regional instruments to govern democratic elections, there seems little political will and commitment to implement such
- For example, the African Charter on Democracy, Elections and Governance of 2007 has only been ratified by 2 countries (Mauritania now under military takeover and Ethiopia). Other 50 member states have not moved an inch to ratify it
- IDEA working with the AU-DPA to create awareness about the Charter, and we hope this effort will help with the ratification process

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