EC-UNDP Workshop on
Formulating and Implementing Electoral Assistance Projects in
the Context of the EC-UNDP Partnership

“International principles for democratic elections”

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Brussels 1 – 4 February 2011
“The EU Election Observation Mission was invited by XXX government and assessed elections against international and regional standards” (EU EOM)

“Support provided to government to conduct free and fair elections and hold referenda that are credible by international standards.” (UN Development Assistance Framework)

“The project aims to support the holding of free and fair elections that are in accordance with international standards.” (Basket fund Project Document)

“To the international community: press the XXXX authorities and political actors to adhere to internationally acceptable election standards.” (Crisis Group report)
Beyond Standards: just semantics?

**Standard** - a required or agreed level of quality or attainment. A criterion for measuring acceptability, quality and accuracy.

**Commitment** - the state or quality of being committed to a cause, or to a policy. A pledge or undertaking to which a sovereign country has adhered to.

**Obligations** – Acts or courses of action to which a person or an organisation is legally bound. The condition of being so bound.
The word standard is also misleading because it suggests that there exists a consistent benchmark for elections.

It suggests that there is one standardised way for organising every specific component of an electoral process.

There are no such benchmarks and there are no such agreed procedures.

There are obligations based on international instruments!
Commitments (or obligations) for democratic elections…

- stem from political rights and fundamental freedoms in treaties and political pledges.
- provide the legal basis for technical assistance in a spirit of partnership and cooperation.
- represent the principles by which observers assess elections.

The aim of electoral assistance is to support partner countries meet the international commitments and obligations they have signed up to.
Types of instruments

Public international law on human and political rights
- International Customary Law
- International Treaties
- Regional Treaties
- Declarations & Political Commitments

International good practice on democratic elections

Experience from democratic elections elsewhere
“…practices relating to the administration of an election that, by the extent of their use in elections, are recognised as ensuring that international obligations can be met.”
International Covenant on Civil and Political Rights (ICCPR)

Article 25

Every citizen shall have the right and the opportunity ... without unreasonable restrictions:

(a) **To take part** in the conduct of public affairs, directly or through freely chosen representatives;

(b) **To vote and to be elected at genuine periodic elections** which shall be by **universal and equal suffrage** and shall be held by **secret ballot**, guaranteeing the **free expression of the will of the electors**;
International Covenant on Civil and Political Rights (ICCPR)

Article 19: Everyone shall have the right to freedom of expression.

Article 21: The right of peaceful assembly shall be recognised.

Article 22: Everyone shall have the right to freedom of association with others.

Article 2: any person whose rights or freedoms...are violated shall have an effective remedy...determined by competent authority.
The EC Compendium

In cooperation with

Compendium of International Human Rights Norms and the Right to Participation

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25. The Palestinian Authority of the West Bank and Gaza Strip is not a member state of the United Nations, but it has observer status.

26. Thailand has observer status.
The EC criteria

1. The right and opportunity, without any distinction or unreasonable restrictions, for citizens to participate in government and public affairs through:
   - Periodic elections
   - Genuine elections
   - Universal suffrage
   - Equal suffrage
   - The right to stand for election
   - The right to vote
   - The right to a secret ballot
   - The free expression of the will of voters

2. The freedom of expression

3. The freedom of association

4. The freedom of assembly

5. The freedom of movement

6. The freedom from discrimination

7. The right to an effective legal remedy
Regional Legal Instruments

- League of Arab States (LAS - the new Arab Charter on Human Rights of 2004)
- OAS Charter and American Declaration of the Rights and Duties of Man (1948)
International Convention on the Elimination of All Forms of Racial Discrimination, 1965

Convention on the Elimination of All Forms of Discrimination against Women, 1979

Convention on the rights of persons with disabilities, 2006
“Experts come with their ‘standards’ – but they’re not relevant here and they’re inappropriate…”
Other Initiatives

- IPU Declaration on Criteria for Free and Fair Elections (1994)
- UNHRC General Comments to the ICCPR
- SADC Principles and Guidelines Governing Democratic Elections
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6. The freedom from discrimination
7. The right to an effective legal remedy
International Customary Law

Universal Declaration of Human Rights (1948)

Article 21

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be held by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.
Universal Declaration of Human Rights (1948)

Article 19
Everyone has the right to freedom of opinion and expression.

Article 20
Everyone has the right to peaceful assembly and association.
International Obligations

Executive Summary

The 20 September presidential and local elections in Yemen have so far seen an open and genuine contest take place that presented a notable opportunity in the region for an incumbent head of state to face a real challenge at the polls. These factors constituted a significant and positive development in Yemen’s democratisation process. Nevertheless, the electoral process was generally well-run and efficiently organised by the Supreme Commission for Elections and Referendum (SCER), which took up the challenge to promote transparency and political inclusiveness. Significantly, the SCER undertook a multi-party composition at all levels but the role of women was seriously under-represented in the elections.

Arts 21 (1,3) UDHR and 25 ICCPR

Political Context

Voters were provided with a clear choice between the ruling General People’s Congress and the opposition Joint Meeting Parties (JMP), with campaigns focused around their candidates for president, the incumbent President Saleh and Mr Faisal Bin Shamlan. Both sides gave repeated public commitments to hold credible and peaceful elections and reached a political agreement on 18 June 2006 that provided a framework to ensure cross-party participation in the elections. In total, five candidates were registered to take part in the presidential contest and over 20,000 ran for local office. Women were seriously under-represented in the elections.
Voting on 20 September proceeded well and was generally peaceful. Regrettably, however, there were several reports of violence including five deaths in election-related incidents. Overall, voter turnout was reported to be 58 per cent. EU observers positively evaluated voting procedures in 82 per cent of the polling centres visited in spite of a large number of irregularities observed. There were particular problems with overcrowding and the following of procedures in female polling stations. Counting was reported to take place in accordance with the law.
The legal framework for these elections largely met international standards for democratic elections but contained a number of problematic aspects that need to be addressed, especially in relation to the registration of candidates and the process for submitting complaints and appeals. Public confidence in the implementation of the rule of law in Yemen is challenged by a weak judiciary.
Over 9 million voters were registered to take part in the election, including 1.5 million more voters than were registered for the 2003 parliamentary election. However, the updating of the voter register experienced some problems and resulted in the inclusion of a high number of duplicate entries and ineligible names. A review of the voter register by the SCER led to the deletion of over 200,000 names but was undertaken in a non-transparent way and prevented proper opportunities for voters and political parties to verify its accuracy.
The election campaigns were active and generally peaceful. Many well-attended public rallies took place and there were few reports of restrictions on the right to campaign freely. Although all sides respected the right of others to campaign, there were a number of instances where the tolerance of the campaign was undermined by aggressive political rhetoric. Several candidates and supporters of the JMP were arrested on charges that would appear to have been politically motivated. State agencies, especially the police and military, showed overwhelming support for the incumbent, while state resources were frequently used in support of the ruling party. There were credible reports of pressure upon local candidates, especially women candidates, to withdraw their nominations.
The media in Yemen provided extensive and positive coverage of the presidential campaign and of voter education initiatives, but did not cover the local elections in any depth. The state electronic media fulfilled obligations to provide access and free airtime to presidential candidates but showed clear bias in the level of its news reporting of the activities of President Saleh and the ruling party. Despite numerous limitations on the freedom of the media in Yemen, there were no reported instances of political censorship or intimidation against journalists during the campaign period.
Gender Issues

Art. 7 UN CEDAW

The serious under-representation of women as candidates in these elections reflects a clear and comprehensive pattern of exclusion of women as participants in democratic processes within Yemen. Women candidates faced real obstacles in taking part in the elections and received little or no support from political parties or others of influence to strengthen their role. High levels of illiteracy amongst women also contributed to their limited awareness of and participation in the electoral process.
Public confidence and trust in the independence of the CEC is deservedly high but its integrity and authority were challenged by direct attempts to influence its decision-making when its offices in several locations were taken over by armed groups during the candidate registration process and in the early stages of the campaign. Such acts of violence, intimidation or pressure against the CEC and its staff are unacceptable within a democratic election and yet, regrettably, the perpetrators of these acts – many of whom have links to Fatah – have gone unpunished, reflecting a wider culture of impunity amongst members of militia groups in Palestine in their use of threats and violence.

Place in barracks rather than in the locations where they were registered to vote, as according to the law. Ensuring opportunities for voting by security forces had been a problematic issue in previous elections and the solution reached, whereby votes were cast in special polling centres in each district over 21-23 January, was an effective arrangement. There was an open process for the nomination and registration of individual district candidates and candidates on national lists. A total of 278 candidates were included in the final lists of candidates and, in contrast to the 1996 PLO elections, the Palestinian political parties agreed on a CEC decision and allowed for the publication of them all, and not two separate lists that had been promulgated to it.

The CEC made to the CEC during the campaign complaints and acting against violations of electoral law. Though the CEC registered as many complaints as it had jurisdiction over the Office for consideration. This was the case for the West Bank, sent to all districts. In another complaint was addressed only through discussion between the CEC and the Office of the PA President.

**Voter Registration**

A total of 1,332,499 voters were registered for this election, an impressive 21 per cent increase on the number of voters registered for the January 2005 presidential election that reflected the effective steps taken by the CEC to improve the accuracy of the voter register. Regrettably, public access to the final register of voters was restricted and it was not published by the CEC until polling day, although it was made available on request to candidates. It is unfortunate that, for security reasons, the voter register for the security forces was not made available at any stage thus preventing any independent cross-checking of the persons for double registration. The registration of an estimated 123,000 voters in East Jerusalem was not permitted by the Israeli authorities.

**Campaign**

The campaign period was generally calm and saw a stabilisation in the general security situation that enabled active campaigning to take place. Overall, the campaign was notable for its positive tone and there were no reports of provocative rhetoric or hate speech. In comparison to the 1996 and 2005 elections, there was a notable drop in reports of the use of state resources by candidates in campaign. Despite many large rallies, there was no major incident related to the campaign, although two activists were killed in events that may have been election-related. There are several complaints that campaigning occurred inside mosques. An innovative and
In cooperation with Electoral Campaign Right to Access to Information Art. 19 ICCPR

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Observation and Assistance

Facilitate and feed the political dialogue

Structural reforms and long-term capacity development

Observers recommendations are crucial to reform debate

**adopt** and **apply** lessons and recommendations

**real beginning** of a new cycle

there is no immediate operational and political **pressure**

opportunity for **review**, strategic thinking, planning and action

**period**

**pre-election period**
The independent evaluation and analysis of the reasons why certain principles cannot be met provides the basis for the future programming of electoral and democracy assistance.

The new value of the Final Report. A snapshot of the state of democracy in the partner country, a documentation of the gap between legal obligations and real practice.

The importance of the recommendations as the EU EOM legacy.

Redefining the notion of EU EOM independence.

Need to involve the EU institutions on the ground in the post electoral period.
Types of Instruments

- International and regional instruments
- Treaty-based
- Non Treaty-based
- Political commitments
- General comments and recommendations