



Part 1: The Legal Framework for Elections

A. The International Legal Framework

[This section should provide an overview of all sources of public international law relevant to elections in an observed country.]

[COUNTRY]'s Membership in Multilateral Organizations

[Included in this section should be a brief overview of the membership status of an observed country. Any multilateral treaty body which includes reference to human rights and elections should be included. This includes, as appropriate:

- United Nations
- OAS
- AU
- OSCE
- SADC
- ECOWAS
- League of Arab States
- Organization of Islamic Council
- Other organizations as appropriate (for example while ASEAN and the EAC do not currently have treaties referencing human rights, membership in these organizations may be considered and review of relevant treaties and commitments completed as relevant).

Please include an overview of the status of an observed countries membership, as well as the internal process by which member states become party to treaties or indicate their commitment to non-binding resolutions/declarations.]

Table of Ratifications

[The table of ratifications, indicating what international treaties and political commitments an observed country is party to should be completed and included here. In addition, please include references to special reservations made by the country if relevant to rights considered in the electoral process. A template is provided below]

[COUNTRY] – Status of Ratifications

[COUNTRY] is a member state of the [LIST ALL RELEVANT ORGANIZATIONS]

Treaty/Declaration	Status	Year
[Include the name of the treaty/declaration]	[Indicate its status as relevant to the observed country (Ratified, Acceded, Signed, Persuasive, etc.)]	[Indicate the full date at which the observed country took its most recent action regarding acceptance of the treaty/declaration]
[Continue this process for all relevant treaties/declarations]		

[As appropriate, explanatory notations including by not limited to the following should be included:

* Accession and Ratification of a treaty are procedurally different, although the substantive results of both processes are identical. Ratification implies that a country has first signed the Treaty, whereas accession connotes that a country has not previously signed, or was not in a position to sign a Treaty, whatever may be the reasons.

**As a declaration the UDHR has not undergone a process of ratification; however, it is widely considered binding as an example of customary international law. The UDHR was originally adopted by 48 countries in 1948.

***Where unavailable, exact dates of signature or ratification have been omitted.

****[X TREATY] has not yet entered into force.]

*****While [COUNTRY] is not party to [X TREATY], through signature to the treaty and its entry into force by accepted process of ratification for [X ORGANIZATION] it may be considered political persuasive upon [COUNTRY].

Process of Domestication of International Obligations

[Included under this section should be a review of the process by which an observed country domesticates international law into its domestic legal framework. In many

cases, while ratification of treaties may be completed by the head of state, domestication requires approval of the legislature. Whatever the specific process is in an observed country should be summarized here. In addition, potential obstacles to domestication, a failure of political will to ensure domestication, or other issues as identified should be summarized.]

B. The Domestic Legal Framework

[This section should discuss the domestic legal framework for elections in an observed country. Short summaries should be provided concerning all relevant sources of law, their date of passage, and their status of acceptance. Documents for consideration may include:

- The Constitution
- The Electoral Law(s)
- Other Relevant Law(s), for example laws concerning political parties, campaign finance, the media, or regulation of public assemblies
- Any relevant peace accord or transitional framework law
- Legally binding directives/resolutions issued by bodies with the mandate to interpret and apply electoral law

Procedural History of the Domestic Legal Framework

[This section should discuss issues regarding the process for development of the legal framework, its promulgation, and efforts at implementation. An overview of the mandate of all bodies tasked with development and implementation of the law should also be included.]

Specific sub-topics for discussion should include:

Timeline for the development of the legal framework

[This should include the date at which the law was developed and consideration of whether this date provides adequate time to ensure adequate time for acceptance and implementation. In addition, if the legal framework is old or outdated, potentially limiting its effective implementation, this should be noted here. Further, any delays in the development of the legal framework, and the impact of such delays, should be considered.]

Coherence of the legal framework

[This section of analysis is of particular importance in cases where the legal framework does not include a single, inclusive electoral law. Where the legal framework for elections includes a variety of legal sources, numerous directives modifying or explaining an original electoral law, or other potential discrepancies these should be discussed in full. Any provisions which contravene another aspect of the electoral law

should be noted, and an explanation of the observed country's hierarchy of legal sources (indicating which provision should be binding) included as appropriate.]

Promulgation of the legal framework

[Here the legal analyst should discuss the process by which the electoral law was promulgated. Date of promulgation, and any efforts to familiarize relevant stakeholders with the law should be considered.]

Bodies responsible for the development and implementation of the legal framework

[This section should include an overview of the mandate, structure, and functions of all bodies who have a role in developing and implementing the domestic legal framework.]

Specific topics should include:

Authorship of the Electoral Law

[A short overview of which legislative committee or other body was responsible for the development of the electoral law should be included. If claims of partisan-bias regarding the development of the legal framework exist, knowing the law's authorship may prove beneficial to understanding these issues.

Further, if any international organizations or election assistance providers consulted on the development of the legal framework their role and responsibilities in its development should be included here, as should a discussion of the domestic capacity for legislative development and need for international assistance.]

The Role of the Election Management Body in Implementation and Interpretation

[The Election Management Body will generally have a primary role in the implementation of the legal framework. The mandate and structure of this body with regards to implementation should be discussed here. Further, if the Election Management Body has the ability to make legally binding interpretations of the electoral law, or issue directives modifying legal provisions on election-day (for instance many bodies have the ability to extend polling hours in response to specific findings on election day) discussion of these responsibilities, their current use, and any potential issues should be discussed in full.]

[In many cases, specific administrative bodies will be tasked with implementing aspects of the legal framework. (For instance, many electoral laws include a body tasked with media monitoring or auditing of campaign finance records). As appropriate, the mandate, structure, and role of these bodies in implementation should be discussed.]

The Role of Judicial Bodies in Interpretation

[If any judicial decisions exist (from this or previously electoral processes) which interpret the electoral law a discussion these decisions and the body responsible for their issuance should be included. While judicial bodies will be considered in more details with regards to electoral dispute resolution, where adjudication of specific aspects of the law occurs during the pre-election period, it is critical to include a summary of these cases. (For instance, a Constitutional Court may be asked to adjudicate claims that particular legal provisions are unconstitutional during the pre-electoral period).

Efforts at implementation of the legal framework

[This section should include an overview of all efforts made to train election administrators, security forces, and other relevant bodies on the legal framework.]

Sub-topics should include:

Review of training manuals/handbooks

[Where training manuals and handbooks are issued by the Election Management Body for the purpose of training poll-workers or other stakeholders, these documents should be reviewed to ensure their coherence with the legal framework. These training manuals are often the definitive source for election day procedures, and should be developed in line with the requirements of the legal framework. Where procedures directly contravene legal provisions or have the ability to undermine legal commitments in practice, these issues should be explored in full.]

Training of polling station workers and other relevant stakeholders on the legal framework

[This section should note the extent to which trainings or exhibitions regarding the implementation of the electoral law in practice (such as trainings on the roles and responsibilities of poll-workers or security forces) have been or will be conducted. If such trainings are required by law this should be mentioned, as should their degree of completeness and geographical reach. Where appropriate, attendance at a training may provide significant insight for this evaluation.]

Part 2: Substantive Assessment of the Legal Framework for Elections

A. Summary of the Most Pressing Issues and their Potential Impact

[This section is intended to provide a summary of the most pressing issues and shortcomings identified in the electoral law. This may include significant derogations

from International obligations, provisions with the potential to negatively impact electoral legitimacy, or areas of the law which lack necessary specificity to ensure their proper implementation. While these issues will be enumerated in full in the following section of the report, this summary should provide other members of the core-staff with a general idea of the most significant issues and challenges.

In addition, where the current electoral law includes specifically positive provisions or amendments which may potentially enhance electoral legitimacy these positive changes should also be mentioned. As appropriate, positive legal amendments should be considered in light of the capacity and ability for their successful implementation.]

B. Gap Analysis of the Legal Framework

[This section should include a complete analysis of all issues identified through a review of the electoral law, including those deemed most critical and summarized below. Each identified issue should include the following information:

- Summary of legal provision
- Identified issue or explanation of the problematic nature of the provision
 - o As appropriate, this may also summarize a positive amendment, or not an omission of a necessary article resulting in a lack of clear legal requirements.
- Analysis of potential impact on the electoral process
- Evaluation of the provisions non-compliance with international law
- Citation of provision
- Recommendation for improvement, either during this electoral process or for future elections.

Each identified issue should appear under a unique numerical heading, which will match the numerical heading of that issue in the companion table discussed in the following section of this document. Therefore, each identified issue should appear under its relevant topic heading in the following manner:

Election Administration

1.) First issue relevant to election administration

2.) Second issue relevant to election administration

Electoral Calendar

3.) First issue relevant to the electoral calendar

Please note that your analysis may require consideration of inter-dependent provisions of the electoral law. (For example: While the provision of only two secrecy screens per polling station is not necessarily a problem, considered against the fact that each polling station has up to 1,000 voters and that voting hours are potentially short, this may indicate a potential issue).

While other topics may be included as relevant, a framework of issues requiring evaluation in this legal gap analysis is provided below.]

Election Administration

[This section should include analysis of any potential issues regarding the administration of elections. Illustrative issues to be considered here may include:

- The process of ballot design, printing, and allocation
- Allocation of other voting materials
- The EMB structure (including staffing at sub-national levels)
- The process of appointments for the Central EMB with regards to ensuring their independence and impartiality
- Training of poll-workers]

Electoral Calendar

[This section should include analysis of any potential issues regarding the electoral calendar and deadlines for implementation of specific aspects of the election.

Illustrative issues may include

- Whether the electoral calendar provides sufficient time for all necessary aspects of the election to be properly implemented
- Procedures enacted if the electoral calendar is not adhered to
- If specific deadlines (for instance regarding voter registration, candidacy nominations, or publication of the voters register) are inadequate given the capacity of the election administrators]

Electoral System

[This section should include analysis of any potential issues regarding the electoral system employed by the observed country. Illustrative issues may include

- Potential issues regarding fulfillment of the right to be elected given the means by mandates are allocated
- Analysis of if the electoral system adequately ensures international obligations regarding the right to be elected, the right to vote, and equal suffrage.]

Boundary Delimitation

[This section should include analysis of any potential issues regarding the process of constituency delimitation employed by the observed country. Illustrative issues may include

- Respect for the equality of suffrage with regards to the creation of electoral constituencies
- Consideration of legal provisions regarding population deviation in the system for constituency delimitation]

Candidacy and Party Regulations

[This section should include analysis of any potential issues regarding regulation and registration of parties and candidates employed by the observed country. Illustrative issues may include

- If candidacy requirements are in line with international obligations regarding the right to be elected
- If filing fees or other limits on candidacy or party registration inappropriately curtail participation
- Analysis of the fulfillment of the right to free association with regards to political parties]

Campaigning Regulations

[This section should include analysis of any potential issues regarding campaigning in the observed country. Illustrative issues may include

- Protections for the right to free assembly for all parties and candidates
- Any restrictions on campaigning, including a period of electoral silence and the coherence of these regulations to international obligations and best practices
- Any potential shortcomings with regards to the campaign finance system including, as appropriate:
 - o Reporting requirements
 - o Auditing requirements
 - o Limits on allowable donations
 - o Provision of public funds to candidates
 - o Available remedies and punishment for violation of campaign finance regulations
- Proper limits on the use of public and state resources by incumbent candidates]

The Media Environment

[This section should include analysis of any potential issues regarding the media environment in the observed country. Illustrative issues may include:

- The system for allocating airtime to candidates and its fulfillment of international obligations regarding the right to be elected
- Any potential for improper use of state media
- Restrictions on the freedom of expression for media outlets and/or journalists, including overly-broad libel laws, etc.]

Voter Education

[This section should include analysis of any potential issues regarding voter education in the observed country. Illustrative issues may include:

- Consideration of if the law provides adequate requirements and budgetary resources for the conduct of voter education
- Evaluation of if the law allows supplemental education activities by civil society or other groups]

Voter Registration

[This section should include analysis of any potential issues regarding voter registration in the observed country. Illustrative issues may include:

- Evaluation of requirements for enfranchisement, considering:
 - o Any requirements which contravene international obligations regarding universal suffrage (overly harsh restrictions on residency, criminal conviction, etc.)
 - o Timeline for voter registration
 - o System for publication of an interim voters register and procedures for review and contestation

Voting Procedures

[This section should include analysis of any potential issues election day procedures in the observed country. Illustrative issues may include:

- Impact of the size of polling stations, duration of voting hours, and other election day procedures on obligations regarding the right to vote, universal suffrage and secrecy of the ballot
- Potential issues regarding voter security provisions which may impact equality of suffrage (inking voters' fingers, mobile voting, etc.)
- Evaluation of the system of out-of-country voting, if any
- Evaluation of the provision of impartial assistance to voters with disabilities and any potential shortcomings in its ability to ensure the fulfillment of suffrage rights for these persons
- Any issues with regards to security in mobile voting or the creation of special voting stations in military barracks, hospitals, etc.
- Any concerns that voting procedures allow ballots to be linked with individual voters

- If adequate provisions exist regarding the secrecy of the ballot]

Counting and Aggregation Procedures

[This section should include analysis of any potential issues regarding the process of vote counting and aggregation in the observed country. Illustrative issues may include:

- If the count correctly considers voter intent in line with international best practice
- Any potential issues concerning the process by which the count occurs, who is responsible for the count, and who may observe the count
- Any potential issues regarding the transportation of ballots to higher levels of aggregation
- Lack of transparency and openness in higher levels of aggregation which may negatively impact public confidence in this system
- Issues regarding a lack of publication of polling-station level results, as appropriate

Electoral Disputes Resolution

[This section should include analysis of any potential issues regarding the electoral dispute resolution system in the observed country. Illustrative issues may include:

- Any potential shortcomings in the framework for the resolution of electoral complaints and disputes
- If bodies tasked with resolution possess adequate independence and expertise to resolve such disputes
 - o If administrative bodies tasked with dispute resolution potentially curtail the right to a fair and impartial hearing by a judicial body (for instance if administrative bodies which may resolve disputes fail to meet requirements to be considered a judicial tribunal and the system does not allow for judicial appeals)
 - o If the appointment procedures for such bodies is adequately independent as to ensure impartiality
 - o If these bodies are created specifically for resolution of electoral disputes, or if the law allows for a decrease in other case-loads to allow for timely resolution and ensure adequate staff capacity
- If the timeline for filing disputes and for their resolution is in line with international obligations regarding effective and timely resolution of disputes
- If there are inappropriate filing fees or other restrictions on access to the dispute resolution system
- Any potentially negative restrictions on standing before dispute resolution bodies
- Any potentially negative restrictions regarding unduly heavy evidentiary burdens or lack of ability to gain access to necessary documents for use in adjudication
- If remedies for electoral violations are effective and appropriate
- If potential punishments for electoral violations are overly harsh or inadequate]

Transparency/Domestic Observer and Party Agent Accreditation

[This section should include analysis of any potential issues regarding the role of domestic observers and party agents in the observed country. Illustrative issues may include:

- Evaluation of the process for gaining observer and party agent accreditation, and its potential to be used in an inappropriate or overly restrictive manner
- Any legal restrictions on the conduct of observers which contravenes international obligations]

Role of security forces

[This section should include analysis of any potential issues regarding security provisions in the observed country. Illustrative issues may include:

- If the law includes any requirements or restrictions on the presence of security forces in and around polling stations, and if such restrictions/requirements are appropriate given the country's military history
- If any security measures may, in practice, serve to intimidate or silence voters]

C. Table of Issues and Problematic Provisions

[For efficient reference, a table providing quick citations to all problematic provisions of the electoral law should also be created as a companion to this narrative. As above, particular positive amendments should also be referenced as appropriate.

A template for this table is included embedded below.

In addition, an example of how the table should be filled out is included below for reference.]

[Gap Analysis Companion Table](#)

[The following is an example of how to complete the Gap Analysis table. Issues appearing in this table are for the purposes of example only.]

This numerical value should match the number assigned to a narrative discussion of this same issue in Section B, Part II of this template.

#	Topic	Summary of Provision	Identified Issue/Potential Problem(s)	Citation	Relevant International Law	Recommendation
1	Election Administration	Members of the Electoral Commission will be appointed by the President from a list of nominated candidates provided by political parties with seats in the legislature.	Presidential appointment may diminish independence and impartiality of EMB. While political parties may be represented in the EMB, senior positions should be held by non-partisan staff. Representation on the basis of previous party registration may negatively impact the ability of new or small parties to compete.	Electoral Law §54	ACDEG, Art. 17.1; ECOWAS PDGG, Art. 3; UNHCR General Comment 25, para. 20	EMB members should be appointed via a non-partisan committee absent Presidential oversight. Party representation, if included, in the EMB structure, should be available to all accredited parties.
2	Voting Procedures: Secrecy of the Ballot	Voting screens are to be provided at a rate of 2 per polling station	As polling stations may have up to 1,000 registered voters (see electoral law §32.4) and voting hours from 09:00-16:00 (see electoral law §14) the provision of only 2 screens per PS is potentially inadequate to ensure all voters have adequate time and ability to cast their vote in secret.	Electoral Law §17.2	ICCPR, Art. 25(b)t; UNHCR General Comment 25, para. 20	Electoral commission should allocate additional resources to the provision of ballot screens, or consider lowering the number of voters per station

