



Policy Directive

17 January 2013

UN Electoral Assistance. Supervision, Observation, Panels and Certification

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Department of Political Affairs
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**POLICY DIRECTIVE ON
UN Electoral Assistance; Supervision, Observation, Panels and Certification.**

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A. PURPOSE

This directive provides definitions, mandating authorities, policy principles and key elements for the following four UN electoral assistance activities:

1. Supervision of elections;
2. Election observation;
3. Panels of political and/or electoral experts;
4. Certification of elections.

This directive is complementary to and expands on the policy directive on “Principles and Types of UN Electoral Assistance” and should be read in conjunction with it. Its purpose is to:

- provide a more detailed description of each of the four UN electoral assistance activities above,
 - refer to the role of the UN Electoral Assistance Division of the Department of Political Affairs (DPA/EAD) in supporting such activities,
 - aim at ensuring consistency and coherence across the UN system.
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B. SCOPE

This policy directive applies to all entities of the United Nations system that provide UN electoral assistance. For the purpose of this guideline, United Nations (UN) is understood to refer to the entire UN system, that is, all UN departments, funds, programmes, entities, trust funds, commissions, peacekeeping missions, special political missions, peacebuilding missions, and other bodies. It may be particularly useful for representatives of the Secretary-General (SRSGs, ERSGs etc), UN Resident Coordinators, UNDP Resident Representatives and drafters of relevant Secretariat reports to the General Assembly and/or Security Council.

The UN provides electoral assistance to member states that have submitted a request or when having received a mandate by the Security Council or the General Assembly. Following a Needs Assessment, the UN may implement a wide range of activities related to electoral assistance.

This directive does not apply to technical assistance, which can be defined as the legal, operational and logistic assistance provided to national authorities to develop or improve electoral laws, processes and institutions. As such, technical assistance does not contain an assessment of the integrity of the electoral process. However, separately from its work in technical assistance, in some cases the UN Secretariat is requested to put in place specific measures aimed at assessing or reinforcing the integrity of an electoral process. This directive applies exclusively to these cases.

In some cases the UN may be involved in other electoral related activities such as support to creating a conducive environment. Guidance is provided to clarify how these activities differ from electoral integrity related activities.

Over the years the UN's definitions of integrity-related measures have varied, reflecting both evolving terminology in global electoral practice and flexibility for meeting country-specific situations. Most commonly, the UN's "electoral integrity" mandates fall into one of the following four categories of assistance: supervision, observation, expert panels, and certification. Supervision and observation are no longer common in UN practice.

C. RATIONALE

The UN Focal Point for electoral assistance, the Under-Secretary-General for Political Affairs, (hereafter "the UN Focal Point") is the system lead in the development, issuance and dissemination of UN electoral policy. UN electoral policy is defined as the normative framework and prescriptive guidance that apply to all UN entities providing electoral assistance. This policy directive has been developed as part of the efforts of the UN Focal Point to develop a comprehensive set of UN system-wide electoral policies.

D. POLICY

D1. Common guidelines for coordination of UN activities to assess or reinforce the integrity of elections

(a) Relations with the UN Electoral Assistance Division

A clear communication and coordination line will be established and maintained between the teams entrusted with the implementation of the mandates described below and UN headquarters. In particular, regular exchange of information must be ensured between these teams and the UN Electoral Assistance Division/DPA in order to ensure coherence and dialogue.

(b) Relations with UN presence on the ground

A clear communication and coordination line will also be established and maintained between the teams entrusted with the implementation of the mandates described below and UN presence on the ground (ie. the leadership and relevant parts of UN peace operations and of UN Country Teams).

It is also important to maintain the distinction between different UN-supported electoral activities in cases where the UN is both providing technical assistance and also undertaking one of the four activities covered in this directive. The policy related to peacekeeping, peacebuilding and special political mission settings, according to which electoral assistance

is delivered in all mission settings in a fully integrated manner¹, does not apply to these cases, specifically with regard to the relationship between the team carrying out the integrity related activities and the technical assistance team. In order to avoid a conflict of interest between integrity mandates and technical assistance, coordination and not integration should be the guiding principle. Technical assistance will continue to be delivered in an integrated manner in accordance with the policy.

D2. Definition and methodology

Electoral “certification”, “monitoring” and “supervision” are complicated and potentially politically fraught activities. There are no universally agreed definitions and modalities, even amongst electoral experts. Giving clear definition of these terms can help to provide a clear mandate for United Nations operations. As stated in the Secretary-General’s first report on “Enhancing the effectiveness of the principle of periodic and genuine elections” in 1991, “agreement on and clear understanding of the terms of reference of the [electoral verification] mission to be undertaken and of its modalities are also important prerequisites for its success and to determine the cost of the operation”.²

Types of mandates involving electoral integrity are sensitive, and thus normally (but not always) given by the UN General Assembly or Security Council. These cases are not common, but when mandated, they usually accompany peace processes where confidence building in a post-conflict electoral process requires specific attention. They may, for example, serve as an additional instrument to assist national stakeholders in overcoming distrust in the electoral process, and/or provide the relevant UN body with an assessment of the process for its own further deliberations.

In light of the above, clearly delineated methodologies are required to maintain consistency and ensure overall UN coherence while recognizing the special nature of each context in which these mandates are carried out and the political implications of such mandates.

1. Supervision of elections

(a) Definition:

Supervision of elections requires the UN to endorse and approve each phase of an electoral process in order to attest to the overall credibility of the election. It can require direct involvement in establishing the mechanisms of the election, such as the date, the issuing of regulations, wording of the ballot, monitoring polling stations, counting the ballots, and assisting in the resolution of disputes.³ Where the UN is not satisfied with the electoral procedures or their implementation in a particular phase, the electoral management body conducting the process is required to act upon UN recommendations and make any necessary adjustments. The progress of the election is contingent upon the UN’s endorsement of each phase.

¹ The Secretary-General’s Policy Committee decision 2010/23 of 12 October 2010 states in part that “all electoral assistance in peacekeeping, peacebuilding, or special political mission settings will be delivered in a fully integrated manner from the outset, whether or not the mission is structurally integrated. As a norm, and subject to existing guidance on integration, electoral components in structurally integrated missions will report to the SRSG or head of mission through the Deputy SRSG who is also Resident Coordinator”.

² A/46/609, para. 55.

³ Decolonization Bulletin No. 19 (cited in the “The United Nations’ Response to Requests for Assistance in Electoral Matters,” unpublished, by Jon M. Ebersole, 1992).

(b) Mandate

UN election supervision requires a mandate from the General Assembly or the Security Council.

(c) Policy Principles

The term "supervision" was developed during the UN's involvement in referendums in the context of decolonization. It places ultimate responsibility for the conduct of the process on the UN rather than local administration or the administering power and requires the UN to endorse or approve the outcome of the vote. Perhaps for these reasons, it has most often been used when the jurisdiction in question was not independent. The last time it was used was in 1999 in East Timor.

(d) Key Elements/ Methodology

- The UN has, with the national authorities, direct or shared responsibility for the electoral process, including oversight or approval of key decisions.
- The UN, through its own oversight activities, assesses both the process and the results, and may make recommendations for future processes. The electoral management body (EMB) conducting the process is required to act upon UN recommendations and make any necessary adjustments.
- EAD plays a leading role in developing the methodology based on internationally recognized principles and taking into account the specific conditions on the ground.
- Supervision of elections is an extremely complex operation, involving a considerable commitment of personnel, time and finances. Staffing details have to be decided on a case-to case basis.
- In some cases of supervision of elections "a commissioner or a commission was appointed, the basic electoral process for the organization were drawn up in consultation with the United Nations Commissioner and the wording of the question in the ballot to be put to the voters in the case of a referendum was formulated or approved by the appropriate United Nations organ, which afterwards endorsed or approved the results of the vote". (A/46/609, para 12).
- The assessment is forwarded in the form of a report to the mandating UN organ, which endorses or approves the result of the vote. In the past, this organ has been most often the Trusteeship Council whereas today it is more likely to be the Security Council or the General Assembly.

2. Election observation

(a) Definition:

Electoral observation consists of systematic collection of information on an electoral process by direct observation on the basis of established methodologies, often analyzing both qualitative and quantitative data. Observers do not participate in the organization of the electoral process, but are accredited by the electoral authorities, generally following an invitation by national authorities. The process of observation usually leads to an evaluative public statement on the overall *conduct* of the electoral process. Election observation is concerned with results only to the degree that they are reported honestly and accurately in a transparent and timely manner. Even so, international observation missions often refrain from publicly commenting on the validity of the outcome.

UN election observation entails the deployment of a mission to observe each phase of an electoral process and report back to the Secretary-General, who will issue a public statement on the conduct of the election. UN observers will as a rule not make comments on the accuracy or credibility of the outcome overall, unless authorized by the Secretary-General. Among other reasons, this is because it is normally difficult to draw firm conclusions about election results by observing (selected parts of) a process.

(b) Mandate

UN electoral observation requires a mandate from the General Assembly or the Security Council.

(c) Policy Principles

The public assessment by the UN is of the electoral process only (and not the outcome, as explained above), and is without formal legal implication. However, this is often understood and perceived as a judgment on the legitimacy of the elected body and/or individual members, and potentially of the electoral process and the electoral management bodies. Considering that this may have very broad political implications, the public statement issued by the observation mission must be drafted carefully.

The UN rarely observes elections. The last such observation was in Fiji in 2001. In contrast, other organizations (e.g. international public organizations of a regional character and NGOs) have a comparative advantage in this field and tend to be increasingly active in it. The UN encourages the involvement of regional organizations in election observation, while it maintains its leading role in the provision of other types of electoral assistance. The UN also advocates for observation by domestic organizations.

The UN at time provides support to international election observers when so requested, in accordance with the UN policy directive on support to international election observers. In those cases, however, the UN does not issue any public statement or act as an observer, but is merely a service provider for international observers from other organizations.

The UN should in principle not observe elections in cases where it is providing technical assistance. This is due to the potential conflict of interest of observing an electoral process being organized with UN technical assistance. However the ultimate decision is with the General Assembly and/or Security Council.

(d) Key Elements/ Methodology

- The UN is an observer of the electoral process which is the responsibility of national authorities. It has no direct or shared responsibility for the conduct of the electoral process.
- The UN assesses the process based on internationally recognized principles for elections as set forth in international legal instruments, including those of a regional character ratified by the concerned state, and other political commitments.
- EAD will develop, in each case, a methodology based on the principles set out in the Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers endorsed by the UN Secretariat and other international principles.⁴ It will also establish the number of observers on a case by

⁴ Those include the principles enshrined in the Universal Declaration of Human Rights which, while not legally binding, have a self-standing moral standard. Such principles are also established in international

case basis through a recommendation following consultations with the interested state and other relevant stakeholders. During this decision, factors as the size of the country, the number of voters, the number of polling stations and the desired coverage of the process as well as security conditions will be taken into account.

- Electoral observation missions are generally large-scale operations that should include both long and short term observers from countries other than the state being observed. Electoral observation missions are headed by a senior figure appointed by the Secretary-General.
- An election observation mission generally has a presence throughout the electoral process, which can include voter registration, boundary delimitation, candidate nomination, the campaign period, polling, counting, the publication of the final results and the electoral dispute resolution period. It also seeks to meet various deployment principles, such as adequate geographical and demographic coverage, often aiming at visiting approximately 10 per cent of polling stations on Election Day.
- Observers usually issue public statements and reports of their findings including recommendations for improvement. In some cases, they can also provide an internal report to the Secretary-General. With very rare exceptions as may be authorized by the Secretary-General, UN observers will not comment on the legitimacy of the outcome, focusing rather on the credibility of the process.

3. Panels of political and/or electoral experts

(a) Definition:

UN panels entail the deployment of a small team to follow and report on an electoral process. A panel can be an electoral expert monitoring team, composed of experts in such areas as electoral processes or mediation, or a high level panel composed of eminent persons of political, electoral or mediation profile. Relying on its own observations as well as those of other international and national stakeholders, the panel will provide an independent assessment of the overall political and technical conduct of elections. The assessment is generally provided to the Secretary-General or the UN Focal Point for Electoral Assistance. Panels are likely to be limited to its members with some secretariat support. Unlike observation missions, panels are not necessarily present in the country throughout a process (limiting their visits to strategically important periods) and may not make their findings public.

(b) Mandate:

A mandate for such a panel may be provided by the Secretary-General or the UN Focal Point for Electoral Assistance.

(c) Policy Principles:

A panel can serve as a political/ good offices tool, which can play a role as a confidence-building and diplomatic incentive. Continuing assessment by the panel in an environment where their recommendations directly and positively affect the management of an electoral

legal instruments such as the International Covenant on Civil and Political Rights and other treaties and political commitments signed and ratified by the interested state, including regional commitments, which clearly promote and protect basic human rights including freedom of expression, information, assembly, association and movement. The inherent political nature of electoral processes will be taken into due consideration.

process, may contribute to the acceptance of electoral results by national stakeholders and the international community.

If the panel is serving as a political/good offices tool, the question of the public or private nature of its assessments should be weighed against the needs in the particular context. In some cases, public statements/assessments can be useful confidence-building tools.

Panels must take care not to be, or be seen to be, monitoring the technical assistance provided by the UN, but only the electoral process as managed by the national authorities. There should be no perception of a UN conflict of interest. Even in mission settings, panels therefore shall not be conducted in an integrated manner but coordinate with the UN mission.⁵

Expert panels were deployed to Nepal in 2007 and 2008, Bangladesh in 2008, South Sudan in 2011, and Algeria in 2012.

(d) Key elements/ Methodology

- The panel monitors an electoral process that is organized and conducted by national authorities. The UN has no direct or shared responsibility for the conduct of the election, regardless of any technical assistance the UN may be providing.
- The panel assesses the overall political and technical conduct of elections, in accordance with its mandate. The panel's report may include recommendations for future electoral processes.
- EAD will develop, in each case, a methodology for the UN panels based on internationally recognized principles for elections as set forth in international legal instruments, including regional instruments ratified by the concerned state, and other political commitments. The overall assessment framework should be discussed by the monitoring team and the national stakeholders in consultation with UN Headquarters and the UN presence on the ground.
- UN panels have generally been a group of 3-5 senior figures with electoral and political expertise. The exact number is decided upon by the UN Focal Point for Electoral Assistance taking into due consideration the particular expertise required, gender and geographical representation, and following appropriate consultations (including with the interested state). Usually, the members will be appointed by the Secretary-General upon recommendation from the UN Focal Point. They may make one or more short visits to the country, including on and around Election Day. The panels also require staff; the size of such staff has varied in recent cases from a small secretariat to a large field monitoring presence.
- The panel will rely not only on direct observation, but also on information gathered from a variety of sources, including state and electoral authorities, parties and candidates, NGOs, domestic and international observers and UN and other international presences in country.
- The panel should coordinate closely with UN offices in country (missions, UN country teams) to ensure an adequate and efficient flow of information, coherence in assessments and messaging, and avoid areas of overlap. In many cases, the UN structures in country may be willing to provide administrative and logistical support and may help to ensure that the panel is aware of the overall political context in which elections are taking place.

⁵ Expert panels were deployed e.g. to Nepal in 2008 and during the referendum in Sudan in 2011.

- The panel reports to the UN (usually to the Secretary-General through the UN Focal Point) in accordance with its mandate. Unless specifically authorized, panel members do not issue public statements. The report may include an assessment of the credibility of the overall process. Such an assessment should, as a rule, remain confidential, unless it is deemed helpful to make it public in a given situation.

4. Certification of elections

(a) Definition:

The term “certification” is widely understood in electoral practice as the legal process by which a national authority approves or ‘certifies’ the final results of its own national election. However, on rare occasions, the Security Council or General Assembly may ask the Secretary-General to play a “certification” role. In such cases the United Nations is requested to certify the credibility of all or specific aspects of an electoral process conducted by the national election authority. The United Nations is required to produce a final statement attesting to the election’s credibility. The modalities will vary according to context.

(b) Mandate

UN electoral certification requires a mandate from the General Assembly or the Security Council.

(c) Policy Principles

UN certification implies a pronouncement on the legitimacy of those elected to hold office. It is therefore a very sensitive mandate and should in principle be considered on a limited and exceptional basis.⁶

As in the case of electoral observation and expert panels, caution should be exercised if the UN is mandated to certify elections in cases where electoral assistance is being provided by the UN system in order to prevent a conflict of interest.

(d) Key Elements/ Methodology

- The UN certifies an electoral process which is organized and conducted by national authorities. The UN has no direct or shared responsibility for administering the process, even though it may provide technical assistance.
- The UN authority or entity with the certifying mandate may intervene in the process during different phases to point out procedural deficiencies and inaccuracies through periodic and/ or special reporting.

⁶ Recently, the UN has been mandated by the Security Council to “certify” elections in two countries: Timor-Leste and Côte d’Ivoire. On the occasion of the 2007 elections in Timor Leste, the Security Council adopted resolution 1704 (2006), giving the UN the following mandate: “To support Timor-Leste in all aspects of the 2007 presidential and parliamentary process, including through technical and logistical support, electoral policy advice and **verification** or other means”. In the case of Côte d’Ivoire, the UN Mission in Côte d’Ivoire (ONUCI) was mandated to certify “that all stages of the electoral process provide all the necessary guarantees for the holding of open, free, fair, and transparent presidential and legislative elections in accordance with international standards” (SC Resolution 1603 (2005), emphasis added and SC Resolution 1765 (2007).

- In establishing the methodology the Electoral Assistance Division will consult with the UN presence on the ground, thereby taking into consideration the specific mandate and contextual elements of the particular electoral process.
- The mandate to certify the elections may rest with the UN Mission as part of its mandate or an ad hoc UN entity established solely for this purpose. Unless otherwise determined by the mandating organ, UN certification is conducted by a team of senior electoral experts appointed by the UN Secretary-General. Composition and staffing will vary depending on the mandate and circumstances.
- A UN electoral certification mandate requires the UN to pronounce upon the credibility of elections. It is both a technical and political judgment based on national and international legal instruments, including regional instruments ratified by the concerned state, and other political commitments. As such, it has at least two elements:
 - A pronouncement on the legitimacy of the whole electoral process (e.g. boundary delimitation, voter registration, candidate nominations, campaign, polling and counting).
 - A pronouncement on whether the results can be considered to reflect the will of the voters.
- The methodology should be tailored to the particular electoral process, reflecting the inherent political nature of elections, while using clearly established criteria, internationally recognized principles and detailed guidelines for electoral practices. In this sense, the methodology should consider the electoral process in its entirety, avoiding an approach by which single aspects of the process are “graded” separately. The methodology should be clearly defined and clearly communicated to relevant national stakeholders. The outcome of the certification should reflect the methodology used and should elaborate reasoning and evidence indicating how certification was conducted.
- The team should follow all aspects and phases of the electoral process and, where possible, maintain a presence in country throughout the electoral process. The certifying authority should gather information through direct observation and interviews with various sources, for example state and electoral authorities, parties and candidates, NGOs, domestic and international observers and UN and other international presences in country. When possible, the team should conduct field visits throughout the entire territory of the country.
- The final assessment or certification report is forwarded to the Secretary-General who will present it to the mandating UN body in accordance with the mandate. Unless specifically authorized or prohibited, the mandated UN certifying authority will issue a public statement on the outcome of the certification. In addition, and in accordance with the specific mandate, the UN certifying authority may also publish interim reports containing updates on the implementation of the certification mandate during different stages of the electoral process.

D3. Additional guidance

All UN staff on the ground should refrain from being seen as “observing”, “monitoring”, “overseeing”, or “evaluating” elections. The mandate of DPKO and DPA missions often includes provisions related to creating a conducive environment for the implementation of various tasks usually listed in their mandate. In countries where they have such a mandate, they may use their good offices, political role and military or police presences to contribute to creating a conducive environment for the holding of elections.

In some cases UN staff, including UN political officers, are asked to follow the political process, including election day, to assess the political environment and report to headquarters.

As per its mandate, OHCHR, may also decide to monitor the human rights situation in a country, before, during and/or after an election in order to foster an environment conducive to credible elections and ensure the respect of relevant international standards.

As per its mandate, UN Women may also decide to monitor the situation regarding women's participation in a country, before, during and/or after an election in order to foster an environment conducive to inclusive elections and ensure the respect of relevant international and national standards.

In specific circumstances such as countries in transition or at risk of violence, DPA as the UN system lead for peacemaking and preventive diplomacy may also assist with mediation, conflict prevention and good offices. Support to reducing and managing election related violence may entail the deployment of additional UN staff or experts to support existing UN electoral assistance. These can include UN staff, in particular DPA staff, UNDP staff, UNDP/DPA Peace and Development Advisors, and other experts deployed to the RC/RR office. In transitional and high-risk situations, UN system programmes focusing on governance and conflict prevention and peacebuilding, including those of UNDP, may contribute to lowering tensions and mitigating risks. The SRSG, ERSG or other representative of the Secretary-General and in non-mission settings, RC/RRs, in their capacity as representatives of the Secretary-General may, in close coordination with DPA, play a facilitation, conflict prevention and good offices role.

In order to ensure that such types of activities particularly, political, human rights and gender monitoring, are not perceived as UN election observation it is important that the relevant UN entities providing such types of assistance emphasize their specific mandate and refrain from traditional election observation tasks, such as observing the technical aspects of the electoral process, including observation of polling and counting in the polling stations.

Public statements on the validity of the electoral process and especially the electoral results should generally not be made and in any case will require the approval of the UN Focal Point for Electoral Assistance.

The standard procedure regarding any invitation by the Government for the UN, mission or country team, to visit polling stations on polling day or other election related "witnessing" activity is that a formal invitation is required and on the rare occasions that the UN agrees then staff representing DPA/EAD could be sent from UN headquarters. The formal invitation must be passed on to the UN Focal Point for electoral assistance, through the UN's Electoral Assistance Division.

E. REFERENCES

Normative or superior references

General Assembly resolutions: 46/137, 47/138, 48/131, 49/190, 50/185, 52/129, 54/173, 56/159, 58/180, 60/162, 62/150, 64/155, 66/163.

Related guidance

Policy Directive on Principles and Types of UN Electoral Assistance, FP/01/2012

Policy Guideline on United Nations Electoral Needs Assessments, FP/02/2012

Policy Directive on Support for International Election Observers, FP/03/2012

Declaration of Principles of International Election Observation and Code of Conduct for International Election Observers, commemorated on 27 October 2005 at United Nations, New York. Available at <http://aceproject.org/electoral-advice/election-observation/declaration-of-principles-for-international>

F. MONITORING AND COMPLIANCE

The Focal Point is tasked with ensuring coordination within the United Nations system with regard to electoral assistance and will therefore help to ensure that the principles outlined in this document are adhered to.

Managers of UN electoral assistance programs and projects will also be responsible to ensure compliance with this directive by all UN electoral staff under their supervision.

G. DATES

This policy became effective on 17 January 2013. It shall be reviewed every two years or as necessary.

H. CONTACT

Policy and Institutional Memory Team, Electoral Assistance Division, Department of Political Affairs, ead@un.org

I. HISTORY

Drafted by the Policy and Institutional Memory Team, Electoral Assistance Division, Department of Political Affairs.

Consulted with members of the Inter-Agency Coordination Mechanism for UN Electoral Assistance (ICMEA) prior to adoption.

SIGNED:

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a horizontal line and a small flourish.

DATE: 17 January 2013