

INTRODUCTION

The use of Information and Communication Technologies (ICTs) in elections is, in many ways a natural progression from simpler, arguably less efficient and more time consuming technology with which we are all familiar and quite comfortable- paper. Traditional observation methods and techniques have evolved in response almost solely to the use of this technology in the context of the electoral process, using equally straightforward methods-talking to people, and watching events unfold.

As electronic technologies have become more and more integrated into the electoral process, observers have found themselves in a tricky position. On one hand, electronic technologies have the potential to make elections more efficient, more transparent and more responsive to the needs of the electorate-things that observers would recommend. For example, technologies can assist election administrators to store and search huge amounts of data; more easily identify duplicate information in voters lists; prevent voters from voting in more than one polling place; prevent multiple voting; facilitate out of country voting; speed up the tabulation of results and facilitate boundary delimitation exercises to name a few.

On the other hand, the use of electronic technologies in the electoral process can remove valuable and important safeguards and can make key elements of the electoral process (such as counting) for all the intents and purposes impossible to verify with the human eye. In addition, new layers of complexity are added to already complicated electoral processes when technologies are introduced. Observers must now consider additional stakeholders in the electoral process, such as technology vendors; parts of the process such as procurement take on new importance; and the details of familiar parts of the process such as the ballot, have a different meaning or relevance.

The use of technologies in the electoral process has been an area of focus for many in the field of international election observation including The Carter Center. This short paper distills some of the most essential lessons learned regarding the observation of ICT in elections and offers suggestions for how observation methods might be reviewed in response to the introduction of electoral technologies.

KEY DOCUMENTS ON OBSERVATION METHODS

In the last five years, the international election observation community has made a concerted effort to address the challenge to observation posed by the introduction and use of technology in the election process. We see this most immediately in the handbooks that have been released by leading organizations in the field. These include (alphabetically by organization):

- ***Observing Electronic Voting (2nd Edition) (the Carter Center)***: The Carter Center recently released the second edition of their handbooks on observing electronic voting technologies. This handbook includes information on the composition of a Carter Center mission, background on assessment criteria for the assessing the use of electronic voting technologies and the 'Baseline Survey for observing Electronic Voting'. This tool is designed

to assist observation missions in their assessment of electronic voting technologies that has been refined and honed based on experiences in multiple electoral contexts.

- ***Monitoring Electronic Voting Technologies in the Electoral Process (National Democratic Institute for International Affairs)***: This 2007 handbook for civil society organizations aims to increase the understanding of civic and political activists regarding the transparency measures necessary for credible electronic electoral technologies; and the skills needed develop to verify the integrity of electronic electoral technologies. It also provides an overview of the type of technologies employed, the potential challenges for electoral integrity brought by such technologies, issues to consider in deciding whether to introduce electronic technologies and transparency that should be employed when electronic technologies are utilized.
- ***Observing the Use of Electoral Technologies: A handbook for OAS Electoral Observation Missions (The Organization of American States)***: This manual covers issues that should generally be considered in the observation of elections in which technology is a factor. It includes details of the mission structure, and roles and responsibilities of members of the OAS mission, how technologies may be used throughout the electoral process, and includes a standardized tool designed to gather information on electoral technologies.
- ***OSCE/ODIHR Discussion Paper in Preparation of Guidelines for the Observation of Electronic Voting (Organization for the security and Co-operation in Europe-Office of Democratic Institutions and Human Rights)***: This discussion paper identifies areas considered by the OSCE/ODIHR developed their observation methodology for electronic voting technologies. It also addresses the minimum requirements for transparency, accountability and public confidence, in the context of new voting technologies is discussed.

These handbooks mark critical steps not only in the development of improved and harmonized methodologies for observing technology throughout the electoral process, but also our attempts as a community to come to terms with developments that fundamentally challenge our work. Exemplary of our collective focuses on electronic voting is a document prepared for the 5th meeting on the Implementation of the Declaration of Principles for the International Election Observation which is included as an appendix. This document, entitled *observing Electronic Voting*, reflects the points of agreement and commonalities of approach among endorsers of the Declaration of Principles regarding the observation of electronic voting enough on how best to access technologies in ALL aspects of the adoption, implementation and observation of technologies in the electoral process. The EISA symposium on the use of ICT in the electoral process is particularly timely in this regard.

OBSERVING IC T BASED ELECTIONS: LESSONS LEARNED

Like many organizations, the Carter Center has observed many elections in which ICT has been incorporated in different aspects of the process.

This includes the use of technology in boundary delimitation, voter registration, voting and the counting and tabulation processes. It is from this experience and from the points in common agreement captured in Observing Electronic Voting, that the following lessons learned are drawn. While some of these lessons may have particular relevance in the context of African elections, they are for the most part applicable to elections in many parts of the world. They are also not particularly technical in nature and do not focus on the nuts and bolts of how to observe technologies- the handbooks outlined above can provide that kind of information.

1. INTERNATIONAL OBLIGATION FOR ELECTIONS AND GOOD PRACTICES STILL APPLY TO E-ENABLED ELECTIONS

Electoral technologies must be understood and assessed as part of the larger electoral process in which they are being used. Regardless of technologies used, the electoral process should be conducted in accordance with the obligations to which the state has voluntarily committed through the accession, signature or ratification of treaties and other international commitments. Therefore, the obligations for the genuine democratic elections that apply to traditional paper-based elections also apply to elections in which electronic voting technologies are used. The introduction and use of technologies that undermine these fundamental rights cannot be said to fulfil international obligations for democratic elections.

While the obligations regarding democratic elections remain relevant even to those elections in which electronic technologies are used. There remains a paucity of obligations specific to the introduction and use of e-voting technology. At the regional level, the council of Europe leads the way in identifying emerging norms regarding the introduction and use of electronic voting technologies. The council of Europe's 2004 Recommendations on Legal, Operational and Technical standards for E-voting may be extrapolated and used as examples of international good practice in setting outside of the council of Europe member states. However, it is critical that the body of law regarding the use of electoral technologies continue to grow, and that other regions contribute to the creation of truly international and universal norms on this subject. Moving forward, advancing the establishments and growth of regional obligations and standards for the use of ICT in Africa elections should be a focus for international and domestic observers, as well as the broader democracy promotion community.

2. OBSERVERS MUST RECOGNIZE THEIR OWN LIMITATIONS

The introduction of technology into the electoral process requires observers, both domestic and international, to be aware of their own limitations. In traditional, paper-based electoral systems, there are many aspects of the process that are observable by the human eye, making it more transparent, and increasing the confidence with which observers can access the confidence in their conclusions, observers have to have a clear understanding of what they can meaningfully assess, where they can adapt their methods to facilitate observation and where observation is simply not possible. The examples below provide a few concrete illustrations of this:

- ***International observers should not certify technologies:*** Endorsers of the Declaration of Principles for International Election Observation have agreed that it is beyond the mandate of international observers to certify election technologies. It is the responsibility of the state observed to establish standards and procedures to assess whether the technology to be introduced meets their stated needs while upholding fundamental electoral rights and freedoms. Observers, for their part, can and should assess whether those standards and procedures in fact meet the end.
- ***Observers cannot identify every potential vulnerability:***