



The Asia Foundation



**Election Commissions and the Provision of Information:
A Comparative Study of Better Practices Globally**

September 2012

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Introduction

On 15 October 1995, Iraq held a presidential election in which Saddam Hussein, the country's brutal and authoritarian dictator, was re-elected with 99.96% of the vote. Voter turnout was reported as being 99.47%. He was not the first despot to employ this strategy. Dictators throughout history, from Julius Caesar to Kim Jong-Il and Muammar Gaddafi, have used illegitimate or staged elections as a strategy to create a veneer of legitimacy for their rule. As these examples illustrate, elections are, by right of their very importance, a magnet for manipulation, and merely holding an election does not make a country a democracy.

In order to fulfil the right to political participation, as enshrined in international law, citizens must be allowed to participate in "genuine" elections.¹ When an election is "genuine", it is often described in the media and by election observers as having been "free and fair", a standard which Saddam Hussein's elections signally failed to meet. However, for an election to achieve its goal – which broadly speaking is the transfer of political power from one set of elected representatives to another – it is not enough for it to have been free and fair; it must also be recognised and accepted, most importantly by the electorate, as having been free and fair.

It is very important that the population as a whole, and especially those who supported the losing side, understand and accept the results, and the fact that an electoral mandate has been awarded to the winner (and denied to the loser). Absent this acceptance, there is potential for unrest and violence. The chaos that followed Kenya's 2007 elections, in which 1,500 people were killed and up to 600,000 displaced, is an example of just how badly things can go wrong when the results of an election are rejected as illegitimate by a significant proportion of the population.²

Ultimately, the goal is confidence in the results but this, in turn, requires confidence in the process by which the election was conducted. This impacts at many levels on the success of an election. For example, individuals need to have confidence in advance that it is worth voting (i.e. that their vote will be counted and that it matters). In some cases, and especially in first time elections, many individuals even lack the confidence to go and cast their votes, which can be quite an intimidating, not to mention time consuming, process.

It is useful to distinguish between the actual process by which an election is conducted and public perceptions about this, while recognising that there are intimate links between them. While it is obviously important that elections be free and fair in fact, perception is also incredibly important in maintaining the credibility and stability of a democratic system. Many factors contribute to the actual process

¹ See, for example, Article 25 of the *International Covenant on Civil and Political Rights*.

² "Deal to end Kenyan crisis agreed", BBC News, 12 April 2008. Available at: <http://news.bbc.co.uk/2/hi/africa/7344816.stm>.

being free and fair and to public perceptions to this end. For purposes of this Report, it is sufficient to note that the provision of information to voters is central to both. In almost all both developed and developing democracies, the importance of transparency in the electoral process is implicitly understood.

This is in many ways obvious. If many, or even some, members of the electorate do not have information about how to register and to vote, they will not be able to participate in the elections, thereby undermining the validity of those elections. If voters do not know about the parties and candidates and their proposals and platforms, they will not be able to exercise their electoral choices effectively, and the results will not represent their free will. If they do not know about how the elections work, what levels of government they are voting for and what they do, and the significance of their own vote in the process, they will be less likely to vote and again, the election is less likely to represent their free will.

Confidence in elections depends, in very important ways, on confidence in the body which is responsible for organising and overseeing the election (referred to herein as the election commission).³ If there is a sense that the body is incompetent, politically biased, under-resourced, corrupt, unable to take on powerful actors who are trying to subvert the election, or otherwise unable to run the election in a way that ensures that it is free and fair, with all that implies, this is likely to significantly undermine public confidence in the election and its results.

Such confidence depends, in important ways, on the election commission itself operating in a transparent manner. Failure to do so may lead to, be the result of, or contribute to the failure to resolve actual problems in the management of the election. As United States Supreme Court Justice Louis Brandeis famously noted: "A little sunlight is the best disinfectant."⁴ And it can also lead to a lack of trust in the way that the Commission is managing the election, even if in fact it is doing an excellent job.

Ensuring a free flow of information in relation to elections involves many actors and many different information systems. Parties themselves, driven by self-interest in their desire to win the election, are a key part of the wider system of information dissemination. The media are also a key player, serving as the main source of information about elections for many citizens. Civil society organisations also often play a key role, for example by delivering voter education programmes, monitoring different election processes and disseminating the results, and providing alternative analyses and perspectives on the election. The advent of the Internet has significantly broadened the number of players and the ways in which they can

³ Different jurisdictions use different names to refer to the body or bodies responsible for overseeing the electoral process, and very different types of bodies undertake this function in different countries. This Report uses the term 'election commission' as shorthand to refer to all such bodies.

⁴ *Other People's Money, and How the Bankers Use It* (New York: Frederick A. Stokes Company, 1914). p. 92.

disseminate information relating to elections, ranging from individual bloggers to discussion forums to user generated content spaces hosted by more traditional media.

Election commissions also play an extremely important role in this process. In some very important areas – such as information about which parties and candidates are contesting the election and the results – they represent the only formally authoritative source of information. In other areas – such as voter education – they work alongside, and often in cooperation with, other players to ensure an appropriate flow of information. Beyond their proactive disclosure of information, as public bodies, election commissions are subject to the right to information (or freedom of information) and, as such, are bound to provide access to all of the information they hold, subject only to appropriately narrow exceptions.

Despite the important role played by election commissions, there are presently no established baseline standards, or even studies clearly identifying better practices, regarding the dissemination of information by these bodies. This Report surveys the different approaches to releasing information by election commissions in different countries and regions of the world, identifying better practices as well as approaches that are to be avoided. Drawing on these practices, as well as international law, this Report elaborates a framework of better practice standards for election commissions. In doing so, this Report aims to provide a resource for commissions in both developed and developing democracies, offering a baseline against which they can evaluate the strengths and weaknesses of their current approach to information dissemination, and giving ideas for improvement. These standards will be especially important for election commissions in emerging democracies, which are not merely responsible for maintaining confidence in the system, but also for playing a key role in building democracy where it has not existed or been well rooted before, and addressing the difficult context of a population which is ingrained with a natural suspicion of public institutions and the political process.

Election commissions the world over use many systems to disseminate information, including different types of media (print, radio and television), direct contact with voters and other systems (such as billboards, brochures and SMS messages). However, in many countries, the Internet is becoming an increasingly important system for the dissemination of information. This is of course true for everyone, and all public bodies, but it is fair to say that, around the world, election commissions tend to have some of the most accessible, comprehensive and detailed websites of any public body. Indeed, many election commissions have taken important steps to turn their websites into information hubs providing access to information about almost every aspect of elections. This Report thus focuses heavily on the use of the Internet by election commissions, due to the relative novelty of the Internet in many countries, the particular lack of studies and standards on the use of the Internet by election commissions, and the widely varying scope, content and management of websites by election commissions.

1. Background

1.1 *Relevant International Standards*

The right to political participation is well established under international law. This right is protected under Article 21 of the *Universal Declaration of Human Rights*,⁵ which states:

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right to equal access to public service in his country.
3. 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 by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

The same standards are closely reflected in Article 25 of the *International Covenant on Civil and Political Rights* (ICCPR),⁶ a legally binding treaty with 167 States Parties,⁷ as follows:

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and 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;
- (c) To have access, on general terms of equality, to public service in his country.

Similar guarantees are found at Article 23 of the *American Convention on Human Rights* (ACHR),⁸ Article 13 of the *African Charter on Human and Peoples' Rights* (ACHPR),⁹ and Article 3 of Protocol 1 of the *European Convention on Human Rights* (ECHR).¹⁰ Although the precise wording of these protections differs, all stress that elections must be held in such a way that the vote represents the free expression of the will of the voters.¹¹

⁵ UN General Assembly Resolution 217A(III), 10 December 1948. As a UN General Assembly Resolution, the UDHR is not formally binding. However, some of its provisions, and arguably Article 21, are considered to have become legally binding as customary international law.

⁶ UN General Assembly Resolution 2200A(XXI), adopted 16 December 1966, in force 23 March 1976.

⁷ As of September 2012.

⁸ Adopted at San José, Costa Rica, 22 November 1969, O.A.S. Treaty Series No. 36, entered into force 18 July 1978.

⁹ Adopted 27 June 1981, 21 I.L.M. 58 (1982), entered into force 21 October 1986.

¹⁰ Adopted 4 November 1950, E.T.S. No. 5, entered into force 3 September 1953. Protocol adopted 20 March 1952, E.T.S. No. 9, entered into force 18 May 1954.

¹¹ It should, however, be noted that this is less explicit in the African Charter.

The importance of transparency in the electoral process has been recognised in numerous international documents. In 2001, a UN General Assembly resolution on *Promoting and Consolidating Democracy* called on Member States to:

[Ensure] through legislation, institutions and mechanisms, the freedom to form democratic political parties that can participate in elections, as well as the transparency and fairness of the electoral process...¹²

Within Africa, the need for transparency in elections has been elevated to a principle alongside of the notions of free and fair elections. Article 3 of the *African Charter on Democracy, Elections and Governance*, a legally binding instrument, sets out the key principles governing elections, and Article 3(4) refers to:

Holding of regular, transparent, free and fair elections ...¹³

In Article 17, States reaffirm their commitment to holding transparent elections.

Similarly, a *Declaration on Criteria for Free and Fair Elections*, adopted by the Inter-Parliamentary Council, the governing body of the Inter-Parliamentary Union, which brings together parliaments from around the world, concluded: “States should take all necessary and appropriate measures to ensure the transparency of the entire electoral process”.¹⁴ And the Commission on European Union Election Assistance and Observation noted:

In the case of elections, good governance refers to an appropriate legislative and regulatory framework, as well as to a transparent and accountable election administration – including independent supervision and monitoring – that ensures the respect for the rule of law. An informed people, owning the electoral process, is the key factor in this context.¹⁵

The right to access information held by public bodies, or right to information, which has been recognised under international law as part of the wider right to freedom of expression, is also relevant to the dissemination of information by election commissions. Article 19 of the UDHR states:

¹² UN General Assembly Resolution 55/96, 28 February 2001, Art. 1(d)(iv). Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N00/565/15/PDF/N0056515.pdf?OpenElement>.

¹³ Adopted by the Eighth Ordinary Session of the Assembly of the African Union, Addis Ababa, Ethiopia, 30 January 2007, entered into force 15 February 2012.

¹⁴ Adopted at the 154th session, Paris, 26 March 1994. Reproduced in Michael D. Boda, ed., *Revisiting Free and Fair Elections: An international round table on election standards organized by the Inter-Parliamentary Union*, (Geneva: Inter-parliamentary Union, November 2004), p. 109. Available at: http://www.ipu.org/PDF/publications/ffelections_en.pdf.

¹⁵ Communication from the Commission on EU election assistance and observation, COM/2000/0191 final. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52000DC0191:EN:HTML>.

Everyone has the right to freedom of opinion and expression; this right includes the right to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.

The right to freedom of expression is guaranteed in very similar terms in Article 19 of the ICCPR.

Although the concept of the right to information, as currently understood, was not yet recognised when the UDHR and ICCPR were adopted, subsequent developments have led to the recognition of this right as being encompassed within the language of international guarantees of the right to freedom of expression, and specifically the rights to 'seek' and 'receive' information and ideas.

Since 1999 the three (and subsequently four) special international mandates on freedom of expression – the United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information – have adopted annual joint declarations on different freedom of expression issues. Their 2004 Joint Declaration included a significant focus on the right to information, stating, among other things:

The right to access information held by public authorities is a fundamental human right which should be given effect at the national level through comprehensive legislation (for example Freedom of Information Acts) based on the principle of maximum disclosure, establishing a presumption that all information is accessible subject only to a narrow system of exceptions.¹⁶

Around the same time, declarations on freedom of expression or specifically on the right to information were adopted by all three regional systems for the protection of human rights, in the Americas, Africa and Europe.¹⁷

Formal recognition of the right to information by international courts came later. The first such court to do so was the Inter-American Court of Human Rights, in the 2006 case of *Claude Reyes and Others v. Chile*.¹⁸ In the case, the Court explicitly held that the right to freedom of expression, as enshrined in Article 13 of the ACHR,

¹⁶ Adopted on 6 December 2004. Available at: <http://www.unhchr.ch/hurricane/hurricane.nsf/0/9A56F80984C8BD5EC1256F6B005C47F0?opendocument>.

¹⁷ See the *Inter-American Declaration of Principles on Freedom of Expression*, 108th Regular Session, 19 October 2000, paragraph 4; the *Declaration of Principles on Freedom of Expression in Africa*, 32nd Ordinary Session, 17-23 October 2002, Banjul, The Gambia, Principle IV; and Recommendation No. R(2002)2 of the Committee of Ministers of the Council of Europe on access to official documents, 21 February 2002, which is devoted entirely to this issue although it focuses more on the content of the right to information than on specifically recognising it as a human right.

¹⁸ 19 September 2006, Series C, No. 151.

included the right to information. In spelling out the scope and nature of the right, the Court stated:

In respect of the facts of the present case, the Court considers that article 13 of the Convention, in guaranteeing expressly the rights to “seek” and “receive” “information”, protects the right of every person to request access to the information under the control of the State, with the exceptions recognised under the regime of restrictions in the Convention. Consequently, the said article encompasses the right of individuals to receive the said information and the positive obligation of the State to provide it....¹⁹

It took a few more years but, in April 2009, the European Court of Human Rights followed suit, recognising a right to information based solely on Article 10 of the ECHR, which guarantees the right to freedom of expression.²⁰

The UN Human Rights Committee, the body tasked with promoting the implementation of the rights set out in the ICCPR, was relatively late to recognise clearly the right to information. However, a new General Comment on Article 19 of the ICCPR, adopted in September 2011, does just this, stating:

Article 19, paragraph 2 embraces a right of access to information held by public bodies.²¹

1.2 Election Commissions

The way, in practice, that countries implement the right to participate and run elections varies tremendously from country to country, and is highly contextual. There is no “correct” way to run a democracy. This applies, in the first instance, to the nature of the political system itself. The right to political participation can be satisfied fully through a bicameral or unicameral legislature, the use of direct democratic initiatives, a presidential republic or any number of other systems.

Very different approaches are also taken when it comes to the composition and structure of election commissions, and again there is no single model for bodies which are able to ensure effective electoral processes. Despite this diversity, the common purposes and goals of election commissions, namely the oversight of an independent, fair and transparent process which allows for the free expression of the will of the electorate, mean that it is possible to identify universally applicable standards relating to these bodies.

First and foremost, an election commission should be independent, most obviously of the incumbent governing party or parties, but also of other political parties and indeed other vested interests. A particularly strong example of a structurally

¹⁹ Para. 77.

²⁰ *Társaság A Szabadságjogokért v. Hungary*, 14 April 2009, Application No. 37374/05.

²¹ General Comment No. 34, 12 September 2011, CCPR/C/GC/34, para. 18.

independent body is provided by Costa Rica. Costa Rican elections are organised by an independent body, the Supreme Electoral Tribunal (TSE), established by the constitution.²² The TSE's members are appointed by a two-thirds vote of members of the Supreme Court of Justice, and only individuals with at least ten years of professional legal experience are eligible for these positions. The Supreme Court of Justice can remove members of the TSE for misconduct by a two-thirds vote, but the TSE is not formally subordinate to the Supreme Court of Justice. There are no appeals from TSE decisions or resolutions, and the TSE must be consulted about any changes to the electoral law. If the TSE rejects a proposed change, it may only be adopted by a two-thirds majority vote of the legislature. The TSE's independence is significantly enhanced by the fact that they assume direct control of the Civil Guard during the three months of the official campaign period.²³

At the same time, independence is a contextual consideration. Older and more developed democracies often rely on implicit notions of independence (such as by constitutional convention) rather than formal legal structures. For example, the Swedish Election Authority (EMB) is located within the executive branch, and it reports to the Ministry of Justice.²⁴ Although the EMB is not under the direct supervision of the Minister of Justice, this relationship lacks structural safeguards to ensure independence. Nonetheless, Sweden's electoral system remains free and fair, in important part because of the country's long democratic history, which allows it to rest on established conventions, but also because election management at a practical level is highly decentralised, being carried out at the municipal or county level by local election boards that function autonomously from the central EMB. The Swedish system is an interesting illustration of how countries whose democratic traditions are deeply ingrained within the popular consciousness can often function without the formal safeguards that are vital for emerging democracies.²⁵

Care must be taken to ensure real, as opposed to apparent, independence. The law formally declares the Cambodian National Election Commission (NEC) to be independent. Members are nominated by Ministry of Interior and appointed by Royal Decree, at the request of the Council of Ministers and upon approval by an absolute majority of members of the National Assembly. Although this appears to involve a number of different players, in fact when one party forms a majority in the government, it essentially controls the process.²⁶

²² Adopted 7 November 1949, Articles 99-104. Translation available at: <http://www.wipo.int/wipolex/en/details.jsp?id=9161>.

²³ See http://www.idea.int/publications/emd/upload/EMD_CS_Costa_Rica.pdf.

²⁴ Available at: [http://www.venice.coe.int/docs/2005/CDL-UD\(2005\)007-e.pdf](http://www.venice.coe.int/docs/2005/CDL-UD(2005)007-e.pdf).

²⁵ See http://www.idea.int/publications/emd/upload/EMD_CS_Sweden.pdf.

²⁶ This has been criticised, for example, by the Cambodian Center for Human Rights. See [http://www.sithi.org/admin/upload/media/%5B2012-05-31%5DThe%20National%20Election%20Committee%20the%20NEC/2012_05_31_CCHR_The%20National%20Election%20Committee_\(ENG\).pdf](http://www.sithi.org/admin/upload/media/%5B2012-05-31%5DThe%20National%20Election%20Committee%20the%20NEC/2012_05_31_CCHR_The%20National%20Election%20Committee_(ENG).pdf). The conduct of the 2008 elections was criticised on these grounds by observers, including the European Union. See <http://www.electionguide.org/country-news.php?ID=37>.

Election commissions should also be properly resourced. In 2011, the Zimbabwe Election Commission announced that they had insufficient funding to hold an election in the coming year.²⁷ This announcement came in the midst of negotiations between political factions over the schedule of future elections. Although the claim that an immediate election was necessary, which had been put forward by Robert Mugabe's faction, was dubious, these decisions should be based on the constitution and the law, rather than on how much funding is available to the election commission.

Adequate resourcing also means the availability to the commission of appropriate expertise. Organising a free and fair election is a complex and technically sophisticated task, and a strong election commission should have sufficient stability and bureaucratic depth, including to ensure that experience and expertise are carried over from one election to the next. As a result, election commissions should be permanent institutions, rather than *ad hoc* committees established as and when the need arises.²⁸ For example, the current Jordanian model, whereby a new committee is appointed for each election, does not allow for proper institutional capacity-building.²⁹ The recognition of a need for stability is becoming increasingly accepted, and the past few years have seen moves in several countries, including Jordan, away from temporary election commissions and towards permanent models.

A leading study by the Organization for Security and Cooperation in Europe (OSCE), *International Standards and Commitments on the Right to Democratic Elections: A Practical Guide to Democratic Elections Best Practice*, reaffirms this idea:

The state or central election commission should be a body that functions on an active basis and not for a limited time period just before elections. This means that the central election commission should continually work to improve voter registers and take other actions that improve the election process.³⁰

As this quotation makes clear, the need for a permanent body is not simply to ensure the retention of expertise and experience, but also to ensure the ongoing provision of election-related services, which go beyond simply running the election itself.

²⁷ Columbus S. Mavhunga, "In Zimbabwe, not enough money for elections", CNN, 17 July 2011. Available at: http://articles.cnn.com/2011-07-17/world/zimbabwe.election_1_mugabe-new-constitution-electoral-commission?_s=PM:WORLD.

²⁸ This also generally helps to bolster their independence.

²⁹ See: http://www.lob.gov.jo/ui/laws/search_no.jsp?no=11&year=2012 (in Arabic).

³⁰ OSCE, *International Standards and Commitments on the Right to Democratic Elections: A Practical Guide to Democratic Elections Best Practice* (Warsaw: 20 November 2002), p. 21. Available at: <http://www.osce.org/odihr/elections/16859>.

As noted above, it is of the greatest importance that election commissions operate in an open, transparent fashion. The OSCE study identifies the following best practices for transparency of election commissions:

- Election administration bodies must provide timely information to the public on candidates and political parties taking part in elections
- Election administration bodies must provide timely information to the public on the manner of voting and any information necessary for a voter to cast a valid ballot
- Election administration bodies must provide timely information to the public on procedures for protecting electoral rights
- Public information should be provided in the languages of national minorities in those geographical areas where such minorities are located and through the appropriate media calculated to reach such minorities³¹

These four principles suggest a broader role for election commissions than merely overseeing the technical challenges involved in holding an election. As the main official contact point for the public, election commissions bear a fundamental responsibility to work to build credibility and trust in the democratic process. Election commissions must play an active and promotional role in order to achieve this, educating potential voters about their rights, responsibilities and options, and providing background information on the election and what it means.

The idea of the election commission as an organ for the ongoing dissemination of relevant information dovetails with the final report of the Colloquium on African Elections, which issued similar recommendations for election oversight bodies:

1. Allocate appropriate time and resources to critical aspects of the electoral process such as election planning, budget planning, staff selection and capacity building, the voter registration process, the candidate selection process, data management, polling agent recruitment and training, voter and civic education and compliance mechanisms.
- ...
3. Conduct operations transparently.
- ...
6. Ensure that accurate information on the electoral process is regularly provided to the public on a timely basis.
7. Ensure the accessibility of the electoral process to marginalized groups, including the disabled, youth and women.
- ...
9. Expeditiously and transparently count, tabulate and announce election results.³²

Election commissions should thus be understood as having a promotional as well as an oversight role. In other words, the election commission should consider it as part of their mandate to educate and enfranchise voters, to ensure that they understand

³¹ *Ibid.*, p. 32.

³² *Colloquium on African Elections: Best Practices and Cross-Sectoral Collaboration, Final Report* (Accra, Ghana: 2009), p. 21, available at: http://www.ndi.org/files/African_Elections_Best_Practices_ENG.pdf.

their rights under the democratic system and, as far as possible, to motivate the electorate on the importance of exercising their right to vote.

2. Information Dissemination Standards

2.1 *Ensuring Voters can Participate*

One of the more important functions of election commissions is providing voters with practical information on how to participate in the voting process, including information about how and when to register, and how to vote. Information about how to register for the election is particularly important in first-time elections, along with information about how to vote. In this area, more than any other, it is necessary for election commissions to reach out beyond electronic forms of distribution to ensure that they are reaching those who need this information. It is particularly important to reach out to minorities and vulnerable groups to ensure that there are no communities which are structurally excluded from participating in the election. Otherwise, the fairness of the election may be undermined, and certain communities may fail to achieve the electoral representation they deserve. This, in turn, may lead these communities to look for other, less democratic, means to resolve issues of exclusion and discrimination.

Experience demonstrates that the most effective way to ensure that voters understand the sometimes rather complex procedures for registering, including what documentation they are required to present and what alternative documentation may be used, is through face-to-face sessions, which can be through formal trainings, town hall meetings or building on local systems where people meet.³³ At the same time, this can be quite time consuming and expensive at a human resource level. Media outreach and using promotional materials such as brochures, billboards, factsheets and even text messages are all potentially useful approaches. In many countries, these activities involve cooperation between the election commission and civil society groups, playing on the advantages of each. Extensive training of trainer programmes led to direct contact with a large number of voters in early elections in Afghanistan,³⁴ while the Philippines also has effective and innovative outreach programmes.³⁵

³³ For example through religious meeting places.

³⁴ See, for example, reports by the International Foundation for Electoral Systems (IFES) on its activities in Afghanistan for the 2004 and 2005 elections, available at: <http://www.ifes.org/Content/Projects/Europe-Asia/Afghanistan/2004-Presidential-and-2005-Parliamentary-Elections.aspx>, and similar reporting by the UNDP, available at: http://www.undp.org.af/Publications/KeyDocuments/factsheets/dcse/dcse_factsheet_05_04_06.pdf

³⁵ See, for example, information about the so-called Pillar 3, Voter Education, on the election commission's website: <http://www.comelec.gov.ph/?r=AboutUs/COMSTRAT1116/pillars/Pillar3>.

These same outreach sessions and programmes can also be used to serve wider promotional and educational roles. A visit to Morocco's election authority website begins with a message telling users that voting is the patriotic duty of every citizen.³⁶

This also includes providing technical information, such as election dates. The website for Germany's Federal Returning Officer provides rough dates for every election between now and 2016,³⁷ while Lithuania's Central Information Commission provides election dates up to 2020.³⁸ At a minimum, election commissions should include the date of the next election at each level for which they are responsible (municipal, national and so on). The website of the Indonesia election commission, Komisi Pemilihan Umum (KPU), carries a prominent logo in the top right corner announcing the next elections, which will take place in 2014.³⁹

In countries which lack fixed election dates, such as Australia and Ireland, the election commission should list relevant dates regarding the next election (such as the date when the mandate of the current government will expire). It can also be important to place upcoming elections within a proper context. For example, the website of the High National Election Commission of Libya contained no dates for future elections as of August 2012 since, at that point, the country's transitional government had just been elected and the schedule for future elections was unclear.⁴⁰ However, the website did contain information about the placement of the recent elections within the transitional schedule (elections, constitutional drafting, constitutional referendum, and so on).

The information provided under this category should also cover the various different situations in which voters may find themselves. This may include, for example, information about how to obtain and cast an absentee ballot or how non-resident citizens may vote. The Philippines Commission on Elections' (COMELEC) website has dedicated information on registration of vulnerable sectors, including persons with disabilities, indigenous peoples and detainees.⁴¹ It has also worked with civil society groups to ensure effective outreach to these groups.⁴²

In some countries, official portals with election information offer very detailed information in this vein. Notably, Greece's information portal (run through the website of the Ministry of the Interior) includes specific instructions for judges, civil servants and clerics, court representatives and members of returning boards, court

³⁶ Available at: <http://www.listeselectorales.ma/> (in Arabic).

³⁷ Available at: http://www.bundeswahlleiter.de/en/kuenftige_wahlen/.

³⁸ Available at: <http://www.vrk.lt/en/pirmas-puslapis/preliminary-elections-dates/preliminary-elections-dates.html>.

³⁹ See <http://www.kpu.go.id>.

⁴⁰ Available at: <http://www.hnec.ly> (in Arabic).

⁴¹ Available at: <http://www.comelec.gov.ph/?r=VoterRegistration/VulnerableSectorsRegistration>.

⁴² See, for example: <http://www.ifes.org/Content/Publications/News-in-Brief/2012/April/Partnerships-Increase-Access-to-Information-in-the-Philippines.aspx>.

representatives discharging duties in special polling stations for persons registered in one place and resident in another, electoral guards, soldiers, police officers, coast guard officers and firemen, seamen and out-of-constituency voters.⁴³ Although this categorisation is certainly thorough, it also suggests that the rules on how and where to vote could be simplified.

In countries that have adopted or are in the process of adopting e-voting protocols, the impetus for election commissions to turn their websites into thorough information hubs is even greater. This is not only because the adoption of e-voting drastically expands the importance of the election commission's online presence in the electoral process, but also to assuage the electorate's natural scepticism about the security and integrity of electronic voting. Although e-voting is gaining credibility around the world, and its advocates claim it is every bit as secure as traditional ballots, as a new technology being introduced into a critically important area of social activity it is only natural for the public to be apprehensive. As a result, there is an even greater need for transparency in order to assuage these fears. A particularly good example of this can be found on the website of Norway's Ministry of Local Government and Regional Development, whose E-Vote 2011 Project seems designed precisely to counter any fears about the integrity of the process.⁴⁴ In addition to all of the requisite practical information about how to vote online, the website contains extensive technical information, including the architecture and even the source-code of the e-voting program. Another important step was the decision to webcast the decryption and counting of the votes, videos of which remain available on the website. The website also contains reports evaluating the success of the pilot, including by OSCE observers.

Beyond the technicalities of voting, it is important that voters understand the meaning of the vote they are casting. As a result, election commissions should provide voters with information about how their democracy as a whole works, and the specific context of the coming election within the broader electoral and democratic process. This should include information about the powers that will be exercised by the body for which votes are being cast. It is also important for voters to understand the wider systemic characteristics of the voting system, in order to properly understand and contextualise their democratic expression and the way their vote will count. This should include information on whether seats are awarded by proportional representation or through a first-past-the-post system, and other relevant details.

In addition to information for voters, the election commission should disseminate information that is relevant to other actors in the political process, including political parties and candidates, potential campaign donors and third-party activists.

⁴³ Available at: <http://www.ypes.gr/en/Elections/NationalElections/DeputyElections/InterestCitizen/>.

⁴⁴ Available at: <http://www.regjeringen.no/en/dep/krd/prosjekter/e-vote-2011-project.html?id=597658>.

For political parties and candidates, this should include practical information about how to register, as well as rules regarding issues such as campaign spending, disclosure, campaign and candidate access to public spaces and public resources, and other rules on electioneering. For potential donors to public bodies, relevant information should include rules around campaign fundraising and spending, to give a holistic sense of where their money may go. Rules around spending may also be relevant to activists, since many States regulate the participation of independent third parties in the electoral process. In addition to enhancing the transparency of the system, the aim of these disclosures should be to foster participation by less well-resourced or well-funded candidates. As a result, accessibility is a key concern, with a need for factsheets and summaries that candidates without specialised education, training or legal advice will be able to understand.

The Election Commission of Thailand provides extensive information to political parties about how to register, including a synopsis of relevant the conditions and rules on this, information about funding for parties, and the legal regime governing all of this. It also provides extensive information about all 66 registered parties, including their names, addresses and contact details, as well as the number of members and branches.⁴⁵

The public should also be provided with information about how to observe the process and to challenge particular results, including legal information about the rights accorded to every citizen and practical information as to how to register as an observer or file a challenge against a particular event, policy or result.

It can also be useful to include relevant forms on the commission website that are needed for procedures connected to the electoral process, such as for filing financial disclosures, or for registering as an election observer or scrutineer. In States where the primary or nomination process for selecting candidates within political parties is also conducted under the auspices of the election commission, equivalent information should be provided about participation at that stage. Voter role and voter registration statistics can also be useful information to provide.

2.2 Information About Parties and Candidates

Another vital facet of election commissions' promotional role is to collect and disseminate relevant information about voters' electoral choices. At its most basic, this means a list of candidates and parties that are contesting each position. For example, the website of Peru's election commission contains a database of all registered political parties, including their contact information and the names of their leadership.⁴⁶ The website of Mexico's election commission also includes an Action Plan for each party, as well as their statement of principles and foundational

⁴⁵ Available at: <http://www.ect.go.th/english/political.html>.

⁴⁶ Available at: <http://www.web.onpe.gob.pe/partidos-politicos.html>.

documents, allowing voters to use the website as a source for basic information about the policy differences between the parties.⁴⁷ Identifying information, such as a party's emblem or colours, is also useful. In countries such as India, where literacy gaps mean that parties also campaign under a distinct identifying symbol (such as a cricket-bat or an auto-rickshaw), a list of the symbols used by each party is also useful although, given the unlikelihood of illiterate members of the public navigating to the website, this information will likely be of primary utility to activists and others involved in voting drives.

India's website also allows users to download scanned copies of the handwritten affidavits sworn by all candidates as part of the registration process, including financial disclosures and declarations of eligibility for office. The fact that these documents are being made available contributes to transparency, credibility and voter confidence in the process, and may help enlist the support of the wider public in exposing irregularities, for example in terms of asset disclosures. Election commissions should aspire to pursue exactly this kind of approach, where any and all information they have is, by default, open to the public.

One area where openness is particularly important is the provision of financial information about various candidates and parties. For candidates, this can take the form of personal disclosures of wealth or affidavits, tax information, disclosures of benefits received and other background information. This information may be useful to the public in various ways. As noted above, it may allow members of the public to identify irregularities in the information that the election commission would have difficulty finding. This information can be particularly useful if it is organised in a way that helps voters track potential conflicts of interest, such as whether a politician or candidate that favours subsidies to mining firms happens to have investments in the mining industry. Similarly, these types of disclosures can provide insight into whether or not politicians are abusing their office, for example by selling off shares in a company they know is about to be hit with a large fine by a regulatory agency. For political parties, financial information is generally more focused on campaign fundraising and spending.

This information is of central importance to the integrity of the campaign, and given that election commissions are often responsible for monitoring campaign expenditure, it is natural that this has become a particularly dynamic testing ground for open data initiatives. For example, Elections Canada's website includes a searchable database of all expenses, contributions and financial reports for every election as well as party primary processes. Interestingly, the database is searchable by donor name, allowing users to track every political contribution made by a particular person or organisation.⁴⁸ For the United States, the FEC's Campaign Finance Disclosure Portal is a veritable goldmine of information, including monthly campaign finance disclosures from candidates and colour-coded maps for district-

⁴⁷ Available at: http://www.ife.org.mx/portal/site/ifev2/Directorio_y_documentos_basicos/.

⁴⁸ Available at: <http://www.elections.ca/scripts/webpep/fin/welcome.aspx?&lang=e>.

by-district expenditures in current and past campaigns. Even more impressive is a detailed list of every reported campaign expenditure. As of August 2012, the list was kept current to within 10 days. The list can be sorted by several different fields, including the candidate that each expenditure was intended to support or oppose, and the expenditure's nature and purpose, allowing users to see, for example, a list of all television spending.⁴⁹

The United States' Campaign Finance Disclosure Portal is the product of an agency with a budget and a level of technical and organisational sophistication that is beyond the scope of many developing countries. However, every country's election commission should provide access to basic information about campaign financing, even if the presentation is not as flashy or user-friendly as in the United States. This information should be updated with a frequency that allows voters to understand the impact of funding on the course of the election and to take this into account when exercising their voting preferences.

Different countries regulate fundraising and expenditure by parties and candidates differently. Some, for example, place limits on the contributions that individuals and companies may make to parties and candidates, while others also, or alternatively, place limits on spending, which may also include special regimes regarding the placement of advertisements in the media. These rules are set and applied with varying degrees of diligence, including in terms of the frequency the information is provided by parties and candidates. This impacts on the ability of election commissions to provide this financial information to the public, since they can only pass on what parties and candidates provide to them. In many cases, parties are only required to report information on the regulated financial area – whether it is fundraising or spending – and so this is all that the commission can pass on to the wider public.

The United States provides a good example of a particular informational shortcoming regarding election spending. Although the rules are quite precise regarding openness in relation to fundraising by parties and candidates, there is an enormous loophole for independent advocacy groups (known as superpacs), which are practically immune from the reporting obligations that bind candidates and parties. As a result, despite the fact that the website of the Federal Election Commission (FEC) boasts an advanced and technically impressive open data portal with financial information, this only provides a partial picture of overall political expenditure because enormous amounts of spending are simply not tracked.

2.3 Legal Information

⁴⁹ Available at: <http://www.fec.gov/pindex.shtml>.

Part of a strong openness policy will include information about the legal framework governing the election. This is particularly important in emerging democracies in order to ensure that the electorate can fully understand the mechanisms of their new government. The legal framework varies considerably from country to country, but the legal information which is available should include the legal rules regarding the conduct of the elections, including forming and registering parties, the rules on voting and how candidates and parties get elected, and the rules which provide the election commission with its mandate and powers. In some countries, the election commission has the power to set certain rules – for example on the placement of posters and signs or the allocation of advertising by the media – and these rules should also be made public.

The Cambodian, Libyan, Palestinian and Tunisian election commission websites all contain thorough lists of all relevant laws and regulations. The Libyan website, for example, includes the basic constitutional and legal framework establishing the election commission and the national governing bodies (the Congress), the law establishing constituencies, and the specific “election laws” setting the ground rules for the electoral process.⁵⁰ The Cambodia website includes a comprehensive list of election laws, regulations and procedures, directives, including those adopted by the election commission, principles and codes of conduct for various actors, including electoral officers, parties and candidates, observers, and the armed forces and police.⁵¹ Similarly, Sudan’s election commission website includes that country’s interim constitution, as well as the text of the *Comprehensive Peace Agreement Between the Government of Sudan and the Sudan People’s Liberation Army*. The website also has links to the Elections Act, and various factsheets about the different laws.⁵² The provision of factsheets or summaries alongside the laws themselves is a better practice in order to cater to the needs of ordinary citizens, researchers, academics and activists, not all of whom will necessarily have the legal expertise required to understand the primary legal documents.

In addition to the baseline legal structure, election commissions should provide copies of relevant jurisprudence or decisions that relate to the electoral process. In most countries, the election commission has the power to make decisions applying various legal rules on a range of important issues, such as campaign spending, eligibility of parties or candidates, and voter identification procedures. Their decisions on specific matters can be incredibly important, as well as controversial. For example, an election commission might decide to disqualify a popular candidate from running due to a breach of the rules, or whether or not to hold a recount in a closely contested race. Given the potential impact of these decisions, it is very important that they be made available as soon as possible after they are adopted.

⁵⁰ Available at: <http://www.hnec.ly>, www.elections.ps and <http://www.isie.tn> (all in Arabic).

⁵¹ Available at: http://www.ncelect.org.kh/nec_english/.

⁵² Available at: <http://nec.org.sd/new/new/english/index.php>. The website appeared to be having some technical difficulties during the course of our research, as the various links alternated between being available and unavailable from day to day.

Costa Rica’s election commission, a quasi-judicial body, provides a good example here. Its website offers a categorised list of relevant resolutions and decisions, in addition to manuals and workbooks that offer more user-friendly versions of the relevant legal information.⁵³ Similarly, the Philippine election commission, COMELEC, provides very detailed information about its resolutions and decisions, including for past elections, broken down by election and type of resolution (for example, on voter registration or election protests).⁵⁴

2.4 Information About the Election Commission

Providing at least a minimum platform of information about the election commission and its operations is a very important way of promoting public confidence in its operations. While it is always important for public bodies to operate in a transparent manner, this is all the more so with election commissions, given the close link between their credibility, and wider public confidence in the outcome of the elections they oversee.

The information covered here should include a clear statement of the mission, mandate and goals of the election commission. The website of Ghana’s election commission states that it strives to provide a “truly transparent, free and fair electoral administration.” It emphasises the independence and functions of the commission, which include issuing identity cards to voters, educating Ghanaians, designing and undertaking programmes to enfranchise all eligible voters and the safe custody of election materials.⁵⁵

Election commissions should also provide information about their structure and organisation. India’s election commission website includes a list of the names, positions and responsibilities of every staff member, as well as specific contact information for any employee involved in responding to requests for information. South Africa’s election commission website goes even further, providing a clickable “organogram” with photos and information about each senior staff member’s qualifications and responsibilities.⁵⁶ Libya’s election commission website provides less personal information about individual staff members, and instead focuses on the structure of the organisation and function of each position, information which is vitally important for a newly established electoral body. The Election Commission of Thailand also includes extensive information about its history, current and past commissioners, powers and duties at both the national and provincial levels, its structure and the law which establishes it.⁵⁷

⁵³ Available at: http://www.tse.go.cr/normativa_jurisprudencia.htm.

⁵⁴ Available at: http://www.comelec.gov.ph/?r=all_resolutions.

⁵⁵ Available at: <http://www.ec.gov.gh>.

⁵⁶ Available at: <http://www.elections.org.za/>.

⁵⁷ Available at: <http://www.ect.go.th/english/about.html>.

An interesting approach is taken by the election commission of the United Kingdom, which publishes performance standards for its electoral officers online.⁵⁸ In addition to staffing and structural information, election commissions should foster confidence in their independence by describing in detail the appointments process for senior staff. Costa Rica's Supreme Electoral Tribunal website is particularly good in this regard, going into detail about the qualification requirements and process of appointment, as well as the nature and origins of the body's structure more generally.⁵⁹ The Costa Rican website also includes directory and contact information for staff and departments.

As with any aspect of government transparency, financial information is particularly important, including at a bare minimum budgets and pay scales, along with information about expenditures. The Canadian election commission represents better practice in this regard, with a website which includes detailed financial disclosures, down to the specific costs of each business lunch attended by the Chief Electoral Officer.

Transparency in the decision-making structure is also important. The Mexican and Albanian election commissions are notable in this regard for live streaming of their meetings.⁶⁰ As a matter of principle, it is a good idea for these meetings to be open to the public to attend in person. Election commissions should also provide maximum insight into their deliberations, including the release of information relating to the decision-making process, at least once decisions have been finalised, in line with international standards on the right to information.

Election commissions are public authorities and, as such, are under an obligation to provide individuals with information in response to requests, as part of the right to information. Some 92 countries currently have right to information laws,⁶¹ which set out in some detail the legal rules governing requests for information, including how to make them and how they should be processed, what information must be provided and what may be withheld (the regime of exceptions), and how to appeal from refusals to provide information.

Election commissions should obviously at least meet the minimum standards set out in the law but, as bodies in relation to which transparency is of the greatest importance, they should strive to meet better practice standards in this area. This includes enabling the electronic lodging of requests, as well as a commitment to process requests as quickly as possible, especially during election periods, despite the fact that this is when the election commission is likely to be busiest. Even in countries which do not have right to information laws, election commissions should

⁵⁸ Available at: www.electoralcommission.org.uk/home.

⁵⁹ Available at: http://www.tse.go.cr/historia_tse.htm.

⁶⁰ Available at: <http://www.ife.org.mx/portal/site/ifev2> and www.cec.org.al.

⁶¹ See: <http://www.law-democracy.org/live/global-rti-rating/>.

endeavour to provide responses to requests for information just as if they were subject to legal obligations in this area. The website of India's election commission is particularly strong in this regard, providing a portal for making requests for information online, as well as statistics regarding the processing of requests (the number of requests received and rejected, the amount of fees charged and paid, and so on), fee schedules, lists of the categories of documents under their control, and the particulars of the appeals process and the identity of the officers involved.

2.5 *Timely Disclosure of Results*

The certification of election results is at the heart of an election commission's mandate. As important as the procedural aspects of the run up to the election are, it ultimately comes down to this moment of truth, where the winner is revealed and the loser, and its supporters, must accept defeat. In executing this duty properly, election commissions must balance the need for expediency with the fundamental importance of accuracy. A speedy result helps ensure confidence in the process, since longer delays and the prolonged uncertainty that accompanies them can breed suspicion that the results are being manipulated. On the other hand, election commissions must avoid at all costs the disastrous consequence of naming a particular candidate as the winner prematurely. Nothing will erode confidence in the system faster than the release of flip-flopping results. This, more than anything else, will be seen as a failure of the election commission in fulfilling its core role.

In practice, however efficient election commissions are in deciding electoral races, they will never be able to keep up with the media, which are less risk-averse and more willing to make judgement calls even if these may ultimately prove to be wrong. This can provide a good counterweight to the more cautious pronouncements of the election commission, although it is not without its dangers. A good example of this was in the 2000 Gore-Bush presidential election in the United States, which hung on the results of the Florida vote. Gore originally conceded the state, and thus the election, based on media reports, but then withdrew his concession the next morning, when the outcome appeared less clear. The various pressures on the media – in particular competition for audiences and thus headlines – may lead to unsound predictions when results are very close and hard to call. It is, as a result, all the more important that the role of the election commission in making a final decision on the elections (subject, of course, to court appeals) be emphasised. Along with its own announcements of results, the election commission should keep the media informed of the dangers of jumping to premature conclusions, and ask them to exercise caution before announcing a winner.

Practically speaking, it is difficult to ascribe a concrete "better practice" standard that is universally applicable here. Obviously, the process of certifying the results of a national election in India or Indonesia will be vastly more complicated, difficult

and time consuming than tabulating results in a small country like Luxembourg. However, in terms of basic principles, the Council of Europe's *Code of Good Practice in Electoral Matters* offers a good guide:

3.2.2.5

Transferring the results: There are two kinds of results: provisional results and final results (before all opportunities for appeal have been exhausted). The media, and indeed the entire nation, are always impatient to hear the initial provisional results. The speed with which these results are relayed will depend on the country's communications system. The polling station's results can be conveyed to the electoral district (for instance) by the presiding officer of the polling station, accompanied by two other members of the polling station staff representing opposing parties, in some cases under the supervision of the security forces, who will carry the records of the proceedings, the ballot box, etc.

However much care has been taken at the voting and vote-counting stages, transmitting the results is a vital operation whose importance is often overlooked; it must therefore be effected in an open manner. Transmission from the electoral district to the regional authorities and the Central Electoral Commission – or other competent higher authorities – can be done by fax. In that case, the records will be scanned and the results can be displayed as and when they come in. Television can be used to broadcast these results but once again, too much transparency can be a dangerous thing if the public is not ready for this kind of piecemeal reporting. The fact is that the initial results usually come in from the towns and cities, which do not normally or necessarily vote in the same way as rural areas. It is important therefore to make it clear to the public that the final result may be quite different from, or even completely opposite to, the provisional one, without there having been any question of foul play.⁶²

In most countries, votes are initially counted in individual polling stations, of which there are many, and then the results are relayed to a regional or central point via telephone or fax (followed, in due course, by the actual ballots). Better practice is for election commissions to release results as they come in, station-by-station, usually simply adding up totals as more stations report. However, this can be misleading early in the process, since the results from the first few stations may for various reasons not provide an accurate picture of the overall strength of a party or candidate. For example, a riding may include both rural and urban pockets, with different political tendencies, and different reporting speeds. Early in the process, this may give the impression that the candidate or party favoured by the faster reporting area is doing better than is in fact the case.⁶³

To counter this, election commissions should provide information alongside the reported results to ensure that it is clear what is happening. This should, for example, include information about how many stations have reported and how many have not. The Australian Election Commission also provides trending data

⁶² *Supra.* note 35.

⁶³ In developed countries, rural polling stations are often smaller and hence counted more quickly and so report ahead of urban stations, while in less developed countries, it often takes more time for rural stations to report.

based on previous elections, to show voters whether or not there appears to be a swing in the riding. In more complex vote counting systems, such as preferential voting systems, where votes from the least popular candidates are redistributed until there is a winner, further accompanying information may be necessary to help minimise the risk of the partial results being misunderstood.

For most people, the media act as an interface with the election commission in this process. The election commission should post the incoming results online, so that anyone can access them. However, the media, and particularly television, have developed very sophisticated reporting approaches – for example involving graphics, predictive formulae and the opinions of experts – so that most citizens with both television and Internet access would prefer to receive the results via the more entertaining and informative medium of television. Good media reporting will also involve explaining away apparent biases in the data as it comes in.

Technology is impacting on this issue, with those involved in counting at polling stations often being viewed through windows by external observers, or with results being relayed by official observers to friends and colleagues outside. These external observers may then relay the results via mobile phone to the wider public. While this can be said to undermine the formal processes of vote tabulation, at the same time it does result in a very open process, one which an otherwise suspicious electorate may be more prone to trust.

2.6 Information About Past Elections

Once democracy has taken root in a country, it tends to move forward with a momentum of its own. With every successfully contested election, citizens become increasingly used to exercising their participatory rights, entrenching the democratic process in the collective consciousness. As a result, pedigree is extremely important within the electoral system. Open data about past elections allows citizens to place their current political situation in its proper context. Data about previous elections is also, of course, of interest to activists, researchers and candidates.

As always, more information is always better. Although the last election may be of primary interest to most users of the website, it is useful to provide data going as far back as possible. The website for India's election commission contains results, statistics and analysis going back to India's first election in 1951. Canada's election commission provides results going back to Dominion status, in 1867, while New Zealand provides results going back even further, to 1853.⁶⁴

⁶⁴ Available at: <http://www.elections.org.nz>.

Disclosures about past elections obviously begin with the results, including votes cast for each candidate and party, and the total number of votes cast, the number of spoiled ballots, the number of rejected votes and the voter turnout. Ideally, this information should include both raw data for researchers and more accessible presentations designed for laypersons. Colour-coded maps showing the results in different regions are a particularly effective way to present this information. Several election commission websites do an excellent job of presenting information in this way, including those of South Africa, Egypt, Canada and Greece.

Secondary sources on the elections themselves are also useful. Of primary utility are reports from election observers, in order to provide users with independent accounts of an election's fairness. In Canada, the report of the Chief Election Officer is included on the website, while the United Kingdom's election commission includes links to publications from academic sources about the election.

2.7 Accessible and User-friendly Information

Accessibility is a fundamental principle that should underlie all others as part of an effective openness policy. Aspects of this have already been touched on in prior sections. For example, providing "factsheet" summaries of the legal structure in which the election commission operates alongside the relevant legislation in full is one way to help ensure that information disseminated by the election commission is made available in a form that ordinary citizens can understand.

Another important consideration in ensuring accessibility is the language in which it is released. According to the Council of Europe's *Code of Good Practice in Electoral Matters*, information "must also be available in the languages of national minorities, at least where they make up a certain percentage of the population."⁶⁵ Obviously, the applicability of this depends on the national and regional context. Canada's baseline voter information guide is available in 27 different languages. While this is an impressive commitment, the number of languages available is not the only consideration. Countries should take care to prioritise the translation of information into languages that are spoken by a significant minority of the electorate, particularly where these communities tend not to understand the language of the majority.

Although producing voter information guides in multiple languages is a positive step, an even better practice is to have multilingual versions of the election commission website in its entirety. For example, the United States' Election Assistance Commission's website is available in English, Chinese, Japanese, Korean,

⁶⁵ Council of Europe, Doc. 9624 (2002). Available at: <http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc02/EDOC9624.htm>.

Spanish, Tagalog and Vietnamese.⁶⁶ By contrast, Peru's election commission website appears to contain only Spanish-language resources, despite the fact that the country has a significant population of indigenous Quechua and Aymara speakers.⁶⁷ In an analogous fashion, election commission websites should, to the extent possible, be designed to accommodate users with visual impairments.

Beyond baseline accessibility, user-friendliness is also important, particularly in websites that publish large amounts of data. The most ambitious proactive publication scheme in the world would be of little utility if the website hosting the information were so convoluted as to make it practically impossible to find the information one was looking for within a reasonable timeframe. Good websites should contain an effective search function, and should also be subcategorised and mapped to promote ease of use.

The United Kingdom's election commission's homepage provides specific subcategories for electoral administrators, candidates/agents, parties/campaigners, police officers/prosecuting authorities, journalists and voters, as well as allowing users to specify the region of the United Kingdom that they are interested in. Canada's election commission's website has a banner with links for users to identify themselves as a voter, a political party, a candidate, an electoral district association, a party leadership contestant, a nomination contestant, a third party, a researcher, a journalist, a teacher, a student or a returning officer.

Although categorisation and sub-categorisation can be useful navigational tools, this approach can also be counterproductive if users do not find the system intuitive. India's election commission avoids this problem by making almost every part of the site accessible via a sidebar on the main page. The few subcategories that exist are displayed on the sidebar when the user passes the mouse over them, allowing visitors to access nearly every page on the website with a single click.

While each approach has its advantages in terms of usability, there is no need for election commissions to have to choose between them. A simple alternative to making every page accessible from the homepage is to provide a prominent link to a sitemap: a structured, single-page listing of everything on the site, allowing users to navigate to the sitemap if they are unable to find the specific item they are looking for through the site's navigation structures. The Philippine website is very user-friendly, using both a bar at the top with the main categories and dropdown menus and a sitemap button. It also has a special page with accessibility features, allowing users to modify the way the page appears, clickable buttons to increase or decrease font size, and various 'skip to' buttons to jump to common destinations.⁶⁸

⁶⁶ Available at: <http://www.eac.gov/>. Note that this is a distinct statutory entity from the main election commission, the FEC. The mandate of this body is directed towards voter outreach. The main FEC website is only available in English.

⁶⁷ Available at: <http://www.onpe.gob.pe/inicio.php>.

⁶⁸ See <http://www.comelec.gov.ph>.

The way in which users are likely to access the website should also be taken into account, as there are significant differences in the appearance and usability of websites when viewed from a computer or from a mobile device. Given that in some countries, particularly in Africa, the vast majority of Internet-users access the Internet through their mobile handsets, this difference should be taken into consideration when designing a website. One solution is to design two websites, one of which is specifically adapted to mobile visitors, and automatically redirect users based on their mode of access. However, given the extra resources that this entails, a simpler, albeit distinctly second best, option is to design a site that is compatible with both systems. This means avoiding the use of small fonts and ensuring that different links are adequately spaced apart, rather than cluttering everything together. From this perspective, the extensive navigation list on the homepage of India's election commission is problematic, since its links are almost impossible to click on from a mobile phone.

Given the important role of websites in disseminating election-relation information, election commissions should take particular care to ensure that their websites are properly maintained and secure. Several election commission websites visited in the course of this research – such as those of Sudan and South Africa – contained dead or expired links. More troubling, the website of Thailand's election commission contained several links that were listed by Google as attack-sites.⁶⁹ While any website can fall victim to cyber attacks, the importance of the election commission's website mandates a heightened commitment to security and, where a breach is discovered, immediate steps should be taken to rectify the problem.

Although this Report generally focuses on websites as information dissemination mechanisms, it is important that election commissions also maintain strong offline information programmes, particularly in countries where Internet penetration is low. A primary dissemination mechanism in most countries is through the media, which generally have extensive reach to the public. While it can be expensive for election commissions to pay for media advertising, the media have a professional obligation to work in parallel to the election commission in disseminating many of the categories of information outlined in this report, particular information about how to participate elections, information about parties and candidates, and information about the results of elections. Public broadcasters have a particular responsibility to do this, whether it is made explicit in their mandates or other legal rules, or is just part of their general obligation to report in the public interest. In many countries, private broadcasters are also under a legal obligation to provide certain types of election-related information, for example by providing access to parties and candidates so that they can spread their electoral messages.

A number of other systems for disseminating information, in particular to the poor and to vulnerable groups, are available, although most involve scalable costs (i.e.

⁶⁹ Available at: <http://www.ect.go.th/english>.

costs that increase with the scale of information dissemination). Many of these have been referred to elsewhere in this Report. These include billboard and signs, brochures, factsheets, town hall meetings, information sessions, training of trainers, SMS messages and any manner of other tools (T-shirts and bumper stickers are examples).

In many cases, election commissions can considerably increase their impact by working in collaboration with other actors. Civil society groups can often attract donor funding for outreach efforts, and many election commissions collaborate with them on voter education efforts. Awareness raising impact can be multiplied by working with other public bodies, such as schools or medical service provision centres (such as hospitals and clinic), and using other social meeting places, such as community centres, town squares and even religious establishments.

2.8 User Feedback and Reporting Mechanisms

Effective openness is a two-way street. Although the primary flow of information is from election commissions to the public, it is important for the former to provide mechanisms to receive user feedback. Some emerging democracies are at the forefront of developing this capacity. For example, Libya's website includes a crowd-sourcing function for reporting violations of the electoral rules. This is done via an interactive map with a geo-tagging function, allowing users to report illegal behaviour directly, whenever and wherever they see it. The commission also provides a toll-free number where violations can be reported.⁷⁰ Egypt's website, although not quite as technically sophisticated, also allows users to report violations online.⁷¹ In addition to general reporting options, where a country is facing a particular scandal it can be useful to call for targeted feedback on the problem. In response to widespread reports of fraudulent phone calls which directed voters to non-existent polling stations during the 2011 federal election, Canada's election commission website provided a specific page for reporting instances where this took place.

In addition to reporting voter fraud, better practice websites should establish themselves as hubs for general feedback and discussion of electoral issues. India's election commission contains a "Citizens' Corner" where feedback from voters is posted.⁷²

Better Practice Standards

⁷⁰ Available at: <http://www.hnec.ly/observe/> (in Arabic).

⁷¹ Available at: <http://www.elections.eg/> (in Arabic).

⁷² Available at: http://eci.nic.in/eci_main1/index.aspx.

This section of the Report provides a number of recommendations for better practice by election commissions. The focus is on the provision of information, in particular through websites, but some general structural recommendations concerning election commissions are also included. The ability of election commissions to disseminate information effectively is obviously closely linked to the resources that are available to them. At the same time, given the centrality of elections to democracy, it is incumbent on States to make available the resources that election commissions need to discharge their functions properly. Since the effective provision of information is of overriding importance to genuine elections, this should include the resources required to meet minimum information disclosure standards. In addition to funds provided directly to an election commission, this may include regulatory measures requiring other actors – such as public service and other broadcasters – to assist in the provision of information or to cooperate with the election commission. Even the very poorest or smallest countries should be able to meet minimum standards regarding the provision of election information, where necessary with the support of the international community.

1. Election Commissions

- Election commissions should be structured in a manner that provides them with effective protection against influence by incumbent political parties, and other political and vested interests, including in relation to the manner in which members are appointed and funding is allocated.
- Election commissions should be provided with sufficient funding to enable them to discharge their functions properly and in a manner which inspires the confidence of the electorate.
- Election commissions should be permanent bodies, although they may increase their human resources during actual election periods.

2. General Principle on Transparency

- Election commissions should recognise transparency and the provision of wide-ranging information relating to elections as a key priority in their work, and allocate adequate human and financial resources to this function.

3. Fostering Participation

- Primary responsibility for ensuring that eligible voters understand how to register and cast their votes, and the meaning of doing so, lies with the election commission, which should provide the information necessary to this end.
- To fulfil the above, election commissions should make use of multifaceted systems of information dissemination, including via the website and through face-to-face meetings whenever possible, and should cooperate with other bodies to ensure maximum impact and that no communities are left out.
- Election commissions should ensure that the following types of information are provided to voters:
 - how and when to register, including what documentation is needed;

- how to vote and the date of the election, well in advance;
 - how to vote if a voter is away on the day of the election or, where relevant, a non-resident citizen;
 - how to e-vote, as relevant; and
 - the importance and significance of voting, and the way individual votes are tabulated and are taken into account in deciding specific electoral successes (such as via proportional representation or a first-past-the-post system).
- Election commissions should ensure that relevant information is made available to enable other actors to participate in the election (such as: for citizens, how to register as an observer or file a complaint; for parties and candidates, how to register and about financial and other key rules; and for donors, the rules on contributions).

4. Enabling Informed Choices

- Election commissions should disseminate information about the parties and candidates contesting the election. At a minimum this should include the list of registered parties and candidates, and information about their platforms and promises, and finances.
- Election commissions should make public the main types of financial information which parties and candidates disclose to them, including, where available, asset declarations and declarations of eligibility for individual candidates, and information about fundraising and spending for parties. This information should, to the extent possible, be presented in user friendly, open data formats which allow for broad sorting and searchability, and updated as frequently as possible.

5. Understanding the Rules

- The main legal framework governing elections – including relevant constitutional provisions, primary legislation, regulations and rules adopted by oversight bodies – should be published by election commissions.
- Election commissions should also make available their own decisions relating to the election, as well as relevant court jurisprudence, as soon as possible after these decisions have been adopted.

6. Opening up Election Commissions

- Election commissions should publish a range of information about their structure and operations, including their mission, mandate, goals, organigram, information about staff, and financial information, including the budget and reporting on expenditures.
- Election commissions should open up their meetings to the public, unless secrecy is required to protect an overriding interest.
- Election commissions are public bodies and should respect the right to information, including through putting in place systems for receiving and deciding on requests for information. Given the importance of transparency for election commissions, they should strive to meet better practice

international standards in this area, going beyond minimum national standards as necessary.

7. Announcing the Results

- Election commissions should, where relevant, assert their position as the body which makes official announcements about election results, and they should discharge this duty in as timely and full a manner as possible, taking into account the local context and developments during the actual election.

8. Providing a Historical Grounding

- Election commissions should provide information about the results of past elections (votes cast by candidate/jurisdiction, winners and losers, turnout and so on), along with other information, such as reports from registered election observers.

9. Ensuring Accessibility

- Election commissions should ensure that their websites are easy to navigate (with good search functions, categorisation and sitemaps), with at least key information available in all major languages used by the electorate, presented to the extent possible in ways that ordinary citizens can understand, and, where relevant, navigable via mobile phones as well as computers.

10. Providing a Feedback Loop

- Election commissions should provide systems whereby individuals can make complaints and provide feedback to them, and give appropriate publicity to these systems.