

14. Role of representatives of the parties and candidates

As a necessary safeguard of the integrity and transparency of the election, the legal framework must contain a provision for representatives nominated by parties and candidates contesting the election to observe all voting processes. The rights and responsibilities of candidate and party representatives in polling stations should also be defined in the legal framework.

Observation and monitoring role

The legal framework should clearly state that party and candidate representatives are permitted to observe proceedings, not to campaign or otherwise participate in voting. All legal restrictions on campaigning within the polling station area -- such as communication with voters, distribution of partisan material, wearing of badges or apparel, or public broadcasts that can be heard within the polling station -- must be enforceable. The law must clearly state whether the representatives of parties and candidates are to be allowed to handle any election document at any stage, as well as any penalty for mishandling.

The legislation should provide that the representatives of parties and candidates are subject to the authority of the polling station committee president and staff, and may be removed from the polling station on the orders of the polling station committee president if their conduct breaches any of the standards laid down in the regulatory framework, including any code of conduct.

The legislation should specify that, while the representatives of parties and candidates should have the right to immediately query decisions made by polling officials or the implementation of voting procedures, they should not be permitted to influence voters, to disregard polling officials' directions or to otherwise disrupt voting.

The legislation should provide that, while they are within the boundaries of the polling station, representatives should prominently wear an identifying sticker indicating their role. Legal frameworks may restrict the numbers of representatives any one candidate or party may have present in a polling station at any time. A balance has to be struck between transparency of the process and the capacity of polling stations to manage large numbers of representatives. Where there are large numbers of candidates and parties, and hence large numbers of representatives present, the legal framework may provide for restricting the movement of representatives within the polling station so as not to interfere with voting processes.

Recording complaints and challenges

The legislation should provide that any challenges to voters by the representatives of parties and candidates or complaints regarding the operations of the polling station must be recorded in writing by the polling station committee president (and preferably countersigned by the relevant representative of a party or candidate) and included with the polling station committee president's reports on voting submitted to the EMB.

Rights of representatives of the parties and candidates

While the specific manner in which their observation duties are undertaken may vary according to the voting systems used, the legal framework should

generally provide the following rights to duly accredited representatives of parties and candidates in polling stations:

- To remain within the polling station while lawfully carrying out her/his functions and enter and leave the polling station at any time, subject to restrictions on the number of representatives for any one party or candidate;
- To observe all activity -- with the exception of the marking of ballots by voters -- within the polling station, from the check counting of ballots and sealing of ballot boxes prior to the commencement of voting to the final packaging of material after close of voting;
- To challenge the right of any person to vote;
- To query any decisions made by polling officials with the polling station committee president and election management officials;
- To witness the marking of ballots for physically impaired or non-literate voters by a polling official, where such assistance to voters is allowed and such witnessing is provided for in the law; and
- To make notes of any occurrences, make copies of any official documents and take note of any statements freely made by voters.

Additionally, formal training may be provided in order to help representatives of parties and candidates discharge these responsibilities more effectively.

Conduct of representatives of the parties and candidates

The legislation may provide that, as a condition of accreditation to voting locations, the representatives of parties and candidates must have formally accepted the applicable code of conduct on behaviour. If a full code of conduct has not been developed, then at the very minimum it is expected that as a condition for accreditation they will make a formal declaration that:

- They maintain voting secrecy.
- They follow the directions of polling officials.
- They not interfere with election processes.
- They be bound by the legal framework for elections.

A more comprehensive code of conduct for party and candidate representatives while within the polling station area would include the following:

- They shall not attempt to influence or intimidate any voter.
- They shall not attempt to intimidate, harass, otherwise threaten or interfere with the work of any polling official.
- They shall communicate with polling officials and voters only as necessary for the conduct of their duties.
- They shall neither mark nor handle any official election material (except to witness records of the poll).
- They shall not attempt to remove any official election material from the polling station, nor attempt to introduce any purported official election material into the polling station.
- They shall not attempt to destroy any official election material in the polling station.
- They shall obey all lawful directions by the polling station committee president and polling officials delegated by her/him to issue directions to representatives.
- They shall not campaign for votes within the polling station area.
- They shall not provide any voter with false information regarding their eligibility to vote at that polling station or in the election.
- They shall not enter the voting compartments, except (if allowable under the law) when nominated by a voter to assist her/him in voting or to witness the vote of a voter who is assisted by a polling official.

The legal framework must also be clear on what representatives may bring with them into the polling station: for instance, a ban on carrying weapons into a polling station should be in the law and not subject to local interpretation. Any ban on communication devices such as mobile phones or radios should also be in the law.

Checklist

- Does the legal framework provide for independent observation of the polling process, and of the counting of ballots, by the representatives of political parties and contesting candidates?
- Does the legal framework facilitate observation of elections by providing for easy accreditation of such representatives, by way of provision of training manuals for the representatives of parties and candidates for polling and counting, and by imparting formal training?
- Does the legal framework contain sufficient safeguards to ensure that the representatives of parties and candidates do not undertake active campaigning within the premises of the polling stations and within the prohibited limits around the polling stations?
- Does the legal framework provide a clear procedure for the representatives of parties and candidates to obtain relevant information to facilitate their observation of polling, or for challenging the identity of the voter? Does the legal framework provide for clear procedure for dealing with such challenges by the polling station chairperson?
- Does the legal framework provide for a code of conduct for the representatives of parties and candidates to ensure orderly conduct on polling day within polling stations and during the counting at the counting station (if it is separate from the polling station)?