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Disability Rights and Election Observation: Increasing Access to the Political Process

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ABSTRACT

According to the World Health Organization and the World Bank, people with disabilities comprise approximately 15% of the world's population – however, these one billion people are often excluded from political life. Disability-inclusive election observation provides the opportunity to address barriers to political participation and to empower men and women with disabilities to serve in leadership roles. This paper will summarise the key international and regional standards that outline the political rights of people with disabilities and explore the extent to which International Electoral Observation Missions (IEOMs) are inclusive. It will review observation checklists, as well as available methodologies of IEOMs. Based on this review and the authors' election access observation experience, this paper will identify areas where inclusion of people with disabilities in election observation could be improved, thereby leading to increased access to the political process.

KEYWORDS

Elections; Election Observation; Disability Rights

1. Introduction

The World Health Organization and the World Bank estimate that approximately 15% of the world's population, or one billion people, have a disability.[1] Persons with disabilities have been historically marginalised from public life and continue to face barriers to participation. Women with disabilities, who constitute 60% of persons with disabilities,[2] face additional barriers as a result of their gender and their disability. Once ratified, international treaties such as the United Nations Convention on the Rights of Persons with Disabilities (CRPD), protect the human rights of persons with disabilities. The CRPD stipulates that women and men with disabilities have the right to vote, run for office and take part in political life on an equal basis with other citizens.[3]

Reports from election observations bring attention to gaps in compliance with international standards, highlight good practices, hold governments accountable and initiate

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[1]World Health Organization and World Bank 'World Report on Disability' (2011) <http://who.int/disabilities/world_report/2011/en/> accessed 4 March 2017.

[2]ibid.

[3]Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) A/RES/61/106 (CRPD).

conversations between election management bodies (EMBs), civil society organisations (CSOs) and other election stakeholders. They also can influence perceptions of voters of electoral credibility.[4] For the democratic process to be fully representative, all citizens should have access to vote, run for office, and participate as election officials or observers. For people with disabilities, who encounter numerous attitudinal, communication, institutional, and physical barriers, equal access to the political process is particularly important as it demonstrates to the public that they are equal citizens who contribute to society. Through election observation, observers can determine causes for unequal conditions among voters, low voter turnout, issues related to independent voting, and other common barriers to disability-inclusive elections.[5]

As members of the observation team, women and men with disabilities can be visibly engaged in the electoral process. Their evident inclusion sends a message to others that people with disabilities are equal citizens who have the right to choose their leaders and engage with policymakers.[6] Including a person with a disability in a leadership role within an observation, such as chief observer, mission spokesperson, or as a member of the Core Team, sends a powerful message of equality to the rest of the observation team and to other citizens,[7] combating stereotypes about capacity. The International Foundation for Electoral Systems (IFES) recommends that International Election Observation Missions (IEOMs) aim to ensure 15% of their observation teams are comprised of people with disabilities, thereby reflecting the WHO-estimated global percentage of people with disabilities.[8]

While some IEOMs include questions on access of people with disabilities in their methodology, this paper, based on desk review, key informant interviews and the authors' direct experience as observers, shows that IEOM reporting and recruitment methodologies could more effectively address the democratic rights of people with disabilities. Increasing the number of questions on disability inclusion, ensuring reference to men and women with all types of disabilities in reports and proactively recruiting more people with disabilities to serve as observers are all areas that could benefit from additional focus by IEOMs. Even when these thresholds are met, there is still the need for a twin-track approach whereby disabled people's organisations (DPOs) and election observers conduct monitoring missions entirely focused on disability inclusion.

1.1 Framework and methodology

This paper aims to explore the extent to which IEOMs are inclusive of people with disabilities, as observers or integral to observation methodology, and determine how election access observations complement IEOMs. The analysis will identify the barriers

[4]Sarah Sunn Bush and Lauren Prather, 'The Promise and Limits of Election Observers in Building Election Credibility' (2017) 79 The Journal of Politics 921.

[5]European Union Agency for Fundamental Rights, 'The Right to Political Participation for Persons with Disabilities: Human Rights Indicators' (2014) <http://fra.europa.eu/en/publication/2014/right-political-participation-persons-disabilities-summary> accessed 28 September 2017.

[6]IFES, 'Audits on Election Accessibility for Persons with Disabilities in Haiti' (2012) <http://www.electionaccess.org/en/resources/publications/479/> accessed 1 September 2017.

[7]Virginia Atkinson, Aaron Azelton and Kent Fogg, 'Equal Access: How to Include Persons with Disabilities in Elections and Political Processes' (IFES and National Democratic Institute 2014).

[8]Virginia Atkinson and Rebecca Aaberg, 'Inclusive Election Observation Toolkit' (forthcoming, IFES December 2017).

encountered by people with disabilities to equal participation in political life and summarise the key international and regional standards that outline the political rights of people with disabilities. A case study from Indonesia is utilised to highlight how election access observation impacted the inclusivity of the electoral process in that context. The paper concludes with recommendations on how to address barriers encountered by people with disabilities during the electoral process through questions on observation checklists and inclusion as observers.

The findings in this paper are based on data gathered through a desk review using primary and secondary source materials such as election observation checklists developed by IEOMs and national observer groups and reports published following election access observations. The analysis of available observation reports and academic literature is complemented by the authors' direct experience conducting election observations,[9] as well as interviews with both national and international observers. Selected international observation organisations provide critical context for this paper. The European Union (EU) and Organisation for Security and Cooperation in Europe (OSCE) were selected as the most established and well-funded multilateral observation organisations with member states that are signatories to relevant international instruments; Organization of American States (OAS) is included as the largest organisation to conduct observations in the Southern Hemisphere. The Carter Center is a leading observation organisation in the US and is a major contributor to observation worldwide. Asian Network for Free Elections (ANFREL) was included for representation from Asia, with particular attention to the use of a case study from that region. Recent IEOM and election access observation reports were selected and reports span all regions in order to control for potential regional biases.

There is a growing body of literature on election observation, yet compared to most other election-related issues, it is still surprisingly limited. Research is predominantly focused on election observation missions' efforts to measure free and fair elections, their ability to improve the quality of elections, and the politicisation of their statements. To date, even preeminent scholars on election observation, such as Susan Hyde, have paid limited attention to disability rights perspectives in their work.[10] Recent research on electoral credibility also does not engage with the role of inclusiveness in creating credible electoral processes.[11] When disability inclusion is mentioned, discussion is often not compliant with international standards regarding what constitutes access on an equal basis with other citizens. For example, one author noted that allowing voters to choose an assistant means that '… voters with disabilities, such as the blind … have their secrecy ensured'.[12] While the right to choose a personal assistant, if desired, is a good practice that is outlined by CRPD article 29, this method of voting is not secret.[13] Allowing assisted voting does not eliminate the government's responsibility to develop assistive

[9]ibid.
[10]See for instance: Judith G Kelley, *Monitoring Democracy: When International Election Observation Works, and Why It Often Fails* (Princeton University Press 2012); Sarah Birch *Electoral Malpractice* (Oxford University Press 2011); Susan D Hyde, *The Pseudo-Democrat's Dilemma: Why Election Monitoring Became an International Norm* (Cornell University Press 2011).
[11]Sunn Bush and Prather (n 4).
[12]Laura A Dutton, 'Evaluating the Criteria for Successful Elections in Post-Conflict Countries: A Case Study including Iraq, Sierra Leone, and Bosnia and Herzegovina' (, Indiana University 2014).
[13]CRPD (n 3) art 29.

technology, such as tactile ballot guides, so that the secrecy of the voter's choice is maintained.

1.2 Marginalisation and barriers to participation

Persons with disabilities have been – and, in many circumstances, continue to be – excluded from political life. Persons with multiple marginalised identities, such as women with disabilities or persons with disabilities who are refugees, experience additional discrimination and their voices '… are often not heard, their capabilities not recognised, and they have little opportunity to participate in and lead decision-making'.[14]

For much of history, the charity model of disability framed persons with disabilities as objects of pity, robbing them of their right to take part as equal citizens. The medical model then sought to 'fix' persons with disabilities to enable access. Both of these models view disability as something that inhibits entry into society. Only recently, the social model of disability has emphasised access to human rights. The social model of disability calls on society to make adaptations; the barriers that prohibit full access should be targeted by primary duty-bearers, such as states, in order to ensure that persons with disabilities can realise their human rights.[15]

Numerous types of barriers hinder the equal participation of persons with disabilities. Communication barriers may limit access to information. Physical barriers may prohibit access to buildings. Legal or institutional barriers may prohibit persons with intellectual disabilities from running for office.[16] Attitudinal barriers, such as stereotypes or stigma, also limit the access of persons with disabilities to public life.[17] In some countries, communities may believe that persons with psychosocial disabilities are possessed or victims of witchcraft.[18] As a result, families of persons with disabilities may not register them as citizens and family members may keep them secret for fear of reprisal from others.[19]

Mainstream observation teams may make the argument that persons with disabilities not be included as observers because of the cost of providing reasonable accommodations, such as sign language interpreters. Their assumptions about the capacity of persons with disabilities to work as observers may also inhibit their inclusion.[20] These counterarguments to the full participation of persons with disabilities contradict the human rights values enshrined in the CRPD, a document that has gained broad consensus globally.

[14]Women's Refugee Commission, 'Working to Improve Our Own Futures: Inclusion of Women and Girls with Disabilities in Humanitarian Action' (2016) <https://www.womensrefugeecommission.org/disabilities/resources/1342-networks-women-disabilities> accessed 1 September 2017.

[15]Janet E Lord, Katherine N Guernsey, Joelle M Balfe, Valerie L Karr and Allison S deFranco, *Human Rights. YES! Action and Advocacy on the Rights of Persons with Disabilities* (2nd edn, University of Minnesota Human Rights Center 2012).

[16]Inclusion International, 'Inclusive Civic Engagement: An Information Toolkit for Families and Persons with Intellectual Disabilities' (2015) <http://electionaccess.org/en/media/news/39/> accessed 19 May 2017.

[17]Interview with Bani Alfred, Now Teewata Aromata, Angeline Chand, Mary Dean, Setareki Macanawai and Ruci Senikula (September 2016) ElectionAccess.org < > accessed.

[18]Virginia Atkinson, Aaron Azelton and Kent Fogg. 'Equal Access: How to Include Persons with Disabilities in Elections and Political Processes' (IFES and NDI 2014).

[19]Derrick L Cogburn, 'The Grand Challenge of Disability and Development in ASEAN' in Derrick L Cogburn and Tina Kempin Reuter (eds), *Making Disability Rights Real in Southeast Asia: Implementing the UN Convention on the Rights of Persons with Disabilities in ASEAN* (Lexington Books 2017).

[20]Interview with Erni Andriani, General Election Network for Disability Access Program Manager (18 September 2017) Washington, DC.

1.3 International and regional foundations for election access

The legal framework is the foundation for determining whether an election is inclusive of the disability rights community. Building upon the right to universal and equal suffrage enshrined in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR),[21] the CRPD marks a key shift in international law from a focus on disability as a health or charity-based issue to the obligation of a state to proactively ensure the rights of people with disabilities.[22] Electoral observers refer to these international standards and regional agreements while conducting IEOMs.

1.3.1 International human rights instruments

Adopted by the United Nations in 1948, the UDHR was the first international document to recognise the innate rights of all human beings. Under UDHR article 21, 'Everyone has the right to take part in the government of his country, directly or through freely chosen representatives'.[23] Specific groups, such as persons with disabilities, are not mentioned in the UDHR, but the agreement is a critical underpinning for access to rights for all citizens.

The ICCPR states that all people have the right to participate directly in government and public affairs. Although the ICCPR does not explicitly reference disability, article 26 prohibits discrimination '… on any ground such as race, colour, sex … or other status'.[24] Disability can be considered another status that might experience discrimination and therefore is protected under the ICCPR.

The CRPD contains the most comprehensive description of the political rights of people with disabilities. The treaty's definition of disability includes people who have physical, sensory, intellectual and psychosocial disabilities. Article 6 notes the double marginalisation that women with disabilities experience in all aspects of political and public life. The CRPD has been ratified by over 90% of UN member states, demonstrating a broad consensus on the rights outlined in the treaty.[25]

Article 29 of the CRPD explicitly protects the right of women and men with disabilities to participate fully in political and public life as voters and candidates. In addition to supporting participation in elections, article 29 upholds the right to take part in political life more broadly, including '… participation in nongovernmental organisations and associations concerned with the public and political life of the country',[26] which includes election observation.

CRPD article 12 protects the right to equal recognition before the law, including legal capacity of persons with disabilities.[27] In many countries, legal barriers to political participation remain for persons with, or perceived to have, psychosocial or

[21] Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR or Universal Declaration); International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR).
[22] Cogburn (n 19).
[23] UDHR (n 21) art 21.
[24] ICCPR (n 21) art 26.
[25] See the CRPD homepage <www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html> accessed September 2017.
[26] CRPD (n 3) art 29.
[27] ibid art 12.

intellectual disabilities. People with these types of disabilities are more likely to have guardians and to be marginalised from public life due to both legal barriers and stigma.

1.3.2 Regional instruments

Several regional instruments support the right of persons with disabilities to participate in the political process on an equal basis with others. These protections range from enforced mechanisms through bodies such as the European Court of Human Rights (ECtHR) to declarations that demonstrate acceptance of recognised rights. Most regional standards in this regard are from Europe, Asia, the Americas and Africa. Much work remains to localise the CRPD to Middle Eastern and Pacific contexts, where documents protecting disability-inclusive political participation have yet to be developed.

European bodies have supported electoral rights for persons with disabilities through court rulings and statements by legal bodies,[28] using the CRPD as the foundational legal device to protect the political rights of persons with psychosocial or intellectual disabilities in particular.

In 2011, the European Commission for Democracy through Law (Venice Commission) harmonised guidance with the CRPD by adopting the 'Revised Interpretative Declaration to the Code of Good Practice in Electoral Matters on the Participation of People with Disabilities in Elections', which recognises that persons with all types of disabilities have the '… right to vote and participate in political and public life as elected representatives on an equal basis with other citizens'.[29] The declaration acknowledged political rights of persons with psychosocial and intellectual disabilities by removing a clause from the previous version of the declaration that recognised non-discrimination '… unless the deprivation of the right to vote and to be elected is imposed by an individual decision of a court of law because of proven mental disability'.[30] Under the case *Kiss v Hungary*, the ECtHR issued a landmark ruling upholding electoral rights of persons under guardianship. The court used the CRPD, which has been ratified by the EU and by individual member states, as the basis for its ruling, citing article 29 on political and public life and article 12 on legal capacity as the foundation for the right of all citizens to vote.[31]

The Council of Europe (CoE) has recognised that persons with disabilities have equal political rights. It stated that '… persons with disabilities … have the right to vote on the same basis as other citizens … are also entitled to stand for office on an equal basis with others'.[32] The recommendation also supports accessibility in the 'built environment', 'information and communication' and 'voting procedures, ballots, and facilities'.[33] CoE noted that consultation with disability rights groups in the implementation of accessibility measures is a key component of inclusivity.

[28]European Union Agency for Fundamental Rights (n 5).
[29]European Commission for Democracy through Law, 'Revised Interpretative Declaration to the Code of Good Practice in Electoral Matters on the Participation of People with Disabilities in Elections' (2011) <http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2011)045-e> accessed 4 March 2017.
[30]European Commission for Democracy through Law, 'Interpretative Declaration to the Code of Good Practice in Electoral Matters on the Participation of People with Disabilities in Election' (2010) <http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2011)045-e> accessed 4 March 2017.
[31]*Kiss v Hungary* App no 38832/06 (2010, ECtHR, 20 August 2010).
[32]Council of Europe, 'Recommendation of the Committee of Ministers to member states on the participation of persons with disabilities in political and public life' (2011).
[33]ibid.

The *Incheon Strategy to 'Make the Right Real' for Persons with Disabilities in Asia and the Pacific*, a document drafted by the members of the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) in 2012, outlines goals for UNESCAP member states to ensure access to rights. Goal 2 calls on states to '… promote participation in political processes and in decision-making', including the right to vote and be elected, and to provide an enabling environment for persons with disabilities to participate on an equal basis with others.[34] Target 2.B of the Incheon Strategy measures whether reasonable accommodations are provided to citizens with disabilities to improve their involvement in political processes.

In 2012, the General Election Network for Disability Access (AGENDA), a partnership consisting of DPOs and election observers in Southeast Asia and IFES, agreed at a regional dialogue with EMB representatives in Indonesia, '… to eliminate all forms of discrimination towards the full and equal political participation of persons with disabilities'.[35] The Bali Commitments on Equal Access to Elections also support the right of women and men with disabilities to '… serve in leadership roles such as candidates, election management body officials, poll workers, and observers'.[36] Recognition by EMBs in this non-binding agreement that persons with disabilities have the right to be integrated into all aspects of political life reinforces the role that persons with disabilities play as equal citizens, including in election observation. In 2015 at the third AGENDA Regional Dialogue, participants also recognised the 'unique barriers' caused by multiple marginalisation in the Jakarta Addendum.[37]

The Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities recognises that policies should be created that promote the integration of persons with disabilities into society, including 'political and administrative activities'.[38] Article 9 of the Inter-American Democratic Charter also prohibits discrimination in order to strengthen 'democracy and citizen participation'.[39] There has been no jurisprudence so far within the Inter-American Court of Human Rights system, so the Charter remains a key source for OAS election observers.

Goal 2.7 on promoting inclusion of persons with disabilities in all sectors of society, in the African Union's Continental Plan of Action for the African Decade of Persons with Disabilities 2010–19 calls on member states to make the electoral cycle disability-inclusive, including '… to create opportunities for [persons with disabilities] to contest and act as election monitors'.[40] These examples demonstrate how regional bodies are using the CRPD as the foundational legal device to protect access to political rights.

[34]United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), 'Incheon Strategy to "Make the Right Real" for Persons with Disabilities in Asia and the Pacific' (UNESCAP 2012) <http://www.unescap.org/resources/incheon-strategy-%E2%80%9Cmake-right-real%E2%80%9D-persons-disabilities-asia-and-pacific> accessed 4 March 2017.

[35]General Election Network for Disability Access (AGENDA), 'Bali Commitments on Equal Access to Elections' (2012) <http://electionaccess.org/en/resources/international-laws/268/> accessed 4 March 2017.

[36]ibid.

[37]General Election Network for Disability Access (AGENDA), 'Jakarta Addendum to Address Overlapping Forms of Marginalization' (2015).

[38]Organization of American States, 'Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities' (1999) art 3 <http://www.oas.org/juridico/english/treaties/a-65.html> accessed 4 March 2017.

[39]Organization of American States, 'Inter-American Democratic Charter' (2001) <http://www.oas.org/charter/docs/resolution1_en_p4.htm> accessed 4 March 2017.

[40]African Union, 'Continental Plan of Action for the African Decade of Persons with Disabilities 2010–19' (2010) <https://au.int/sites/default/files/pages/32900-file-cpoa_handbook._audp.english_-_copy.pdf> accessed 1 September.

2. Mainstreaming versus Stand-Alone Missions

Election observers collect data that informs election commissions, citizens, and others about the credibility and inclusivity of the process. Whether this information is gathered by international or national observer groups or disability-focused election access observations, the data lead to recommendations for change. Including, or *mainstreaming*, questions on disability access in an IEOM checklist means data on electoral inclusion is collected alongside other data, such as when a polling station opened or if the counting process was transparent. *Stand-alone* election access observations are focused on disability inclusion and may be conducted by DPOs and other national or international civil society groups collaboratively. For a stand-alone observation, checklists include questions solely focused on disability inclusion, such as whether polling station staff are trained to support voters with disabilities and how many polling station staff have disabilities. Election access observations provide more in-depth analysis of disability inclusion than observations that mainstream questions on disability access and benefit from participation of DPOs as observers.[41]

Over the last several years, IEOMs have begun to integrate questions on disability access to provide data that can be utilised to improve access to the electoral process. This mainstreaming approach can help ensure that disability inclusion is recognised more broadly by election stakeholders, but only scant attention is paid to this issue in their public statements or election assessment reports, even when approximately 15% of the electorate experiences significant impediments to their fundamental political rights. Alternatively, targeted election access observations that are centred entirely on access of persons with all types of disabilities, collect more detailed reports and engage disability rights advocates with extensive experience on access and inclusion.

2.1 International election observation missions (IEOMs)

IEOM reports are often used as benchmarks by key stakeholders such as EMBs and development partners, so including questions on accessibility increases the likelihood that disability inclusion will be addressed throughout the electoral cycle. Conducting inclusive observations also leads to increased media attention, which shows persons with disabilities as leaders in the community. Persons with disabilities, when incorporated into IEOMs, can provide crucial first-hand experience that can help to inform the mission. However, a review of the checklists and methodologies of several IEOMs shows that disability is typically only referenced in relation to physical access, and missions are not proactively recruiting observers with disabilities. IEOMs have the potential to produce more inclusive reports that can be used to remove barriers to meaningful participation if checklists include questions related to access for people with all types of disabilities and people with disabilities are trained as observers.

The Declaration of Principles of International Election Observation, the seminal document outlining election observation standards, endorsed by 52 intergovernmental and

[41]General Election Network for Disability Access, '2014 Presidential Elections in Indonesia: Monitoring Results from Aceh, Jakarta, Central Java, South Kalimantan and South Sulawesi' (2014) <https://www.ifes.org/sites/default/files/indonesia_election_access_monitoring_report_2014.pdf> accessed 19 May 2017.

international organisations,[42] recognises non-discrimination of persons with disabilities in electoral processes to achieve 'genuine democratic elections' and calls on observers to take note of '… obstacles that hinder participation in electoral processes based on … other status, such as physical disabilities'.[43] It also upholds the civil and political rights of marginalised citizens by highlighting barriers and making recommendations for improvement. Based on this Declaration, as well as other international and regional standards, IEOMs have each developed their own methodologies to ensure that elections are credible and inclusive. This paper analyses available methodologies and checklists of IEOMs, including ANFREL, Carter Center, EU, OAS and OSCE.[44] The IEOMs that are included here were selected as representative examples based on criteria outlined above; there are numerous other organisations actively engaged in election observation.

2.1.1 Asian Network for Free Elections (ANFREL)

ANFREL has incorporated disability into its methodology with questions on election access that reflect local laws. In the ANFREL checklist created for the observation of the 2015 elections in Sri Lanka, the following questions were included:

- What special preparations were undertaken to make the election more accessible to the vulnerable sectors (elderly, pregnant women, internally displaced persons …)? Briefly describe special preparations being made?
- Was there any special set-up or facilities for voter with disability?[45]

ANFREL designed open questions, which allow observers to record information. However, questions that are not directed toward fulfilling specific objectives regarding disability access, such as a step-free entry, may not yield comprehensive results from mainstream observers who do not have experience on disability inclusion. ANFREL has not published its methodology nor the materials for its observer training programmes, so it is not clear if mainstream observers have the technical expertise on disability to provide a detailed report on election access barriers. To mitigate this potential issue, ANFREL advocates for the inclusion of DPOs in their observations. In Thailand in 2013, ANFREL worked directly with civil society partners from underrepresented communities, including persons with disabilities, older citizens and others, through workshops in collaboration with the Thailand Human Rights Commission. These workshops resulted a petition to the Parliament of Thailand and Election Commission of Thailand for greater access. Such efforts point to ANFREL's broader strategy for integrating persons with disabilities throughout the electoral cycle.

2.1.2 The Carter Center

Of the materials examined, The Carter Center is the only organisation to integrate questions on disability throughout its observation checklists. It included questions on

[42]National Democratic Institute, 'Declaration of Principles for International Election Observation and the Code of Conduct for International Election Observers' <www.ndi.org/DoP> accessed 1 September 2017.
[43]'Declaration of Principles for International Election Observation and the Code of Conduct for International Election Observers' (commemorated to the UN 27 October 2005).
[44]As of February 2017.
[45]Ichal Supriadi, 'The Role of Civil Society in Engaging with EMBs to Promote Rights of PWDs in Elections' (ANFREL 2017).

accessibility to each part of the electoral cycle, including the legal framework for elections, voter registration, voter education, election day, and the dispute resolution process. However, the checklist repeats questions on 'special measures for de facto equality' in multiple sections of the paper without providing examples of the kinds of barriers encountered by voters with disabilities.[46] Further, while the document recognised the right of persons with psychosocial or intellectual disabilities to vote, it neglected to add them to the list of groups whose access is protected by international law. Even so, The Carter Center's assessment is the only document of those reviewed with questions on inclusion within the EMB, including specifying the level of decision-making held by positions with officials with disabilities.

The Carter Center checklist from Mozambique in 2014 included not only a question on physical access to buildings but also a description of the legal framework that supports election access:

> Does the station appear to be accessible to physically challenged persons, including the elderly? *The UN Convention on the Rights of People with Disabilities establishes an obligation for states to take measures to identify and eliminate obstacles and barriers to accessibility. This requires that people with disabilities will have an opportunity to participate on an equal basis in both rural and urban areas.*[47]

In 2015, The Carter Center identified advocacy by the Myanmar Independent Living Initiative (MILI), a DPO, as key to increasing election accessibility. The report focused on physical access and availability of assistance within the polling station:

> Significant efforts were made leading up to the elections to improve access for persons with disabilities and to raise awareness of the necessity to facilitate their full participation. The Myanmar Independent Living Initiative worked with the UEC to introduce requirements at the polling station to assist voters with physical disabilities. Despite these efforts, much remains to be done to improve access. At least 40% of polling stations visited by Carter Center observers had inadequate access for persons with disabilities to vote independently. In stations that were not accessible, stairs and steps, or lack of a ramp, were the main obstacles. A number of other stations were inaccessible due to their location at the end of unpaved paths or on steep inclines.[48]

In its initial report on the 2016 election in the Philippines, Carter Center observers contributed a significant amount of information, including data on how many persons with disabilities registered and voted.[49] Although this was the most detailed report on disability inclusion found for this article, it should be noted that it focused almost exclusively on physical accessibility.

[46]The Carter Center, 'Election Obligations and Standards: A Carter Center Assessment Manual' (The Carter Center 2014) <https://www.cartercenter.org/resources/pdfs/peace/democracy/cc-oes-handbook-10172014.pdf> accessed 4 March 2017.

[47]The Carter Center, 'Presidential, Legislative, and Provincial Assembly Election in Mozambique' (2014) <https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/mozambique-finalrpt-061616.pdf> accessed 19 May 2017.

[48]The Carter Center, 'Observing Myanmar's 2015 General Elections: Final Report' (2015) <https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/myanmar-2015-final.pdf> accessed 19 May 2017.

[49]The Carter Center, 'Limited Election Observation Mission to the Philippines June 2016 Statement' (2016) <https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/philippines-june-2016-election-statement.pdf> accessed 19 May 2017.

2.1.3 European Union (EU)

The EU published the third edition of the *Handbook for European Union Election Observation*, its standards for IEOMs, in 2016. This document contains a section on electoral rights of persons with disabilities, which notes some barriers that persons with disabilities could face, such as '… physical obstacles at registration and polling stations, lack of accessible formats for voters' information or candidates' communication', and mentions universal design of polling stations and processes for independent voting.[50] The handbook also provides descriptions of international standards for non-discrimination and universal suffrage, as well as good practice examples of these standards. It includes a set of questions for consideration while conducting an observation, moving beyond physical accessibility to question barriers during voter registration, whether there are any candidates with disabilities, and if persons with disabilities are mainstreamed into citizen observer groups. These questions are sophisticated, recognising that participation is critical throughout the election cycle, but they are relegated to a separate section of the document rather than integrated throughout.

The EU specifies that one core team member should take the lead in assessing accessibility and recommends meeting with local DPOs when conducting a long-term observation, though there is no recommendation in the document on integrating persons with disabilities as observers. In the section on observation of voting, the EU includes observing accessibility only outside polling stations, neglecting barriers inside the polling station. Even so, the EU report on the 2010 elections in Tanzania noted a number of barriers to access throughout the electoral cycle, such as '… lack of voter education, especially for deaf [*sic*] people … no sign language interpreters at registration centres' and lack of physical access to registration and voting centres.[51]

The EU IEOM to Jordan during the 2016 parliamentary elections not only assessed physical accessibility but also described voter information materials that were inaccessible to persons with visual disabilities and a legal framework that '… uses inappropriate arbitrary terms, such as "imbecile" and "unsound mind", to disqualify citizens from voting and candidacy in breach of Jordan's international obligations in that regard'.[52] This is one of the only documents reviewed for this paper that discusses the right of persons with intellectual and psychosocial disabilities to participate in elections and is thus an important example of the unique marginalisation encountered by this group.

2.1.4 Organization of American States (OAS)

In the 2013 study of OAS electoral observations, disability is mentioned only superficially, noting that wheelchair-users benefit from ground floor polling sites and that braille makes the voting process accessible to persons who are blind.[53] The most recent OAS good

[50]European Union, 'Handbook for European Union Election Observation' (3rd edn, 2016) <https://eeas.europa.eu/sites/eeas/files/handbook_for_eu_eom_2016.pdf> accessed 4 March 2017.

[51]European Union, 'European Union Election Observation Mission to the Republic of Tanzania Final Report, General Elections 2015' (2015) <https://eeas.europa.eu/topics/election-observation-missions-eueoms/421/election-observation-missions-eueoms_en> accessed 19 May 2017.

[52]European Union, 'European Union Election Observation Mission to The Hashemite Kingdom of Jordan Parliamentary Election 20 September 2016 Final Report' (2016) <https://eeas.europa.eu/election-observation-missions/eom-jordan-2016_en/16315/Final%20Report%20of%20the%20EU%20Election%20Observation%20Mission%20to%20Jordan%202016%20-%20English> accessed 19 May 2017.

[53]Organization of American States, 'Estudio sobre Participación en América Central' (2014).

practices for electoral observation, published in 2008, contains no mention of disability.[54] This suggests that observers may make note of accessibility, though it is not included in the official observation guidelines. Without a standardised approach, it is not clear how regularly or consistently data are collected.

2.1.5 Organization for Security and Co-operation in Europe (OSCE)

The primary OSCE guidelines for election observation include several questions relating to disability inclusion for short-term observation but they are limited to physical accessibility. The document falls short of integrating questions on all types of disability throughout the electoral cycle. There is limited discussion of the barriers that voters with disabilities encounter and no discussion of barriers to candidates or election officials with disabilities.[55] The OSCE Office of Democratic Institutions and Human Rights (ODIHR) has recognised these gaps and is currently drafting a handbook for its observers to provide a framework for them to assess disability during their missions.

In October 2016, ODIHR launched a two-year programme focusing on disability inclusion by convening an experts' seminar entitled 'Our right to participate – promoting the participation of persons with disabilities in political and public life'. The recommendations from the seminar recognised electoral observation as a method for gathering disability data and called for DPOs to be trained to monitor election accessibility, in addition to the formation of partnerships among OSCE participating states and DPOs.[56]

A summary of all disability-related questions from the IEOMs reviewed can be found in Table 1.

Common themes across all reviewed IEOM documents include a lack of policies on recruitment of observers with disabilities and checklists that overwhelmingly focus on questions related to physical access. IEOMs have integrated disability into their checklists to varying degrees; however, none of the reviewed documents included language on recruiting persons with disabilities to serve as international observers. The EU does ask observers to note whether people with disabilities are active in citizen observer groups. ANFREL, EU, and the Carter Center have also emphasised working with DPOs during observations. The OSCE handbook takes note of observers' nationality and gender 'to ensure diversity in the make-ups on the teams' but does not mention disability.[57] Although the EU guidelines note that a member of the observation team might assess accessibility, it does not indicate that that person should have a disability rights background, nor that persons with disabilities should be recruited as observers. The criteria to become an observer indicates 'good physical condition', which is not defined in the document and therefore could potentially be used to exclude persons with disabilities from participating.[58] In the ANFREL paper, DPOs are referenced as key contributors, but there is no discussion of a formal policy to integrate observers with disabilities into missions. This demonstrates a critical gap in the integration of observers with disabilities in IEOMs.

[54]Organization of American States, 'Mejores Prácticas en Observación Electoral de la OEA, 2004–2007' (2008).
[55]Organisation for Security and Cooperation in Europe, *Election Observation Handbook Sixth Edition* (OSCE 2010).
[56]OSCE Office of Democratic Institutions and Human Rights, 'Recommendations' 31 October 2016, Helsinki, Finland <http://www.osce.org/odihr/311076?download=true> accessed 1 September 2017.
[57]OSCE (n 55).
[58]EU (n 50).

Table 1. Disability-related questions included in IEOM methodologies or checklists

Organisation	Disability-Related Questions
ANFREL	• Was there any special set-up or facilities for voters with disability? • What special preparations were undertaken to make the election more accessible to the vulnerable sectors?
The Carter Center	• Special measures taken to ensure de facto equality of persons with disabilities • Polling places were accessible, including to those with disabilities
EU	• Are persons with disabilities provided the opportunity in law and in practice to exercise their electoral and political rights without restriction? • Where active registration is taking place, are steps taken to ensure inclusion of eligible people with disabilities in the voter register? • Has adequate and effective voter information, including on accessibility measures, been provided to persons with disabilities in a timely manner? • Are persons with disabilities running as candidates? • Are persons with disabilities attending and speaking at campaign events? Are campaign facilities and materials accessible? • Are people with disabilities active in citizen observer groups? • Are polling stations and equipment fully accessible to people with disabilities? Do polling booths have proper lighting?
OSCE	• Are polling stations too small or inaccessible? • Is access to the polling station difficult? • Are the facilities suitable for disabled persons to use independently?

The majority of questions on disability inclusion in IEOM checklists focus on physical accessibility of polling stations. Few of the IEOM documents provide adequate descriptions of the elements of an accessible building or inclusive policy, so observers not already familiar with disability rights may not have sufficient information to make informed determinations about inclusion and access. Questions related to legal barriers, accessible information and assistive devices are largely omitted. These types of questions more directly impact people with intellectual, psychosocial, and sensory disabilities, so neglecting these issues limits the inclusion of people with these types of disabilities by IEOMs.

2.2 Conducting stand-alone election access observations: a case study

As exemplified by a case study from Indonesia, election observations can increase access to political participation by engaging EMBs on inclusion. An observation conducted in Indonesia in 2014 pointed to several challenges to disability inclusion and provided recommendations for increasing access.[59] As a result, the EMB has adjusted policies and procedures to ensure future elections are more inclusive of Indonesians with disabilities.

The General Election Network for Disability Access (AGENDA), conducted a monitoring assessment for the Indonesian presidential elections in 2014 with the Voter Education Network for the People (JPPR) in Indonesia, the General Election Commission of Indonesia (KPU), Indonesia's Association for Persons with Disabilities (PPDI) and IFES. The observation assessed access of voters with disabilities in five areas: voter education, voter registration, polling stations, voting process, and voter turnout. Observers collected data from 470 polling stations, conducting interviews with staff at each polling station. They also interviewed 789 voters with disabilities and 387 persons with disabilities who did not vote.

[59]General Election Network for Disability Access (n 41).

AGENDA trained 300 election observers, half of whom were persons with disabilities and half were experienced national observers. The training provided people with disabilities the opportunity to learn how to observe elections and exposed professional observers to disability rights, often for the first time. Once trained, observers with disabilities were paired with national observers in order to ensure maximum visibility of observers with disabilities and to sensitise national observers on disability inclusion.

Observers found that persons with disabilities were one of the groups organised into what the KPU called 'democracy volunteers'. Volunteers from five sectors of voters – first time voters, religious groups, women's groups, marginalised groups, and persons with disabilities – were provided voter education training materials to increase their participation. However, voter education efforts did not include accessible formats, such as braille, audio, or easy-to-read. Public service announcements over television did not provide sign language interpretation. AGENDA surveyed voters with disabilities on the quality of voter education materials, finding that most deemed them good (32%) or acceptable (55%). However, as the materials were not accessible to people with sensory or intellectual disabilities, these segments of the disability community did not benefit from KPU's efforts.

Indonesia's fixed voter list system posed another challenge for increasing inclusion during the election, as families did not encourage persons with disabilities to register to vote because of stigma, or they did not realise that persons with disabilities have the right to vote. AGENDA noted that voter registration officers did not collect data on disability, and they had a limited understanding about how this information impacts future election efforts.

AGENDA observed persons with disabilities casting ballots on Election Day in 470 polling stations. 91% of those interviewed felt confident about voting in secret, while 7% did not and 2% did not respond to the question. Since Indonesian law guarantees the right to voting assistance, it was noted that 255 observed voters with disabilities had signed the form required to obtain assistance in the voting booth. Even so, the mission noted that it is unclear how assistants are allowed to help persons with disabilities and if all assistants actually signed the form. AGENDA estimated that 2.7 voters per polling location – out of 600 to 800 total voters – had a disability; a very low turnout.

Only 4% of the observed polling stations included persons with disabilities as polling staff. Additionally, 40% of the poll workers interviewed said that they were not informed about accessible elections, and 38% were not able to explain accessibility. Although all poll workers are required by law to attend a training on polling and vote counting procedures, only 46% of those interviewed had done so.

The election access observation mission found that attitudinal barriers in Indonesia are one of the primary challenges to increasing disability inclusion in political life. Stigma against the disability community, which discourages persons with disabilities from claiming their rights, is pervasive among family members and government officials. Families of persons with disabilities are also often discriminated against, causing them to discourage family members with disabilities from voting. The observation mission directly challenged misconceptions about what persons with disabilities can and cannot do. The participation of observers with disabilities showed that they are equal members of the community, with skills and knowledge to contribute.

Observers' recommendations highlighted major areas for improvement, including the importance of collaboration among DPOs and stakeholders such as CSOs and the KPU to raise awareness of disability rights. This mission observed Indonesia's 2014 presidential election by following several good practices:

- Engaging persons with disabilities in observation activities
- Training observers both on electoral knowledge and on disability rights
- Interviewing persons with disabilities who did and who did not vote[60]

Based on the mission's report, the KPU has taken steps to ensure more inclusive future elections. In 2015, AGENDA worked with KPU to develop an EMB self-assessment tool to determine where gaps exist that can be addressed to make elections accessible to all. Through this collaboration, a checklist was created and shared with all 101 KPU offices around the country for their use and subsequent feedback, resulting in the adoption of the self-assessment tool.[61] AGENDA has built on these successes by sharing the experiences, including presenting to disability rights dialogues in Egypt, Fiji, Myanmar, Pakistan and Sri Lanka to encourage action from other EMBs around the world.[62] The election access observation and subsequent report were the catalyst for action by the EMB in Indonesia on disability inclusion.

3. Good Practices for Disability-Inclusive Election Observations

This review of IEOMs and election access observations – and the authors' first-hand experience conducting election observations[63] – demonstrates the following good practices for integrating a disability rights perspective into election observation:

1) Include targeted questions on access of persons with all types of disabilities in observer checklists.
   When conducting an election observation, questions targeting the inclusion of voters with physical, sensory, intellectual and psychosocial disabilities should be included. Observers may not have a background in disability inclusion, so providing targeted questions on how voters, candidates, and others are taking part in elections can help them to determine the barriers that exist. Like most other questions on IEOM checklists, contextualising questions related to disability inclusion is important.[64] For example, a country might have a policy related to how many voters an assistant can support or that a certain number of tactile ballot guides be available at each station, and the observation team can assess if the accommodation is utilised fully.[65]

[60] ibid.
[61] IFES, 'Indonesia EMB Adopts New AGENDA Inclusion Tool' <http://electionaccess.org/en/media/news/48/> accessed September 2017.
[62] IFES, 'IFES Organizes First Pacific Regional Disability Rights Dialogue' <http://www.ifes.org/news/ifes-organizes-first-pacific-regional-disability-rights-dialogue> accessed October 2017.
[63] Atkinson and Aaberg (n 8).
[64] Democracy in Action and HandiKOS, 'Inclusion of People with Disabilities in the Electoral Process' (2014) <http://electionaccess.org/en/resources/publications/478/> accessed 19 May 2017.
[65] IFES and the Ibero-American Network of Organizations of Persons with Disabilities, 'Recommendations to the JCE on how to make the electoral process more accessible to persons with disabilities' (unpublished 2012).

2) Recruit persons with disabilities to serve as observers and collect data on how many observers with disabilities serve in IEOMs.
   Persons with disabilities are the best experts on their participation and inclusion. They should be proactively recruited to serve as observers in IEOMs as well as in stand-alone election access observations. IEOMs should aim to have 15% of their team comprised of people with disabilities in order to reflect the proportion of people with disabilities in society.[66] In addition to providing valuable insights for the report, facilitating inclusion as observers is an effective way to break down social stigma.[67] Serving as an observer allows people with disabilities to be viewed as leaders of the community and to demonstrate their skills and abilities.[68] Inclusion has a double benefit as it aids observer groups in developing greater knowledge about disability rights and supports DPOs in learning more about the electoral process.
   Collecting data on how many observers with different types of disabilities participate in an IEOM or a domestic observation demonstrates commitment to ensuring that women and men with disabilities are represented.[69] Of the IEOM reports reviewed, no data on observers with disabilities were provided. The Indonesia case study provides a good example of gathering information that includes a breakdown of how many observers with disabilities participated.[70]
3) Stand-alone election access observations are a useful complement to IEOMs.
   Election access observations collect more detailed information that provides nuanced feedback to better inform election stakeholders and policy makers on disability inclusion. Disability rights advocates can use comprehensive election access observation reports to advocate for specific recommendations with policymakers to increase access to the political process. Additionally, as at least 50% of observers in election access observations are people with disabilities,[71] these stand-alone observations provide a pipeline of experienced observers with disabilities who can later serve on mainstream observation teams.

4. Conclusions

Election access observations are a highly effective method for integrating disability rights into the electoral process. However, there remains more work to be done to ensure full inclusion in IEOMs. IEOMs should focus on two key reforms: ensuring checklists address barriers encountered by men and women with all types of disabilities, and increasing recruitment of observers with disabilities.

To fulfil their missions to provide comprehensive feedback on the extent to which elections are credible and inclusive of all citizens, IEOMs must recognise the right of persons with physical, sensory, intellectual and psychosocial disabilities to participate, as well as

[66]Atkinson and Aaberg (n 8).
[67]IFES and the Ibero-American Network of Organizations of Persons with Disabilities, 'Project: "Right to Choose" Manual for Best Practices and Lessons Learned' (IFES 2012).
[68]IFES and the Ibero-American Network of Organizations of Persons with Disabilities (n 67).
[69]OSCE Office of Democratic Institutions and Human Rights, *Handbook on Observing and Promoting the Electoral Participation of Persons with Disabilities* (OSCE 2017).
[70]General Election Network for Disability Access (n 41).
[71]ibid.

the potential attitudinal, legal, informational, and physical barriers that they encounter throughout the electoral cycle. In order to integrate a disability rights lens into election observation, IEOMs would benefit from the expertise of persons with disabilities and their organisations. Recruiting 15% of observers with a disability would reflect the proportion of people with disabilities in society. Furthermore, including observers with disabilities as part of IEOMs demonstrates leadership of persons with disabilities. The active engagement of leaders with disabilities in roles such as chief observers breaks down stereotypes and models inclusion. Lessons learnt from stand-alone election access observations demonstrate how inclusion of detailed questions on disability and recruitment of observers with disabilities can lead to tangible changes in electoral policies and procedures. When inclusive, election observation can increase the political participation of people with disabilities.

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