



# ASIAN ELECTORAL STAKEHOLDER FORUM

## Bangkok Declaration on Free and Fair Elections

10 December 2012

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## **Preamble**

1. The holding of periodic, genuine, free, and fair elections based on secret ballots and universal suffrage is the true expression of the sovereignty of the people. Free and fair elections are a precondition of democracy and they promote social, political and economic development.
2. Asia is a big continent, with vast geography, a wide variety of political systems, and great human diversity. This Declaration has been drafted with the participation of election stakeholders from across East Asia, South Asia and Southeast Asia.
3. The Bangkok Declaration on Free and Fair Elections recognizes and reaffirms the rights and principles proclaimed in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Universal Declaration on Democracy.
4. These rights and freedoms are universal and they apply fully and equally in Asia.
5. The principles for ensuring free and fair elections are also universal. The Declaration herein acknowledges and endorses the International Parliamentary Union's Declaration on Criteria for Free and Fair Elections, and reaffirms its pertinence in Asia.
6. While each country in Asia has its own unique set of challenges with regard to elections, the articles of the Declaration are meant to highlight the most pressing and the most common electoral concerns in Asian countries. Despite what are at times vast differences, there are also elements of shared history, cultural heritage, religious tradition and social and political development that bind the continent, or at least parts of it, together. With its elements of commonality, it is possible to identify a distinct set of challenges with regard to the holding of free and fair elections in Asia.
7. The objective of the Bangkok Declaration on Free and Fair Elections is to identify the most significant and widespread barriers to free and fair elections in Asia and strengthen the resolve of the Asian people to address them by involving all relevant national, regional and international stakeholders.
8. The issues and challenges discussed in this Declaration do not attempt to be comprehensive. The Bangkok Declaration is not a catalogue of principles for the conduct of free and fair elections, nor is it a declaration of democratic rights and freedoms. It is a statement of resolution by the Asian electoral community and other stakeholders to work collectively in their respective spheres to overcome some of their shared challenges, and it is intended to be an organic document.
9. While this document is non-binding, the signatories to this Declaration nevertheless recognize and resolve to address, where they exist in their respective countries, the electoral challenges discussed.

## **Section I: Pre-Election Period**

### **LEGAL FRAMEWORK**

#### **Article 1 – EMB Independence**

1. The fearless independence of election management bodies (EMB) must be guaranteed by a state's Constitution and other legal frameworks.
2. The appointment of EMB members should be fully transparent and depoliticized. EMB members should be removable only for a cause defined clearly in law.
3. Secretariat staff must be able to perform their functions free of outside interference.
4. Fiscal autonomy is a prerequisite for the independence of an EMB. Relevant budget making bodies should ensure that EMBs are provided with a stable, adequate and timely source of funding that allows them to fulfill their mandates effectively and independently over the course of the election cycle.

#### **Article 2 – Universal Franchise**

1. Prohibiting certain groups of people from voting erodes the legitimacy of elections as the true expression of the people. Electoral laws must consider that universal franchise is upheld in accordance with each country's context.
2. Citizens of voting age must be guaranteed the right to vote, regardless of their religious, ethnic or social status.

## **TRAINING AND EDUCATION**

#### **Article 3 – Access to Voter Information**

1. Voter education is necessary to allow voters to make informed choices and participate fully in elections. Lack of access to voter education can lead to disenchantment with the electoral system and limits the ability of citizens to exercise their rights to free expression, peaceful assembly and free association. EMBs and other stakeholders must ensure that voter education is widespread, inclusive and accessible.
2. EMBs and other stakeholders must ensure that appropriate voter education is accessible to all election stakeholders, including those persons who cannot read, those who speak minority languages and those who are underprivileged or often underrepresented in the political process.
3. EMBs and other state entities must share the responsibility for conducting voter and civic education that lasts throughout the electoral cycle. Similarly, civil society, political parties and candidates, and other stakeholders should contribute to this effort.

## Article 4 – Training of Election Officials

1. A lack of adequate training for election officials and polling station workers can create problems at every stage of the electoral cycle, from poorly prepared voter lists to mistakes in the vote counting process. EMBs must ensure that election staff are provided with appropriate, updated training that is thorough and of high quality.
2. The training provided to election officials and polling station workers should cultivate culture of integrity, transparency and accountability and equip them with a thorough understanding of election rules and procedures, inform them of their roles and responsibilities, and nurture an attitude of professionalism and civic responsibility.
3. Although election technology can be highly beneficial, it can also lead to unintentional errors or vote manipulation when not properly understood and used by election staff. Especially when new election technology is introduced, EMBs must ensure that staff are fully trained and knowledgeable about how to operate it properly.

## PREPARATION OF THE VOTER LIST

### Article 5 – Facilitating Voter Registration

1. In countries with active voter registration systems, barriers to voter registration, including the type and availability of documents required for registration, the number and location of registration centers, confusing and lengthy multi-step processes, and restrictive voter registration calendars, can all prevent eligible citizens from being added to the voter list. EMBs should promote the highest possible rate of registration by conducting voter registration in a way that is inclusive, convenient, and accessible to all.
2. Where active registration is required, if the window for registration is set too early in the electoral cycle, when interest and understanding is low, there is the risk that people will miss the deadline. EMBs should ensure that voters understand the deadline for registration and that there is sufficient time to register all potential voters.

### Article 6 – Accuracy of the Voter List

1. Inaccuracies in the voter list, including errors of both inclusion and exclusion, seriously undermine the legitimacy of elections and public confidence in the electoral process. The EMB or other body responsible for the list should strive to maintain a voter list that is complete, current and accurate.
2. Problems with the voter list such as multiple registrants, dead people, children and underage voters, fictitious names, non-residents and missing names are all too common. The accuracy of the voter list should be maintained using a rigorous and transparent auditing system which includes pre-election checking and updating, updates based on proper objections of voters, and a post-election evaluation.

## Section II: Election Period

### ELECTORAL CAMPAIGN

#### Article 7 – Oversight for Campaign Finance

1. Fair elections demand that there be adequate oversight of campaign finance. Governments and lawmakers must ensure that there exists a rigorous legal framework that fairly regulates political donations and campaign expenditures and allows for transparency of donations and expenditures.
2. Even where strong laws exist to oversee campaign finance, implementation can be lax, partial or ineffective. EMBs and governments must ensure that the laws are fully and fairly implemented, monitored and enforced. It is essential that violators be punished for their actions in accordance with the law.

#### Article 8 – Vote Buying

1. Vote buying is the most blatant, and in some countries among the most common, form of election fraud. It is a crime in most countries in Asia, and countries must devote the necessary resources to prevent, monitor, investigate and punish it.
2. Increasingly sophisticated and discreet methods of vote buying make it difficult for anti-vote buying initiatives to succeed. Political determination and strong public support is essential for success.
3. Initiatives to combat vote buying must include rigorous voter education campaigns, strict oversight of campaign finance, thorough investigations of alleged vote buying, and prosecution of offenders conducted without exception.

#### Article 9 – Impartial Coverage by the Media

1. Using state-run media to provide favorable coverage to the ruling party can seriously tilt the election playing field and destroy confidence in the legitimacy of the electoral process. State media should provide equitable space and time to all political parties and candidates and be fair in their coverage of opposition parties.
2. In a democracy, it is the media's civic and moral duty to act as a fair observer of public life. Private media should strive to provide fair-minded coverage and analysis throughout the electoral cycle.

#### Article 10 – Election Violence

1. A peaceful election environment is a necessary pre-requisite for legitimate elections. Used at any point throughout the election cycle, physical force, threats and intimidation seriously undermine the quality and legitimacy of elections. Election-related threats or violence must be urgently dealt with using all necessary social, political and legal actions.
2. Violence can only be prevented if the causes are first determined

and the warning signs are recognized as they appear. Efforts to pre-empt election-related violence should begin early and tackle both the causes and the symptoms of violence.

### **Article 11 – Use of Government Resources**

1. When government resources are used to promote political interests during an election, the campaign process cannot be fair and the legitimacy of the result is called into question. Electoral laws must prohibit the unfair use of government resources for partisan political purposes at any time.
2. By themselves, laws against the misuse of government resources during an election are not enough. Governments must ensure that compliance is monitored, the law is enforced, and offenders are prosecuted.

### **Article 12 – Codes of Conduct**

1. Codes of conduct are valuable tools in promoting fair and transparent electoral campaigns. They can take the form of broad guidelines for all electoral stakeholders to follow, or they can be focused on the activities of a particular group such as the media, political parties, or election observers. Codes of conduct should be used to demonstrate the appropriate roles and responsibilities of the various election stakeholders in a free and fair election.
2. Without proper awareness and adherence, codes of conduct are of no use. Thorough measures should be employed to educate election stakeholders about codes of conduct and persuade them of the need to follow them.
3. Compliance with codes of conduct should be monitored and unethical behavior should be exposed. Where a violation of a code of conduct constitutes a breach of electoral law, it must be prosecuted to the full extent of the law.

### **Article 13 – Military and Police Interference**

1. With their power, organization and resources, security forces that act in a partisan manner are likely to do irreversible damage to the quality of an election and to the perceived legitimacy of the winning candidates. Strong measures are required to ensure that security forces remain strictly impartial and non-partisan.
2. Interference can be direct, as in the case of intimidation, or less direct, as in the case of personnel being used to support campaigns or senior officers endorsing candidates. Military and police forces should remain entirely neutral at all times, and even subtle forms of interference should be investigated and prosecuted.

## **VOTING OPERATIONS AND ELECTION DAY**

### **Article 14 - Polling Station Management**

1. Even when it is entirely unintentional, mismanagement at the polling station has the potential to deny people their democratic rights and skew the results of an election. The most common problem is a lack of training, so EMBs should ensure that polling station staff are thoroughly trained on the layout, the rules, and the procedures that must be followed in order to ensure a fair election. Multi-sectorial efforts and support should be encouraged for the improvement of polling station management.
2. Even when polling station staff are well prepared for the task, if they do not receive the proper logistical support, they are unable to do their jobs properly. EMBs should ensure that polling station staff receive voting materials and other resources that are complete, authentic, and on time.

### **Article 15 – Enfranchising Minorities, Marginalized People and Persons with Disabilities**

1. Certain groups of people face a heightened risk of being disenfranchised. In different ways, minorities, marginalized people and others facing particular challenges, including internally displaced persons (IDP), internal migrants, stateless people, homeless people and persons with disabilities, are at risk of being dispossessed of their right to vote by a number of systemic barriers. EMBs and other stakeholders should take affirmative measures to encourage the full participation of minorities, marginalized people and persons with disabilities.
2. For minority groups that live in remote locations, such as in mountains, forests or islands, the nearest registration center or polling station can be very far away, and the costs of travelling long distances and forgoing work can be enough to prevent potential voters from engaging in the election process. Minority groups can also suffer from lack of access to voter education, either because of their remoteness, a lack of access to media, or because campaigns are often not conducted in their native language. Efforts must be made to guarantee that minority groups can participate fully in the election process by ensuring that they have access to registration centers, polling stations, and voter education.
3. Since IDPs have often lost their identification cards and registration documents along with their registered addresses, they can have particular difficulty in exercising their right to vote. Internal migrants can face similar barriers when they are not readily able to register in their new place of residence. In both cases, governments must ensure that people are empowered to vote in their new locations by

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4. issuing new identification documents, updating the voter lists, and then conducting thorough voter education campaigns to inform people of their right to vote.

5. Persons with physical, sensory or intellectual disabilities can face a distinct set of barriers including lack of access to voter

education, inaccessible registration centers and polling stations, and voting materials and procedures in inaccessible formats.

Persons with disabilities encounter unique barriers as voter education must be in accessible formats such as sign language, Braille and large print. Persons with disabilities also encounter barriers to securing identification cards due to discrimination and lack of accessible information. Every citizen has the right to vote, and accommodations must be made for all persons with disabilities, including ensuring that the election law does not discriminate against persons with disabilities. Planning and budget should be allocated by EMBs for voter education, voter registration, casting a ballot at the polling station in secret, and, where it is authorized, advance voting and mobile ballot boxes.

### **Article 16 – Voters Living Abroad**

1. Many Asian countries have large numbers of citizens living outside of the country that nevertheless play an important role in the politics and the economy of their home country. Despite this, citizens living abroad often do not have the chance to vote due to the cost or complexity of overseas voting systems.

2. Where the financial and technical resources exist, countries should strive to allow citizens to vote from abroad with as little difficulty and inconvenience as possible. Opportunities to vote from abroad should be expanded wherever feasible.

### **Article 17 – Participation of Women**

1. In many countries, women are still disadvantaged in the electoral process. Cultural practices, an unfair playing field or running for office in a male dominated area all tend to disadvantage women. EMBs and other stakeholders must ensure that election laws do not disadvantage women. Rather, they should take positive action to encourage women to participate fully in the electoral process.

2. According to local custom in some places, women are expected to vote the way that their husbands or male elders tell them to. In some cases, male heads of household are even permitted to cast votes on behalf of their wives and family. Using voter education, training for polling station staff and any other means available to them, EMBs must ensure that all women are able to exercise their democratic right to vote according to their own choices.

### **Article 18 – Accreditation of Observers**

1. Transparency is a hallmark of truly democratic elections. Domestic and international election observers can enhance the credibility and legitimacy of an election. Well-trained, dedicated and non-partisan election observers are a key tool for promoting the

quality and integrity of the entire electoral process, and accreditation allows them to function more effectively. EMBs, subject to their prevailing laws, should ensure that all well-trained and non-partisan observer groups are permitted to observe all stages of election processes including observing the entire polling and counting processes at any polling station.

2. When accreditation is given inconsistently or only at the last minute, it is difficult for election observation groups to properly conduct the complex planning required for a mission to observe the pre-election process as well as the election day and post-election activities. EMBs should set out clear rules for timely accreditation of domestic and international observers and apply them fairly and consistently.

### **Article 19 – Effective and Professional Observers**

1. If election observation organizations lack the objectivity, professionalism, or adequate resources necessary to operate independently and effectively, their contribution to the transparency and legitimacy of the election will suffer. Election observation organizations should therefore work to ensure that all observers deployed are well-trained, independent, and objective and that they have adequate capacity to perform their duties in conformity with internationally accepted standards.

2. Observers that have adequate training, capacity, independence and objectivity encourage the conduct of free and fair elections. However, unfit observers may fail to perform their responsibilities satisfactorily, and, moreover, may even distort the public's perception of elections. While being welcoming of legitimate election observers, EMBs should insist on high standards such as those declared by the Global Network of Domestic Election Monitors (GNDEM) in the Declaration of Global Principles For Non-Partisan Election Observation And Monitoring By Citizen Organizations for the domestic and international election observation organizations they accredit.

### **Article 20 – Printing, Counting, Consolidating, Transporting and Storing Ballots**

1. Management of the vote counting process is one of the most critical functions during an election, and a fair and open process is an absolute prerequisite for a legitimate election. The process of printing, counting, consolidating, transporting and storing ballots, both before and after voting, must be fully transparent to the public, political party agents and election observers.

2. The transparency of vote counting and consolidation is particularly essential, and without it, the final vote count can be manipulated. Observation groups and political parties should ensure that observers are trained and deployed to observe these processes, and EMBs must ensure that they are given the access to do so.

## **Section III: Complaints and Electoral Dispute Resolution**

### **Article 21 – Electoral Complaint System**

1. An effective electoral complaint system is an essential tool for fighting fraud and mismanagement at each stage of the electoral cycle. EMBs must ensure that the process for filing a complaint is clearly spelled out in advance of elections as well as readily accessible to, and known by, the public. The system must be managed fairly, transparently, and in a way that encourages those with complaints to come forward.
2. When election stakeholders have insufficient information about how to file electoral complaints, they are effectively excluded from the electoral complaint and oversight process. EMBs should use voter education to ensure that every election stakeholder understands the electoral complaint process.

### **Article 22 – Timely and Impartial Dispute Investigation and Resolution**

1. A fair and neutral system of dispute resolution is critical for the integrity of an election. When mechanisms for handling disputes are deficient, citizens and candidates feel that their voices are not being heard and lose confidence in the election process and its results. Where dispute resolution bodies are subject to political influence or corruption, the dispute resolution process can be manipulated. Governments must ensure that the bodies with the responsibility to investigate and make decisions on electoral disputes are independent, impartial, professional and sufficiently financed.
2. Undue delays in the resolution of cases can be used to manipulate the dispute resolution process and deny the application of justice. Whether delays are due to insufficient capacity, or whether they are politically influenced, they undermine the legitimacy of the entire dispute resolution process. Within the framework of the electoral cycle, reasonable time limits should be set for the resolution of cases to avoid unnecessary delays. These time limits must be rigorously but fairly enforced.

## **Call to Action**

1. We therefore call upon the people of Asia, as well as their governments, election management bodies, political parties, candidates, civil society organizations, observer groups, the media and all other election stakeholders to strengthen their commitment to addressing these common challenges. As members of the Asian electoral community, we call upon all election stakeholders in Asia to work together to build and ensure free and fair elections across the region.
2. The issues and challenges included in this Declaration are neither comprehensive nor ubiquitous, as each country in Asia has its own unique set of challenges with regard to elections. We nevertheless

urge the electoral community in each country to work towards improvement by focusing attention on those articles that are relevant in their own contexts.

3. Furthermore, with such great diversity in Asia, not all issues can be resolved in the same way. We call upon the electoral community in each country to use as a foundation the universal principles referenced in this Declaration and documented in other instruments such as the International Covenant on Civil and Political Rights and the Declaration on Criteria for Free and Fair Elections. We urge them to utilize and benefit from the rich electoral experience found across Asia.
4. But we are ever cognizant of the fact that each country's electoral challenges exist within its own unique and complex context. Countries can benefit most from this Declaration by recognizing that as we resolve to address our common challenges as members of the Asian electoral community, the solutions must still fit the unique nature of country-specific problems.
5. We believe that free, fair, transparent, peaceful and democratic elections are possible in all countries across Asia. As members of the Asian electoral community, we hereby resolve to work towards making this a reality.