

# INTRODUCTION

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Since 2011, the countries of the Middle East and North Africa (MENA) have experienced a tremendous amount of upheaval. Although progress has been uneven, and accompanied at times by significant pushback, citizens across the region have demanded more responsive and accountable governments. In response, several MENA countries have held genuinely competitive elections either for the first time or for the first time in many years, and others have amended electoral frameworks and related legislation to encourage broader participation at the polls. Even in places that have seen little in the way of an “Arab Spring,” many political parties, candidates, and citizens alike are advocating for changes to the rules for electoral competition—and monitoring their implementation—so that citizens have a genuine opportunity to participate in credible elections.

Though often overshadowed by the events of election day, the voter registration process is critical to ensuring electoral integrity and, as such, is receiving increasing attention. A voter registration process that sets clear criteria for voter eligibility, guarantees citizens an opportunity to review and correct voters lists, and provides safeguards against electoral fraud can build public confidence in elections. Conversely, a registration process that erects barriers to participation or takes place out of public view can disenfranchise citizens, invite electoral manipulation, and erode confidence in electoral outcomes.

In light of the renewed focus on developing fair, transparent, and genuinely democratic elections in the MENA region, stakeholders—including political parties, citizens, civil society organizations, media, election officials, national and international policymakers, and others—have an opportunity to deepen their understanding of accepted international principles concerning electoral participation and voter registration, evaluate current voter registration systems in their countries, and identify areas for further improvement.

Through a series of case studies and a comparative analysis, this report explores the voter registration systems in eight MENA countries or territories. Each case study reviews the basic elements of the voter registration process as outlined in a country’s laws and regulations, as well as how it is implemented in practice. The voter registration systems of each country are then assessed in relation to the principles the states themselves are obligated to meet by international law and, in some cases, by regional treaties. For the most part, only international and regional obligations are used in this context. On a few occasions, NDI has referenced other documents that are not binding on the countries at issue, but provide examples of steps governments and election administrators might consider taking to improve the process.

A number of factors went into selecting the countries for the study. One is of a practical nature: for some countries there simply is such a dearth of accessible information that it is impossible to carry out a reasonable assessment. In other countries, the limitations on democracy and elections are so severe that a discussion of voter registration is not relevant. Moreover, given the extraordinary events of the last few years, there are some states where the election laws and the procedures by which elections might be carried out is in such a state of flux that it does not make sense to attempt to describe their present operation.

Given these limitations, the places under consideration—Algeria, Iraq, Jordan, Kuwait, Lebanon, Morocco, the Palestinian Territories, and Tunisia—represent a fair sampling of MENA countries; predominantly Francophone and Arabophone countries are both represented, and states of varying types of governmental structures and systems are included. It is further important to note that this document is very much a living one, and NDI is committed to continuing to explore this area as more information becomes available, or as transitioning countries adopt new electoral frameworks. It is our great hope that the process of assessing legal frameworks and practices relative to international standards can help citizens and governments across the MENA region ensure that elections generally, and voter registration systems in particular, embody the minimum principles of transparency, inclusiveness, and accountability.

To prepare each case study, NDI reviewed relevant laws and constitutions, national and international civil society reports and analyses, international and national election observation reports, election management body websites, manuals, directives and documents. This review was complemented by extensive interviews with election administrators, national and international civil society experts, and academics and other election experts.

The final section of the report provides a comparative analysis of the different countries' laws and procedures in a number of key thematic areas, and evaluates how well they are performing vis-à-vis each other in light of international law.

## MAJOR APPLICABLE PROVISIONS OF INTERNATIONAL TREATIES AND INTERPRETIVE DOCUMENTS

International treaties explicitly recognize the fundamental right of citizens to participate in genuine elections and establish a set of principles concerning the electoral process, notably: inclusion, transparency and accountability. Voter registration is both explicitly and implicitly referenced in these international agreements. All of the countries examined in this report, and indeed most of the countries of the world, have voluntarily signed on to United Nations treaties whose precepts they have pledged to uphold. As a result, one effective method for assessing states' implementation of registration systems is to measure whether the steps they are taking to effectuate the process comply with international obligations.

The legal foundation for universal and equal suffrage is provided by several international human rights documents, as well as within national constitutions. The **Universal Declaration of Human Rights (UDHR)** states in Article 21 that “everyone has the right to take part in the government of his [or her] country directly or through freely chosen representatives ... the will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage.”

Among the many international documents that include provisions pertinent to voter registration and voting, the three most significant are the **International Covenant for Civil and Political Rights (ICCPR)**, **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**, and the **International Convention on the Elimination of All Forms of Discrimination (ICERD)**.

The most important source of international law with respect to voting and elections is the ICCPR.

Most countries of the world are party to it, including all of the countries discussed in this report.<sup>1</sup> Several articles are relevant for present purposes:

**Article 2:** Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

**Article 3:** The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

**Article 19:** Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

**Article 25:** Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.

**Article 26:** All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

General Comment 25, the UN's interpretive document regarding that provision of the ICCPR, further provides that:

States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed ... Any abusive interference with registration or voting as well as intimidation or coercion of voters should be prohibited by penal laws and those laws should be strictly enforced. Voter education and registration campaigns are necessary to ensure the effective exercise of Article 25 rights by an informed community.

CEDAW specifically addresses the issue of gender discrimination in all realms of life, including participation in elections. According to Article 7:

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (a) To vote in all elections and public referenda and to be eligible for election

<sup>1</sup> "Ratification Status by Country or by Treaty," United Nations Office of the High Commissioner for Human Rights, accessed May 8, 2015, [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?Treaty=CCPR&Lang=en](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?Treaty=CCPR&Lang=en).

to all publicly elected bodies; (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government; (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Like the ICCPR, CEDAW has been very widely ratified.<sup>2</sup>

Similarly, according to Article 5 of the ICERD:

States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: ... (c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service.

In addition, the **African Charter on Human and Peoples' Rights**, to which some of the countries in the relevant region are a party, requires equality, bans discrimination, and provides for freedom of thought and opinion, rights of association and the right of assembly. Article 13 of the Charter further states, "Every citizen shall have the right to participate freely in the government of his country."

The **Arab Charter on Human Rights** requires equality and bans discrimination. Under Article 24 of that document, every citizen has the right:

1. To freely pursue a political activity.
2. To take part in the conduct of public affairs, directly or through freely chosen representatives.
3. To stand for election or choose his representatives in free and impartial elections, in conditions of equality among all citizens that guarantee the free expression of his will.
4. To the opportunity to gain access, on an equal footing with others, to public office in his country in accordance with the principle of equality of opportunity.
5. To freely form and join associations with others.
6. To freedom of association and peaceful assembly.

Article 32 further guarantees the right to information and to freedom of opinion and expression, as well as the right to seek, receive and impart information and ideas through any medium, regardless of geographical boundaries.

## OVERVIEW OF VOTER REGISTRATION SYSTEMS

The vast majority of countries require citizens to be on a voters list to vote. The manner in which names are added and deleted and information such as residence is changed on such lists varies from country to country. For present purposes, the most important differences among systems are that:

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<sup>2</sup> "Ratification Status," United Nations.

1. some voters lists are continuously updated, and a citizen or the government may register or update registration information at any time, while in other countries such activities are only undertaken during specific, limited time periods;
2. some registration systems are “passive” while others are “active.” In passive systems, the government takes responsibility for ensuring that citizens appear accurately on the voters rolls. Further, passive systems are either “state-initiated,” in which officials travel around and register people, or “state-created/automatic,” in which names are taken from a separate database and no contact between citizens and election officials is necessary for registering. In “active” or “individual-initiated” systems, the citizen bears the responsibility to take affirmative steps to register to vote and stay on the list with accurate information; and
3. some systems are compulsory, in which people are required by law to register to vote, while others are voluntary, in which people can choose whether or not to register.<sup>3</sup>

A number of advantages and disadvantages to various systems have been identified in previous research.<sup>4</sup>

In active voter registration systems, individuals who wish to participate in an election must somehow prove their identity, essentially demonstrating that they are who they say they are. They must also affirm their citizenship and age, and officials must ensure that each applicant is not already included in the registry. The ways in which voters are allowed to demonstrate who they are both during registration and during voting vary. As will be seen, some countries exclude groups of voters from the election process by virtue of unmanageably strict or poorly administered voter identification requirements.<sup>5</sup>

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3 Richard Klein and Patrick Merloe, *Building Confidence in the Voter Registration Process: An NDI Monitoring Guide for Political Parties and Civic Organizations*, National Democratic Institute, 2001, <https://www.ndi.org/node/12886>, 3, 12.

4 “Voter Registration,” The ACE Project, accessed May 8, 2015, <http://aceproject.org/ace-en/topics/vr/onePage>.

5 For a full discussion of this issue, see Tova Wang, “Focus on Voter Identification,” The ACE Project, accessed May 8, 2015, <http://aceproject.org/ace-en/focus/voter-identification>.