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Election Observation Missions: Making Them Count

Joe Clark

Former Prime Minister of Canada and Former Public Policy Scholar at the Woodrow Wilson International Center for Scholars

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Intro t on i t a t r i c t on l

International election observation is a work in progress, much like the international democratic system it aims to promote and develop. Today election observation is disproportionately focused on the pre-election and election periods at the expense of the post-election period. International organizations, national governments, and civil society are familiar with what is expected both before and during an election. Election “practices” exist and an international set of principles is now emerging to guide international elections observers both before and during elections. Much less attention has been paid to what happens after



Panel 1: Africa's Role in the World

Chair **John Heilbrunn**, Director, Africa Program, Woodrow Wilson International Center for Scholars

Panelist **John Heilbrunn**, Former Prime Minister of Canada and former Public Policy Scholar, Woodrow Wilson International Center for Scholars; **Diplomat-in-Residence**, American University.

Panelist **John Heilbrunn**, President, The Fund for Peace

Panelist **John Heilbrunn**, Vice President, National Election Observatory, Cameroon

Panelist **John Heilbrunn**, Deputy Director for Latin America and the Caribbean, National Democratic Institute

Panelist **John Heilbrunn**, Associate Professor, School of International Service, American University

Chair **John Heilbrunn**, Senior Program Associate, Democracy Program, The Carter Center

Panelist **John Heilbrunn**, Director, Election Department, Office for Democratic Institutions and Human Rights, Organization for Security and Cooperation in Europe

Panelist **John Heilbrunn**, Founder and Principal Member, Democracy International

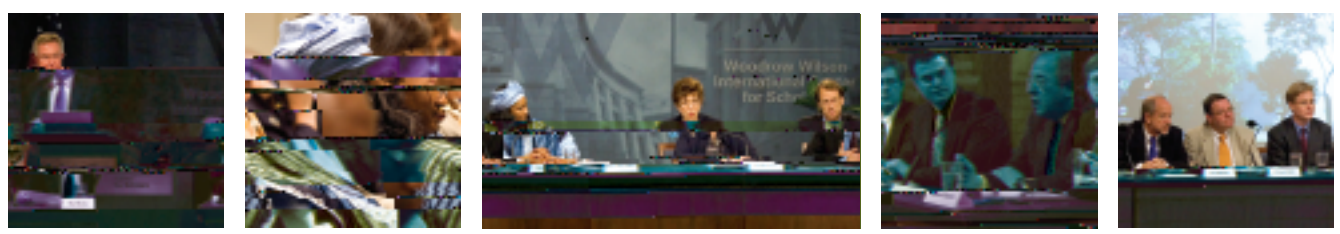
Panelist **John Heilbrunn**, Senior Associate and Director of Programs on Election and Political Processes, National Democratic Institute

Panelist **John Heilbrunn**, Director, Center for Democracy and Election Management, American University

Panelist **John Heilbrunn**, Director, Democracy Section, Commonwealth Secretariat

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John Heilbrunn, Director, Africa Program, Woodrow Wilson International Center for Scholars



reports of post-election observations and recommendations have been compiled. If we want a credible and complete system, we need to focus on the follow-up phase of international election observation with the same priority and professionalism that is applied to the preparation and conduct of elections. To use the old analogy of the three-legged stool, two legs of the international election observation process are reasonably well built and reliable, while the other is largely ignored and weak.

What happens when the election is over and the international observers go home? Little progress has been made on building an established practice of follow-up to election observation missions. Eric Thornlund is right: “International election monitoring often falls apart after election day, after the large delegations have departed and the international media have their attention elsewhere.” There is no systematic way to encourage governments, or the international community, to act on the serious recommendations of legitimate international observation missions. As a consequence, the entire system of international election observation comes into question. Follow-up, that is to say the participating governments’ serious commitment to consider and act on the most important, if not all, recommendations produced by observers, is the critical, and currently the weakest, component of international election observation. It requires more focused attention from scholars, practitioners, and policymakers.

Thanks to the generosity of the Canada Institute at the Wilson Center, Edward Wolpe, the director of the Africa Program at the Center, and I were fortunate to host a number of prominent scholars and practitioners in discussions on the follow-up phase of international elections observation. These discussions brought to the surface the complex relationship between theoretical prescriptions and practical consequences of international elections observation missions and their implications for establishing an effective “practice” of following up on observer recommendations. In order to synthesize these discussions

and to present some recommendations, I want to consider three questions:

1. What are the post-election implications of international observation missions in light of their main objectives?

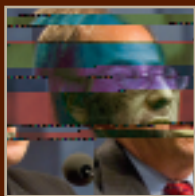
2. What are the main obstacles to follow-up?

3. How can the follow-up process be strengthened so that election observation can become a better practical means of promoting and advancing democracy?

International Election Observation and the Third Wave of Democratization

The process of political transitions that Samuel P. Huntington named the “third wave” of democratization began in southern Europe in the 1970s, passed through Latin America and parts of Africa in the 1980s, swept across Eastern and Central Europe after the fall of the Berlin Wall in 1989, and reached Africa and the rest of Asia in the 1990s. In this context, elections increasingly came to constitute the metric of international political legitimacy. Free and fair elections began to serve as a prerequisite of foreign aid to developing countries. Nations in North America and Western Europe with longer experiences of democratic practice invested in democracy promotion in newly democratizing nations, focusing many efforts on the institutional development of electoral systems.

Establishing and maintaining a system of free and fair elections is a delicate and complex process. Although elections represent only a snapshot of national political culture, they constitute one of the most sensitive times in the political life of a nation. Their conduct requires close cooperation between a country’s government and civil society and their joint nurturing of public trust. In most contexts, the government has disproportionate access to power and therefore an incumbency advantage during the electoral process. Sometimes elections are accompanied by violations of human rights, political violence, and the



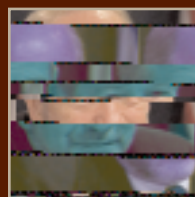
Director of International Election Observation

"I think we need to distinguish between three kinds of observation. One is observation [as] passive reporting by international visitors. The second is observation in which the visitors play a more active role and should be defined as 'monitoring.' And the third, which I think President Carter really pioneered, is what I would call 'election mediation.' That is to say, international distinguished leaders playing a critical role in trying to get all parties to an election to accept the rules of a free and fair election, and accept the consequences of accepting those rules. That's where I think we ought to focus our time. And we ought to think hard about what lessons can be drawn over the last few decades."



Director of International Election Observation

"If [election observers] are allowed in for two or three elections, make recommendations, but there's resistance to adopting them, is there a point at which election observers should say, 'We will no longer lend legitimacy to these efforts unless there is a response to the follow-up.' At what point do you continue going and allowing the government to just reject these kinds of things?"



Director of International Election Observation

"International observers, for our resulting recommendations to be effective, must take into account the domestic actors...and must consider how to follow up on [observers'] recommendations to...help create an open, democratic, and inclusive political process that embraces political parties and civil society..."



First elected to the House of Commons at the age of 32, Clark was elected leader of the Progressive Conservative Party of Canada four years later. In 1979, he defeated Pierre Trudeau to become the youngest prime minister in Canadian history.

His government was defeated on budget measures designed to establish fiscal responsibility and a new system of expenditure control. In its short term in office, that government began the process of privatizing inefficient government enterprises, introduced the first Freedom of Information legislation, embarked on a major program of welcoming thousands of Vietnamese "boat people" as refugees, and rescued American hostages from Iran.

Mr. Clark served as foreign minister, and then as minister of constitutional affairs, in the government of Brian Mulroney. He chaired the original Cabinet Committee on the Canada-U.S. Free Trade Agreement, and was also chairman of the Commonwealth Committee of Foreign Ministers on Southern Africa.

In the Wilsonian tradition, Joe Clark was an academic in addition to being a politician. He has earned both a bachelor's and a master's degree in political science from the University of Alberta and in 1993, during a five-year break from politics, he was a visiting scholar in the Canadian studies program at the University of California at Berkeley. Also during this time, he enhanced his international stature as the Special Representative of the Secretary-General of the United Nations for Cyprus, and he founded Joe Clark and Associates, a successful international business consulting firm. In 1998, he returned to politics, once again leading the Progressive Conservative Party, a position he held until May 2003.

manipulation and repression of independent public and private organizations, such as electoral commissions, the media, the judiciary, and civil society, in favor of the dominate party.

Although the prescribed role of international observers is to assess the outcomes of elections in the context of how they are conducted, the actual impact of international election observation can be much more powerful. Observer missions assist in curbing the license on repressive power that governments have in electoral processes, discouraging politically inspired violence, and encouraging transparency and lawfulness. Where domestic organizations are powerless to conduct thorough observations safely or to contest flawed election results due to government repression, international entities, with the experience and the established reputation to assist in the preparation and conduct of elections, are deployed to assess the elections legitimacy and hold governments accountable. Finally, as Diana Cha-Morfaw of Cameroon's National Election Observatory rightly points out, although observers are often viewed as “friends of the opposition or a nuisance” to the party in power, they are invited by governments interested in gaining international political legitimacy that accompanies positive reports produced by international election observers. The impact of international election observation extends beyond certifying or decertifying election results.

These practical implications raise questions about the strategic role of international election observation. Peter Lewis asks whether international election observation missions are there to encourage an ongoing process of election reform whereby you note the flaws that you see each time, present them to the government, express fervent hope that this will be addressed, and then leave it at that or is it a process whereby international observers represent certain universal, global standards of conduct and are there to issue essentially a certification of whether these standards were honored and upheld

These questions are of critical importance to the understanding of international election observation

and the role of follow-up within it. The first approach implies that election observation is part of an ongoing electoral process in which domestic and international entities are partners in generating improvements. The latter approach focuses more on certification of individual elections and less on domestic-international partnerships for long-term electoral reform.

Most international election observations take either one or both approaches. The lack of standardization has produced a flexibility of interpretation that has undermined the credibility of some observation missions. While many challenges to the international election observation are technical, such as how to accurately assess and apply electronic electoral technologies, the flexibility of interpretation has allowed serious political challenges to emerge. Recently conducted elections in Togo and Zimbabwe, though widely recognized as neither free nor fair by most analysts, were proclaimed free and fair by international observers invited exclusively by each government to deliver a predictably favorable evaluation.

Despite those challenges, the general result is that increasing attention is being paid to ⁱ the fairness and inclusiveness with which elections are prepared and organized, ⁱⁱ the actual conduct of those elections, and ⁱⁱⁱ the professional and systematic nature of formal observation and monitoring of elections by qualified domestic and international observers. As more countries undertake elections in their transition to democracy, both local citizens and international organizations have become more assertive, more systematic, more professional, and better organized in insisting that those elections be free and fair.

In one instance, following the widely contested ^{iv} presidential elections in Peru, a coalition of international and domestic observers led by the organization of

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"What is interesting is that in Cameroon, like in most other countries, it is the government that invites the international observers. Yet, at the end of the day, they fail to retain ownership of the report. The issue that this brings to mind is the need for an appropriate environment to enable both [the] government and its people to identify with the reports and, therefore, to take ownership. This will not necessarily compromise the independence of the observers... Also, there is [the] need to change the mindset of the government. Governments, and in some cases that of Cameroon, have the belief that international observers are friends of the opposition parties or, at best, a nuisance. Nevertheless, they invite them because they consider themselves small players in the international arena and therefore invite the missions to keep up appearances."



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"Despite the successes of observers in Peru, the underlying weaknesses in Peruvian democratic institutions remain. It's a reminder that elections cannot be separated from the broader democratic system... President Toledo came on the scene as a reformer, and has had approval ratings that have sunk as low as 7%... As a result, Fujimori's popularity has resurged, and polls show now that he would probably be one of two final contenders in the 2006 presidential election... [so] it may be premature to close the book on election observation in Peru."



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"[T]he military regime was very concerned about international legitimacy, and therefore, they made efforts to essentially open the door to international observers, observers among the NGO community in Washington, observers from the Commonwealth, observers from the African Union, and the European Community, the European Union, and the United Nations... The government was much less accommodating toward domestic observers, and indeed, merely two months prior to the elections, INEC, the Independent National Electoral Commission, had only agreed to certify a few hundred domestic observers. Pressures on INEC and negotiations with INEC in the months leading up to the elections were successful in getting them to open up to more observers, and so it was possible to train and deploy more than 10,000 domestic observers... There was a serious effort by international observers to track this process in a sort of global way, both well before and after the actual exercise of voting. The Carter Center, NDI, a number of other NGOs, the United Nations — all had an apparatus on the ground several months before the election; they were writing regular memos and regular updates on a weekly, sometimes daily basis. And there were a number of organizations that left permanent offices of permanent missions in place after the elections and did post-election assessment..."

The international observers certainly called attention to the problems that they observed, and there was highly critical assessment, but again the [2003] election largely stood in terms of the observer assessments. The government made a very weak response to critics. In fact, the president was openly dismissive of many of the criticisms of the elections, more or less saying, 'Well, people always complain about elections, and this is just the losers whining.' [R]egrettably, we have seen little follow-up since then."

American States, the U.S. oversaw an international campaign that forced the resignation of President Alberto Fujimori and delivered the free and fair election of his successor. The 2005 presidential elections in Ukraine are another remarkable example of the powerful contribution that international election observation missions can make to challenging the outcome of fraudulent elections.

Given the variability in the approaches to and the impact of international election observation, a major new step forward is imminent. Under the leadership of the United Nations, major international organizations that observe elections will soon announce a commonly endorsed declaration of principles and code of conduct for international election observation. These principles and code of conduct provide standardized reference points for the various international election observation groups, including, International Governmental Organizations, and independent associations, to guide the development of their observation processes. The purpose of this standardization is to harmonize approaches to observation, encourage cooperation between missions observing the same elections, and assure that the observations and recommendations produced are systematic, comprehensive, and accurate.

In setting out high, internationally endorsed standards for election observation, the planned agreement will address the problem of varying approaches and pave the way for serious discussion of how follow-up can become more systematic. When international election observation missions gather information methodically, comprehensively, and accurately, and analyze it objectively and impartially, the reports they produce will be credible and legitimate in the eyes of both the participating governments and the international community. Elections will be judged with reference to globally recognized human and political rights standards, but also in the specific national context. While government-sponsored violence and human rights violations will constitute the grounds for declaring an election illegitimate, it is

now widely recognized that each country's elections should be assessed within the context of its institutional development and that recommendations should be made with an eye to reform. International election observation will tell us not only whether elections are free and fair, but also how they can become more so in the future.

With the increasing level of standardization that the UN-led declaration of principles and code of conduct promotes, a major obstacle to effective follow-up could be eliminated. Follow-up depends in large part on the credibility of international election observation missions. This credibility is undermined by a number of factors, most stemming from the lack of cooperation between domestic and international stakeholders in the observation processes.

When governments invite or allow international organizations or associations to observe domestic elections, they remain sovereign authorities under no effective obligation to act on serious recommendations from international observers. No law compels them. No practice encourages them. Regimes can easily dismiss recommendations which are ill considered, careless, or do not reflect realities in the countries where the elections occur.

The legitimacy of a follow-up process depends absolutely upon the professionalism, objectivity, sensitivity, and independence of the observers.

Typically, reports are submitted very shortly after the election occurs. Occasionally, the government in question will act on some of the less important observations—sometimes, the most egregious practices will be changed. Genuine follow-up means serious consideration of the most significant recommendations or observations. Cherry-picking is not a serious response. Generally, the more serious recommendations are

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routinely put aside by the participating government and are not pursued vigorously by the agencies sponsoring the election observation. Formal action is considered insufficient if it is hollow there are examples where laws have been changed by the legislature, but not implemented in practice. an illusion of reform in the absence of real change.

Many of the agencies sponsoring election observation missions have neither the resources nor the mandate to continue their work after their report is filed. There is a significant financial cost to mounting legitimate observer missions. The Commonwealth Secretariat estimates that its Cameroon Mission in 1992 cost \$1.5 million for 100 observers and support staff. Slightly less expensive missions to Malawi and Kenya cost \$1.2 million and \$1.1 million, respectively. The costs incurred in other missions by such other organizations as OSCE, the International Republican Institute (IRI), and the Carter Center, are also in that range. These are substantial sums of money for election observation missions whose reports are so often ignored.

In the absence of guidelines for follow-up, observers' reports seldom lead to reform. They may briefly attract significant attention in the country where the election occurred and perfunctory public attention elsewhere. When the media and international attention disappears, another potential source of public pressure for reform dissipates. Too often international election observation reports have only an academic impact.

There are, of course, cases where the reports of election observation missions make a dramatic difference, but these are exceptions. The general rule is that the reports are shelved. That is the case even where there is a substantial international effort to encourage follow-up, as happened after the recent presidential and parliamentary elections in Azerbaijan. The exceptions will not become the rule until international guidelines for follow-up are set out with the same detail and commitment as for international election observation processes before and during elections.

CONTRACTUALIZATION: INSTITUTIONALIZATION

There have been several important steps to improve follow-up. The Organization for Security and Cooperation in Europe (OSCE) specifically commits participating states to follow up on election recommendations. The Office for Democratic Institutions and Human Rights (ODIHR), established in the early 1990s, has evolved as a professional, and largely independent, force in international election observation, producing guidelines outlining the follow-up process that participating organizations must commit to before an OSCE mission is deployed.

Other multilateral organizations, like the Commonwealth, la Francophonie, the Organization of American States (OAS), do not have an official commitment to follow-up. Nonetheless, in each case member states have signed commitments to democratic values, the 1991 Declaration of Commonwealth Principles of Democracy, the 1992 Declaration of la Francophonie of Democracy, the Inter-American Democratic Charter of the OAS of 1990. In some cases, those organizations find ways to influence the decisions of the sovereign states that are their members.

The Commonwealth is the most advanced in developing mechanisms that encourage member states to honor the democratic commitments of the 1991 declaration. The organization has developed a practice of engaging government leaders and civil society in a dialogue about electoral reform and related issues through credentialed special envoys. These envoys are not technical experts or advisors, but rather, individuals who can apply their political experience to encourage reforms. The Commonwealth also has developed a formal procedure called the Ministerial Declaration (CM/Min) to address violations of political and human rights standards endorsed by the entire group. Recently the human and political rights violations of the government of Zimbabwe have jeopardized that country's membership in the Commonwealth. The Honorable Don McInnon, Secretary-General of the Commonwealth, noted "It is this democracy watch-



Secretary General on Election Management

"We have members of staff who go and engage election management bodies and governments.

Under this present Secretary General, we've brought in a number of special envoys... And they are charged with precisely talking at a political level. They're not technicians, they're not experts, they don't go and say, 'Look, you need a different type of ballot box.' ...these special envoys are there to engage in a process of dialogue from which we hope progress will result...

We have specifically set up, in the Commonwealth Secretariat, an outfit called our Good Offices section, which engages in discreet diplomacy that supports all of this. And then we have a political affairs division, democracy advisors.

Now, very often people say, 'Oh yes, we know you send experts, and they advise about types of ballot boxes and all that.' But in fact, it's intensely political. We have at the moment in Guyana a media advisor. And he's not talking about the technical aspects of it. He is addressing major political questions. He's saying, 'Look, Election Commission, if you're serious about your election next year, you need to monitor it. And that's what goes on in many other countries, and this is how you can do it.'"



Director of Election Management on Cameroon

"When one looks at our experience in Cameroon, we feel

that after elections, emphasis should shift from politics to reform. In this respect, the observers, as has already been said, should work with host nations towards reform, and therefore improving the system. For this to happen, we believe that international observer packages should include funds to accompany the country in its reform efforts. In doing so, it is important to distinguish and identify the needs of the individual country. What is needed? Is it technical assistance, is it finance, or is it equipment, or all three, and if so, in what proportions? Bearing in mind that election is a key area of sovereignty, recommendations of international observers can better be implemented than they are at present, and consequently reform driven through by frank and constructive dialogue with national institutions, which in turn will forge longer alliances."

dog, has given a great deal of influence and moral authority to the organization globally. CM / is still the only international mechanism of its kind.”

The SCE and Commonwealth initiatives constitute important precedents for how post-election observation processes can be strengthened so that international election observation becomes a more effective tool of public diplomacy. Concentrated international commitment to the systematic consideration of follow-up is still needed.

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If the goal of follow-up is to encourage serious consideration of the most significant recommendations or observations made by professional and legitimate election observation missions, then the follow-up process ought to be represented by post-election working groups requiring the cooperation of three actors: representatives of the participating government and civil society, major international governmental stakeholders, and election observation groups. Eric Thornlund of Democracy International suggests that the timeframe for follow-up be divided into three phases, stretching from the immediate post-election period to the run-up to the next elections. This division would assure that complaints and grievances could legally address election reforms planned and executed before successive elections took place.

If follow-up action is to be effective and durable, the citizens and institutions of the country where an election occurs must “buy in” to those reforms. In the words of Diane Cha-Morfaw, the country itself must “retain ownership” of its electoral system and reforms. The recommendations of international observers should reflect and be informed by the experience and involvement of local citizens including domestic observers. Lessons from the Peru elections of 1995 suggest that developing stronger part-

nerships between international election observers and domestic observers is critical to maximize observers' impact. Follow-up action must emphasize a serious democratic dialogue characterized by both respect and reform.

Reforms resulting from the recommendations of election observation missions should be pursued in the broad context of political change, rather than simply the specific context of electoral reform. That larger perspective anticipates the involvement of a wide range of interested participants, from civil society within the country to governments and potential investors in the international community.

Organizations interested in election observation should meet regularly to evaluate and stimulate progress in developing a practice of follow-up. Since this process has to move well beyond the international observers, a broader meeting should be convened later in 1997 to engage representatives from governments and organizations of countries that host election observers, and from associations and institutions that deploy them to examine progress and proposals on the most effective means of following up on observation recommendations.

Enthusiasm behind democracy promotion has established international election observation as a widely used practice around the world. Nonetheless, there is a significant psychological cost to an observation process that raises local and international expectations, yet has no formal consequence. The absence of follow-up breeds cynicism and despair. If there is no improvement in adapting reforms in the post-election process, citizens will lose faith in elections and in the election observation process. More important, they will lose faith in democratic development.

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Forum for International

"When talking... about follow-up at the OSCE, we're thinking about follow-up among the governments and the countries that we're targeting, follow-up to our recommendations and among the international community, to try to reinforce the need for positive democratic change. But I wanted to add a third community that needs to think about follow-up, and that's us, that's the election observation groups and the democracy assistance organizations. I think, in many respects, we need to do a better job. There are many shortcomings to the way international election observers have approached their work. I think expectations are still too high of what observers in election observation and indeed, in many ways, the international community, can accomplish. We still need to improve our methodologies..."



Report on Election

"In addition to the commitments for genuine and meaningful democratic elections, the participating states of the OSCE have committed themselves to follow-up on recommendations made by my office, the ODIHR, in our election observation reports. The term 'follow-up' to recommendations appeared for the first time in an official OSCE document at the ministerial meeting in Oslo in 1998. The importance of follow-up was reiterated later at the Istanbul summit, which was referred to earlier... The 2003 Ministerial Meeting in Maastricht tasked the ODIHR to consider ways to improve the effectiveness of its assistance to participating states in following up recommendations made in ODIHR election observation reports. The collective message from these decisions is that once ODIHR recommendations have been provided, such recommendations should be followed up promptly. This would maximize the value of an election observation and could avoid the same problems from recurring again and again in the same country in successive elections. However, how can these decisions be translated into practice?"



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For more information about this series, contact Africa Program associate Michael Jobbins at (202) 691-4158, or africa@wilsoncenter.org.

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