

CONCEPT NOTE¹

The Inter-American Meetings of Electoral Management Bodies (RAE² for its Spanish acronym) promote the exchange of knowledge, experiences, and best practices in electoral administration within the region. These meetings facilitate horizontal cooperation to strengthen continuously the institutional capacities of electoral bodies and further improve the way elections are conducted in the Americas. The XVI RAE, the only forum that brings together all the electoral authorities of the hemisphere, seeks to provide an established space in which these authorities can identify and discuss the common challenges they face.

To date, fifteen Inter-American Meetings of Electoral Management Bodies have been held, the most recent of which took place in Ecuador in 2022. The sixteenth meeting offers, once again, an opportunity for the representatives of electoral management bodies (EMBs) to share and evaluate valuable information and experiences.

Each panel will start with an expert presentation that will allow authorities to share their knowledge and challenges regarding each topic, encouraging a substantive discussion among the delegates. The topics that will be addressed during the meeting are **resisting democratic erosion, artificial intelligence in electoral contexts, electoral observers as human right defenders, the emergence of ‘shadow’ electoral observation groups, and effective models for political financing regulation, transparency, and oversight**. On this occasion, the hosts are also pleased to offer a workshop that seeks to strengthen the capacity of electoral authorities to learn and effectively apply **principles of mediation during electoral conflicts**.

KEYNOTE SPEECH: “Resisting democratic erosion: identifying an autocrat’s playbook and ways to protect democratic institutions”/ Monday 25th September-9:30 am

Democratic backsliding, a more severe and deliberate kind of democratic erosion, is a global trend hurting democracies’ trajectories³. Although the Americas is the world’s second-most democratic region after Europe, it is not exempt from this worrying trend, which is affecting younger and more established democracies equally. While democracies are being subverted from the outside, they are more fundamentally being eroded from within⁴. More specifically, democratic erosion takes place through the imposition of legislation and constitutional amendments that over time “destroys systems of checks and balances, hinders free and fair elections, and erodes

¹ This document has been prepared by the General Secretariat of the Organization of American States (GS/OAS) for the XVI Inter-American Meeting of Electoral Management Bodies. OAS documents are independent of any national or political interests. Views expressed in this document do not necessarily represent the views of the OAS or its Member States.

² Reunión Interamericana de Autoridades Electorales.

³ International Institute for Democracy and Electoral Assistance (IDEA) (2022). The Global State of Democracy 2022: Forging Social Contracts in a Time of Discontent, p.7, DOI: <https://doi.org/10.31752/idea.2022.56>

⁴ IDEA International (2022, November 30). *Kevin Casas-Zamora: Never before has there been such urgency for democracies to respond* [Video]. YouTube: <https://youtu.be/aTXO2xcGHf4>

political rights and civil liberties” while “maintaining a democratic façade [...] turning new and old democracies alike into competitive authoritarian regimes”⁵.

The gradual nature of democratic erosion, in contrast to instances of abrupt regime change, poses challenges for the work of electoral authorities and political actors to protect democracy. On the one hand, their harmful effects are not immediately apparent, which makes more difficult identifying actions intended to weaken democracy. Sometimes the proposal of a bill, the challenge of a decision in court, or the enactment of an executive decree do not seem to undermine democracy until it is too late. On the other hand, those actions tend to cover a wide range of topics, institutions, and rights on which democracy rests, making it harder to articulate collective strategies amongst different actors to counteract democratic erosion.

The difficulties above are also compounded by the deceptive nature of democratic erosion. Compared with four decades ago, blatant coup d'états are no longer the preferred option of present autocratic leaders. On the contrary, to subvert democracy they choose to undermine and abuse democratic institutions – from Congress to courts to regulatory agencies. This has not only made responding to democratic erosion more onerous, but it has also thrown countries into polarizing discussions about the limits and substance of democracy, with detrimental effects for its values and institutions. While debate is fundamental in any democratic society, intentionally undermining and abusing democratic institutions in hand with disinformation narratives is pushing the boundaries of well-established principles and processes of democracy, undermining democratic foundations.

To be able to protect democratic institutions, it is of the utmost importance to understand first how democratic erosion and autocrats operate. For a start, the nature of democratic erosion itself offers a window of opportunity to act. As a type of regime transition that happens over time, democratic erosion gives “the opposition ample opportunity to respond, even after a leader willing to circumvent democracy has attained power”⁶. That response requires a fine balance between the imminent threats to democracy and playing the “long game” within the institutional framework to avoid popular backlash and claim democratic legitimacy⁷. Equally important, confronting democratic erosion requires the action not only of political actors but also of public servants, civil society, and the international community, within their own mandates.

In that context, EMBs play a pivotal role. As agents responsible for organizing and celebrating free and fair elections, they not only act as a barrier against authoritarian intentions but also as guarantors of the rights and procedures that make it possible for other actors – primarily candidates and civil society organizations – to contest democratic erosion within the rules of the game. This is crucial to play the “long game” mentioned above and to

⁵ Gamboa, L. (2022). Introduction. In *Resisting Backsliding: Opposition Strategies against the Erosion of Democracy* (pp.1-21). Cambridge: Cambridge University Press. doi:10.1017/9781009164085.001

⁶ Gamboa, L. (2022). *Opposition Strategies against the Erosion of Democracy*. In *Resisting Backsliding: Opposition Strategies against the Erosion of Democracy* (pp.22-49). Cambridge: Cambridge University Press. doi:10.1017/9781009164085.002

⁷ Kempf, J. (Host). (2022, August 23). Laura Gamboa on Opposition Strategies to Resist Democratic Erosion [Audio podcast episode]. In *Democracy Paradox*. <https://democracyparadox.com/2022/08/23/laura-gamboa-on-opposition-strategies-to-resist-democratic-erosion/>

prevent authoritarianism taking full shape. However, this pivotal role also has a downside, as EMBs and their members become the target of attacks and smear campaigns to hinder their independence and autonomy⁸.

Moreover, as elections become the main occasion to fight back against democratic erosion rather than being a periodic exercise to choose the next leaders, EMBs are drawn into the political arena well before the celebration of elections, situation that can affect their autonomy and impartiality. This, in turn, impacts their reputation on both sides of the political spectrum. While for authoritarian leaders EMBs may appear to be biased in favor of the opposition or to lack neutrality, for the political opposition they may appear too permissive when ruling in favor of the governing party. This has led to the development of two non-exclusive processes: the politicization of electoral justice via the co-optation or attacks on electoral judges and the judicialization of politics via the activation of EMBs to decide debates of political nature and to seek undue legal advantages⁹.

Considering the global trend of democratic erosion and the dilemmas that EMBs face to perform in such contexts, the following questions are put forward for discussion:

- What are known tactics of autocrats that gradually hinder free and fair elections?
- How can EMBs help protect democratic institutions between elections?
- How can EMBs ensure free and fair elections in contexts of democratic erosion?
- What are appropriate actions EMBs can take when its authorities are being targeted or attacked by other government bodies or political actors?

PANEL I: “Artificial Intelligence in electoral contexts: The good, the bad and the ugly”/ Monday 25th September- 11:00 am – 1:00 pm

Artificial intelligence (AI) can be understood as “a collection of computational methods for studying human knowledge, learning, and behavior, including by building agents able to know, learn, and behave”¹⁰. AI systems are disrupting traditional ways of operating in virtually all fields of society and aspects of life. Politics, and specifically elections, are not exempt from the influence of AI. The impact will be felt in the way electoral campaigns are conducted, the way electoral processes are organized and how EMBs take decisions and make policy, to mention just a few broad processes. It is not an overstatement to say that AI will transform and reshape politics and the electoral arena. Even more fundamentally, AI will change current understandings of democracy and the way it operates¹¹.

⁸ Guerrero, F. (2022, October 4). Cumbre Global de la Democracia [Global Democracy Summit]. *Excelsior*.

<https://www.excelsior.com.mx/opinion/francisco-guerrero-aguirre/cumbre-global-de-la-democracia-electoral/1543598>

⁹ De Icaza, G. & Ferreiro M. (2019). 30 años después [30 Years Later]. *Revista Voz y Voto*.

https://www.academia.edu/96677126/30_A%C3%B1os_despu%C3%A9s

¹⁰ Dubber, Markus D., Frank Pasquale, and Sunit Das (eds), *The Oxford Handbook of Ethics of AI* (2020; online edn, Oxford Academic, 9 July 2020), Abstract.

<https://doi.org/10.1093/oxfordhb/9780190067397.001.0001>, accessed 18 July 2023.

¹¹ Schneier, B. (2023, May 10). Rethinking Democracy for the Age of AI. *Cyberscoop*. <https://cyberscoop.com/rethinking-democracy-ai/>

Although we cannot yet fully grasp the extent of that transformation and how it will look like, there are already promises and dangers identified for electoral contexts that must be addressed promptly¹². On the side of the promises, AI offers opportunities to boost public debates, connect citizens, expand the flow of information, develop innovative campaigns, and get to know citizen preferences better (also known as “peripheral electoral functions”¹³). It also opens a wide range of channels for candidates to engage with voters, and vice versa, and for citizens to access information, most notably by using chatbots. Likewise, AI offers EMBs opportunities to streamline and automatize administrative activities and logistics procedures to organize elections (“core electoral functions”¹⁴). But all these promises equally carry risks for the electoral process, mostly driven by disinformation. The undue use of personal information to target voters and the manipulation of images, videos, or voices, including deep fakes, among other potential harmful uses, risk breaking the fundamental connection that should exist between candidates and voters to realize the principle of representation, the bedrock of modern electoral systems.

In 2023, and for the first time, an OAS Electoral Observation Mission addressed the issue of AI in elections when it received information that in the absence of a debate among the candidates with the highest support in the polls, a debate between both candidates generated with AI tools circulated on social media, demonstrating the emergence of new technologies with the ability to both inform and misinform quickly during electoral campaigns¹⁵. Likewise, after a video circulated of a former presidential candidate calling for people to demobilize, when protests erupted after the elections, his running mate questioned the veracity of the video and warned that it may have been manipulated with AI¹⁶. While the authenticity of the video was later verified¹⁷, this type of declarations evince that the notion of AI is already part of the discourse in electoral contexts, which entails challenges for the development of elections and the work of EMBs, especially as new digital and AI tools will continue to emerge¹⁸.

The perils of AI lie in its increased potential to “hack” all kind of systems, including electoral ones, by following the rules but subverting their intent¹⁹. However, by the same token, AI has the augmented potential to prevent those hacks and even close old loopholes²⁰. The use of AI can also enrich and expand our understanding of electoral topics when complemented with critical analysis. Whether that is the case depends on a combination of incentives, education, resources allocation, and regulations. On the latter, there are several valuable initiatives being

¹² Zommer, L. (2023, June 26). La inteligencia artificial llegó a las elecciones y nadie puede predecir cuál será su impacto [The Artificial Intelligence Arrived at the Elections, and No One Can Predict What Its Impact Will be]. *ijnet Red Internacional de Periodistas*. <https://ijnet.org/es/story/la-inteligencia-artificial-ileg%C3%B3-las-elecciones-y-nadie-puede-predecir-cu%C3%A1-ser%C3%A1-su-impacto>

¹³ Deepak, P., Stanley Simoes, and Muiris MacCarthaigh (2023). AI and Core Electoral Processes: Mapping the Horizons. *Research Gate*. DOI:10.48550/arXiv.2302.03774

¹⁴ Ibid.

¹⁵ Organization of American States (2023, May 2). Informe preliminar de la Misión de Observación Electoral de la OEA en Paraguay [Preliminary Report of the OAS Electoral Observation Mission in Paraguay]. <http://www.oas.org/fpdb/press/Informe-Preliminar-Paraguay-2023.pdf>

¹⁶ Última Hora (2023, May 16). Inteligencia artificial o video forzado: Las versiones sobre el mensaje de Payo Cubas [Artificial Intelligence or Manipulated Video: The Versions about Payo Cuba’s message]. <https://www.ultimahora.com/inteligencia-artificial-o-video-forzado-las-versiones-el-mensaje-payo-cubas-n3062904>

¹⁷ Monumental AM 1080 [@AM_1080] (2023, May 17). Comandante de la PN afirma que video de Payo Cubas es real y no un montaje [Commander of the PN states that Payo Cuba’s video is real and not a setup] [Tweet]. Twitter. https://twitter.com/AM_1080/status/165878824455694080

¹⁸ Reppell, L. (2021, October 20). Election Management Body Approaches to Countering Disinformation. *Countering Disinfo*. <https://counteringdisinformation.org/node/31/>

¹⁹ Schneier, B. (2023). Will AI Hack Our Democracy? *Harvard Kennedy School Magazine*. <https://www.schneier.com/wp-content/uploads/2023/07/HKS-Magazine-Summer-2023-AI.pdf>

²⁰ Ibid.

sponsored by subnational governments, non-governmental organizations, and supranational organizations who are developing definitions, principles, and rights on the use and development of AI²¹. Although some of these initiatives address concerns for standards on democracy and human rights, they do not focus on electoral contexts specifically. While every initiative put forward to enhance understanding, transparency, and cooperation on the use of AI is valuable, given the multifaceted nature of this technology, specific efforts are required to address its impact in electoral contexts and on the role of EMBs. Amongst other things, in the face of AI developments, the operation of electoral systems must better align individual and group incentives (governance), be resistant to hacking, be resilient to catastrophic risks, and leverage cooperation while lessening conflict²².

With that purpose in mind, the following questions are put forward for discussion in this panel:

- How can AI affect citizen confidence in elections?
- How can EMBs and political parties use this tool for the benefit of the democratic process and the electorate?
- In the era of AI, what can EMBs do to be better prepared to organize elections?
- What are some existing regulatory efforts on AI and what should they specifically address on electoral contexts and systems?

WORKSHOP: “Conflict management in electoral processes” / Monday 25th September- 3:00 pm – 5:30 pm

Elections are competitive in nature and conflict is inherent to democratic societies. However, the experience from multiple electoral observation missions in the region show that electoral campaigns are becoming increasingly polarized and characterized by mutual aggressions between opponents; that courts (including EMBs) are more frequently weaponized as a delaying tactic, judicializing the election; that electoral results are more contested; and that the surrounding conditions in which elections take place (i.e., electoral violence, disinformation, cybersecurity, illicit political financing, etc.) are taking preeminence over organizational and logistics aspects when it comes to guaranteeing an election’s integrity²³.

Moreover, the effects of these factors are not limited to election day. The experience is also showing that before elections take place, incidents related to political violence, the abuse of the legal framework to get rid of opponents, and coordinated disinformation campaigns, amongst others, are turning the pre-electoral phase more

²¹ See for example, Montréal Declaration for a Responsible Development of Artificial Intelligence (2018) https://monoskop.org/images/d/d2/Montreal_Declaration_for_a_Responsible_Development_of_Artificial_Intelligence_2018.pdf; The Toronto Declaration: Protecting the Right to Equality and Non-Discrimination in Machine Learning Systems (2018) https://www.accessnow.org/wp-content/uploads/2018/08/The-Toronto-Declaration_ENG_08-2018.pdf; and Council of Europe, Consolidated Working Draft of the Framework Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law (Strasbourg, 7 July 2023) <https://rm.coe.int/cai-2023-18-consolidated-working-draft-framework-convention/1680abde66>

²² Schneier, B. (2023, May 10). Rethinking Democracy for the Age of AI. *Cyberscoop*. <https://cyberscoop.com/rethinking-democracy-ai/>

²³ De Icaza, G. & Ferreiro M. (2019). 30 años después [30 Years Later]. *Revista Voz y Voto*. https://www.academia.edu/96677126/30_A%C3%B1os_despu%C3%A9s

hostile. Similarly, once the election has passed, the losing political actors are increasingly rejecting the electoral results and supporting narratives of fraud, despite the existence of guarantees of fairness, while at the time judicializing the post-electoral phase. All this is likely to become even more complex and increase the likelihood of conflict as new AI tools start to be used.

Given this context, EMBs sometimes have to intervene as mediators to de-escalate conflicts during the electoral campaign or in the post-electoral phase. In other instances, due to disinformation narratives and/or attacks against EMBs, these are directly drawn into conflicts, which eventually requires other institutions to intervene also as mediators to overcome the disagreements between EMBs and other actors involved.

Taking into consideration these scenarios, it is crucial that EMBs are equipped with a set of skills to mediate in electoral conflicts beyond the traditional regulatory and punitive tools they have at their disposal. To that end, the following questions will be explored during the workshop:

- What are principles of mediation in electoral conflicts?
- Why mediation in electoral conflicts is important and what advantages does it present?
- How can EMBs successfully apply principles of mediation in electoral conflicts?
- How can EMBs build capacity to mediate in electoral conflicts?
- What tools do EMBs need to act as effective mediators?

PANEL II: “Protecting electoral observers and dealing with a crowded field” / Tuesday 26th September- 9:00 am – 10:50 am

International and national electoral observers play a fundamental role in protecting democracy, upholding the rule of law, and guaranteeing the exercise of political and civil rights enshrined in universal and regional instruments of human rights. Those rights include but are not limited to the right to participate in political and public life, to peaceful assembly and association, to freedom of opinion and expression, to freedom of movement, to security of persons, to equal protection before the law, and to access effective remedies. Moreover, through impartial observation and analysis based on well-established principles²⁴, electoral observers contribute with improving the quality of electoral processes and advancing reforms to enhance the political participation of minority groups and people traditionally excluded from public decision-making.

As electoral campaigns become more divisive and elections more contested, electoral observers face increasing insecurity when undertaking their work. This is heightened by the emergence of a hostile environment for democracy and human rights defenders fueled by authoritarian, populist, and repressive leaders, as well as by

²⁴ Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers (27 October 2005). United Nations. <https://www.ndi.org/DoP> For electoral observation in the Americas also see Manual for OAS Electoral Observation Missions (2008). Organization of American States. http://www.oas.org/es/sap/docs/manual_misiones_publicado_en.pdf

disinformation narratives. This context is not only making the work of electoral observers harder but also threatening their own reputation and integrity.

In fact, the increased need to rely on third parties observing different aspects of the electoral process that arises from elections becoming more complex and contested has led to the emergence of a variety of electoral observation or monitoring organizations. And while some of them adhere in their work to international standards of rigor, objectivity, and independence,²⁵ and have developed a well-established reputation in the field, others do not adhere to these standards and their reputation is largely unknown. Another type of organizations performs an “accompaniment” function, sometimes of EMBs or political parties, whose work differs from the one of electoral observation missions in the methodology applied as well as in their financing, which usually comes from the same organizations they are accompanying.

Given the abundance of organizations and groups in the electoral observation and monitoring field, experts have warned of the emergence of a “shadow market”²⁶, whose deployment and work can sometimes be more harmful to democracy than beneficial. In the best-case scenario, some of these organizations do not follow recognized international standards, which results in incomplete and biased assessments. In the worst-case scenario, mock or shadow organizations are intentionally invited by autocratic leaders to observe the elections as a strategy to manipulate and interfere in them.

This adds up to a context where deliberate actions are being taken to undermine electoral observers, including denying or delaying accreditation, charging observation fees, harassment by state and police forces, defamation, detention, and even physical violence, torture, and killings. Some of these actions have been recorded in elections in the Americas²⁷. There is, therefore, a necessity to increase awareness and compel States to put in place policies and regulations to protect and enable the work of serious electoral observers. Alongside the celebration of elections themselves, electoral observation is a fundamental exercise of political rights and, as such, a powerful tool against attempts to undermine democracy and establish – or perpetuate – authoritarian regimes.

Under these circumstances, a wider recognition of electoral observers as human rights defenders is urgently required to ensure their due protection and to compel States to meet their obligations under International Human Rights Law. Recent statements in that direction by the UN Special Rapporteur on Human Rights Defenders²⁸ are welcome and necessary. At the Inter-American level, the Declaration of the Americas Summit of 2022²⁹ and the OAS General Assembly resolution *Strengthening Democracy* of 2022³⁰ exhort States to provide conditions of security and independence to electoral observers. That includes, as a minimum standard, to guarantee conditions

²⁵ De Icaza, G. (n/d). Observación, acompañamiento y falsa observación [Observation, Accompaniment, and False Observation]. *Excelsior*. <https://www.excelsior.com.mx/opinion/opinion-del-experto-nacional/observacion-acompanamiento-y-falsa-observacion/1242233>

²⁶ Kelley, J. (2012). The Shadow Market. *Monitoring Democracy: When International Election Observation Works, and Why It Often Fails*. Princeton, online edn, <https://doi.org/10.23943/princeton/9780691152776.003.0003>, accessed 20 July 2023.

²⁷ De Icaza, G. (forthcoming). Observadores electorales: defensores de derechos humanos bajo ataque [Electoral Observers: Human Rights Defenders Under Attack].

²⁸ UN Special Rapporteur on Human Rights Defenders (27 October 2022). The Situation of Election Observers as Human Rights Defenders. <https://srdefenders.org/information/the-situation-of-election-observers-as-human-rights-defenders%EF%BF%BC/>

²⁹ Inter-American Action Plan on Democratic Governance (9 June 2022). Ninth Summit of the Americas, United States. http://summit-americas.org/documentos_oficiales_ixsummit/CMBRS02295e02.pdf

³⁰ OAS General Assembly, AG/RES. 2989 (LII-O/22 Strengthening Democracy (7 October 2022). <https://www.oas.org/en/council/ag/resdec/>

of security and personal integrity, free communication, ample cooperation, freedom to access information, freedom of expression, freedom of movement, and independence in their work.

As a general practice, EMBs oversee the invitation and/or accreditation of electoral observation organizations. It is important, therefore, that they can have the necessary information to contribute to formalizing, standardizing, and educating on the recognition of electoral observers as human right defenders; while at the same time being able to discern between the work of *fake* and serious observers – both at the national and international level – to avoid opening the door to improvised or mock organizations that can destabilize or endanger their work or, by the same token, to avoid closing the door to serious and professional ones for being overly cautious. In this regard, it would be also relevant to analyze the frequency with which EMBs encounter biased organizations. Addressing all these concerns is particularly relevant in contexts with high levels of disinformation and under conditions of democratic erosion.

Additionally, it is desirable that EMBs can differentiate and communicate to the public the differences between organizations that strictly carry out electoral observation and others that provide accompaniment to EMBs themselves or to political parties, given the distinctive nature of their work. This can help citizens and relevant political actors to calibrate their expectations and perceptions about the different organizations participating as third parties in the elections.

Given this complex scenario, the following questions are proposed to guide the present dialogue on the topic:

- How can EMBs lead on the task to formalize, standardize, and educate on the recognition of electoral observers as human right defenders?
- With which other institutions can EMBs cooperate to protect the work, independence, and integrity of serious international and national electoral observers in their countries?
- What does the emergence of *fake observers* mean for elections in the region?
- EMBs should work in a transparent way and be open to national and international observation. Where and how do they draw the line when it relates to questionable (biased) observer organizations?
- How can EMBs proceed when an accredited observation or accompaniment organization shows evident signs of bias in their work?

**PANEL III: “Money matters: Effective models for political financing regulation, transparency and oversight” /
Tuesday 26th September- 11:00 am – 1:00 pm**

The regulation of money in politics is central to ensuring the integrity of elections. As a result, many countries in the Americas have adopted rules to regulate parts of the political financing ecosystem, to varying degrees and success. The intentions behind these rules may vary but they are largely considered as a primary means to provide equality of chances for participation in the democratic process, accountability of political participants through transparent financial reporting and the achievement of anti-corruption goals. Rules may also have more specific purposes such as stimulating gender parity in political participation, adopting controls around digital advertising and banning foreign spending.

It is important to strike the right balance when it comes to these rules. However, there is not a single ‘best in class’ model when it comes to political financing. Frameworks usually tend to reflect each jurisdiction’s own political, social and economic context. Political financing frameworks typically include rules regulating the participants, the source of funds (private/public), the flow of money between political participants, electoral expenditures and the public reporting of financial transactions, as well as oversight (including enforcement and sanctions). Beyond the regulatory framework, a supportive infrastructure is also required in order for it to function efficiently. These include the establishment of an independent and specialized electoral body that will monitor and facilitate compliance with the political financing framework, training for political participants, use of modern tools, awareness activities and adequate allocation of resources to maintain effective operations.

The panel will offer an opportunity for electoral authorities to share their experiences, discuss emerging challenges and exchange on measures that have been effective in their respective countries. To support EMBs in exploring this issue, the following questions are put forward for discussion:

- What are the necessary features (or components/building blocks) of political financing regulations?
- How can we strike the right balance between attaining the policy goals of political financing regulations and respecting political participants’ freedoms?
- The effectiveness of political financing regulation strongly relies on the ability of EMBs to ensure compliance with the rules. What are some effective measures to ensure that success?
- What are non-regulatory activities that can improve the effectiveness of political financing regulations?