

OBSERVATORY ON SOCIAL MEDIA OF THE GLOBAL NETWORK ON ELECTORAL JUSTICE

Operational bases

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Presentation

The Internet is an indispensable pillar of democracy and for the exercise of political-electoral rights. Social networks are the new essential tools in political discussions and campaigns. For the same reason, the jurisdictional-electoral authorities have the fundamental task of ensuring democratic principles in this new digital era. The Sustainable Development Goal 16 "Peace, justice and strong institutions" has among its targets the need to promote the Rule of law at nationally and internationally, reduce corruption, ensure access to information and protect fundamental freedoms, in accordance with national laws and international agreements. Likewise, SDG 17 on "Partnerships for the goals" sheds light on the essential role that technology and access to technology play in democracy, technological capacity-building, and the creation of effective partnerships in the public, public-private and civil society spheres.

While the internet nurtures political discourse, the architecture or algorithms that govern the flow of information online mean that dialogue and access to relevant information is necessarily mediated by commercial interests, leading to the radicalization of discourse and the abuse of personal data. Likewise, the private and supranational nature of the internet poses serious challenges for the investigation, prosecution and punishment of threats and crimes against democracy, as well as cyber-attacks on electoral institutions or the massive manipulation of electoral preferences through artificial intelligence, algorithms, bots and fake news.

Fake news presents particular challenges to electoral integrity and fairness: coordinated disinformation on a massive scale, voter targeting (particularly swing voters), polarization of public dialogue, hybrid warfare and distrust of democratic institutions, state control over the flow of information and public opinion, and foreign influence through cyber instruments. Due to the significant effect that networks have on the electoral outcome, the concepts of "big tech" and "big money" have emerged to explain how candidates with a better economic position are more likely to win an election through their investments in digital platforms as part of their campaigns and electoral strategy.

The debate on this topic frequently resorts to the possible need to regulate social networks. The fundamental challenge is to find the right way to use them, so that there is no need to regulate them, and thus strengthen democracy without resorting to authoritarianism or over-regulation. This implies finding a complex balance between freedom of expression and information, political-electoral rights and democratic principles, particularly that of fairness in the contest. Electronic challenges to democracy, including cybercrime, are high and extremely complicated, particularly due to the borderless nature of the Internet and the private ownership of information. It is worth noting that, although laws around social media and fake news are needed, legislation is often reactive rather than proactive.

For this reason, it is essential to develop a diligent strategy to ensure that technology favors democracies through its use in order to achieve progress in rights and freedoms.

Exploring this issue from a comparative perspective, so that the international community can identify and reduce the risks of the use of new technologies and promote their responsible use, is a task for the justice bodies that make up the Global Network on Electoral Justice (GNEJ). Through their disseminating, sharing of best practices and application of international standards that contribute to the strengthening of legal institutions, Rule of law will be promoted and guaranteed.

Operating guidelines

1. Objectives

General objective

Promote the exchange and analysis of the GNEJ and its members, as well as push for solid progress at the international level in the area of social media and new technologies in elections and electoral justice. This way and accompanied by other international actors and academics of excellence, electoral justice strategies and practices will be improved in a strategic and sustainable manner.

Strategic objectives

Strategic objective 1. Permanently analyze technological factors that strengthen or threaten democratic principles and the exercise of political-electoral rights, in order to issue fair and cutting-edge decisions that guarantee the correct delivery of electoral justice that addresses current needs.

Strategic objective 2. Encourage the development of policies among the members of the GNEJ and issue recommendations in favor of institutional changes that strengthen the Rule of law and the protection of fundamental rights in the digital era, as well as their preparation to face the challenges presented by social media.

Strategic objective 3. Monitor and evaluate compliance with the recommendations issued and international standards regarding the use of new technologies and fake news in the electoral field.

2. Involved courts, tribunals and judicial bodies in electoral matters

The courts, tribunals and judicial bodies that make up the Global Network on Electoral Justice may participate in the Observatory.

Also, regional and international organizations, academic centers, and experts may attend by invitation to address issues and topics related to the objectives of the Observatory.

3. Bodies of the Observatory

Board

To direct and coordinate the operation and functioning of the Observatory there will be a Board composed of:

- Jurisdictional-electoral authority, who will preside the Board.
- Scientific Leader, who represents the Scientific Committee of the GNEJ.
- At least one and up to four member institutions of the Advisory Council or international organizations specialized in the subject of the observatory, by express invitation.
- Technical Secretariat of the GNEJ.

Each one of these organizations will assign a representative who will act on its behalf, thus having the mandate to participate in the decision-making of the Board.

The Board shall be chaired by a member of the jurisdictional-electoral authority.

The presidency of the Board shall be for a term of three years and shall also preside over the Observatory for the same period.

The Board shall meet (in person or virtually) on an ordinary basis once every four months, and on an extraordinary basis when required for the adequate attention of the different topics of the organization and operation of the Observatory and the fulfillment of its objective.

The Board shall consolidate the indicators and guiding questions of the Observatory and shall define the form of measurement, periodicity, form of data capture, calculation formulas and goals.

The decisions of the Board shall be made by majority vote. Each member institution will have one vote, and in the case of Advisory Council organizations, they will have

one shared vote. All decisions will be made by the presidency, accompanied by the Scientific Leader, and in agreement with the other members. The Technical Secretariat of the GNEJ will only have the right to speak.

The sessions shall be recorded in minutes prepared by the person heading the Technical Secretariat, which shall also describe the agreements and general issues addressed.

The results of the Observatory must be disseminated by the Board within the GNEJ, as well as on the Observatory's microsite and social media. The Board is welcome to consider appointing a spokesperson to enhance the dissemination and impact of these tools, as well as to bring the issue closer to the public.

In the sessions of the Observatory, the President of the Scientific Committee may speak (but not vote), in order to guarantee a good coordination among the Observatories. In this sense, members of the courts, tribunals and judicial bodies, regional and international organizations, academic centers and, in general, members of the Global Network on Electoral Justice may also participate in order to address issues and topics related to the proper development of the Observatory.

The Board may decide to form working groups for specific topics according to the objectives, decisions and work plans of the Observatory itself. Its conformation may be by open or directed call among the courts, tribunals and judicial bodies members of the Global Network on Electoral Justice and/or any other organizations or person considered appropriate for the fulfillment of the particular objectives of each group.

The working groups will have a coordinator who will be appointed by the Chair of the Board and the Observatory, for the follow-up and support of the working groups.

It should be noted that the Board will have the temporary support of a person appointed by the United Nations Development Program (UNDP) office in Mexico, during the beginning of the year 2021, who will facilitate the work of the Observatory from a technical perspective.

4. Mandate and duties of the Board

Board

The presidency shall be held by the person chairing the Board for a term of three years and who shall preside over the work of the Observatory and the Board meetings. The term of office of the Chair of the Observatory may be renewed by the Governing Council of the GNEJ, which shall evaluate the candidacies presented by the GNEJ members, if appropriate. In making its decision, the Council may request the opinion of the Advisory Council and the Scientific Committee.

Mandate and responsibilities

- Chair the annual plenary sessions of the Observatory;
- Chair the ordinary quarterly and, if necessary, extraordinary sessions of the Board;
- Moderate the Board sessions;
- Present the program of the Observatory and supervise its fulfillment;
- Speak and vote in the sessions, with a casting vote in case of a tie;
- Make the necessary alliances for the adequate development of the Observatory's activities for the achievement of the objectives;
- Summon the members for the Board sessions and plenary sessions;
- Submit periodic and analytical reports on the progress and activities; and
- Prepare, with the support of the Technical Secretariat, the annual report on the Observatory's activities.

Scientific Leader

A representative of the Scientific Committee of the GNEJ will be the Scientific Leader of the Observatory and will guide the definition of a sustainable methodology and the thematic research of this initiative. The Scientific Committee will be represented through this Leader.

Mandate and responsibilities

- Consolidate the Observatory's research and work methodology;
- Define the priority themes or indicators for the efficient measurement of social media and the use of digital tools in electoral processes;
- Review the priority themes for the Observatory's work, with the Presidency;
- Edit and review the Observatory's reports; and

- Ensure that the Observatory contributes to and benefits from the discussions and agenda of the Scientific Committee and the RMJE in general.

Technical Secretariat

It assists the Chair of the Observatory in the coordination of the Board sessions and the plenary sessions, as well as in the tasks required for the development of the Observatory. The Technical Secretariat will have the right to speak, but not to vote, and will be comprised of the person who occupies this position within the Global Network on Electoral Justice.

Mandate and responsibilities

- Prepare the agenda for the meetings;
- Issue the written notice of the meeting in question;
- Review the agenda items with the Chair;
- Assist the Chair in the development of the debates;
- Prepare the minutes of each meeting;
- Follow up on the agreements of the Board and report accordingly at the corresponding sessions;
- Follow up on compliance with the Observatory's program;
- Follow up on the conformation and work of the working groups approved by the Board, as well as to serve as a liaison between them and whoever coordinates the working groups;
- Be responsible for the liaison with the Global Network on Electoral Justice for the creation and permanent updating of the Observatory's microsite;
- Support the presidency in the communication with the members of the Observatory and with other organizations for the adequate fulfillment of its objectives;
- Support the presidency in the preparation of the annual reports to be submitted by the chair to the Board;
- Support the Board in the strategy for dissemination and external communication of results; and
- Follow up on the Observatory's performance indicators and report on a permanent basis to the Board and through the Observatory's microsite.

Observatory Plenary

The plenary group of the Observatory is made up of the courts, tribunals and judicial bodies that are members of the Global Network on Electoral Justice, as well as other members that voluntarily decide to participate, and shall have the following mandate:

Mandate and duties

- Be informed of the progress of the Observatory's operating indicators;
- Make observations and proposals for the better functioning of the Observatory;
- Request the inclusion of topics of interest to be discussed in the plenary sessions as well as in the working groups, through the presidency of the Board.

5. General operating guidelines

On a regular basis, the Observatory will hold an annual meeting in order to agree on the general lines of annual work, review the actions carried out in the previous year and coordinate the necessary support for the operation and functioning of the Observatory.

The participation of the courts, tribunals and judicial bodies of the Global Network on Electoral Justice shall be on a voluntary basis, which shall be expressed in the period opened for such purpose. Participation shall be considered for three years, after which it must be renewed or explicitly cancelled.

The participation of the courts, tribunals and judicial bodies of the Global Network on Electoral Justice that are part of the plenary of the Observatory implies the commitment to carry out the following:

Activities

- Deliver and disseminate periodic activity reports with a substantial background analysis section, recording progress and highlighting comparisons with previous reports. Likewise, publish roadmaps with the standards we seek to promote worldwide.
- The periodic and constant submission of information requested by the Chair of the Board of the Observatory and/or the Technical Secretariat, related to the systems of government, elections and political parties in each of the countries, as well as the operating conditions of the courts, tribunals and judicial bodies and any other information related to the objectives of the Observatory, always in compliance with

national and international regulations on the protection of personal data and any other sensitive information.

- The periodic submission of documents, articles and/or rulings related to the use of and challenges presented by social media and new technologies in democracy and electoral justice, as well as any other information necessary for the adequate analysis of this subject.
- The statistical information requested on the electoral processes, as well as their results, and the judicial processes attended by the courts, tribunals and judicial bodies that are members of the Observatory's plenary.
- The information related to the norms, laws and constitutional blocks that regulate the actions according to the request made by the presidency of the Observatory for the fulfillment of the objectives of each of the judicial processes of the courts, tribunals and judicial bodies.
- Collaborate with scholars and professionals from around the world in favor of the Observatory's research and analytical work, as well as for the dissemination of its findings.
- Participation in the Observatory's working groups, operational bodies and in the deliberations, analysis, systematization, dissemination and recommendations generated in relation to the Observatory's objectives.

Moreover, the jurisdictional bodies that are members of the Observatory shall have the following:

Benefits

- Access to participate in plenary sessions, as well as in working groups and any other deliberations and recommendations organized by the Observatory.
- Possibility of requesting specific recommendations based on the best practices detected for specific cases that arise in relation to specific situations that are brought before the Observatory.
- Access to the complete information available in the virtual space to be agreed upon as an information tool on the Internet, both in terms of information on each country, statistics and comparisons, analyzed rulings, best practices and recommendations, among others.
- Access to tools for the implementation of best practices developed within the Observatory with regard to the use of social media and new technologies in democracies.

- Access to information on the different events that the members of the Observatory wish to share in order to contribute to the achievement of the Observatory's objectives.

The representation of the courts, tribunals and judicial bodies that are members of the plenary of the Observatory must be communicated by the leader of each institution, who will be the contact person with the Observatory.

For the specific participation in the different activities of the Observatory itself, the communication of the persons representing the courts, tribunals and judicial bodies that are members of the plenary of the Observatory will be made through the Technical Secretariat, through the channels designated for this purpose.

The participation of the person representing the courts, tribunals and judicial bodies that are members of the Observatory plenary, as well as that of any other person in the different activities of the Observatory, shall be financed by each of the jurisdictional bodies that are members of the Observatory.

Working groups

They may be formed to address specific issues as approved by the Board and according to the decided type of composition.

Functions

- Develop the necessary activities to achieve the objective for which they were created;
- Request the Technical Secretariat to provide the information required for the fulfillment of its objective;
- Provide the Technical Secretariat with the information related to its activities, referring to the operational indicators and what is necessary for the preparation of the annual reports, as well as any other information required for the fulfillment of the Observatory's objectives;
- Provide the Technical Secretariat with the necessary information to feed the Observatory's microsite; and
- Draft recommendations for the better functioning of the Observatory and those corresponding to its objective of strengthening the democratic principles in the new digital era.