

Informal Oversight of Presidential Elections in Algeria

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Abstract

Unofficial monitoring of presidential elections, which includes both civil society observation and international monitoring, is an important mechanism to ensure the integrity and democracy of elections, given the guarantees of neutrality and independence it provides—if such monitoring is organized in a precise and effective manner. Therefore, in this research paper, we attempted to study how the Algerian legislator regulates this type of monitoring of presidential elections and concluded that the legal regulation of unofficial monitoring does not ensure the effectiveness of this monitoring. Based on the findings, we proposed some recommendations.

Keywords: Unofficial Monitoring, Presidential Elections, Civil Society, Electoral Integrity

Introduction

In order to support and ensure the integrity of presidential elections, electoral legislation grants certain official state bodies a set of powers and authorities capable of subjecting the parties involved in the electoral process to the rule of law. This type of oversight is referred to as *formal oversight*, and it is exercised either automatically or through appeals submitted by affected parties, according to specified conditions and procedures.

To reinforce formal oversight of presidential elections, international standards stipulate that elections should also be subjected to another form of oversight, known as *informal oversight* (independent election observation), which is carried out by unofficial parties, both domestic and international.

The concept of informal oversight of presidential elections refers to any process that aims to monitor the electoral process on the ground, collect its data objectively, impartially, and neutrally, and evaluate the conditions under which it is organized and conducted, as well as the extent to which it complies with international standards and electoral legislation.

This oversight is conducted by local civil society organizations that specialize in electoral matters, as well as by foreign entities within the framework of what is known as *international election observation*. This type of oversight has become a vital mechanism to ensure electoral integrity in countries undergoing transitional phases and gradual shifts toward democracy.

Given the importance and the objectives achieved by independent informal observation of elections, this paper explores how the Algerian legislator has regulated it, based on the following research question:

Does the Algerian legislator's regulation of informal electoral oversight ensure the effectiveness of this oversight?

To answer this question, the paper will be divided into two chapters. The first will address the oversight of presidential elections by civil society, while the second will focus on international oversight of presidential elections.

Chapter One: Oversight by Civil Society of Presidential Elections in Algeria

Oversight by civil society of presidential elections is considered one of the key guarantees of their integrity and legitimacy, due to civil society organizations being independent from the government on one hand, and due to the distinct nature of the oversight role they play compared to the governmental and judicial oversight mechanisms, on the other.

For civil society organizations to effectively perform their oversight role, they must be independent, impartial, and possess competence and specialization in the electoral field specifically, and in human rights more broadly.

In democratic countries, civil society oversight of elections has become a well-established practice. However, in countries transitioning toward democracy—such as Algeria—the situation is different. This calls us, in this section, to examine the role of civil society in overseeing presidential elections in Algeria. We will address this by discussing the general concept of civil society oversight of elections (Subsection One) and then the reality of civil society monitoring of presidential elections in Algeria (Subsection Two).

Section One: The Concept of Civil Society Oversight of Elections

Understanding the concept of civil society oversight of elections requires addressing three key points: first, the meaning of this type of oversight; second, the rights and obligations of civil society observers in the course of monitoring the electoral process; and finally, the evaluation of their role, particularly given the varying perspectives on it—especially in Arab countries.

Subsection One: The Meaning of Civil Society Oversight of Elections

The meaning of civil society oversight of elections refers to all monitoring and field-follow-up operations conducted by officially accredited civil society observers at all or part of the stages of the electoral process, in order to assess the integrity and democratic nature of the process.

Civil society organizations' oversight efforts culminate in the issuance of reports based on their observations. These reports include the results of the monitoring and offer recommendations to relevant authorities concerning the shortcomings that were identified, so that they may be addressed.

Based on the above, we can define the key characteristics of civil society oversight of elections as follows:

- **Organizational Oversight:**

This type of oversight is conducted by organizations, distinguishing it from popular or individual oversight carried out by citizens as individuals. The organizations involved are typically general human rights and democracy-focused groups or those specialized specifically in electoral affairs.

- **Requires Prior Accreditation:**

Civil society organizations cannot observe elections without obtaining prior official accreditation. Electoral legislation should specify the authority responsible for granting accreditation, along with the conditions and procedures for obtaining it.

- **No Direct Intervention Allowed:**

Civil society observers do not have the authority to directly intervene to prevent or address electoral violations. Their role is limited to monitoring and reporting violations to the organization they represent. Unlike administrative or judicial oversight bodies, they cannot take punitive or corrective action.

As a result, some argue that this type of oversight is not particularly important in ensuring the integrity and credibility of elections. However, others hold a different view, believing that civil society oversight achieves several significant goals, such as:

- Restoring voters' confidence, especially among those who are skeptical about the value and importance of elections.
- Reassuring voters and political actors about the credibility of the electoral process.
- Lending a degree of credibility to the elections, given that civil society organizations act as neutral third parties with no vested interest in the success of any particular candidate.

- Exercising a form of moral pressure on official actors involved in electoral affairs, thereby making them more concerned with ensuring the integrity of elections.

- Enhancing electoral integrity by confronting and exposing all forms of electoral fraud.

- Promoting a culture of democracy and free elections among voters who observe the elections, as a result of training and educational sessions conducted during each election cycle to improve the observers' competence.

- Effecting substantial changes in the legal framework governing elections through the recommendations and proposals that are submitted with each election observation mission.

Subsection Two: Rights and Obligations of Election Observers

Observers from officially accredited civil society organizations and associations enjoy a set of rights and, in return, are bound by several obligations.

A. Rights of Election Observers

For civil society organizations to effectively perform their role in monitoring elections, their members must be guaranteed the following rights and freedoms:

- The freedom to move across the entire national territory to carry out their observation duties.
- The freedom to obtain information related to the conduct of electoral processes and to hold meetings and interviews with all stakeholders in the electoral process.
- The right to attend electoral rallies and gatherings organized as part of electoral campaigns.
- The right to access polling stations and observe the vote counting and result aggregation processes.
- The right to communicate with public and private media outlets after election results are announced to discuss the findings of their observation and the recommendations proposed.
- The right to prepare reports evaluating the conduct and outcomes of electoral processes and to submit these to the accrediting authority and the relevant committee.

B. Obligations of Election Observers

We distinguish here between the obligations imposed on the accredited organization or association and those placed on the individual observer.

For accredited associations and organizations, the following obligations apply:

- Complying with electoral legislation and the decisions issued by the electoral authority.
- Maintaining neutrality and independence from all parties involved in the electoral process.
- Training their observers in election observation and familiarizing them with electoral legislation and codes of conduct, if applicable.
- Maintaining discretion and objectivity, and ensuring information and data are collected from official sources authorized by the country's electoral laws.
- Refraining from announcing election results before they are officially declared.

For individual observers, their obligations include:

- Clearly displaying their accreditation badge.
- Not disrupting or obstructing the normal course of the electoral process.
- Avoiding any actions that could influence voters' decisions.
- Refraining from wearing clothing or displaying symbols that indicate any political affiliation.
- Refraining from offering any form of support to candidates.

- Refraining from accepting money or material benefits from any political entity connected to the elections.
- Interacting respectfully with those supervising the electoral process and complying with their instructions within the bounds of their legal authority.
- Respecting the principles of voting and vote counting.
- Not participating in any negotiations or discussions inside polling stations or other locations where electoral activities are being conducted.

Subsection Three: Evaluating the Role of Civil Society in Election Monitoring

The assessment of civil society's role in election monitoring in Arab countries is characterized by two opposing views: one views the role as limited, while the other sees civil society organizations as important and effective in ensuring electoral integrity.

A. The Limited Role of Civil Society in Election Monitoring

Proponents of this view argue that civil society in Arab and developing countries is generally not qualified to play a significant role in monitoring elections and ensuring their integrity. They attribute this to widespread political illiteracy and the relatively recent emergence of civil society in these countries.

Additionally, they argue that it is difficult to guarantee the neutrality of these organizations due to their dependency on and subordination to the entities that fund them, whether domestic or foreign. Regardless of how regimes and governments may exploit the issue of foreign funding to target these organizations and cast suspicion on them for allegedly serving foreign agendas, it is legitimate to question the influence of both foreign and government funding on the programs of these organizations and their ability to build partnerships with donors without compromising their independence and neutrality.

B. The Effectiveness of Civil Society in Election Monitoring

On the other hand, supporters of this view see civil society as the most important actor in independent election monitoring, especially given the ability of organizations and associations to raise awareness and engage the public in the electoral process.

Their main argument is that civil society monitoring is inherently neutral—unlike other forms of oversight—because the organizations conducting the monitoring have no vested interest in the outcome. They produce reports that are difficult to dispute, as they come from individuals with no stake in election fraud. Their only interest is in ensuring electoral integrity.

Advocates of this view also believe that civil society oversight is one of the key mechanisms for safeguarding election integrity. It helps prevent and expose suspicious practices and violations that may occur throughout the electoral process. Furthermore, it contributes to holding electoral officials and administrative personnel accountable.

Section Two: The Reality of Civil Society Election Monitoring in Algeria

Successive Algerian electoral laws have excluded civil society from playing any monitoring role in elections. This exclusion has had negative consequences for the reality of civil society in Algeria, where there is a noticeable absence of organizations and associations specialized in electoral affairs (Subsection One). This vacuum has allowed non-specialized organizations and associations to play negative and undemocratic roles during every presidential election (Subsection Two).

Subsection One: Exclusion of Civil Society from Election Oversight

Upon reviewing Algeria's electoral legislation, there are no legal or regulatory provisions that establish a role for civil society in election monitoring. The legislation overlooks the regulation of conditions and procedures for obtaining accreditation to observe elections, and also neglects to define the role of civil society organizations in the electoral process, as well as the rights and obligations of observers.

This exclusion has negatively impacted the credibility and transparency of elections, and has also hindered the development of civil society itself. To date, no civil society organization or association in Algeria has been founded with a specialization in electoral affairs, unlike what is common in Western countries—and even in some Arab countries—where organizations and associations specialized in election monitoring are widespread.

The absence of a legal framework regulating the role of civil society in election observation is one of the main reasons behind the lack of such organizations and associations in Algeria. After all, why would an organization specialized in election monitoring be established in the absence of a legal foundation for such oversight?

This lack of legal regulation has also led to general human rights organizations and associations not submitting requests to observe elections, unlike in other countries where election observation is not limited to specialized electoral organizations. In those countries, general human rights organizations, concerned with human rights, democracy, transparency, and anti-corruption, also engage in monitoring elections.

Subsection Two: Undemocratic Roles of Civil Society in Presidential Elections

While Western civil society organizations form coalitions to monitor elections, in Algeria, with each presidential election, coalitions are formed to support the ruling party's candidate and to mobilize public support for them. For example, in the presidential elections where former President Abdelaziz Bouteflika ran, he received support from the majority of national and student organizations. The current president even described himself as a "candidate of civil society," openly expressing his intent to use civil society organizations and associations as substitutes for political parties, after those parties lost credibility with the Algerian public.

These undemocratic practices, which contradict the principles and philosophy of civil society, are due to the subordination of civil society to the ruling authorities in Algeria. This submission has several causes, including:

- The relative newness of civil society compared to the established political authority: Algerian civil society only began to develop—both in scale and scope—in the early 1990s, while the political establishment has been in place since independence.
- The strength of the state versus the weakness of civil society: State institutions possess significant material and moral resources, giving them the ability to dominate any societal organization. In contrast, most civil society organizations and associations lack even the minimum resources needed to operate independently and neutrally.
- The nature of the political system: Algeria's political system has not yet transitioned to full democracy. Despite the presence of democratic formalities, authoritarian and repressive practices still occasionally emerge, leaving civil society in a state of apprehension and confusion.

- A non-democratic civil society: Algerian civil society is characterized by undemocratic traits. Most organizations are marked by internal conflicts and leadership disputes, giving the authorities a pretext to intervene and resolve the disputes in favor of the most obedient and loyal faction.

Chapter Two: International Oversight of Presidential Elections

Since elections are a pillar of democracy, major democratic countries, as well as international and regional organizations, have sought to impose external oversight on elections held in various countries—especially in those with poor reputations in this domain—to ensure their democratic nature.

On the other hand, some countries rejected or expressed reservations about such oversight and also presented their justifications for doing so.

In Algeria, there is significant scholarly skepticism regarding international election observation. However, in practice, Algeria's presidential elections have been subjected to international monitoring on multiple occasions. A review of writings on these experiences shows a lack of consensus about the effectiveness of international oversight in guaranteeing the fairness and democratic quality of presidential elections. This calls for a critical evaluation of these experiences (*Section Two*), but first, we will explore the concept of international election oversight in general for better context (*Section One*).

Section One: The Concept of International Election Oversight

Definitions of international election observation vary, and opinions differ on the subject. However, there is a near consensus on its principles. Therefore, we will address:

1. The definition of international election oversight
2. Its principles
3. The varying positions taken toward it
- 4.

Subsection One: Definition of International Election Oversight

A review of literature reveals confusion between the concepts of international election oversight and international supervision. There are also disagreements over the characteristics and forms of international monitoring. Hence, it is necessary to clarify its meaning, types, and features.

A. The Meaning of International Election Oversight

International election oversight has been defined as the process through which the international community is informed about the conduct of an election in a given country, upon that country's request, in order to determine whether the elections meet international standards and truly reflect the will of the people.

It has also been defined as all observation and monitoring activities undertaken by accredited international observers, either throughout all stages of the electoral process or just part of it, to assess the democratic quality and integrity of the elections, and to report findings and recommendations based on observed shortcomings.

International oversight is considered one of the key mechanisms of international cooperation for assessing the conformity of national elections with global standards. It differs

from other forms of international involvement in domestic elections, such as direct supervision or electoral assistance.

International supervision of elections can take various forms and degrees. A foreign entity (whether a regional or international organization, state, or group of states) may oversee and fully manage the electoral process in a country, or intervene at any stage to help organize or correct procedural flaws.

This idea gained traction after the independence of many countries in Africa, Asia, and Latin America, and the collapse of authoritarian regimes in others, as these countries sought to build democratic systems based on equal political participation, constitutional governance, and mechanisms for free and fair elections.

Given the lack of electoral experience, weak national institutions, and public distrust in existing systems, external, credible, and capable entities were needed to manage or monitor elections. International bodies such as the United Nations were seen as most qualified and widely accepted by citizens wary of foreign interference—especially in post-colonial or post-dictatorship societies.

The United Nations itself differentiates between “monitoring” and “supervision” of elections. Monitoring consists of systematic data collection and direct observation based on existing methodologies and leads to a public assessment of the overall conduct of the election.

UN election monitoring requires deploying a mission to observe all stages of the electoral process and submitting a report to the Secretary-General, who then issues a public statement on the conduct of the election. However, this type of monitoring is rare and requires a mandate from the UN General Assembly or the Security Council.

As for the supervision of the United Nations over elections, it requires the organization’s approval of every stage of the electoral process in order to prove the overall credibility of the elections.

As for electoral assistance, it includes all material or technical assistance provided by international or regional bodies or specialized non-governmental institutions and organizations to organize and implement electoral processes in a country or parts of it. The phenomenon of specialization in providing this type of assistance became widespread in conjunction with the waves of democratic transformation in the last decade of the twentieth century.

Electoral assistance can take material forms, such as supplying electoral administrations with electoral materials like ballot boxes, ink, and booths. It can also take technical forms, such as providing technical advice, training and qualifying electoral staff, or holding awareness sessions for voters and local observers.

B. Forms of International Election Monitoring

The forms of international monitoring of national elections can be divided, in terms of the initiating party requesting monitoring, into two types:

- International monitoring based on the request of the concerned state: This is the most common situation, where the official authorities in the state (usually the Minister of Foreign Affairs) send invitations to international organizations to monitor the elections.
- International monitoring based on the request of the monitoring entity: Where the state merely sets the conditions and procedures for obtaining accreditation to observe the elections, and international organizations (non-governmental) submit requests to observe the elections, as specified in the election laws of the concerned state.

International monitoring of national elections can also be divided according to the nature of the monitoring entity into two types:

- Official international monitoring: Conducted by international organizations that include governments and parliaments of states, such as the League of Arab States, the African Union, the European Union...
- Unofficial international monitoring: Conducted by non-governmental international organizations and associations specialized in election observation, such as the Carter Center and the Electoral Institute for Sustainable Democracy in Africa (EISA).

C. Characteristics of International Election Monitoring

International monitoring is distinguished from other forms of monitoring practiced over the electoral process by the following characteristics:

- External monitoring: Distinguished from internal monitoring imposed on elections by the electoral administration, judiciary, and local civil society. This allows the international community to be informed about elections in a country and to assess their democratic nature.
- A democratic phenomenon: While internal monitoring aims primarily to ensure the legitimacy of elections and their compliance with electoral legislation, international monitoring aims to assess the democratic nature of elections regardless of their legitimacy. Elections can be legitimate but not democratic.
- A relatively recent phenomenon: The openness of states to this type of monitoring and their acceptance of it is relatively recent compared to internal election monitoring, which has long been practiced in electoral processes.

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Subsection Two: Principles of International Election Monitoring

International election monitoring is based on a set of principles, which concern both the international entities organizing elections and the monitoring organizations.

A. Principles to Be Respected by the State

The state concerned must respect several principles towards the organizations monitoring the elections, the most important of which are:

- Sending invitations to governmental or parliamentary organizations the state wishes to host for election observation, or announcing no objection to the monitoring of its elections by non-governmental international organizations, by providing a legal framework for international observers to obtain accreditation.
- Ensuring that obstacles are removed for international observers to monitor the elections.
- Guaranteeing the freedom of movement and travel of international observers to all electoral districts.
- Guaranteeing the freedom to issue public statements and reports related to the observers' findings and recommendations.
- Ensuring that no government, security, or electoral authority interferes in the selection of observers or seeks to limit their number.
- Ensuring no interference in the activities of international election monitoring missions.
- Ensuring that no form of pressure is exerted on citizens who communicate with observers, assist them, or provide them with information.

B. Principles to Be Respected by Election Monitoring Organizations

Regardless of the nature of the international organization monitoring the elections, the organization is obliged to respect several principles, the most important of which are:

- Respecting the sovereignty of the state and universal human rights.
- Respecting the laws of the state and the authority of electoral bodies.
- Respecting the integrity of the international election observation mission.
- Maintaining absolute neutrality at all times.
- Not obstructing electoral processes.
- Maintaining proper personal conduct.
- Maintaining accurate observation and professionalism in deriving results.

Subsection Three: Positions on International Election Monitoring

Positions on international election monitoring vary on the jurisprudential level between supporters and opponents, with each side relying on a set of arguments and justifications.

A. Rejection of International Election Monitoring

The positions rejecting international election monitoring are based primarily on the following arguments:

- Violation of national sovereignty: Some believe that international monitoring of elections constitutes an infringement on national sovereignty, as the evaluation of electoral activities by external bodies is considered interference in internal affairs.
- Link between international monitoring and external pressures on states: Some developing countries were forced to request international monitoring of their elections due to external conditionalities imposed by donor countries, which tied financial aid and loans to the imposition of international election monitoring to ensure democracy.
- Lack of credibility of international election monitoring: It is sometimes used to whitewash some dictatorial regimes and to declare their elections democratic, contrary to reality. It is also sometimes used to pressure countries and corner them.

Some believe that the work and reports of international election monitoring missions, especially those from non-governmental organizations, cannot be trusted, as most of these organizations are linked to major countries and seek to serve their interests.

- Ineffectiveness of international election monitoring: Some argue that this monitoring does not guarantee the integrity and democracy of elections, due to the nature of its work, which is limited to issuing reports, and due to the practical issues these organizations face.

B. Support for International Election Monitoring

Proponents of international election monitoring base their support on several arguments, including:

- International monitoring aligns with global changes: The global wave of democratic transformations that began in the 1970s led to an increase in democratic trends within governmental organizations to defend democracy in countries that underwent real democratic transitions and to promote democracy in countries still taking steps in that direction.

The changes in the international system after the Cold War allowed many non-governmental international organizations to move to support democratic developments in many regions around the world. Support from major powers, particularly the United States, also increased—driven by their own interests—for the commitment of international organizations to promote and support democracy in many countries around the world.

- **International monitoring does not violate national sovereignty:** Supporters of international election monitoring argue that it does not infringe upon the national sovereignty of the state, and that it falls within the modern and relative concept of sovereignty. The monitoring process aims to elevate the international community by promoting democracy and the right of citizens to choose their representatives within the framework of respecting the principles enshrined in international charters and UN resolutions issued by the General Assembly under the banner of promoting the effectiveness of holding regular and fair elections.

- **International election monitoring as a standard of democracy:** According to its supporters, international monitoring has become an important means of verifying whether elections—especially in transitional democracies—are conducted freely and fairly. They also see it as a significant guarantee of electoral integrity and a strong incentive for political participation.

Section Two: International Monitoring of Presidential Elections in Algeria

The absence of a legal framework regulating international monitoring of presidential elections in Algeria has affected the practice of such monitoring. However, this has not prevented presidential elections from being subjected to international monitoring more than once.

The electoral laws in countries that adopt international monitoring of their national elections define the conditions and procedures for accrediting foreign observers. These laws also regulate the behavior of observers through codes of conduct that outline the obligations of organizations and individual observers during the election observation process.

Defining the conditions and procedures for accreditation contributes to clarity for organizations and associations wishing to observe the elections. These entities are informed of the deadlines for submitting applications, the requirements, and the procedures for obtaining accreditation. As a result, they work to comply with these regulations to obtain accreditation and observe the elections. Furthermore, defining the conditions and procedures ensures transparency and objectivity in the acceptance of applications and avoids selective approval. Regarding codes of conduct, they are important for defining the obligations and responsibilities of each party.

As for the situation in Algeria, apart from the provision stipulating the responsibility of the independent authority in coordination with the competent bodies for operations that fall within the framework of international election observation missions and for receiving and deploying them, and the agreements the state concludes with organizations and associations it selects itself, there is no legal provision or regulatory decision that defines the conditions and procedures for accreditation or regulates the behavior of international observers.

The absence of a legal framework specifying the conditions and procedures for obtaining accreditation has contributed to an almost complete absence of non-governmental international organizations specialized in this field, and to a lack of transparency in the selection of certain non-governmental international organizations over others for observing the elections. Additionally, the absence of a legal framework has also reinforced the dominance of official international organizations (such as the Arab League, the African Union, and the Organization of Islamic Cooperation) in monitoring presidential elections.

Conclusion:

It became clear to us through this research paper that the Algerian legislator's regulation of unofficial monitoring of presidential elections does not ensure the effectiveness of such monitoring. When referring to Algerian electoral legislation, we do not find any legal or regulatory text that establishes civil society oversight of elections. The organization of the conditions and procedures for obtaining accreditation to observe elections was neglected, as was the organization of the role of civil society organizations in elections and the regulation of the rights and obligations of observers.

The exclusion of civil society has affected the integrity and credibility of the elections and has also impacted civil society itself, as no organization or association specialized in the electoral field has been established. Practically speaking, it became evident to us that active civil society organizations on the ground play undemocratic roles in presidential elections, as they engage in mass mobilization in favor of the ruling authority's candidate on every presidential election occasion.

Regarding international monitoring, it became evident that there is no legal framework governing such monitoring in Algeria. This absence has contributed to the near-complete absence of non-governmental international organizations specialized in this field, a lack of transparency in selecting certain non-governmental international organizations over others to observe the elections, and has further reinforced the dominance of official international organizations.

To avoid these flaws and to ensure the effectiveness of unofficial monitoring of presidential elections, we propose recognizing the role of civil society in observing presidential elections and ceasing the exploitation of civil society organizations in political activities. We also propose establishing a legal framework that precisely defines the conditions and procedures for international organizations to monitor presidential elections in Algeria.

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