Monitoring the monitors: How certifying international electoral observation quality can improve election fraud deterrence[1]

Observando a los observadores: Cómo la certificación de la calidad de la observación electoral internacional puede mejorar la disuasión del fraude electoral

Matías Caro[*]

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[*] Catholic University of Cordoba, Faculty of Law and Social Sciences, Argentina. matias.caro@ucc.edu.ar. https://orcid.org/0000-0001-8798-0459.

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Abstract

Electoral fraud is a widespread crime whose ramifications affect human rights, democracy and political accountability. Numerous election observation missions have been organised since the 1960s to prevent electoral fraud. Despite the missions' systematic improvement, and its many benefits, the decentralised nature of election observation has led to the coexistence of professional and non-professional or pseudo-observation missions. These unprofessional missions evade best practices and dilute the preventive potential of proper missions. This work examine how international election observation can be improved to removing incentives for non-professional missions. After analysing empirical evidence and limitations, this work proposes the establishment of an international mission certification agency to aid in enforcing standards and best practices among observing organisations.

Keywords: election fraud - international electoral observation missions - fraud deterrence - democracy promotion - quality certification

Resumen

El fraude electoral es un delito muy extendido, cuyas ramificaciones afectan a los derechos humanos, a la democracia y a la rendición de cuentas. Numerosas misiones de observación se han organizado desde los años 60 para prevenir el fraude electoral. A pesar de la mejora sistemática de las misiones y sus numerosas ventajas, el carácter descentralizado de la observación electoral ha dado lugar a la coexistencia de misiones de observación profesionales y no profesionales o pseudo-misiones de observación. Estas misiones no profesionales evitan las mejores prácticas en la materia y diluyen el potencial preventivo de las misiones propiamente dichas. Este trabajo examina cómo puede mejorarse la observación electoral internacional para eliminar los incentivos a las misiones no profesionales. Tras analizar evidencia empírica y limitaciones, este trabajo propone la creación de una agencia internacional de certificación de misiones que ayude a hacer cumplir los estándares y las mejores prácticas entre las organizaciones de observación.

Palabras clave: fraude electoral - misiones internacionales de observación electoral - disuasión del fraude - promoción de la democracia - certificación de calidad

Introduction

There are many reasons to consider electoral fraud a crime of great importance. First, electoral fraud violates the human right to choose rulers through fair elections. This right has been enshrined in numerous

instruments, such as the Universal Declaration of Human Rights (United Nations, 1948) and the International Covenant on Civil and Political Rights (United Nations, 1966). Secondly, elections are often the only opportunity citizens have to replace rulers with whom they are dissatisfied, so electoral fraud damages accountability and citizens' trust in democracy (Birch, 2011). Moreover, fraud is costly when committed by the state, leading to suboptimal use of public resources (Lehoucq, 2003; Vicente, 2014). Finally, electoral fraud is widespread; Simpser (2005) estimates that approximately one in five presidential elections between 1975 and 2005 was corrupt. However, the literature consistently states that electoral fraud has been little studied and claims a better understanding of the phenomenon (Molina and Lehoucq, 1999; Lehobuq, 2003; Simpser, 2005; Alvarez et al., 2009; Birch, 2011).

Due to the significance of electoral fraud, international election observation missions have emerged as a mechanism to prevent it. In order to assess different elections by independent observers, missions have grown over time to become an almost ubiquitous reality today. The number of elections monitored increased from an average of 10% between 1975 and 1987 to 81.5% of elections in 2004 (Kelley, 2008). The rationale behind this international policy is that adverse international observation reports regarding the transparency of the election trigger a series of local and international punishments for the country and government observed (Kelley, 2008; Hyde, 2011b). However, despite the popularity of election observation, fraud is more than present today (Leeffers and Vicente, 2019; Escobari and Hoover, 2020).

The persistence of electoral fraud despite the popularity of election observation missions has prompted academics to call for an improvement in international election observation (Hyde, 2011a; Kelley, 2012). Hence, this paper seeks to answer how international election observation can be improved. This work argues that establishing an institution in charge of certifying the quality of observation missions can advance their role. Electoral observation is a highly decentralised process in which professional missions coexist with pseudo-missions that endorse commissioned elections. The certification of the different organisations that carry out international election observation can help differentiate between professional and unprofessional missions, increasing the dissuasive power of the proper missions and creating incentives for applying best contemporary practices.

The theoretical construction of this analysis is mainly descriptive and propositional. Although since the emergence of international election observation there have been many proposals for its improvement, there are currently no

proposals aimed at discouraging the proliferation of non-professional missions or at reducing the incentives of the governments that invite them. Hence, the state of the art on this particular sub-topic is not sufficient to move towards a public policy analysis (Dunn, 2015, p. 2). Based on this descriptive and propositional character, the first section analyses whether election observation missions can deter electoral fraud, under what circumstances they work best, and what evidence exists.

The second section addresses the current limitations of observation missions in preventing electoral fraud. The third section presents the proposal for an independent international agency in charge of certifying observation missions. It explains how it would contribute to overcoming many limitations of observation missions and discusses the possible limitations of such an agency. Finally, conclusions are provided, emphasising the call that various authors have made to consider and propose improvements to election observation missions to advance electoral fraud prevention (Hyde, 2011a; Kelley, 2012) and how the proposal for an independent mission certification agency responds to this call.

1. International election observation to prevent electoral fraud

This paper aims to analyse whether international election observers prevent the commission of electoral fraud and how this effect can be enhanced. The answers to these questions are complex because there is currently a discussion in the literature on how to define electoral fraud at the international level. Second, international election observation missions are not homogenous but have varied over time and across organisations. Finally, in order to propose the improvement of this institution, it is necessary to know about its functioning, empirical evidence and contexts in which it works best.

1.1 Defining electoral fraud and election observation

Electoral fraud can be understood as the crimes against democratic elections contemplated in the legislation of each country (UNODC, 2015); this definition has been criticised for being restrictive, as there are differences between what each country considers electoral crimes. In this sense, attempts have been made to find substantive definitions of the problem; one of the proposals is to use the broader concept of electoral malpractice, i.e. "the manipulation of electoral processes and outcomes to substitute personal or partisan benefit for the public interest" (Birch, 2011, p.12). However, the operationa-

lisation of what constitutes the public interest itself still needs to be solved for the adoption of the concept of electoral malpractice. Moreover, despite differences in this regard, legislation consistently defines specific types of practices as electoral offences, with violence against voters, vote buying, ballot stuffing, and the modification of results (Schedler, 2002). What is clear is that electoral fraud is an eminently rational crime, i.e., whose commission involves a detailed calculation of costs and benefits (Bailey, 2009). This rationality explains how electoral fraud, which was very common in Europe and America during the 19th century, was reduced through a situational crime prevention mechanism (Clarke, 1995) such as the secret ballot (Lehoucq and Molina, 2002; Lehoucq, 2003).

Since electoral fraud is a rational and practical crime (Wantchekon, 2003; Brusco et al., 2004; Schaffer, 2007), the central policy that has been adopted at the international level to reduce it is international election observation (IEO). The IEO missions consist of sending a delegation of foreign experts to the country where the election will take place with the objectives of a) analysing the legitimacy of the elections, b) detecting and preventing electoral fraud, and c) improving the electoral system. The organisation and work of these foreign delegations have been professionalised and improved over time. However, there are still observation missions that carry out their work in an unprofessional manner or direct collusion with the observed government, throwing away any crime prevention capacity of the missions (Bjornlund, 2004; Kelley, 2012). This distinction is crucial as the IEO is often criticised for problems of unprofessional missions. The question arises regarding how its proper application deters electoral fraud, which is discussed in the next subtitle.

1.2 How does international election observation prevent electoral fraud?

The rational explanation of crime postulates that criminals analyse the expected benefits of criminal activity compared to its costs, which consist of the level of punishment and its probability (Becker, 1968). In this sense, incumbents face a dilemma in every election: On the one hand, they can run democratic elections, gaining a number of international benefits[2] but risking their seats. On the other hand, they can secure power without having elections but losing the international benefits of being a democratic country. Electoral fraud is then geared toward gaining international and

[2] Foreign aid, foreign investment, membership in international organisations, trade, tourism, legitimacy and prestige.

local benefits without facing its costs[3]. To avoid this shortcut, IEO aims to change the incentives for fraud by increasing the chances of detection and punishment[4] (Hyde, 2011b; Kelley, 2012).

Concerning punishments, there is sufficient evidence that after adverse reports on elections, countries have faced punishments at the international level. Among these penalties are the suspension or elimination of foreign aid, foreign investment, a decrease in trade and tourism, loss of membership in international organisations and loss of legitimacy and prestige (Hyde, 2011). Furthermore, in some cases, they have been denied the possibility of borrowing from international organisations (Vigna, 2010). The IEO also allows pseudo-democrats to be punished locally by increasing the possibilities for protest and revolution (Tucker, 2007; Little, 2012). All protest is a collective action problem; election observers help lower protest repression by attracting international attention (Magaloni, 2010). Empirically, it has been proven that observers increase the likelihood of boycotts (Beaulieu and Hyde, 2009) and that fraud protests are more likely, last longer and attract more supporters following adverse reports from international observers (Hyde and Marinov, 2014).

Concerning the likelihood of punishment, international observers independently assess each step of the election, from the pre-election period through election day to finally the acceptance of the results by all contending parties, making it much more difficult for electoral fraud to be hidden. This control mechanism is complicated to avoid since the non-acceptance of international observers suggests that the incumbent wants to commit fraud (Bjornlund, 2004; Kelley, 2008a). In addition, election observation has developed better strategies and techniques to cope with its tasks and limitations over time. Finally, international observers contribute to crime prevention in two indirect ways: by formulating recommendations for the improvement of the electoral processes and through the so-called policy transfer[5] (Evans, 2019).

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[3] Sometimes, even with power secured, incumbents commit fraud in elections that they could have won transparently to widen the margins of victory to demotivate and demobilise the opposition (Rundlett & Svolik, 2016).

[4] The role of international observation missions becomes more critical in light of the fact that many countries' judiciaries cannot combat electoral fraud (Murison, 2013).

[5] Observers who participated in the Philippines election in 1987 later introduced new policies in their countries (Kelley, 2012).

1.3 Does international election observation work?

Crime and fraud, in general, are difficult to measure. In the case of electoral fraud and IEO, there is the additional problem of the "reporting effect", i.e. more irregularities can be found in observed elections than in unobserved ones, simply because they have been scrutinised. However, a growing body of literature empirically proves IEO usefulness for preventing electoral crimes. One of the primary empirical studies on the subject is Hyde's (2007) analysis of Armenia's 2003 elections. After Armenia's independence in 1991, until 2003, every single election in the country was considered highly fraudulent, and the 2003 election was no exception (Hyde, 2007).

During the 2003 Armenian presidential election, the OSCE/ODIHR deployed 233 observers for the first round and 193 for the second round. Although the deployment of observers was not strictly random, Hyde (2007) argues that the conditions under which the polling stations were assigned and visited can be considered 'as if' random, making the groups of visited and non-visited polling stations comparable. Polling stations (PS) were then divided into four groups: PS visited during the first round, PS visited during the second round, PS visited both times and the control group of PS that was never visited. Hyde (2007) found that the incumbent's vote share decreased from 6% in the first round to 2% in the second round in observed polling stations compared to unobserved polling stations, which could be explained by fraud deterrence of election observation.

In 2004, during Indonesia's first direct presidential election, Hyde (2010) conducted a randomised experiment on election observation. In contrast to the Armenian elections 2003, the prediction was for a largely transparent election in this case. For the experiment, 57 observers were randomly distributed among 28 villages in selected districts. The effect of the observers was compared with the second round of electoral data. Polls predicted a victory for challenger Susilo Bambang Yudhoyono over incumbent Megawati Sukarnoputri by 60% to 29%; the final results were virtually identical. Despite the extensive transparency of the elections, Hyde (2010) found that Yudhoyono's vote share remained constant in the villages observed, but Megawati's increased in 75% of the cases. According to the author, this was due to observers preventing polling station officials from closing before the official finishing time, allowing a more demobilised electorate such as Megawati to vote.

The studies on the elections in Armenia in 2003 and Indonesia in 2004 are the only ones that permit the sustaining of a causal relationship between in-

ternational election observation and the deterrence of electoral fraud; other studies are less conclusive in this respect. Hyde and O'Mahony (2010) infer this deterrence effect and argue that countries use tax manipulation -spending more or taxing less- as a proselytising strategy before elections. However, tax manipulation is an economically costly and uncertain strategy in electoral terms, so it works as a second best when electoral fraud is not possible. This is why Hyde and O'Mahony (2010) argue that the presence of international observers should generate more significant incentives for tax manipulation by preventing electoral fraud. Analysing 95 developing countries over 14 years, the authors found that countries with elections that were going to be rigged, provided their finances were not scrutinised by an international body, were more likely to engage in pre-election fiscal manipulation than countries that had unobserved elections.

Roussias and Ruiz-Rufino (2018) analysed the margins of victory (competitiveness) between incumbents and challengers in dictatorships and democracies. They found that margins of victory remained unchanged in democratic countries regardless of whether elections were observed. In contrast, margins of victory tended to decrease in observed elections in dictatorships, which would be due to a reduced possibility of electoral fraud because incumbents' hands were 'tied' by observers (Roussias and Ruiz-Rufino, 2018). However, the direction of the relationship is not clear since dictatorships that plan to conduct clean elections are the most likely to invite international observers (Hyde, 2011b), and even more, some leaders may commit fraud to reduce their margin of victory to prevent elections for producing dubious results (Hyde and Marinov, 2012).

A second way of evaluating the impact of observation on election fraud involves the analysis of the domestic observers, generally grouped into NGOs, who carry out tasks similar to those of international observation. However, their comparability is still being determined as they tend to work in more significant numbers, have better local knowledge and have fewer possibilities of triggering international penalties. Beyond this discussion, there is evidence of the deterrent role of domestic observation. Regarding registration fraud, the presence of observers reduced the number of people registered at registration centres by 4.1% for Ghana's 2008 elections (Ichino and Schündeln, 2012).

Domestic observation can also have an effect against ballot stuffing and aggregation fraud; in Russia's 2011 parliamentary elections, the results indicated a 10.8% decrease in the percentage of votes for the ruling party and an increase in votes for all opposition parties in the observed polling stations

(Enikolopov et al., 2013). Even more significant are the findings of Callen and Long (2015), to whom domestic observation produced a reduction of around 25% of the vote share of politically powerful candidates in Afghanistan. In the same vein, studies in Ghana (Asunka et al., 2019) and Mozambique (Leeffers and Vicente, 2019) have proven that in monitored polling, the turnout decreases; this is explained because turnout is generally inflated by ballot stuffing or aggregation fraud. However, the evidence is not as linear. Casas, Díaz and Trindade (2017) found that party monitors increased their parties' vote share in Argentina between 1.5% and 6%. The authors argue that this is because they prevent fraud against their party. Nevertheless, it is unclear whether the increase is because they commit fraud in favour of their parties.

Sjoberg (2012) found evidence that domestic observers reduced fraud in Azerbaijan, Georgia and Kyrgyzstan, but with a much smaller reduction in Azerbaijan. Azerbaijan is much less sensitive to prevention through observation because Western powers are less likely to sanction hydrocarbon-producing countries despite their weak democratic commitment. Finally, Buzin, Brondum and Robertson (2016), analysing the same elections as Enikolopov et al. (2013), found no evidence that domestic observers deterred fraud. In order to explain their lack of results, the authors hypothesise that the number of observers affects their preventive capacity; they deployed one observer per polling station against 3 or 4 deployed by Enikolopov et al. (2013) experiment. In conclusion, there is evidence to claim an empirical impact of observation on electoral fraud. However, more and better studies are needed to prove IEO's usefulness.

1.4 When does it work?

Electoral observation is far from a perfect mechanism; it does not work with any design and in any context, and even when it works, it does not eliminate electoral fraud but somewhat diminishes it. Because of these limitations, better implementation and improvement of international election observation involves knowing in which contexts it works best. Concerning the context, electoral observation has less deterrent power in winner-take-all contexts (Kelley, 2012); in the same vein, Birch (2007) states that fraud is more likely in single-member districts (SMD) under plurality and majority, which are types winner-take-all scenarios. In proportional elections, defeat allows parties to gain some benefit regarding seats; even if the race is close, there is not much difference between the benefits obtained by the first and second parties. On the contrary, in winner-take-all systems, the expected benefits of victory and the high costs of defeat increase the incentives to commit fraud.

It is also clear that international election observation works best when countries are interested in cooperating with the Western hemisphere (Kelley, 2012). Other significant players in international politics, such as China, have been much less inclined to make their cooperation conditional on the existence of a specific type of political regime (Bader et al., 2010; Bader, 2013). Moreover, this willingness to cooperate with the West works best when countries do not have the power to secure cooperation by other means. During the Cold War, the West was much more willing to cooperate with dictatorships as long as they were pro-capitalist (Knack, 2004). Today, being an oil or gas-producing country guarantees cooperation with the West despite numerous evidence of fraud, such as the case of Russia or the reduced sensitivity to observation found by Sjoberg (2012) in Azerbaijan. Again, in these cases, the West's punitive machinery is not activated because of strategic dependence.

Election observation plays a better preventive role when parties have difficulties monitoring each other (Asunka et al., 2019). In other words, party observers are not a substitute for election observation; while party observers prevent fraud against their parties, they do not necessarily ensure the transparency of elections in the way that election observation seeks to ensure; election observation acts as a third party and not as a stakeholder. In addition, election observation works best when there are domestic pressures for electoral improvements when public administration is more efficient, and when there are no powerful country interests in a particular outcome (Kelley, 2012).

This section has clarified how election observation deters electoral fraud by making it costlier. Pseudo-democrats have incentives to conduct clean elections, given that a negative report from an international observation mission carries a series of domestic and international punishments. An incipient empirical literature supports observers' effectiveness in preventing crime. However, various limitations have reduced their deterrent capacity over time. Many proposals have been made to improve the role of the IEO, but the existence of non-professional observing missions has undermined many of these efforts.

2. The limits of election observation

There is a widespread misconception that election observation is a monolithic practice; on the contrary, it is an evolving and perfecting practice. The

observation arose from the need of some autocratic governments in Latin America in the 1950s and 1960s to demonstrate their true intention to hold fair elections. The first missions consisted of a few notable observers who attended election day and assessed the country's respect for human rights; the limitations of this type of observation in the prevention of election fraud are ostensible. Already in the 1990s, observers were chastised for their lack of professionalism, focus on election day, lack of international guidelines, small number, and poor coverage (Geisler, 1993; Carothers, 1997). However, by the same time the first observation protocols had been established (Garber, 1984), numerous improvements had been implemented (Nevitte and Canton, 1997), and new observation techniques had already played a key role (Garber and Cowan, 1993).

By the early 2000s, it was clear what was and what was not professional election observation (Bjornlund, 2004); the limitations that were overcome by election observation are still present in many pseudo-observation missions, and even professional missions are not exempt from avoiding best practices. Pseudo-observation should be suppressed, whether it is based on political expediency or lack of expertise, as it delegitimises election observation itself and thus damages its preventive capacity. Moreover, its suppression is essential for the empirical evaluation of election observation because even if similar, only real observation contributes to deterring electoral fraud.

2.1 Residual limitations

Among the limitations that should have been overcome by now, but are still present in some unprofessional or pseudo-observation missions, are the lack of international guidelines, professionalism, training, territorial coverage, neutrality and impartiality, collaboration with domestic observers and proper deployment, short-term oriented and focused on election day. Election observation was criticised for lacking international guidelines (Geisler, 1993), and since that time, there have been efforts by practitioners (OAS, 2007; OSCE, 2010; African Union, 2013) and academics (Garber, 1984; Elklit and Svensson, 1997; Elklit and Reynolds, 2005) to define guidelines. In addition, each mission makes explicit its criteria and methodology for election monitoring (Hyde, 2011b). What has not been overcome yet is the lack of enforcement of these guidelines; because of this, organisations can avoid best practices without consequences.

Concerning the lack of professionalism and training of observers (Geisler, 1993; Carothers, 1997), the signatory organisations of the Declaration of

Principles for International Election Observation (United Nations, 2005) commit themselves to training their observers in the details of each election. In terms of professionalism, today's missions include experts in different areas; the OSCE handbook (2005) provides for a political analyst, media analyst, gender analyst, national minorities analyst, electronic-voting analyst, voter registration analyst, statistical analyst and security expert. In addition, fraud detection strategies have been developed and currently include audits of voter lists (Hyde, 2009), parallel vote tabulation (Garber and Cowan, 1993), turnout and vote share analysis (Mebane and Kalinin, 2009; Klimek et al., 2012; Beber and Scacco, 2012; Leemann and Bochsler, 2014) and analysis of population changes (Fukumoto and Horiuchi, 2011). Again, the application of these methods and the selection and training of their members is at the discretion of each organisation.

Regarding the lack of observers and limited territorial coverage, Geisler (1993) argues that the coverage of some missions needed to be enlarged to claim the power to assess elections in general. This lack of coverage is because the high costs of international election observation limit the deployment of observers, who also tend to be deployed in the capital cities, where the organisation can play a more prominent role, making it difficult to assess the rest of the country. Against this background, the Declaration of Principles for Election Observation (United Nations, 2005) states that observation missions should be large enough to independently and impartially assess a country's electoral process. In practice, this has translated into a systematic increase in the average number of observers for each election, from around 20 per election in the 1960s to over 200 per election today (Hyde, 2011a).

It has also been argued that observation has been too focused on election day and short-term oriented (Geisler, 1993; Carothers, 1997). This is especially problematic because if the entire object of intervention is election day and a few days after, the incumbent interested in committing fraud has the option to shift the fraud to the pre-election period, altering voting records, limiting opposition candidate registration, and restricting access to press and campaign resources. There is a commitment by the signatory organisations of the Declaration of Principles of Electoral Observation to carry out long-term observation, i.e. the monitoring and evaluation of the entire pre-election, election and post-election period, generally, until all contenders accept the results. Furthermore, in professional missions, organisations make their participation conditional on the guarantee of broad and unrestricted access to all stages and actors in the electoral process (OAS, 2007; OSCE, 2010).

Election observation has also been accused of lacking impartiality and neutrality (Geisler, 1993); against this, the Declaration of Principles of Election Observation postulates the need for impartiality, the prohibition of recruiting observers with conflicts of interest, the disclosure of the donors that made observation possible, and the non-acceptance of funding by the host country (United Nations, 2005). Organisations currently carry out their work influenced by their funding and political commitments. International governmental organisations have been less likely to criticise their member countries (Kelley, 2012) and that some, such as the Commonwealth of Independent States (CIS) or UNASUR, seek to certify member countries elections (Planchuelo, 2017). A modification of the incentives system is therefore needed so that organisations tend towards impartiality beyond the interests of their contributors.

Finally, IEO has been accused of not collaborating and even relegating the role of domestic observers, with the aggravating circumstance that the latter are more effective, more numerous, have more comprehensive coverage and better knowledge of the local reality (Geisler, 1993). Currently, the handbooks of the different organisations contemplate consultation and collaboration with those who are considered credible domestic observers (OAS, 2007; OSCE, 2010). Collaboration with local observers has excellent potential, but caution in doing so remains essential as "in many countries domestic election monitoring organisations are relatively easy for pseudo-democrats to discredit as biased, refuse to credential, or falsify by allowing only loyal government supporters to be credentialed as domestic observers" (Hyde, 2011b, p. 166). In conclusion, the theoretical overcoming of all these limitations and their residual presence in practice, is explained by the lack of an instance that fosters the enforcement of good practices, hence the importance of this paper's proposal of creating an institution that evaluates and certifies the quality of missions.

2.2 Limitations to Overcome

International election observation still has to overcome certain limitations. In this sense, international electoral observation has been criticised for the difficulties generated by its decentralised system, for the lack of certainty in punishments, lack of impartiality, for the short time that each observer spends in each polling station, for their voluntary nature and for the externalities that they generate.

Regarding decentralisation, this implies that no organisation has the monopoly of international observation; countries jealous of their sovereignty

have not wanted to delegate it to the United Nations or other institution, which is why numerous international governmental and non-governmental organisations have taken up the baton (Kelley, 2008b). This decentralisation has advantages in that no single actor has veto power over observation. Also, when different missions come to the same conclusions about an election, their effect is enhanced (Kelley, 2008b). Furthermore, decentralisation allows a government to reject an observation mission from an organisation that it considers biased but may accept a mission from a different organisation (Kelley, 2012). The monopoly of observation would limit observation at the global level to countries that trust in the transparency and impartiality of such a monopolistic organisation.

This decentralisation also has its disadvantages. Firstly, it leads to inter-organisational competition, which limits cooperation and the quality of results. The main objective of any organisation is to endure over time, and for this, they need donor funding, which often depends on having a high profile in the elections they observe. This need to raise the profile limits collaboration, as organisations do not want to be subsumed under an umbrella that takes away their prominence. It has also led them to compete over who can present their findings sooner after election day, gaining local media attention but jeopardising the quality of their work (Kelley, 2008b). However, the worst problem that currently exists in this regard is the lack of distinction between missions. This indistinction implies that different organisations monitor elections with equal authority (Kelley, 2008b). Pseudo-democrats have adapted to this situation and have created a shadow market for election observation (Daxecker and Schneider, 2014), i.e. they invite friendly or low-quality observation missions (Hyde, 2011b) alone or in conjunction with other professional missions to qualify criticism of professional election observation. The lack of knowledge and control is so evident that organisations such as UNASUR directly declare that they do not carry out observation but rather electoral 'accompaniment' without major consequences (Planchuelo, 2017). Pseudo-democrats use these favourable certifications to escape the internal and external punishments that international observation seeks to activate and thus dilute the deterrent potential of electoral observation.

Concerning the lack of certainty of punishment, it is more than clear that penalties do not deter if there is the hope of impunity. In this sense, as already mentioned, the international community has had difficulties in guaranteeing punishment for pro-Western dictatorships during the Cold War (Hyde, 2011b) or oil and gas exporting countries today. However, there are also

apparent difficulties in punishing core countries - no one wants to punish the United States, even though, according to Bjornlund (2004), the 2000 election process in the United States was severely flawed. Finally, observers tend to tone down their criticism when elections are held in a country in transition to democracy, when, despite their limitations, they have demonstrated a willingness to improve or when criticism of the results may trigger a wave of violence (Kelley, 2009). Even if they choose to criticise them for observed electoral fraud, central countries often do not want to cut off aid to poor countries just because they fail to perform quality elections (Hyde, 2011b). However, this is not too problematic given that it is a general power of prosecutors to look beyond the crime to consider whether a prosecution is required in the public interest.

Election observation is also criticised for the short time observers spend at each polling station. The current response is that observers are instructed to remain in place in the presence of red flags (Hyde, 2011b), but the argument goes much deeper. Critics argue that by staying only a short time at the polling stations, the fraud simply stops with the arrival of the observers and resumes upon their departure. However, rather than fixed observers in some polling stations, it can be argued that the fundamental principle of surveillance is the panopticon (Foucault, 2000), i.e. not being observed, but the perception that one can be observed at any time. In this sense, the mobility of observers over a determined and secret group of polling stations could have greater dissuasive power than their immobility[6]. However, more studies are needed to assess which mode of deployment is more effective.

This whole prevention scheme is not triggered if the country decides not to invite observers. A country cannot be forced to receive an observation mission it does not want, as this would be a violation of the principle of sovereignty. To solve this limitation, it has been proposed as a condition to participate in international organisations, the automatic acceptance of observation missions that monitor the democratic commitment of countries (Muñoz-Pogossian and Veloso, 2015). However, currently, only the Organisation for Security and Cooperation in Europe (OSCE), with its 57 member states, has such a requirement, leaving much of the world outside this mechanism.

Finally, election observation has been criticised for the externalities it ge-

[6] Criminology has consistently studied the relationship between patrolling and crime, finding positive evidence in this regard (Sherman et al., 2002; Weisburd & Eck, 2004; Ratcliffe et al., 2020).

nerates. In this sense, election observation would produce changes in the mechanisms of fraud (Beaulieu and Hyde, 2009; Sjoberg, 2012), the displacement of fraud to unobserved areas (Asunka et al., 2019), pre-electoral and post-electoral violence (Daxecker, 2012; Daxecker, 2014) and even more complex crimes (Simpser, 2009) such as rigging courts and administrative bodies and repressing the media (Simpser and Donno, 2012). What no one has noticed so far is that it is not so easy to move between types of crime; there is always a learning curve and more significant risks when entering into unfamiliar practices. Moreover, it is not so easy to move from electoral fraud to electoral malpractice because electoral malpractice is much more evident to the local public (Skovoroda and Lankina, 2017). Public perception and disapproval are more likely if, legally or by threats, the participation of an opponent is limited than if the results are changed during vote aggregation.

In addition to being costlier, moving from electoral fraud to other practices is also more uncertain in terms of results, which is why they are often the second best. For example, in 1973, the dictatorship that ruled Argentina proscribed Juan Domingo Perón from the election. In any case, with the slogan "Campora to the government, Peron to the power", José Cámpora won the elections. After taking office, he called for new elections without Peron's proscription, and 49 days after Campora's inauguration, Peron took democratically the power.

In summary, despite the constant improvement that international election observation has undergone since its origins, there are still numerous limitations that should have been overcome or are yet to be overcome. The section that follows discusses how an international certification agency can help to overcome or address the majority of these limitations in order to improve the capacity of observation missions to deter electoral fraud.

3. Monitoring the monitors

To describe one of the central problems of international election observation, Kelley (2012) draws an analogy with the classic work of the Roman poet Juvenal. In his Satires, the protagonist is burdened by a problem of marital fidelity. When faced with the suggestion of his friends to place guards in his wife's bedroom, he asks, *Quis custodiet ipsos custodes?* (*Who watches the watchers?*). Kelley (2012) is correct; many of the current problems of election observation stem from the lack of an oversight body. The international election observation system is currently highly decentralised and deregula-

ted. As discussed in the previous sections, this decentralisation and deregulation has its advantages, but it also creates difficulties.

This paper proposes that creating an organisation that certifies observation missions is necessary to order and regulate the electoral observation system without falling into a monopoly that would undermine their diversity and expansion. Certification implies "the process by which an agency or an association acknowledges the achievement of established quality standards and usually grants certain privileges to the target individual" (Vlăsceanu et al., 2004, p. 42). i.e. the certifying agency would have the central role of evaluating whether the different organisations apply the established quality standards to earn the right to be recognised as professional missions.

3.1 Overcoming residual limitations

In Section 2, it was mentioned that numerous limitations should have been overcome by now, but that remain residual due to the decentralisation and deregulation of election observation missions. Concerning the lack of international guidelines, there are no mechanisms to enforce them. The existence of a certifying agency could be of great advantage in this respect. Both the observation missions and pseudo-missions depend on funding, in the first case from donors and the second from interested countries. Nevertheless, if the missions are evaluated by a rating agency and receive a poor rating for not adhering to international guidelines, their survival is in jeopardy. First, donors will be more reluctant to fund missions that receive low ratings, so there is a greater incentive for organisations to improve their practices. Second, pseudo-democrats will find little benefit in funding missions that are poorly rated and cannot convince the population or the international system of the supposed transparency of elections.

Concerning the lack of professionalism and training of members, a certifying agency can control whether or not the organisation trained observers, evaluate their training in terms of international guidelines, organisation manuals, and mission methodology, and observe and evaluate the observers' performance in practice. The certifying agency could also check the number of observers, the adequate territorial coverage[7], and long-term work. Regarding

[7] Even in cases where the number of observers does not allow a representative number of polling stations, there are other methods in which statistically representative polling stations are selected based on the results of previous elections, and their control can allow having a reasonably accurate estimation of the electoral outcome (Cotelo, 2017).

lack of neutrality or impartiality, certification would be an internal control within the different missions. The correct application of procedures would make it much more difficult for pseudo-missions to provide a positive assessment of non-transparent elections without straining the internal process or alerting evaluators.

Finally, with regard to collaboration with domestic observers, many organisations have been reluctant to collaborate with domestic observers and have even treated them with paternalism and contempt (Geisler, 1993). Although collaboration with local observers is covered in numerous observation manuals (OAS, 2007; OSCE, 2010; African Union, 2013), the attitudes described by Geisler (1993) may limit cooperation in practice. Collaboration with local observers brings numerous benefits (Geisler, 1993; Horcasitas, 1997) and has excellent potential in the development and application of new crowdsourcing tools[8] (Birch, 2011; Bader, 2013), so if it becomes a requirement to be evaluated by the certifying agency, the incentives for missions to collaborate with them will become more outstanding.

3.2 Addressing Unresolved Limitations

The second section also presents several limitations that election observation missions have yet to overcome, the existence of a certifying agency can also help address these constraints. Regarding the lack of certainty in punishments, it is true that many Great Powers have acted differently in whether to apply punishments to non-democratic countries based on their specific interests. This difficulty is complicated to overcome. However, a certifying agency can make it costlier for Great Powers to ignore adverse reports that come from organisations whose methodology has been endorsed.

The lack of neutrality or impartiality refers to the dependence of many monitoring organisations on the donor's interests. In this case, the existence of a certification agency can generate a balance of incentives that helps to control the organisation's bias. On the one hand, missions are incentivised to present their findings in a way that does not affect the interests of their donors in order not to lose funding. However, on the other hand, overly biased expressions could lead to a negative evaluation and the consequent loss of funding. Secondly, Kelley (2008b) argues that organisations often make false claims of neutrality, which are easy to contradict when analysing the funding or

[8] Crowdsourcing allows citizens to get involved in election monitoring by creating mechanisms for reporting irregularities (Mazerolle & Ransley, 2006).

composition of missions. Assessing this discordance by a certifying agency may create incentives for missions to avoid claiming neutrality when they are objectively not. Finally, many observation organisations compete for public attention to improve their funding chances. This tendency has been defined by Kelley (2008b) as inter-organisational politics and leads, in many cases, to missions rushing to submit their reports on election night in order to be the first to grab press attention. This competition leads to partial or incomplete reports, even assessing an election process that has not yet been completed. A certification agency could penalise and discourage such practices.

Another common criticism is that international observers spend too little time at each polling station. However, there is no empirical evidence that lack of time undermines fraud deterrence. A certifying agency can contribute in this regard by collecting and systematising information on the development of each electoral mission. This information can then be used to assess what works in election observation, which, as mentioned above, is an area that needs to be developed. It has also been mentioned that the voluntary nature of the missions means that not all countries invite missions; hence, some authors, following the example of the OCSE, have proposed committing to invite missions as a requirement for participation in international organisations (Muñoz-Pogossian and Veloso, 2015). While the existence of a certifying agency does not eliminate the voluntary nature of the invitation by countries, it can help to reassure those countries that have doubts about an organisation's professionalism or impartiality and thus favour its invitation. Moreover, in the case of countries where the non-invitation of missions is only for strategic reasons, certifying missions would take away arguments when it comes to explaining and defending the non-invitation.

Observation missions have also been criticised for displacing electoral fraud towards more complex crimes (Simpser, 2009; Simpser and Donno, 2012; Daxecker, 2014). In this sense, it is not a logical solution to abolish electoral observation to return to less costly or soft forms of electoral fraud. On the contrary, electoral observation must be professionalised and strengthened to control and deter increasingly complex crimes. This increasing complexity is another reason to create a certification agency that could encourage organisations to develop new strategies and methodologies to prevent electoral fraud.

Finally, the creation of a certification agency for observation missions can have a very positive effect on reducing the limitations of IEO. However, this institution may come with several limitations. Firstly, it can be argued that providing explanations to accrediting members within each mission may

hinder the work of observers and, thus, their effectiveness. Furthermore, in countries where the government controls the press, the effect of distinguishing between proper missions and pseudo-missions may be diminished by omitting this information from the public. However, the international and donor effects could not be avoided. Finally, there may be a bias in the accrediting organisation that undermines the expected benefits. Nevertheless, with clear standards and the assumption of the role by a professional and reputable organisation, this limitation could be controlled.

In summary, creating a prestigious, professional and impartial certifying agency in charge of overseeing the application of existing election observation standards would contribute substantially to overcoming the residual limitations of election observation and alleviating those that have not yet been resolved. Furthermore, despite the potential limitations of the proposed policy, these are manageable and, in any case, do not outweigh the numerous anticipated benefits. It is thus argued that incorporating the proposed certification agency will help to better prevention of electoral fraud through international observation missions.

Conclusions

This work has aimed to find out how international election observation can better prevent electoral fraud. The answer is the creation of an international agency to certify the quality of electoral observation missions. In order to propose such an agency, the preventive capacity of election observation missions was first analysed. From a theoretical perspective, adverse reports trigger a series of national and international costs or punishments that prevent electoral crimes. There is also empirical evidence that this mechanism works in practice. However, more and better studies are needed to get a complete picture of the functioning and capacity of the missions. In addition, the context in which they take place affects their deterrent capacity.

Beyond the context, the deterrent capacity of observation missions is affected by two types of limitations, some residual and others current. Although desirable in some respects, the decentralisation of the observation system leads to difficulties in enforcing best practices. Currently, many countries invite pseudo-observation missions to certify fraudulent elections and dilute the control power of professional missions. As a result, pseudo-missions have no incentive to apply many of the existing standards. Hence, residual limitations can be resolved with a certifying agency; the lack of observers,

lack of training, lack of professionalism of observers, and short duration of missions, among others, would be penalised in each report. There are also limitations, such as the bias of the missions according to their donors, the voluntary nature of the invitations, and the lack of certainty in punishments, which the existence of a certification organisation could mitigate.

The proposal, in particular, implies the creation of an independent, technically capable, impartial and reputable agency in charge of assessing the quality of each election observation mission. This practice may incentivise pseudo-missions to apply current best practices in pain of being classified as flawed or unprofessional missions. The rationale is that no government will be interested in inviting missions whose favourable evaluations will be dismissed or questioned. In addition, an international certification agency can help control biases, false claims of neutrality and inter-organisational competition policies among professional missions. While it would not solve the problem of the uncertainty of punishments, having an oversight body certifying mission methodology would make it more difficult for the Great Powers to ignore punishments based on their convenience. Finally, this certification agency would respect the sovereignty of each country by not denying the voluntary nature of inviting missions. However, it would contribute to confidence in the independence and professionalism of the missions. This evaluation can give confidence to undecided countries and remove arguments for those who decide strategically not to invite.

Leading authors in the field have called for improving international election observation (Hyde, 2011a; Kelley, 2012). The proposal presented here is an answer to one of the central problems of international observation: Who watches the watchers? (Kelley, 2012). This reform would allow for progress toward an orderly and more regulated international observation system without the problems that centralisation or monopoly would bring. However, this is not a proposal without limitations. First, it is based on the assumption that observation missions effectively deter electoral fraud when the evidence is incipient and more studies on the subject are needed. In this sense, the existence of a certification agency that analyses and collects information on mission performance could be helpful for the analysis of mission effectiveness and best practices. Secondly, a detailed study of the problems associated with this proposal and its design has not been presented, so future analyses on the subject should investigate these limitations and design in greater depth.

The proposal of this paper is far from a definitive solution to electoral crimes just because such solutions do not exist. Given the importance of what is

at stake in each election, electoral fraud appears destined to persist. Nevertheless, It is possible to analyse and propose improvements to the current control mechanisms. In particular, the proposed creation of an international certification agency for IEO could, without significant drawbacks, contribute to preventing a wide range of international observation limitations.

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