



US elections highly competitive, but voting rights not guaranteed for all groups, international observers say

WASHINGTON D.C., 7 November 2018 – The 6 November mid-term elections in the United States were highly competitive and contestants could campaign freely, with media presenting a wide array of information and views, enabling voters to make an informed choice. However, campaign rhetoric was often intensely negative and at times intolerant, including on social networks, the international observers from the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the OSCE Parliamentary Assembly (OSCE PA) concluded in a statement released today.

The fundamental right to suffrage was undermined in places by the disenfranchisement of some groups and the lack of full representation in Congress. Campaign finance rules do not guarantee full transparency, the observers said. While the elections were largely administered in a professional manner and voters turned out in high numbers, decisions on important aspects of the electoral process were often politicized, the statement says.

“The American people once again demonstrated their commitment to democratic elections in a hard-fought and vibrant campaign that clearly engaged voters and had millions eagerly awaiting results last night,” said George Tsereteli, Special Co-ordinator and leader of the short-term OSCE observer mission. “While the rhetoric we heard from the campaign trail was often divisive, Americans came together to vote in professionally run elections.”

There was an overall respect for fundamental freedoms in a campaign that was dominated by the two main parties. The intolerant rhetoric included several statements with xenophobic and anti-Semitic connotations, the statement says. Concerns were raised regarding online disinformation from both domestic and foreign sources, as well as regarding the transparency of online advertising.

The legal framework and the administration of elections are complex and diverse. As there are few nationwide procedural standards, detailed rules are made only at the state and sub-state level. Some states have amended laws to facilitate voter registration, early voting and the voting rights of ex-prisoners, partially addressing prior ODIHR recommendations. However, fundamental deficiencies remain, particularly with respect to the disenfranchisement of citizens on various grounds, the observers said. Lack of agreement in Congress to update a key aspect of the 1965 Voting Rights Act diminishes its effectiveness in safeguarding against discrimination on racial or linguistic grounds.

Voter registration is active and implemented by states, with minimum conditions set by federal law. A number of states enhanced efforts to facilitate voter registration, including online and automatic registration, but an estimated 50 million eligible citizens were not registered for these elections, for various reasons. Legislation and established practices effectively disenfranchised around 11 million otherwise eligible voters, the statement says. Voter identification is a politically divisive issue, and rules in some states can present obstacles, particularly for low-income voters, racial and linguistic minorities, and Native Americans.

“These were well-run elections, but the diverse nature of the American system means that there isn’t a single picture. We welcome progress in some states to facilitate voter registration and to reinstate voting rights to citizens, but we cannot ignore that countless millions remain effectively disenfranchised,” said Isabel Santos, Head of the OSCE PA delegation. “Much more attention and investment in democracy remains critical if the United States is to overcome these longstanding challenges and address new ones, like effectively securing election infrastructure.”

The media landscape is pluralistic and vibrant, offering voters a wide range of opportunities to inform themselves, but is increasingly polarized. There is limited regulation and few rules for broadcast media during elections. Verbal attacks on journalists and news media by senior officials raised concerns over their safety and undermined the essential role of media in a democratic society.

“The broad range of professional and active media sources available to voters is one of the strengths of the American political landscape, so it is troubling to see journalists being threatened, as we have during this campaign,” said Tana de Zulueta, Head of the ODIHR limited election observation mission. “This undermines the essential role of media in a democratic society.”

A total of 1,262 candidates stood in the mid-term elections, providing voters with a variety of choice, the observers said. While districts are generally equal in size, there are widespread concerns that redistricting is often a partisan process, resulting in a number of uncompetitive contests. In 42 House races, a Democrat or Republican ran unopposed.

A number of grassroots movements raised the profile of issues related to women’s rights, promoting a diverse range of views. There were both a record number of women who ran as candidates and who were ultimately elected, although women remain underrepresented in the Congress. There was an increased number of candidates from historically underrepresented groups, including persons with disabilities, Native Americans and openly LGBT persons.

Campaign finance rules are enforced at the federal level, with few limits on donations and no limits on expenditures, including by so-called Super PACs. While financial reports were submitted and published expeditiously, some non-profit organizations are not required to disclose their reports, undermining an otherwise transparent system.

The use of new voting technologies (NVT) is extensive and varies considerably across the country, and federal and state authorities launched a number of robust initiatives to help secure election technologies, including from cyber-threats. While there is a general trend to return to paper-based voting, voting machines without a voter-verified paper trail were used in 15 states, with 5 states relying on them exclusively. The Election Assistance Commission expeditiously disbursed \$380 million allocated by Congress to replace outdated voting machines, strengthen existing computer and network infrastructure, and build cybersecurity capacity, but more investment is needed to replace aging voting equipment and to maintain security, the statement says. Positively, in line with prior ODIHR recommendations, efforts to strengthen public confidence in the accuracy of election results were introduced, including through certification of NVT and post-election audits.

Election observation is regulated by states, and restrictions on election day observation by international observers were in place in 12 of these. While federal government departments and agencies supported and facilitated the work of the international observers, political and electoral authorities in several states declined to meet with ODIHR observers, and in one state prevented observation altogether. Such restrictions are not in line with OSCE commitments undertaken by the United States. Voting was observed extensively by parties and civil society, providing oversight and transparency. In the limited number of polling stations visited by the international observers, prescribed procedures were generally followed, although secrecy of the vote was not always ensured.

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