

Who Organizes Elections?

What Is an EMB?

8. The complexity and specialist skills necessary for electoral management require that an institution or institutions be responsible for electoral activities. Such bodies have a variety of shapes and sizes, with a wide range of titles to match, which include ‘Election Commission’, ‘Department of Elections’, ‘Electoral Council’, ‘Election Unit’, or ‘Electoral Board’. The term ‘electoral management body’ or EMB has been coined as a name to refer to the body or bodies responsible for electoral management whatever wider institutional framework is in place.

9. An EMB is an organization or body which has the sole purpose of, and is legally responsible for, managing some or all of the elements that are *essential for* the conduct of elections and of direct democracy instruments – such as referendums, citizens’ initiatives and recall votes – if those are part of the legal framework. These *essential (or core) elements* include:

- a. determining who is eligible to vote;
- b. receiving and validating the nominations of electoral participants (for elections, political parties and/or candidates);
- c. conducting polling;
- d. counting the votes; and
- e. tabulating the votes.

10. If these essential elements are allocated to various bodies, then all bodies which have a share of these essential elements can be considered as EMBs. An EMB may be a stand-alone institution, or a distinct management unit within a larger institution which may also have non-electoral tasks.

11. In addition to these essential elements, an EMB may undertake other tasks which *assist* the conduct of elections and direct democracy instruments, such as the conduct of voter registration, boundary delimitation, voter education and information, media monitoring and electoral dispute resolution. However, a body which has no electoral responsibilities other than, for example, boundary delimitation (such as a boundary delimitation commission), electoral

dispute resolution (such as an electoral court), election media monitoring (such as a media monitoring commission) or the conduct of voter education and information (such as a civic education commission) is not considered to be an EMB because it is not managing any of the ‘essential elements’ of elections as identified above. Similarly, a national population or statistics bureau which produces electoral registers as part of the general process of population registration is not considered to be an EMB.

12. Different EMBs may be established for different electoral processes. In Mexico and Poland, the EMB is responsible both for presidential elections and for parliamentary elections; in Lithuania, one EMB deals with presidential elections and a separate one with parliamentary elections. In the United Kingdom (UK), the arrangements for the conduct of elections and referendums are totally different from each other (see case study).

13. Some bodies that are not engaged in any of the ‘essential elements’ of elections may be popularly regarded as EMBs due to the breadth of election-related activities which they undertake. An example is the New Zealand Electoral Commission, which is responsible for the registration of political parties, the allocation of broadcasting time and official funds to parties, oversight of party funding and expenditure, and voter education and information. However, such institutions do not qualify as EMBs under the definition of an EMB above.

14. In addition to the division of functional responsibility for different elements of the electoral process, electoral responsibilities may be divided between bodies at different levels. For example, some elements of the conduct of elections may be managed by a national-level electoral commission, a ministry (such as the Ministry of the Interior), or a national government agency, while others are implemented by local-level commissions, regional branches of government departments, or local authorities (as in Spain). The term ‘EMB’ may also apply to a national electoral commission which co-manages elections together with local authorities, such as the Swedish Election Authority, which includes in its functions the coordination of ballot paper printing, the distribution of seats and the announcement of results at the national level.

Three Models of Electoral Management

15. A country’s electoral management model may result from a holistic design process. Equally, it may be a more or less appropriate graft onto an existing system of state administration. In post-colonial environments, it may be strongly influenced by colonial administrative patterns. While there are many variations of detail, there are three broad types or models of electoral management – the Independent, Governmental and Mixed Models. The form of electoral management and the individual EMBs of 214 countries and territories are shown in annex A.

The three broad electoral management models are:

- Independent Model
- Governmental Model
- Mixed Model

The Independent Model of Electoral Management

16. The Independent Model of electoral management exists in those countries where elections are organized and managed by an EMB which is institutionally independent and autonomous from the executive branch of government, and which has and manages its own budget. Under the Independent Model, an EMB is not accountable to a government ministry or department. It may be accountable to the legislature, the judiciary, or the head of state. EMBs under the Independent Model may enjoy varying degrees of financial autonomy and accountability, as well as varying levels of performance accountability. They are composed of members who are outside the executive while in EMB office. Many new and emerging democracies have chosen the Independent Model of electoral management. Examples of EMBs under the Independent Model include Armenia, Australia, Bosnia and Herzegovina, Burkina Faso, Canada, Costa Rica, Estonia, Georgia, India, Indonesia, Liberia, Mauritius, Nigeria, Poland, South Africa, Thailand and Uruguay.

17. In some countries, two bodies are established for the management of elections, both of which are independent of the executive and can be considered as independent EMBs. One of these bodies is likely to have responsibility for policy decisions relating to the electoral process, and the other to be responsible for conducting and implementing the electoral process. Provisions may exist which insulate the implementation EMB from interference by the policy EMB in staffing and operational matters. Examples of this 'double-independent' framework under the Independent Model include Jamaica, Romania, Suriname and Vanuatu.

The Governmental Model of Electoral Management

18. The Governmental Model of electoral management exists in those countries where elections are organized and managed by the executive branch through a ministry (such as the Ministry of the Interior) and/or through local authorities. Where EMBs under the Governmental Model exist at national level, they are led by a minister or civil servant and are answerable to a Cabinet minister. With very few exceptions they have no 'members'. Their budget falls within a government ministry and/or under local authorities.

19. Countries whose EMBs fall into this model include Denmark, New Zealand, Singapore, Switzerland, Tunisia, the UK (for elections but not referendums) and the United States. In Sweden, Switzerland, the UK and the United States, elections are implemented by local authorities. In Sweden and Switzerland the central EMB assumes a policy coordinating role.

The Mixed Model of Electoral Management

20. In the Mixed Model of electoral management, there are usually two component EMBs, and dual structures exist: a policy, monitoring or supervisory EMB that is independent of the executive branch of government (like an EMB under the Independent Model) and an implementation EMB located within a department of state and/or local government (like an EMB under the Governmental Model). Under the Mixed Model, elections are organized by the component governmental EMB, with some level of oversight provided by the component independent EMB. The Mixed Model is used in France, Japan, Spain and many former French colonies, especially in West Africa, for example Mali, Senegal and Togo.

21. The powers, functions and strength of the component independent EMB in relation to the component governmental EMB vary in different examples of the Mixed Model, and the classification of a particular country as using the Mixed Model is sometimes not very clear. In some cases, the component independent EMB is little more than a formalized observation operation, although this version is dying out, having been abandoned for example in Senegal. In other cases, the component independent EMB has a role to supervise and verify the implementation of electoral events by the component governmental EMB, as in Madagascar, and sometimes also to tabulate and transmit results, as in Congo (Brazzaville) and Togo. In some francophone countries, the Constitutional Council is engaged in the tabulation and declaration of results and can be considered as a component independent EMB within the Mixed Model. In Chad, this applies to referendums only, and not to elections. In Mali, where elections are organized by the Ministry of Territorial Administration, both the Independent National Electoral Commission and the Constitutional Court undertake their own tabulation of results: three component EMBs may therefore be said to exist, one which is governmental and two which are independent.

22. The relationship between the component EMBs in a Mixed Model is not always clearly defined in legislation or interpreted by stakeholders, and friction can result. In the 1999 elections in Guinea-Conakry (which used the Mixed Model at that time), the majority representatives and the opposition representatives in the component independent EMB had strongly differing approaches to its role to supervise and verify the elections, and its effectiveness was therefore heavily disputed.

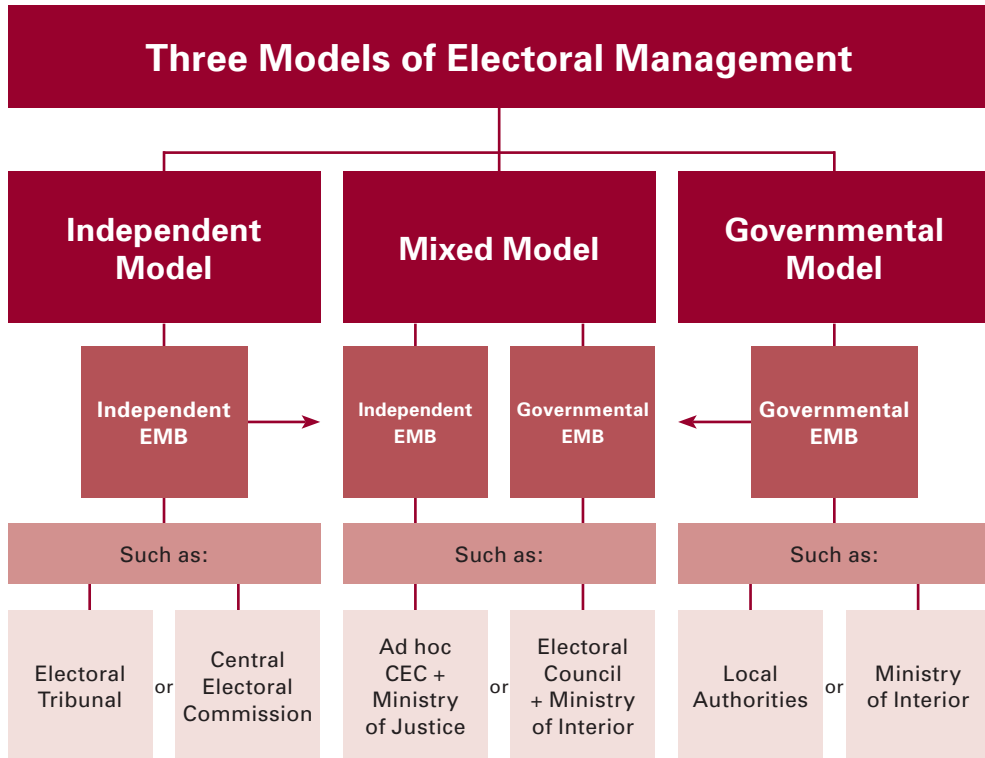
International IDEA's 2006 survey of electoral management in 214 countries and territories worldwide showed that 55 per cent followed the Independent Model, 26 per cent the Governmental Model and 15 per cent the Mixed Model (the remaining 4 per cent corresponds to countries that do not hold national-level elections).

Table 1: Characteristics of the Three Broad Models of Electoral Management and their Component EMBs

Aspect of the Model and the Component EMB(s)	Mixed Model			
	Independent Model	Governmental Model	Independent Component	Governmental Component
	Independent EMB(s)	Governmental EMB(s)	Component Independent EMB	Component Governmental EMB
Institutional arrangement	Is institutionally independent from the executive branch of government	Is located within or under the direction of a department of state and/or local government	Is institutionally independent from the executive branch of government	Is located within or under the direction of a department of state and/or local government
Implementation	Exercises full responsibility for implementation	Implementation is subject to executive branch of government direction	Has autonomy to monitor or supervise, and in some cases set policy for, implementation	Implementation is subject to executive branch of government direction, and monitoring or supervision and in some cases policy setting by independent component
Formal accountability	Does not report to executive branch of government but with very few exceptions is formally accountable to the legislature, judiciary or head of state	Fully accountable to executive branch of government	Does not report to executive branch of government and is formally accountable to the legislature, the judiciary, or the head of state	Fully accountable to executive branch of government
Powers	Has powers to develop the electoral regulatory framework independently under the law*	Powers are limited to implementation	Often has powers to develop electoral regulatory framework independently under the law. Monitors or supervises those who implement elections	Powers are limited to implementation
Composition	Is composed of members who are outside the executive branch while in EMB office	Is led by a minister or public servant. With very few exceptions has no 'members', only a secretariat	Is composed of members who are outside the executive branch while in EMB office	Is led by a minister or public servant. Has no 'members', only a secretariat
Term of Office	Offers security of tenure, but not necessarily fixed term of office	Usually no members, therefore N/A. Secretariat staff are civil servants whose tenure is not secured	Offers security of tenure, but not necessarily fixed term of office	Term of office is not secured
Budget	Has and manages its own budget independently of day-to-day governmental control	Budget is a component of a government ministry's budget or local authority budget	Has a separately allocated budget	Budget is a component of a government ministry's budget or local authority budget

* A few countries which use the Independent or Mixed Model of electoral management, such as Hungary, do not have independent EMBs with regulatory powers.

Figure 1: The Three Models of Electoral Management



CEC = Central Electoral Commission

What Can Be Expected of EMBs under the Different Electoral Management Models?

23. The electoral management model used by a country is an important factor in EMB behaviour, but far from being the only one: it is simplistic to think of three different behaviour patterns. EMB behaviour also depends on the electoral framework, political and social expectations, and the cultural environment within which each EMB exists. Influences include the political commitment to allow an EMB to act freely and impartially, the range of powers and functions given to an EMB, the qualifications of members or staff for appointment and their terms of office, the way in which members and/or staff are selected and appointed, the oversight and accountability framework, and whether the EMB has a legal personality and is thus able to sue and be sued. For example, an independent EMB comprising representatives of competing political parties and an independent EMB comprising non-aligned academics, or others free of political association, both follow the Independent Model but are likely to operate differently. Similarly, an EMB under the Governmental Model whose sponsoring department controls local electoral management offices is likely to behave differently from one that is dependent on numerous local authorities to implement electoral activities.

24. However, there are some general characteristics, advantages and disadvantages of the three Models and their EMBs. Tables 1, 2, 3, 4 and 5 list some key issues.

Attributes of EMBs under the Three Broad Models of Electoral Management

25. Building on this chapter's definition of the three electoral management models and their component EMBs, tables 2 and 3 explain essential, possible and incompatible attributes of EMBs under the Independent and Governmental Models, respectively.

Table 2: What an EMB under the Independent Model Is, May Be, and Is Not

Aspect	Essential Attributes	Possible Attributes	What It Is Not
Institutional arrangement	Institutionally independent from the executive branch of government		Is NOT part of the structure of a department of state and/or local government
Implementation	Exercises full responsibility for implementation	May be a legal entity which can sue and be sued in its own right (e.g. Azerbaijan, Kenya and Lithuania) or not a legal entity (e.g. Botswana and Namibia)	Is NOT above the constitution or law
Accountability	Is subject to good governance constraints	Most usually is formally accountable to the legislature, the judiciary or the head of state. May have varying levels of financial autonomy and accountability. May have financial autonomy through drawing up its own budget and receipt and use of public funds with minimal involvement of the executive branch of government. May have varying levels of performance accountability	Is NOT formally accountable to the executive branch of government. Is NOT free of policy, financial, and performance accountability and good governance constraints
Powers	Has powers to make policy decisions independently under the legal framework	Most usually has powers to develop the electoral regulatory framework independently under the law. More usually has broad overall powers and functions for electoral implementation. May have powers to hire, fire and discipline its own staff. May have power to establish its own procurement and accounting procedures	
Composition	Is composed of members who are outside the executive while in EMB office	Members may be non-aligned 'experts' or politically affiliated	
Term of office	Members have security of tenure	May have a fixed term of office	Members can NOT be removed/ dismissed arbitrarily by the executive branch
Budget	Has and manages its own budget independently of day-to-day governmental control	May have a separately allocated budget from the legislature. May receive funding from the executive branch or the donor community	Does NOT fall within the budget of any government ministry
Staff	Has autonomy to determine its staff needs, rules and policies	May be able to access personnel from within the public service	Staff members are NOT necessarily public servants

Table 3: What an EMB under the Governmental Model Is, May Be, and Is Not

Aspect	Essential Attributes	Possible Attributes	What It Is Not
Institutional arrangement	Is located within a department of state and/or local government	May be a department, an agency, or a local authority	Is NOT an institution that is independent of the executive branch of government
Implementation	Implementation is subject to direction by the executive branch of government	Implementation responsibilities may be shared with ministries, departments or local authorities	
Accountability	Is fully accountable for policy, finance, performance and governance to the executive branch of government		
Powers	Powers are limited to implementation	May often share electoral implementation responsibilities with other departments and local governments	Does NOT have independent regulatory powers
Composition	Is led by a minister or civil servant	With very few exceptions has no members, only a secretariat. Selection of members (if any) and secretariat may be done exclusively by the executive	
Term of office		Usually has no members and therefore no term of office	
Budget	Budget is a component of a government ministry's budget	May receive funding from donor community	Does NOT decide on its own budget
Staff	Is primarily staffed by public servants	May be able to access personnel from outside the public service	Can NOT hire and fire its own staff

26. Mixed Model electoral management encompasses a variety of structures, internal relationships and attributes. Apart from the characteristics noted in table 1, it is difficult to codify their essential and possible attributes. The relationship between the component EMBs in a Mixed Model is significant in determining its attributes and methods of operation. Effective legal frameworks for Mixed Model electoral management clearly specify the division of powers and functions between the component policy, monitoring or supervisory EMB(s) and the component implementing EMB(s), and their interactions. Table 4 shows some examples of attributes of component EMBs under Mixed Model electoral management.

Table 4: Examples of Attributes of EMBs under Mixed Model Electoral Management

Country	France		Japan	
	Component Independent EMB	Component Governmental EMB	Component Independent EMB	Component Governmental EMB
Component EMBs				
Title	Constitutional Council	Ministry of Interior, Bureau of Elections	Central Election Management Council (CEMC)	Ministry of Internal Affairs and Communications - Election Division
Composition	Body defined in the constitution with 9 appointed members, 3 each appointed by the President, the National Assembly and the Senate	N/A	5 members appointed by the Parliament	N/A
Structure	Permanent	Permanent	Temporary Term of office 3 years	Permanent
Relationship between Component EMBs	Oversight and some dispute resolution only	Organization and piloting of the electoral process, the major functions of which are the responsibility of the administration at commune level	A secretariat within the ministry gives the CEMC administrative support; the minutes of the CEMC meetings are available on the ministry's web site	Implementation of CEMC instructions and decisions and ensuring their implementation by highly decentralized EMBs at regional and local level
Distinct Powers and Functions of the Component EMBs	Acceptance of nominations in presidential elections. Watching over the regularity of presidential elections and referendums, and declaration of their results. Ruling on disputes over the results of parliamentary elections	Organization and administration of all elections	Exercise of general direction and supervision of the administrative conduct of national elections	Administrative conduct of all aspects of elections

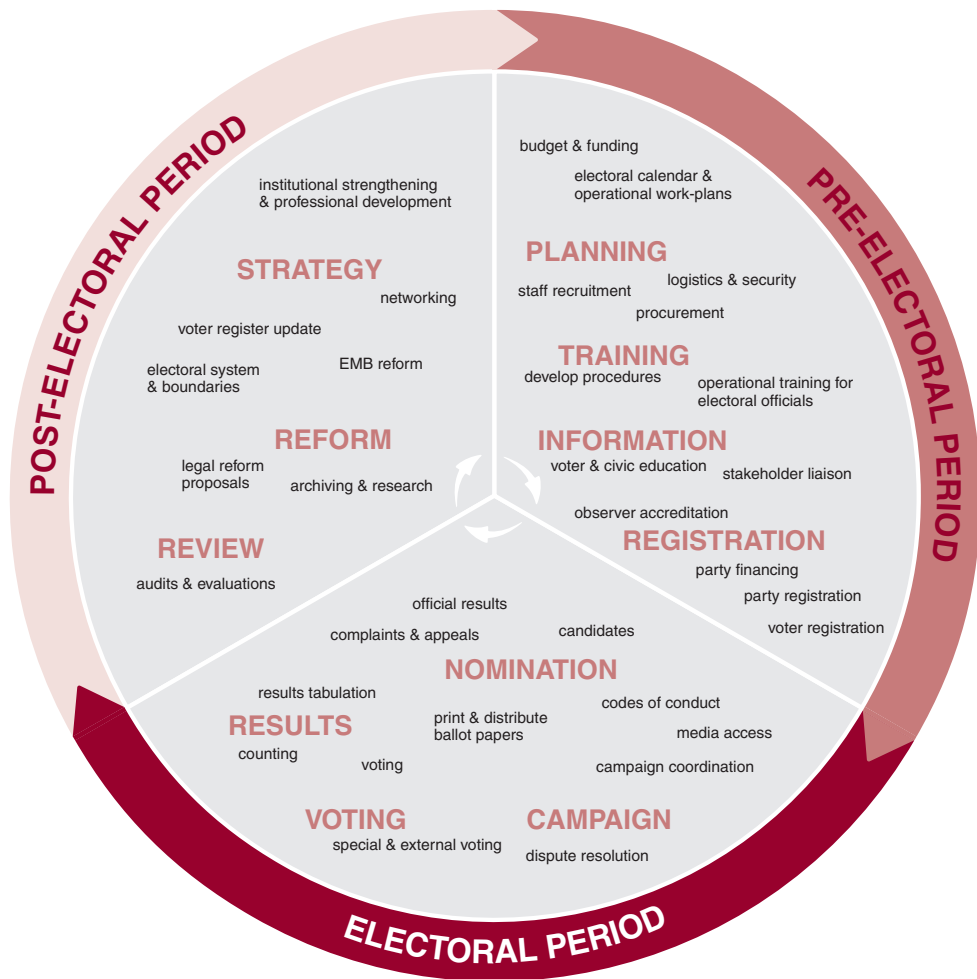
Country	Senegal		Spain	
	Component Independent EMB	Component Governmental EMB	Component Independent EMB	Component Governmental EMB
Component EMBs				
Title	Autonomous National Election Commission	Ministry of the Interior -General Directorate of Elections	Central Electoral Board	Ministry of the Interior - General Directorate of Elections
Composition	12 members sworn in by the Constitutional Council	N/A	8 judges of the Supreme Court + 5 experts (professors of political science, law, sociology, etc.) jointly proposed by parties represented in Parliament. Chairman and vice-chairman are elected by Central Electoral Board from among the 8 judges	N/A
Structure	Permanent	Permanent	Permanent. Renewed once every 4 years after each parliamentary election	Permanent
Relationship between Component EMBs	Independent supervision, review and verification of the electoral process	Organization and administration of the entire electoral process	Supervision of the entire electoral process	Exercise of all electoral implementation functions. Must consult with the other component for important decisions
Distinct Powers and Functions of the Component EMBs	Independent supervision, review and verification of registration and of the electoral process	Organization and administration of the entire electoral process	Supervision of electoral events. Nomination of candidates. Handling of complaints. Declaration of results. Allocation of seats	Registration of voters. Polling. Counting. Electoral logistics

N/A = Not applicable

Permanent and Temporary EMBs

27. There are many phases to the electoral process: in an election, for example, these include the design and drafting of legislation, the recruitment and training of electoral staff, electoral planning, voter registration, the registration of political parties, the nomination of parties and candidates, the electoral campaign, polling, counting, the tabulation of results, the declaration of results, the resolution of electoral disputes, reporting, auditing and archiving. After the end of one electoral process, it is desirable for work on the next to begin: the whole process can be described as the electoral cycle, illustrated in figure 2.

Figure 2: The Electoral Cycle



28. In determining whether a permanent or temporary EMB is appropriate, workloads throughout the electoral cycle need to be considered, and the expense of maintaining a permanent institution has to be compared with the expense and time required to establish a new body for each election. Where a temporary EMB appears appropriate, it is important to consider how institutional memory relating to elections will be maintained. In situations where electoral events occur regularly – such as regular partial or by-elections and continuous voter registration – or where continuing electoral development work, such as ongoing voter education and information or advocacy of electoral law reforms, is needed, a permanent electoral institution is justifiable. Countries such as Armenia, Australia, Brazil, Canada, Indonesia, Mexico, the Philippines, South Africa and Thailand maintain permanent EMBs.

29. Some countries have EMBs which exist during the electoral period only. Such countries may follow any of the Independent, Governmental or Mixed Models. In some cases, the governmental EMB has to be temporary because the civil servants who run elections have other full-time duties and are redeployed to the EMB during electoral periods only. However, some countries with a Governmental Model of electoral management, such as Sweden, maintain a small skeleton staff to take care of electoral issues between elections, including updating the electoral register. In some countries which use the Mixed Model, the component governmental EMB is permanent to preserve institutional memory, while the component independent EMB is temporary and is set up only during electoral periods, as in Togo.

30. Countries such as Bulgaria, Georgia, Niger, Romania and Russia, whose electoral management follows the Independent Model, have permanent central EMBs which coexist with temporary subordinate EMBs at the electoral district or local levels. Depending on the responsibilities of the subordinate EMBs and on the logistics required, these structures are appointed from two to six months before polling day. Until recently, Bulgaria and Romania did not have permanent EMBs even at the national level. Permanent EMBs were created following encouragement from the Association of Central and Eastern European Election Officials (ACEEEO) and the recommendation of Organization for Security and Co-operation in Europe (OSCE) election observer missions that such structures would enhance institutional memory and operational continuity.

Centralized or Decentralized EMBs

31. The nature of the EMB, in terms of power concentration or devolution, depends very much on the system of government in the country and will usually be defined in the electoral law. The legal framework may distinguish between powers and functions given to a central or national EMB and those given to regional or lower-level EMBs. Such vertical divisions of powers and functions may be between different branch levels of the one national EMB, between a national EMB and separate provincial EMBs, as in Indonesia, or between national and local EMBs, as in the UK.

32. It is common in a unitary system, such as those of Costa Rica, Ghana and the Philippines, to have one central EMB that is responsible for all elections but with subordinate offices at both

provincial and local levels. Countries whose laws define separate, hierarchically accountable EMBs at national, regional, administrative district, and even village level often assign devolved or different powers and responsibilities to each level. Electoral legal frameworks that are modelled on a central EMB devolving responsibilities for implementing some electoral functions are in place in many countries, such as Lithuania and Slovakia.

33. Countries which use the Governmental or Mixed Model of electoral management may rely on local authorities to conduct all or part of electoral activities. For example, Sweden operates a highly decentralized electoral management structure which consists of a national EMB for policy coordination and local authorities which manage elections, and Hungary and Switzerland devolve some powers to local EMBs. Devolving electoral powers and responsibilities to local authorities without appropriate oversight may make it more difficult to maintain electoral consistency, service, quality, and ultimately the freedom and fairness of elections. The United States provides a good example of this difficulty.

Decentralized EMB structures can ensure continuity in the EMB's work, especially where the EMB has responsibility for recurring tasks such as continuous voter registration.

Decentralized EMBs, even if only temporary at lower levels, can enhance inclusiveness and transparency in electoral management.

The sustainability and relative costs of permanent as opposed to temporary EMBs at regional and/or lower levels need to be considered, as well as the advantages.

EMBs in Federal Countries

34. In federal countries, separate EMBs may exist at the national level and in each state/province, often operating under different legal frameworks and possibly implementing different electoral systems. Both the national-level and the provincial-level EMBs may each have separate, devolved structures. The nature of the relationship between such EMBs and the powers and responsibilities of each EMB depend on the provisions of the law.

35. There are a variety of approaches to this relationship. Examples include the following:

- In Australia and Canada, the national EMB is responsible for national (federal) elections, while provincial EMBs are responsible for provincial and local elections.
- In Brazil, the state EMBs are generally responsible for running all elections, with the national EMB involved in the tabulation and declaration of the results for national offices.

- In India, the national EMB exercises overall superintendence, control and direction over state elections. The conduct of these elections is the direct responsibility of the state chief electoral officer, a senior civil servant appointed by the national EMB.
- In Nigeria, the national EMB assumes responsibility for federal and state elections while the provincial EMBs are only responsible for local elections.
- In the Russian Federation a central EMB at the national level is responsible for all federal elections; regional EMBs are responsible for elections in the 89 regions that make up the federation; and lower-level EMBs are responsible to the central EMB for federal elections and to the regional EMB for republic, regional and local elections.
- In Switzerland a national EMB is responsible for policy coordination, while local authorities manage elections.

36. While there are often rivalries between EMBs at national and provincial levels in federal systems, there are examples of cooperation. For example, in Australia, state electoral laws specifically provide that the electoral registers for provincial and local elections are to be jointly maintained with the national EMB, rather than the provinces also maintaining their own registers. Such coordination in electoral laws has significant cost-savings benefits.

Transitional International EMBs and National EMBs

37. The term ‘transitional EMB’ refers to those EMBs which are set up temporarily to facilitate transitional elections. Transitional international EMBs are normally set up under the auspices of the international community, for example through the United Nations (UN), and consist of or include international experts as members. Countries where transitional international EMBs have been set up include Cambodia (1993), Bosnia and Herzegovina (1996) and East Timor (2000).

38. While not strictly ‘international’ EMBs, the EMBs in Afghanistan (2004) and South Africa (1994) were national institutions with provision for the appointment of international members. The 1994 South African EMB consisted of five international experts, but since 1996 South Africa has had a national EMB following the Independent Model.

39. An advantage of transitional international EMBs is that they benefit from the presence of international election experts who have vast technical knowledge and comparative electoral experience. This type of EMB structure is useful in deep-rooted conflict situations where there is a need for consensus building through mediation and dialogue. The presence of international experts on the EMB may bolster domestic and international stakeholder confidence in supporting the electoral process.

40. Transitional EMBs may also consist of nationals only, often mainly political party representatives: an example was the 53-member EMB of Indonesia in 1999. This EMB was larger than usual in order to ensure representation and inclusiveness. In 2001, Indonesia amended its electoral law to provide for an 11-member expert-based EMB.

Representation of the EMB before Cabinet and the Legislature

41. No matter what the model or type of EMB, it needs to deal with the executive branch of government and the legislature on issues such as electoral law and budgets. It is a good practice for a multiparty committee of the legislature, such as the Joint Standing Committee on Electoral Matters in Australia, to deal with EMB matters, and for a member of the Cabinet to handle all EMB issues in Cabinet and also to speak on its behalf in Cabinet and the legislature. For a governmental EMB, the relevant minister would usually be from the department within which the EMB is located.

42. Unless an independent EMB within an Independent or Mixed Model also has somebody to speak on its behalf – a task which may be allocated to a specified minister – it is difficult for matters pertaining to the EMB to attract sufficient attention from either the legislature or Cabinet. For example, the arrangement in Namibia under which the speaker handles all EMB matters, including electoral law and the EMB budget, has in the past presented some problems for the EMB because the speaker is not represented in Cabinet, and Cabinet rules in Namibia state that proposals for legislation must first be presented to Cabinet by one of its members. A crisis over delays in electoral law reform in 2003 led to the appointment of a temporary ‘guardian’ minister to the EMB and a review of the relationship between the EMB and the Cabinet.

Table 5: Advantages and Disadvantages of the Three Different Electoral Management Models

	Advantages	Disadvantages
Independent	<ul style="list-style-type: none"> • Provides a conducive environment for the development of electoral corporate identity and staff professionalism • Is less likely to be subject to restrictions on who can be involved in electoral management, as it may be able to draw on outside talent • Concentration on electoral business may result in better planning and more cohesive institutionalization of election tasks • Is in control of its own funding and implementation of electoral activities • Electoral administration tends to be under unified control even if different service providers are used • Electoral legitimacy is enhanced as the EMB is perceived to be impartial and not subject to political control 	<ul style="list-style-type: none"> • May be isolated from political and electoral framework decision makers • May not have sufficient political influence to acquire sufficient or timely funding • Member turnover may reduce corporate experience and institutional memory • May not have the skills or experience to deal with bureaucratic and corporate environments • May be higher-cost, as institutional independence makes it difficult to co-opt low-cost or no-cost governmental structures to assist in electoral implementation
Governmental	<ul style="list-style-type: none"> • Has self-renewing corporate memory and sustainability • Has available a pool of bureaucratically experienced staff • Is well placed to cooperate with other government departments in providing electoral services • Has cost advantages through resource synergies within and between government departments • Has a power base and influence within government 	<ul style="list-style-type: none"> • Credibility may be compromised by perceptions of being aligned with the current government or subject to political influence • Is subject to internal decisions of government departments or local authorities on funding allocations and electoral policies • May not have staff with the appropriate electoral skills • Bureaucratic style may not be appropriate to electoral management needs • Electoral administration may be fragmented among a number of arms of the executive branch of government with differing agendas
Mixed	<ul style="list-style-type: none"> • Credibility of prominent members of independent EMB may enhance electoral legitimacy. Implementation EMB has self-renewing corporate memory and sustainability • Has available a pool of bureaucratically experienced staff augmented by outside independent talent • Implementation EMB is well placed to cooperate with other government departments in providing electoral services • Independent EMB is in control of its policies and funding. Implementation EMB has cost advantages through resource synergies within and between government departments • Dual structure provides checks independent of external observation 	<ul style="list-style-type: none"> • Credibility may be compromised as electoral activities are implemented by governmental bodies and monitoring powers may not be sufficient to rectify electoral irregularities • Member turnover in independent EMB may reduce corporate experience and institutional memory • Independent EMB may not have sufficient political influence to acquire sufficient or timely funding. Implementation EMB is subject to internal departmental or local governments' decisions on funding allocations and electoral policies • Independent EMB may be lacking in real-world political skills. Implementation EMB bureaucratic style may not be appropriate to electoral management needs • Electoral administration may be fragmented among a number of arms of the executive branch of government with differing agendas

Some Guiding Principles for All EMBs

43. No matter which model is used, every EMB should be certain that it can ensure the legitimacy and credibility of the processes for which it is responsible. This can be done if electoral management is founded on fundamental guiding principles:

Guiding principles for EMBs:

- independence;
- impartiality;
- integrity;
- transparency;
- efficiency;
- professionalism; and
- service-mindedness

These guiding principles form the basis of electoral administration and are essential to ensure both the actual and the perceived integrity of the electoral process.

Independence

44. EMB independence is one of the most hotly debated issues in election administration, yet there is still no clear, accepted view on what EMB independence really means. Partly this is because the term ‘independent’ embraces two different concepts – that of structural independence from the government (the ‘Independent Model’ of electoral management); and that of the ‘fearless independence’ expected of all EMBs, no matter which model is used, in that they do not bend to governmental, political or other partisan influences on their decisions. The two are separate issues, one being formal and the other normative; nonetheless, they are seen as being linked in that the Independent Model of electoral management is regarded in many parts of the world as the model most likely to ensure an EMB’s independence of decision and action.

45. Institutional or ‘structural’ independence can only be found in the constitution or the law. The simplest way to promote independence of decision and action in an EMB is to create a legal framework that embeds EMB independence, as provided in the constitutions and principal EMB laws of many countries, as in Mexico and Uruguay. While this is always feasible with the Independent Model of electoral management and may be feasible when the Mixed Model is used, it may be more difficult to embed, apart from strict requirements for impartiality of action, under the Governmental Model, given the integration of the EMB(s) into ministries or local governments.

46. For both Independent and Mixed Model electoral management, both a culture of independence and the commitment of EMB members to independent decision making are more important than the formal ‘structural’ independence. A strong leadership is important for

maintaining an EMB's independence of action. For example, a senior member of the judiciary may fill the position of chair of an independent EMB within the Independent or Mixed Model. Such a link to the judiciary may make undue interference by the government or opposition parties in EMB operations less likely. However, it would not be appropriate where the judiciary is not regarded as impartial or free of corruption, or does not have enough members for it to be possible to avoid conflicts of interest in election-related court cases. Countries which use judges or former judges as EMB chairs include Australia, Brazil, Costa Rica and Zambia.

47. Alternatively, the appointment of a respected public figure, a person who is known for political non-alignment, may advance the independence of the EMB. Some countries, like Burkina Faso and Mozambique, provide for the appointment of a civil society leader as the EMB chair. In governmental EMBs the appointment as executive head of a public servant who is known for his or her integrity and unwillingness to be politically directed, as has been the case in Northern Ireland, can have a similar effect.

Impartiality

48. To establish the integrity and credibility of electoral processes and promote the widespread acceptance of election results, it is critical that an EMB not only conducts electoral events in a fearlessly independent manner, but that it is impartial in its actions. Without impartiality of electoral management and independence of action, the integrity of the election is likely to fail, and it can be difficult to instil widespread belief in the credibility of electoral processes, especially among the losers.

49. Every EMB is expected to manage elections impartially. Irrespective of the model under which the EMB exists, its source of accountability, management control or funding, it should treat all election participants equally, fairly and even-handedly, without giving advantage to any political tendency or interest group.

50. In theory, an independent EMB made up of non-aligned 'expert' appointees might be best able to achieve this. Other independent EMBs, for example where nominees of the contesting political parties are appointed to the EMB, may have a more difficult time establishing their credentials with the public as completely impartial bodies. Except in those countries that have a tradition of a non-aligned civil service, the decisions and activities of EMBs under the Governmental or Mixed Models may potentially be publicly regarded as likely to favour the incumbent government.

51. On the other hand, governmental EMBs in some countries which use the Mixed Model – such as Spain – and some countries which use the Governmental Model – such as New Zealand and Sweden – are generally regarded as impartial. Conversely, some EMBs which follow the Independent Model may be independent in name but not in nature. Impartiality may be imposed by the legal framework or EMB structure, but it has to be put into practice through the EMB's behaviour and attitudes to its stakeholders. Impartiality is a state of mind more than a statement in law, although this state of mind can be encouraged by effective external review of EMB decisions and an EMB code of conduct with strong sanctions.

52. It is important that EMBs be seen to be impartial by the general public. The best way to achieve this is through transparent actions backed by vigorous marketing and public relations efforts.

Integrity

53. The EMB is the primary guarantor of the integrity and purity of the electoral process and EMB members have the direct responsibility for ensuring this. Integrity may be easier to maintain if the EMB has both full independence of action and full control of all essential electoral processes. Where other bodies have electoral functions, EMBs need to be empowered to monitor their activities closely to ensure that they meet the highest integrity standards.

54. Electoral law or EMB regulations benefit from incorporating clear powers for the EMB to deal with electoral officials who threaten electoral integrity by acting to benefit political interests or who are corrupt. Ignoring such problems can create larger public issues of integrity and credibility than the public use of disciplinary powers will. To the extent possible, it is in the EMB's interests to ensure that breaches of the electoral laws, rules and codes of conduct are followed by appropriate sanction. A more detailed discussion of principles of electoral integrity may be found in the Electoral Integrity Module of the ACE Electoral Knowledge Network at <<http://www.aceproject.org>>.

Transparency

55. Transparency in operational and financial management lays out for public scrutiny the decisions and reasoning of the EMB. Transparency is a basic good practice for all EMB activities. It can assist an EMB to combat perceptions of and identify actual financial or electoral fraud, lack of competence or favouritism towards particular political tendencies, and can enhance the EMB's credibility. Electoral transparency may be backed by electoral law, as exemplified by the requirement that the EMB inform the public of its activities, as in Indonesia. It may be a practice required by the EMB's code of conduct, or may be adopted as an EMB policy, an example of which is the frequent media briefings and releases, and stakeholder consultations undertaken by the Liberian EMB for the 2005 elections. The absence of transparency in electoral processes invariably leads to the suspicion that fraudulent activities are taking place. For example, where observers and the public are unable to access progressive vote count and aggregation data, and there are significant delays in announcing and validating election results – as in Belarus and Ukraine in 2004, and in Ethiopia in 2005 – then the credibility of the election suffers.

Efficiency

56. Governments and the public expect that funds for elections will be used wisely and services delivered efficiently. In the face of expanding and ever more expensive technological solutions, and demands for increased effort in high-cost areas such as voter education and information,

EMBs have to be careful that their programmes sustainably serve electoral efficiency, as well as integrity and modernity.

57. A successful EMB is one that has displayed integrity, competence and efficiency. These qualities help to generate public and political party confidence in election processes. The legal framework can assist by defining efficient standards for electoral and financial management. However, sometimes members of an EMB may be unfamiliar with electoral practices and procedures; at other times they may be unused to dealing with contracting for equipment and materials in a cut-throat corporate environment. The resulting inefficiency in election organization may be confused with corrupt and fraudulent behaviour, leading to more serious challenges to the EMB's credibility.

Professionalism

58. There are a number of elements of professionalism in electoral management. Meticulous and accurate implementation of electoral procedures, and suitable skilled staff, are both key elements for the delivery of credible elections. EMBs need to ensure that all election officials, whether core staff or temporary workers, are well trained and acquainted with the necessary skills to apply high professional standards in the implementation of their technical work. Professional training prompts public trust that the entire process is 'in good hands'. However, while a continuous training and skill development programme is an essential part of creating and maintaining a professional electoral management body, professionalism depends just as much on the attitude of every member and secretariat staff person. A personal commitment by each individual in an electoral management body to equity, accuracy, diligence and service in all they do, and to self-improvement, is necessary to maintain professionalism in electoral management.

59. Visible professionalism in an electoral management body also gives political parties, civil society, voters, donors, the media and other stakeholders the confidence that electoral managers are capable of undertaking their tasks effectively. A lack of visible professionalism in electoral management, on the other hand, will lead to public suspicions of inaccurate and perhaps fraudulent activity, and a lack of trust. It will make it easier for complaints from election losers to find public support, whether the complaint is valid or not.

Service-mindedness

60. EMBs do not only have a responsibility to provide service to their stakeholders – it is the major reason for their existence. Developing and publicizing service delivery standards for all their activities provides both internal motivators for EMB members and staff to provide high-quality service and external yardsticks for stakeholders to assess the EMB's performance. Some basic service standards are often included in the electoral legal framework, as in Canada: these include time-based standards such as deadlines for announcing election results, compiling the electoral registers, distributing voters' identification (ID) cards, or distributing information on voting locations.

61. Further useful service delivery standards can be adopted by the EMB itself as part of its procedures for each electoral process. These may be time-based service standards such as the average, maximum and minimum times voters spend queuing to receive ballot papers, the time within which an enquiry from a member of the public will be answered, or the average time taken to process voter registration data for an elector. They may be quality-based standards such as the percentage of electors being refused a vote due to errors on the electoral register; the proportion of materials missing or not delivered on time to polling stations; the proportion of polling stations that did not open on time on election day; or the accuracy and timely availability of preliminary voting results.

62. As well as such hard facts, stakeholder perceptions of EMB service performance are critical in influencing public judgements of the integrity and the effectiveness of the EMB. Post-election evaluations are a good way to review stakeholder perceptions of EMB service delivery. These may be conducted by the EMB itself. They may equally be external, for example as part of the EMB's accountability responsibilities – such as review by the legislature of EMB performance.

CHAPTER SUMMARY

- Elections are complex and specialized processes which are most effectively managed by a body with specific electoral management responsibilities.
- An electoral management body (EMB) is an institution or body founded for the sole purpose of managing some or all of the essential elements of electoral management, which include:
 - determining who is eligible to vote;
 - receiving and validating the nominations of electoral participants (for elections, political parties and/or candidates);
 - conducting polling;
 - counting the votes; and
 - tabulating the votes.
- Essential and other electoral tasks may be conducted by a single body, or be allocated to multiple bodies.

- There are three broad models of electoral management:
 - Independent Model
 - Governmental Model
 - Mixed Model
- Each Model of electoral management may encompass one or more EMBs with varying functions.
- A key characteristic of an Independent Model of electoral management is that it consists of an EMB (or sometimes two) that is institutionally independent from the executive branch of the government. In the Governmental Model, on the other hand, EMBs are part of and accountable to the executive branch of government.
- A Mixed Model typically consists of two component EMBs: an independent EMB with policy and/or monitoring powers, and a governmental EMB responsible for the implementation of the electoral process.
- Each model of electoral management has some basic attributes, but also many variations. The way in which EMBs work depends not merely on the model used, but on other electoral framework, social, cultural and political factors.
- There are many types of electoral management bodies within the three broad models. EMBs may be permanent or temporary, and may be centralized or decentralized to varying degrees. Each structure has its advantages and disadvantages that need to be carefully assessed according to the particular country's conditions.
- Special coordination considerations may be necessary for EMBs in federal countries and in transitional environments where an international presence on the EMB may assist in conflict management.
- EMBs preferably have an allocated minister to represent their views to Cabinet and a multiparty committee of the legislature dealing with electoral matters.
- No matter what model is used, all EMBs need to follow some guiding principles, which include independence of decision making and action, impartiality, integrity, transparency, efficiency, professionalism and service-mindedness. These principles are sometimes more fully achieved under the Independent Model than by the other models.

Norway: Governmental, Decentralized – and Trusted

Kåre Vollan

There is no straightforward answer to the question which body meets the definition of an EMB in Norway. The administrative and legal responsibility for elections is divided, both in terms of decentralization from national to local level and between bodies at central level. A single unified structure with a central body from which the local bodies take their powers does not exist.

At central level, the Ministry for Local Government (Kommunal- og regionaldepartementet) fulfils most of the core tasks of an EMB. However, there is also a National Electoral Board (Riksvalgstyret, NEB) with limited authorities, and Parliament itself has the final say in certifying – approving the election of – its own elected members.

The NEB and the Parliament have roles only at parliamentary elections. Local elections are managed by the local authorities, under the supervision and partial instruction of the Ministry for Local Government.

Elections in Norway

Elections are held to assemblies at three levels of administration:

- the Parliament (Stortinget) at national level;
- the 19 county assemblies (fylkeeting); and
- the 431 municipal councils (kommunestyret).

(Elections to the Same Parliament (Sametinget) which is a representative assembly elected by the indigenous Same people according to a law of 1987 (Sameloven), fall outside the scope of this study.)

Of the 169 members of the Parliament, 150 are elected as county representatives under a List PR system while 19 are elected as members at large to compensatory seats whereby any deviation from a nationwide proportional result is compensated for. The term in office for all elected assemblies is four years. The periods of office are staggered, with county and municipal elections being held simultaneously two years after the parliamentary elections. None of the bodies can be dissolved and there are no by-elections. Elections can therefore be planned a long time in advance.

Historical Background

Norway has had an elected Parliament since 1814. Until 1906 the voters elected electors who in turn elected the members of the Parliament, but since then the Parliament has been directly elected. The suffrage included all men from 1898 and from 1913 all women as well. Directly elected municipal councils were introduced as early as in 1836 (with a limited voting right).

Election administration has never been regarded as anything different from other public services, and the conduct of elections has therefore been left with the regular administrative and elected bodies. Local and parliamentary elections have been conducted by the elected local authorities, assisted by the local administration.

Until 1985, the election authorities were:

- the executive boards of the municipal councils, elected under a proportional system by the councils and consisting of members of the councils. They were the highest political board of the municipality, and were led by the mayor. The boards would in turn appoint polling station staff, using the municipal administration to assist them. They managed polling for all kinds of election. For municipal elections, the boards issued the certificates confirming their election to the successful candidates; and
- the county electoral boards, elected by proportional election by the county council assemblies. These would collect the protocols of the election results from the municipal executive boards for elections to the county assemblies and the Parliament, and issue certificates to the elected members of the county assembly and to the county's members of Parliament.

At its first meeting, the Parliament would approve the validity of the elections. Any complaints about the election would be adjudicated by the executive board for municipal elections, by the county electoral board for county assembly elections, and by the Parliament itself for parliamentary elections. For all elections, the Ministry for Local Government would issue directives and instructions and supervise when needed.

In 1985 a new election law was adopted, consolidating the provisions for elections at all three levels for the first time. Before that there had been one law for parliamentary elections and one for the two local levels. The main change to the election administration was the introduction of a National Electoral Board. This body is appointed by the government, and has representatives from all parties with representatives in the Parliament (not by law but by common practice). The introduction of the NEB was not prompted by any identified need for an independent EMB; rather it arose from the need for a body to allocate the compensatory mandates at national level, which was introduced by this law. After this the certification of the elected members of the Parliament was done by the NEB, even though the final say on the validity of the elections in part or as a whole was still kept with the Parliament itself. The NEB was not given any overall authority to oversee or supervise the elections.

In 2002 a further new election law was adopted. Despite proposals for drastic changes to the election administration, this law essentially represented a streamlining of the legal texts, although it introduced some important modifications to the system of representation and to the conduct of elections. The most important change to the administration of elections was that the NEB was given authority to adjudicate appeals on parliamentary elections raised at any level. For appeals regarding the right to vote the Parliament is the final authority but in any other case the NEB has final adjudicating powers (apart from any criminal procedure against persons). The Parliament would still make the final decision on the validity of the election as such and decide on any repeat election. At municipal level, the municipal council can now

decide either that the executive board should administer elections itself, or that it can elect a separate municipal electoral board. In the latter case, the political composition of the electoral board reflects the composition of the municipal council in the same way as the composition of other commissions of the council does.

The Legislative and Institutional Framework

Elections are regulated by the constitution and by the Election Law of 2002. The constitutional provisions relate only to parliamentary elections. They give the responsibility for conducting elections to the municipalities, and state that the keeping of electoral registers and the manner in which the polls are conducted shall be regulated by law. The constitution lays down the role of the Parliament in approving the credentials of its elected members, and also gives the Parliament the power to determine appeals against determinations of disputes regarding the right to vote.

Following further amendment in 2005, the Election Law defines the following election bodies:

- the election boards, elected by the municipal councils;
- the polling station committees, appointed by the municipal councils or on their decision by the election board;
- the county election boards, elected by the county assemblies; and
- the National Electoral Board, appointed by the government in years when there is a parliamentary election.

The first two bodies have a role in all elections, the county election board has a role in elections to the county assemblies and the Parliament, and the NEB has a role in parliamentary elections only.

There is a separate Party Law from 2005 regulating among other issues the registration necessary for a party to nominate candidates for elections. The administrative responsibility for party registration is given to the national administrative body which registers companies. The government appoints a party law complaints commission, led by a judge, to adjudicate complaints regarding party registration and financing.

The administrative authority for conducting elections is thus highly decentralized. At central level there is one multiparty body (the NEB) with limited formal authority. Otherwise, most tasks at national level are carried out by the Ministry for Local Government. However, other administrative bodies are involved in elections. Electoral registers are extracts of the civil registers administered by a unit under the national tax authorities. Appeals may be filed to a committee appointed by the ministry.

The Ministry for Local Government

The ministry's responsibility for elections falls into three areas:

1. *Laws, rules and regulations.* This includes the preparation of any changes to the laws regulating elections, the issuing of detailed instructions within the legal framework, and support for election administrators and the public in interpreting the law and the instructions.

2. *The conduct of elections.* The ministry's functions include the provision of detailed instructions, including the definition of electoral procedures; the production of election material, including forms and the design of the ballot paper; the provision of information to election personnel; advice to local administrators, including the provision of report templates; voter education campaigns; approving electronic voting (e-voting) arrangements; coordinating the information flow of election results together with the media and private information technology (IT) companies; being the secretariat for the NEB; preparing any complaints relating to parliamentary elections for the final decision of Parliament; and adjudicating complaints for local elections.
3. *Budget and budget control.* The ministry administers and controls the budget for elections and election budgets are set at each level. At national level the budget (less than 20 million euros, EUR) covers those expenses which follow from the legal requirements. For parliamentary elections this includes some expenses at local level as well. Otherwise, expenses occurring at local level are covered by local budgets.

For local elections, complaints are adjudicated by the Ministry for Local Government as a final instance. The ministry may order a repeat election if necessary if a fault has had an impact on the results.

In the ministry there are five to six persons working on elections, none of whom are full-time at all times. The election boards at municipal level are the main authorities responsible for keeping skilled election staff.

The National Electoral Board

The NEB is not a permanent body and its term ends when the parliamentary elections are certified. The NEB has at least five members. Each party with representatives in Parliament proposes one man and one woman, and the government appoints one as a member and one as the member's alternate. The authority of the NEB is limited to:

- distributing the national compensatory seats;
- issuing certificates to all elected members of the Parliament and informing the county electoral boards about the results; and
- adjudicating complaints. In issues regarding the right to vote, the Parliament is the final instance, after having heard the NEB; in other issues the NEB is the final adjudicator. The final decision on the validity of a parliamentary election and on any repeat elections in a municipality or county rests with the Parliament itself.

Electoral Reform and New Technology

In both 1985 and 2002, political debate on issues regarding the system of representation led to the appointment by the government of a commission, with both expert and political representation, with the mandate of proposing reforms.

Other reforms may start as initiatives by the Ministry for Local Government or the municipalities. Proposals for technological change often come from the municipalities, which have an interest in saving money and making the process more effective. The extent to which e-voting should be introduced in Norway is an example. Municipalities, often lobbied by IT

suppliers, have conducted some pilots, and a government commission issued a report proposing a strategy on e-voting in February 2006.

Opportunities and Constraints

The Norwegian approach to electoral management has never been seriously challenged by the political contestants. Generally speaking, the government administration enjoys a high level of trust and confidence for its integrity and independence, despite being subordinate to politically appointed ministers. Elections have not been seen particularly to need independent administration. On the rare occasions when serious mistakes have occurred (for example, when the IT system for marking the electoral registers broke down in Oslo during the 1993 parliamentary elections), these have been seen as incidental lapses. Fundamental questions regarding the organization of elections have not been raised.

The structure of electoral management was last assessed by an election reform commission which submitted its report in 2001. Inspired by the UK model, an independent election commission was proposed with mainly policy tasks and with few direct administrative duties. This proposal arose rather from the perceived advantages of having a body to concentrate mainly on election reform, leaving electoral administration with the regular parts of the government administration, than from a call for greater independence in the administration of elections. Such a commission would have been more in line with international trends and with standards being recommended in new democracies.

The proposal would, if implemented, have established a permanent election commission with the following duties:

- the registration of political parties;
- assessment of the legal framework and the modernization of the election processes;
- securing the rules for early voting;
- overall responsibility for the maintenance of the electoral registers;
- the calculation and publication of results from the counties after parliamentary elections;
- the conduct of voter information campaigns;
- the promotion of research regarding elections;
- the management of tests and pilots on election reform; and
- contact with other countries' EMBs.

The commission would have been appointed by the Parliament, with members who would have been election professionals rather than representatives of political parties.

The proposal did not win much support, mostly because the current arrangements work well. Nor was a second proposal, to transfer the administrative work on elections from the Ministry for Local Government to the department of the tax authorities which maintains the civic register, adopted. The principle of 'If it ain't broke, don't fix it' has so far proved decisive in the decision-making process about Norway's electoral administration.

Zimbabwe: A New Era in Election Management

Belinda Musanhu

Historical Background

After independence in 1980, the new government of Zimbabwe introduced a new electoral system (First Past the Post) and established an electoral management structure, which included the Delimitation Commission (DC), responsible for the delimitation of electoral districts, and the Electoral Supervisory Commission (ESC), charged with supervising the conduct of elections. Elections would be managed by the Registrar-General of Elections (RG), who was responsible for registering voters, compiling the electoral registers, conducting the voting and the vote-counting, and the announcement of the results, with the logistical support of the Election Directorate, a committee made up of representatives of several government ministries. The RG's department fell under the Ministry of Home Affairs.

This structure was criticized because of its perceived partisanship. The two commissions – the DC and the ESC – were appointed by the president, who, although he was required to consult the chief justice and the Judicial Services Commission (JSC), was not compelled to abide by their recommendations. The RG and Election Directorate are both part of the executive, and included officials who had a vested interest in the outcome of the elections.

In late 2004, bowing to internal and external pressure, new legislation was adopted that introduced the Zimbabwe Electoral Commission (ZEC), the Registrar-General of Voters and the Electoral Court. Constitutional Amendment no. 17 finally abolished the ESC in 2005.

The Legislative Framework

The legal framework for elections in Zimbabwe consists of the 1979 constitution, as amended in 2005, and the Electoral Commission Act (chapter 2:12) and the Electoral Act, both promulgated in 2004. The legislation provides for the conditions under which elections are to be held as well as the electoral system to be used. The Electoral Commission Act provides for the operation of the ZEC, while the Electoral Act provides for the conduct of the electoral process, including the operations of the Registrar General of Voters.

Institutional Structure, Powers and Functions

Three bodies are charged with managing election-related activities in Zimbabwe:

1. The *Delimitation Commission* is appointed by the president. The chairperson is the chief justice or another judge of the High Court or Supreme Court recommended by the chief justice. In addition to the chairperson, three other members are appointed on the recommendation of the chief justice. The DC is responsible for the establishment of electoral district boundaries at least once every five years. The president may also request a revision of the boundaries before the end of a five-year period.
2. The *Zimbabwe Electoral Commission*. In addition to a chairperson who must be qualified to be a judge of the High Court or Supreme Court, and is appointed by the president in consultation with the JSC, six other commissioners, of whom at least three must be women, are appointed from a list of nine nominees submitted by the Parliamentary Committee on Standing Rules and Orders.

The ZEC is responsible for:

- preparing for, conducting and supervising all parliamentary and presidential elections and national referendums;
 - directing and supervising the registration of voters, and the compilation and storage of the electoral register;
 - designing, printing and distributing ballot papers and other election material, and establishing and operating polling stations;
 - conducting voter education and voter information campaigns; and
 - accrediting election observers.
3. The *Registrar-General of Voters*. The RG is responsible for registering voters and for compiling and maintaining the electoral register.

The structure is completed by the Electoral Court, which consists of judges and former judges. It is appointed by the JSC and has the same status as the High Court. It is responsible for adjudication of election-related disputes.

Funding

Historically, elections in Zimbabwe have been adequately funded, through the executive branch. This has, however, now changed, as the amended section 61 of the constitution states that the ZEC will be funded from the Consolidated Revenue Fund. The ZEC may also receive funding from foreign sources to conduct voter education in conjunction with non-governmental organizations. In the March 2005 parliamentary elections, as well as in the September 2005 elections for the Senate, there was an evident shortage of election material and election staff. Nevertheless, it is important to note the achievements of the ZEC in increasing the number of polling stations and purchasing the translucent ballot boxes that were used in March 2005.

Accountability

According to subsection 5 of section 61 of the constitution, the ZEC shall not be subject to the direction or control of any person or authority in the exercise of its duties and functions, or in the organization of its staff procedures and processes. This is a welcome change from the previous arrangements when the law did not explicitly grant the former ESC this autonomy.

The lines of accountability have also become clearer as the RG reports to the ZEC in all matters related to voter registration and the electoral register. The involvement of Parliament in the appointment process introduces an element of transparency which was lacking in the past, and compensates to some extent for the fact that final appointment is still done by the president.

Professionalism

From the technical and administrative points of view, voting and counting have always been conducted efficiently, and Zimbabwean election officials have been applauded for their knowledge of their duties. However, successful legal challenges have exposed flaws in the electoral register which can only be attributed to administrative inefficiency or deliberate fraud. Following the March 2005 elections the ZEC was criticized for announcing differing results at different times, without being able to provide a clear explanation.

Relations with the Media

In the past, a good relationship existed between the EMBs and the state-controlled public media, while relations with the private media were poor. During the March 2005 elections, for the first time in a long time, the EMBs' election-related advertising and voter education material were placed in both the public and the private media. This is prompting a new era of cooperation between the EMBs and the private media.

Relations with Other Institutions

Relations between the EMBs and with non-state actors, including NGOs and opposition political parties, have in the past been strained at best and hostile at worst. However, there was a discernible thaw in relations in the run-up to the March and September 2005 elections. The ZEC displayed openness to discussing issues and cooperating with key electoral stakeholders. It should be noted, however, that problems remained, such as the failure to allow political parties access to the electoral register, which has been a perennial sore point in the EMBs' stakeholder relationships.

Sustainability

Election processes have always been well funded in Zimbabwe. The key challenge has been institutional funding. For many years, members of the former ESC complained of inadequate funding for administrative and staffing costs. According to section 61 of the constitution, the ZEC should receive sufficient funds from the Consolidated Revenue Fund to enable it to carry

out its functions properly. This and the streamlining of the electoral management system lay down good grounds for the future sustainability of the current arrangement. It should, however, be noted that voter registration and delimitation of boundaries still take place outside the ZEC – a situation that may need to be reviewed from the point of view of cost-effectiveness.

Electoral Reform Management

The management of the electoral reform process in Zimbabwe used to be poor. At one point the reforms actually added to the multiplicity of EMBs which had necessitated the reforms in the first place. For the March 2005 elections, the ZEC was expected to be accountable for some processes which had already taken place before it was appointed, such as the key stages of voter registration and boundary delimitation. The latest round of reforms, and particularly Constitutional Amendment no. 17 of 2005, mean that the ZEC has become a constitutional body funded by a separate budget, which will improve its stature and efficiency. There is still room for further reforms, possibly giving the ZEC the responsibility for the demarcation of electoral district boundaries as well as bringing voter registration and the management of the electoral register under the commission's full control.

Local authority elections and regular by-elections will both be opportunities to put the new electoral management system to the test before crucial presidential and parliamentary elections in 2008 and 2010, respectively. These elections will allow the ZEC to assess its own preparedness for the logistical and administrative requirements of national elections as well as giving the different EMBs time to rationalize their relationships.

More significantly, however, these elections will be useful in assessing the impartiality and independence of the EMBs. In the past, criticism of the EMBs stemmed from the fact that they were appointed by the president and from their lack of financial autonomy. The new reforms have changed this situation, with a process of appointment that now involves Parliament, and the provision of institutional funding. It will remain a constant challenge for the ZEC to protect itself from actual and perceived political manipulation, particularly in the highly polarized political environment in Zimbabwe.

Spain: Mixed Model Electoral Management Becomes Well Established

Pedro J. Hernando

The first democratic elections in Spain after the Franco dictatorship were held in 1977, under the Royal Decree Law (RD Law) on Electoral Norms of 18 March 1977, to elect the parliamentary chambers that drew up the Spanish constitution of 1978.

Article 23(1) of the 1978 constitution recognizes the right to political participation. Articles 66 onwards establish the constitutional conditions for electing the members of the Congress of Deputies and the Senate, deciding the basic issues including the number of members, eligibility criteria, and conflicts of interest, or incompatibilities between the position of an elected member of Congress or the Senate and other work or positions. The constitution also requires that there be an organic law to regulate the entire electoral process, including the electoral administration, which is entrusted with overseeing all the aspects mentioned above.

The Organic Law on the General Electoral Regime (LOREG) was approved in 1985, drawing on the RD Law of 1977, and has continued in force to this day, with major amendments introduced in 1994, 1995, 1999 and 2003. During this period, and under the supervision of the central, regional, provincial and zonal electoral boards (*juntas electorales*), six elections have been held under completely normal conditions (in 1986, 1989, 1993, 1996, 2000 and 2004) in which Spain has consolidated its democratic system and the channels of political participation.

Institutional Structure

Spain has a decentralized system of autonomous governments based on a territorial distribution of power, that is, there are three levels of elections – national elections (to the Congress and Senate), elections in the autonomous regions (to the legislatures of the 17 *comunidades autónomas*) and local elections. At all levels the Organic Law provides that elections and referendums will be conducted under the full supervision of the electoral boards – the Central Electoral Board (Junta Electoral Central, JEC), with the support of the regional, provincial or zonal electoral boards in the respective elections. All are independent bodies. Under this arrangement, the JEC and the lower-level electoral boards are broadly responsible for the establishment of policy on the administration of elections within the framework of the electoral law and for oversight of the implementation of electoral administration and logistics by the polling station committees and civil servants who are assigned these tasks.

This supervision of electoral processes by the electoral boards is reinforced by an arbitration procedure which must be used before complaints and appeals on electoral issues can be brought before the judicial system.

The JEC, with its quasi-judicial composition (see below), is a permanent body, while all the other boards operate on a temporary basis during election periods only.

EMBs at the various levels are organized in a hierarchical manner. The JEC is the policy-making organ. Its decisions are binding for all other boards.

The JEC has 13 members. Eight are members of the Supreme Court, while the other five are professors of law, political science or sociology, chosen on the basis of proposals made jointly by the parties represented in the Parliament. In addition, the secretary general of the Congress and the director of the Electoral Census Office of the National Institute of Statistics (the body in charge of drawing up the electoral registers) are non-voting members of the JEC.

The composition of the lower-level electoral boards follows the same structure, although each has only five members, and the levels of judicial or professional qualification required of their members are not so high. None of the members of the electoral boards may be removed from office except when found to have committed a crime or an electoral infraction that is verified by the electoral board immediately superior to it in the hierarchy.

Powers and Functions

The electoral boards do not come under any other public agencies or branches of government. They are autonomous, neutral and independent entities within the organizational structure under the JEC which operate in their functional areas of responsibility.

Their duty, as defined in article 8 of the Organic Law, is to guarantee the transparency and objectivity of the electoral process, and that elections are equal and their conduct legal. To do this, their work is supported by the polling station committees (*mesas electorales*), made up of citizens chosen by lottery, who conduct the polling and counting of votes and ensure that the process is conducted properly on election day. The Ministry of the Interior, together with local governments and the Electoral Census Office, provides the necessary logistical support throughout the process, working at all times under the direct oversight and direction of the JEC and the other boards.

The work of the boards consists of processing, sanctioning and resolving election-related matters. The appeals procedure culminates with the JEC as the last resort, although there may be an optional final remedy to appeal to the regular courts or the Constitutional Court in cases brought to uphold the constitutional rights of citizens.

The main functions of the JEC include:

- directing the activity of the Electoral Census Office, the organ entrusted with drawing up the electoral registers and organizing postal voting (in coordination with the postal service);
- giving instructions (which are binding) to the lower-level electoral boards on any election-related matter;
- ruling on any requests for opinions forwarded to it by the electoral boards, overturning those that contradict the interpretation of the JEC, and thus unifying the criteria by which the electoral laws, regulations and norms are interpreted. Its rulings are binding;
- coordinating, in conjunction with the central government or the regional administration (*comunidades autónomas*), the formal and practical organization of the elections, including

deciding the voting schedules, the design, production and distribution of electoral protocols and ballot papers, the design and distribution of ballot boxes, the issuing of accreditations, and the organization of the count;

- resolving complaints, claims and appeals pursued in relation to election matters;
- ensuring that the campaign accounts and expenditure of all candidates and parties during the electoral campaign period comply with the relevant laws and regulations; and
- declaring the election results and formally accrediting the elected authorities and representatives in each election.

Each of the lower-level electoral boards performs these functions within its own area of authority.

Financing and Accountability

The JEC is the only permanent EMB. For its material and human resources it is entirely dependent on the Congress of Deputies, and is financed out of its budget. The lower-level electoral boards operate only during the electoral period, and their financing corresponds to their temporary nature. Their expenditures are financed from the general budget of the state through the executive branch, which ensures that their members are compensated for their work and that operational expenditures are covered.

There are no specific provisions in the legislation for the scrutiny of expenditures, since the staff of the electoral boards are normally members of the civil service who are temporarily assigned to election functions, and the administrative services that are in charge of organizing the electoral process meet the costs out of their own budgets and administer the expenditures.

The Professionalism of Electoral Officers

The members of the electoral boards are dedicated exclusively to their electoral functions during election periods, but do not receive special remuneration for their work on the electoral boards except for daily allowances. They continue to receive their usual salaries from their original places of work.

The polling station committees are responsible for the conduct of the voting and vote counting. The members of these committees are not professionals either. They are chosen by lot in the municipalities from among all registered electors over 18 years of age and under 65 years of age who are literate. The chairperson of each committee (*mesa*) is required to have completed secondary school. By law, this election work is a civic duty, with little financial compensation. Failure to perform this duty can result in administrative and criminal sanctions. This system has worked so far with few problems, which reflects the healthy level of public civic engagement in Spain.

Relations with Political Parties, the Media and Other Institutions

The electoral boards' objectivity and impartiality of action have led to good relationships with both the government and the opposition parties. The professionalism shown by the members of the electoral boards throughout the years has made them respected instruments of the electoral

machinery rather than a source of partisan disputes. To facilitate relations with the political parties, at the outset of the election period each party nominates a general representative to the JEC and a representative to each of the lower-level electoral boards, who serve as the only interlocutors between the party and the EMB.

Relations with the public administration, especially with the Ministry of the Interior and the Ministry of Justice, as well as with the autonomous and local administrations, are effective and flexible, as are relations with the Electoral Census Office. Such relations enable the JEC to maintain a solid institutional memory of elections in the country.

While a major part of the role of the electoral boards lies in arbitration and quasi-judicial functions, they also have a coordination role for the allocation of free broadcasting time in the public media and the supervision of the media's coverage of the electoral campaign. Beyond this, the relationship of the electoral boards with the media is limited to providing information on issues of general interest, such as the nomination of candidates or the official proclamation of the results. They maintain a distance from election campaign coverage, which improves the public perception of them as independent functional and administrative bodies.

Electoral Reform Management

In the 20 years that the Organic Law on the General Electoral Regime has been in force, the performance of the electoral boards has been generally accepted as very satisfactory. While there is permanent discussion of the possible reform of the organic law on issues such as the party list system (Spain uses the List PR system), the proportionality of the systems for allocating seats, or the financing of elections, at no time has the work of the EMBs been called into question by those involved in the elections. The Mixed Model of electoral management established in 1977, combined with the quasi-judicial composition of the electoral boards and complemented by a state administration which is accepted as effective and impartial, seems likely to endure.