

# The Sustainability of EMBs

## What is Sustainability?

480. Despite the axiom that ‘you can’t put a price on democracy’, making democratic elections more sustainable is a principle to be embraced by all EMBs. The need for cost reductions in elections results from the rising costs of election goods and services – including the use of new technologies, dwindling public-sector budgets, the increasing frequency of elections for different levels of political institutions, and also the tough competition among poorer countries to access international donor funding. The euphoria surrounding a successful, well-funded transitional election needs to be tempered by the reality that similar levels of funding may not be available for future elections.

481. In the context of elections, sustainability refers to electoral policies and practices which are cost-effective and realistic, and meet the needs of stakeholders in the electoral processes both now and in the future. Sustainability aims to minimize reliance on external inputs and resources. EMB sustainability is not only defined in financial terms; it includes the social and political returns on its activities. For example, a post-conflict poor country may use expensive voting systems and procedures which, in economic terms, may not be sustainable, but in political terms may be essential in the short term to build trust among stakeholders and lasting peace and stability in the country. There are several elements to EMB sustainability.

- a. An EMB has *institutional sustainability* if its structures and processes enable it to fulfil its mandate and responsibilities in the longer term – that is, over a series of elections. This type of sustainability refers to the adequacy of the electoral framework – the constitution, electoral law and regulations, and administrative and other policies – to enable the EMB to carry out its work in an effective and efficient manner.
- b. An EMB has *financial and economic sustainability* if the nature and level of its funding and expenditure are adequate to fulfil its institutional mandate and responsibility.
- c. An EMB has *human resource sustainability* if it is able to engage sufficient appropriately skilled staff to manage and implement its systems and procedures.

- d. Other forms of EMB sustainability include socio-political and environmental factors, for example, the extent to which EMB policies and practices promote social equality and political inclusion, minimize conflict and promote environmental sustainability.

## Why is EMB Sustainability Important?

482. Gearing EMB policies and practices to promote sustainability helps an EMB to enhance stakeholder confidence in the electoral process and in the EMB. For example, governments and donors want to see that the funds they appropriate to the EMB are used effectively, and that there is increasing capacity development within the EMB to reduce reliance on external interventions and inputs, especially donor support. Other stakeholders such as political parties and the general public also want to see sustainability of EMB policies and practices as a way to increase electoral integrity and political participation.

483. The challenge of sustainability is more pronounced among EMBs in emerging democracies, which often rely heavily on donor aid. Economic and political hardships may prevent these countries from being able to fund their own elections wholly themselves. In transitional elections, high integrity costs relating to confidence-building processes such as peacekeeping, voter education and information, and election observation and monitoring, may be financially unsustainable, and are often funded through donor aid.

484. A high level of international assistance for second and third elections in emerging democracies may not result in greater efficiency or effectiveness, even though many of the threats to the initial democratic transition may have receded. As the international political agenda moves on, reduced donor interest may mean that such funding is not even available.

485. Two immediate challenges have been the transfer of authority from international EMBs to fully local (national) EMBs, as in Cambodia and East Timor, and determining how best to ensure institutional sustainability of newly-founded EMBs, as in Afghanistan, Bosnia and Herzegovina, and Iraq.

## Needs Assessment

486. The sustainability of an EMB can be addressed through a thorough needs assessment, by which a country informs itself of its current election management capabilities and the financial, human and technological resources necessary to organize and conduct free and fair elections. An assessment may be undertaken by the EMB itself, but may gain in credibility if it is conducted by a private audit firm or an independent NGO. Donors also usually undertake needs assessments in planning assistance programmes.

487. A needs assessment can be used to identify the elements of EMB sustainability at three levels:

- a. *system level*;
- b. *organizational level*; and
- c. *individual level*.

It is normally based on an expert analysis of the electoral environment, and identifies and considers strengths, weaknesses, opportunities and threats.

488. A *system-level* needs assessment covers the broader issues of the legal and institutional environments in which elections take place, in order to determine the extent to which they help or hinder EMB sustainability. It includes a review of all parts of the legal and policy framework relevant to elections, as well as the EMB's functions and stakeholder relationships derived from these. The main legal instruments to be reviewed are the constitution, the laws dealing directly with electoral processes, and the political party laws and other laws relating to institutional frameworks; the subsidiary regulations; and administrative policies. The assessment may need to cover parts of the legal framework that are indirectly relevant, such as citizenship laws, criminal codes, public-sector employment laws or policies, or government procurement rules and practices. It may also address the EMB's linkages and relationships with other bodies, such as the host ministry of a governmental EMB, government ministries which render financial and logistical support to the EMB, and local and international associations, as well as bodies which serve as EMB networks of support and resource sharing.

489. At the *organizational* level, a needs assessment looks at an EMB's strategies and management culture, and considers its processes of planning, policy making and implementation; its management structure; the division of roles and responsibilities; communication and cooperation; and standards for financial reporting and staff performance. It helps the EMB calculate the amount of resources required to organize the conduct of any specific electoral event. The EMB can then work out what portion of the amount needed can be met from the national budget and how much, if any, would be needed from other sources. The assessment may also examine the nature and level of technical assistance required.

490. At the *individual* level, a needs assessment covers issues such as staff competence, available opportunities for staff development, and staff loyalty to the EMB's objectives and mission.

491. Where there is a record of credible needs assessment reports over a period, a comprehensive picture of an EMB's capacity begins to emerge, and it can be more accurately evaluated in terms of sustainability.

## **Electoral Sustainability and Donor Support**

492. Donor support may help to improve the quality of an election, and in some cases may even be necessary for it to occur. However, for many EMBs, donor support has implications for the sustainable delivery of free and fair elections (see the case studies on Afghanistan, Bosnia and Herzegovina, Fiji, Lesotho, Mozambique, Nigeria and Yemen).

493. While donor support may include budgetary contributions and technical assistance, including advanced technologies, some donors avoid supporting EMBs' recurrent budgets, that is, core personnel costs and rental of buildings and furniture, as well as other non-technical items, such as motor vehicles and fuel.

494. Donor assistance is sometimes accompanied by a tied aid concept whereby the recipient EMB is required to purchase goods and services from nationals of the donor concerned. Often the costs of purchasing from external vendors may be considerably higher than the costs of purchasing from suppliers in-country, inflating overall electoral costs.

495. In some post-conflict situations, such as those of Bosnia and Herzegovina, the Democratic Republic of the Congo, Haiti and Liberia, donors contribute almost the entire cost of the transitional elections. In such cases, subsequent elections are unable to achieve the same level of funding and will offer a lower level of election services, which may lead to dissatisfaction with the elections. This raises obvious issues of creating transitional structures that the local authorities can 'buy into' subsequently, and building the necessary expertise to generate the financial resources to conduct future elections. In other post-conflict situations, outside support may be vital, but it may not be politically or economically desirable for outside authorities to assume ownership of organizing and conducting the transitional elections: Afghanistan and Iraq may fall into this category. Failed states and failed EMBs may also require considerable outside assistance from various donors; sometimes the UN plays a coordinating role, as in Liberia in 2004–2005.

496. Donors have responsibilities to ensure that the electoral assistance that they provide to EMBs is effective and promotes sustainability. Key issues for donors to consider in these regards include:

- a. coordination of assistance with the EMB and other donors;
- b. planning the implementation of assistance to synchronize with the EMB's needs;
- c. the appropriateness of any proposed systems/solutions for the EMB's environment;
- d. the inclusion of training for the EMB and its staff;
- e. the inclusion of EMB staff in the management of donor-funded programmes; and
- f. the long-term costs of any systems/equipment provided.

497. The CORE Project notes that Cambodia, which in 1993 relied on donor assistance for up to 80 per cent of its election budget, reduced its donor dependence to less than 50 per cent during the 2003 elections. Although it is desirable to transfer skills to local election officials during the transitional electoral period, in practice this goal has seldom been satisfactorily achieved, so capacity building is likely to be a continuing need in post-transitional elections. In post-conflict environments, the initial external assistance is vital to restore democracy and stability, but unless considerable donor assistance continues to be available in the medium term, to continue to develop EMB capabilities, both the electoral process and democracy itself may experience reverses.

498. New technologies can help to improve the quality of electoral processes, especially where large amounts of data have to be processed quickly, as they do in the delimitation of electoral districts, voter registration, the voting and vote-counting process. An increasing number of EMBS are entering the field of electronic voting and counting of votes. Even some self-sustaining EMBS, for example in Costa Rica, find it necessary to rely on outside assistance to fund the introduction of new technology (see the case study). However, new technologies may have significant long-term cost implications for the EMB, for example, for maintenance or for the payment of regular licensing fees for software. Introducing donor-driven technological solutions may create political demands for progressively greater dependence on externally-provided technology, as was experienced with voter registration in Haiti. Opinions are therefore divided on the question of the sustainability of funding voting computerization, Internet and telecommunication services, and other electoral technology such as scanners and biometrics for voter registration. Aspects to be considered by EMBS and donors include:

- a. the comparative financial, social and political costs/benefits of using donor assistance for funding new technology as against using it for other electoral assistance programmes;
- b. the life of the technology: will the equipment require similarly expensive replacement at the next electoral event or will it be useful in years and elections to come?;
- c. capacities for local maintenance of the technology. If there is no technical or financial capacity to maintain the hardware or software that has been internationally provided, or skills have not been transferred to allow local operation once the international advisers have gone, internationally provided technology can be a very expensive single-use solution;
- d. the potential for making the technology available for use by other government or societal organizations after the electoral event, or of lending it to other countries for their elections; and
- e. training for temporary electoral staff using internationally provided technology that can be transferred to their post-electoral work environments.

## Practices Favouring Sustainability

499. Cost-effectiveness – providing an effective service for the lowest possible cost – is the major yardstick for sustainability, rather than purely lowest cost. Savings cannot be allowed to compromise the basic requirements of legitimate elections. A particular measure to reduce electoral costs may work well in one country but not in another because of differing legal, political and socio-economic circumstances. Although the practice of having a single-member EMB is a useful cost-saving measure, in India it was rebuffed by the Supreme Court as not conducive to fair decision making, thus paving the way for the appointment of a three-member EMB in 1993. It is therefore not possible to prescribe commonly applicable sustainability solutions, only general principles. Significant cost savings can be achieved by holding elections for all levels of representation on the same day. However, the marked political effects of having either simultaneous or staggered elections mean that political sustainability arguments may outweigh financial ones.

## Staffing for Sustainability

500. Staffing can be a significant proportion of an EMB's costs, but also represent the EMB's greatest asset. EMB core budgets may be reduced by rationalizing structures, for example, reducing the number of EMB members or secretariat positions. The EMBs in Cambodia and South Africa undertook rationalization exercises during 1999 and 2002, respectively. The maintenance of only a small core of permanent staff, backed by well-trained temporary field staff, can reduce costs while still maintaining efficiency. For smaller EMBs, that of Fiji (see the case study) shows that core election staff can be kept to a minimum and remain functional. There are management tools, such as task profiling, that the EMB can use to determine the minimum staff numbers it needs to perform its functions. The EMB would then be required to justify the employment of additional staff on efficiency or effectiveness grounds. Use of temporary, rather than permanent, EMBs can also assist financial sustainability.

501. However, the political and operational sustainability of using personnel-related measures to promote financial sustainability must be carefully considered. For example, significant budgetary savings can be achieved in governmental EMBs, or other EMBs where public servants or volunteers can be co-opted to serve with the EMB (as in India) during an electoral period. While assisting financial sustainability, this type of staffing profile can also have a negative effect on the performance of and public trust in the EMB, and thus the political sustainability of the electoral process. Finding a successful balance may not be easy.

502. Inability to retain sufficient experienced staff can have a negative effect on an EMB's sustainability. Experienced staff, including temporary polling station staff, hold the institutional memory of the EMB – the knowledge of what has and has not worked, and the experience to pass on to new staff and to other stakeholders. Staff retention requires active planning by an EMB, using measures such as reward schemes, professional training and development programmes (see chapter 6 of this Handbook) and opportunities for promotion. Exit debriefings for departing staff may help identify issues of staff satisfaction which may need to be addressed. Advance planning of staff changes, including timely recruitment processes and mentoring of more junior staff, combined with accessible archiving of electoral records, will help the EMB operate sustainably when key staff leave.

## Electoral Materials

503. Sound design, procurement and management policies for electoral materials are based on rigorous needs analysis and thus contribute to the sustainability of an EMB's operations. Before procuring materials, EMBs need to determine the most suitable options, after investigating issues including:

- a. need – what benefit the desired materials add to electoral processes;
- b. local or international sourcing – issues such as cost, control, production lead time, quality, certainty of delivery, maintenance and substitutability;

- c. quality – issues such as cost, conditions under which the materials will be used, ability to support integrity standards, and requirements for durability;
- d. single or multiple use – issues such as storage and production costs, environmental impacts, including disposal and recycling methods, and opportunities for use by other organizations;
- e. complexity – issues such as the knowledge levels of the users, training requirements, and capacity to maintain the materials;
- f. quantity – issues such as unit costs, production lead time, storage requirements and needs for reserves;
- g. distribution – issues such as costs and distribution time/scheduling;
- h. storage and archiving requirements – issues such as cost, accessibility, centralized or decentralized warehousing, asset protection measures and deterioration rate; and
- i. disposal – issues such as environmental impacts, end-life value, and security requirements.

504. EMBS have community responsibilities to consider—not just the economic sustainability of materials purchases, but the environmental and social impacts also. Life cycle analysis, which considers the ‘cradle to grave’ economic, environmental and social costs and impacts of products, can assist an EMB to choose suitable electoral materials. This analysis assesses all material use impacts, not only those related to materials production, but also to those such as opportunities for reuse, the impacts of storage and distribution over the materials’ whole life, and the costs of environmentally sound disposal or opportunities for recycling.

505. Rigorous determination of whether special types of materials are really needed, and maintaining tight control of the quantities produced, can assist financial sustainability. Countries such as Cambodia have cut costs significantly by not printing special voter ID cards. Tight audit controls on the printing of ballot papers and other forms for which accounts need to be kept will also help to reduce costs.

506. Existing low-cost materials options may not be fully utilized in new and emerging democracies due to lack of public confidence in an EMB’s ability to ensure security and prevent fraud if they were used. For example, EMBS may have to print ballot papers abroad because opposition political parties object to the government printer or local private printers doing this work. On the other hand, Indonesian law requires local printing of ballot papers, the EMBS of Australia, Canada and South Africa use low-cost materials for ballot boxes and voting booths, and Nicaragua uses locally produced ballot boxes, without adverse effects on ballot security. Use of such low-cost materials depends on the EMB implementing sound security management controls.

507. Many EMBS are reducing election costs by sharing resources such as ballot boxes and voting booths. For example, the Ghana EMB lent ballot materials to other EMBS in its region during 2003 and 2004. The South African EMB has provided professional services and shared computer equipment with other EMBS on the African continent. Resource sharing can also take place between the EMB and other government agencies, such as ministries and municipal authorities, in areas such as transport, logistics, statistical data, and related professional services.

508. Experience in the 1990s in countries such as Cambodia and Indonesia has shown that post-election retention of electoral materials and equipment (such as motor vehicles, mobile phones, computers and ballot boxes) may be neglected, resulting in misappropriation or damage. Considerable losses to EMBs are incurred in this way, and the EMB may lose credibility with funders. Effective continuous asset management procedures (see chapter 7 of this Handbook) can prevent this.

## **Structural and Technological Implications of Sustainability**

### ***Electoral Systems***

509. Each type of electoral system raises different political, social and financial sustainability issues. The type of electoral system used will have a critical impact on boundary delimitation and voter registration processes, voter education and information requirements, ballot paper design and production, the number of polling days, and the need for by-elections. These issues are examined in detail in International IDEA's *Electoral System Design: The New International IDEA Handbook* published in 2005. For example, systems based on small electoral districts, requiring specific boundary delimitation processes, separate ballot papers for each district, high precision in voter registration and the prevention of electoral fraud, and an EMB administrative structure that is capable of dealing with each electoral district as a distinctive unit, may be more costly. On the other hand, large multi-member electoral districts may involve complex and expensive vote-counting systems, may be unwieldy for an EMB to manage accurately and transparently, and may attract higher transport and other logistics costs. Proponents of each type of electoral system advance social and political sustainability arguments in their favour which need to be examined carefully against specific country conditions.

### ***Electoral Boundary Delimitation***

510. The frequency and form of electoral boundary delimitation processes may be reviewed to improve sustainability. Using an EMB to conduct boundary delimitation can eliminate the costs of a separate boundary delimitation body. On the other hand, if the government maintains a mapping office for other purposes, it may not be necessary for the EMB to duplicate that capability. Simple electronic mapping and population databases for determining electoral district boundaries, and streamlined review processes and periods, can be used to reduce costs. The adoption of multi-member electoral districts based on existing administrative boundaries can drastically reduce or even eliminate boundary delimitation costs. However, boundary delimitation is a politically sensitive issue, and also needs to be implemented in a politically sustainable manner.

### ***Voter Registration***

511. The cost of compiling and maintaining the electoral register can be significantly affected by the system used and its components. The method of data collection can have significant effects on both the costs and the accuracy – and hence the political sustainability – of the electoral register. For example, data may be specifically collected for voter registration or extracted from an existing database; registration may be continuous, or may be done by a national census-style exercise before an election; it may involve the EMB contacting voters, or voters having to contact the EMB; special voter ID cards may be issued or not; and different opportunities may be provided for electors to challenge alleged inaccuracies in the electoral register. The use of technology in voter registration – in recording elector identity data such as thumb prints and photographs, in the use of bar-coded documents, in database matching to update registration records, or in the production of the electoral registers, for example – will also have significant cost implications.

512. Maintaining accurate electoral registers is a costly task. Each EMB needs to determine which voter registration checks are necessary, and which, given levels of public trust and the controls in place to prevent polling fraud, may be redundant and can be eliminated, thus saving costs. Comparison of data on the electoral register with information from other government agencies can assist in maintaining the electoral register cost-effectively, although it may raise concerns over data privacy. If the electoral register can be derived from a reliable and politically acceptable national civil registration database, as is done in Senegal and Sweden, or if records of births and deaths are computerized and accessible to the EMB, costs can be cut significantly. Continuous voter registration may, in the long run, be another measure to keep down costs.

### ***The Polling Process***

513. The preparation for and conduct of polling at a general election or referendum in any country is a significant national event, requiring a considerable budget to be implemented effectively. Careful assessment of how many polling stations, how many staff and what associated materials are necessary for each election can help reduce costs. If security, integrity and effective levels of service can be assured, polling stations in higher population density areas could be amalgamated, providing significant cost savings. Improved allocations of duties to staff, polling station layouts, and staff training may make it possible to reduce the ratio of polling station staff to voters without reducing service levels. Countries which conduct polling over two days may also consider whether keeping the polling stations open for longer on a single day would cut costs. Any proposed reductions in voting days or hours need to be considered against patterns of working hours so as not to exclude any class of electors from voting.

514. Improving voter access and extending common facilities to voters, such as postal voting (as in Australia and Spain), external voting, and the provision of special services for voting in prisons, ships and hospitals, has obliged EMBs to offer relatively higher-cost services to electors. These activities, particularly if they involve large-scale absentee voting for refugees or others – as in Afghanistan, Bosnia and Herzegovina, and Iraq – may be a burden on the financial sustainability of electoral processes. Increases in election costs need, however, to be weighed against the EMB's social responsibilities and the additional political legitimacy gained through enabling these voters to use their franchise.

515. Training EMB staff can be expensive, and is often a cost that governments or EMBs see as a relatively painless cut when reviewing election budgets. Inadequate training is, however, likely to result in greater financial and political costs through poor staff performance – perhaps affecting the credibility of the electoral process – and to have a long-term effect on the reputation and sustainability of the EMB.

## **Automated Voting and Counting Processes**

516. There are a number of automated devices that are marketed as a means of improving voting methods and reducing costs, especially staffing costs. It is claimed that some of the machines offer a high degree of reliability and resistance to electoral malpractice. Many are now capable of providing audit trail facilities. These include electronic voting machines (EVMs) which have been used in countries such as Australia, Belgium, Brazil, the United States and Venezuela over the last few years, and recently for the first time in the whole of India. Although no reliable cost-effectiveness analysis exists on the use of new technology for voting and the count, there is evidence that technology such as EVMs may reduce election costs over time, especially costs associated with the printing and storage of ballot papers and with the vote count. The use of optical mark reading (OMR) devices to count votes can also provide accuracy and time-effectiveness in the electoral process while still ensuring the existence of a paper ballot that can be physically examined if necessary in the course of post-election disputes.

517. It is important to weigh the use of new electoral technology against the level of public trust and confidence in the electoral process, to involve stakeholders in pilot testing new electronic systems, and to obtain major stakeholders' agreement to the introduction of new technology. Due to the potential lack of transparency of electronic voting and counting, the use of EVMs may generate distrust among detractors who can argue that such technology can easily lend itself to manipulation. This is not surprising, given the security deficiencies and the omissions and errors in recording votes that are regularly reported in the use of DRE (direct-recording electronic, or touch screen) machines and other EVMs in the USA.

518. The accuracy and integrity of these machines are only as good as those of the companies and persons that design, program, test and maintain them. There are ways of introducing EVMs that can provide integrity, cost and time benefits to the election process – provided that clear controls and accountability measures, such as those described in chapter 9 of this

Handbook, have been implemented. The Council of Europe's recommendation 2004/11 on legal, operational and technical standards for e-voting provides useful background for such controls.

519. It is not wise for a poor country to go high-tech while failing to feed and develop its own people. The use of electoral high technology such as digitized voter registration cards, computerized electoral registers, and electronic voting and counting should be weighed against other pressing national priorities such as health and education. Electoral technology may be more sustainable where it can be used for other continuing functions. Its introduction also needs to be considered not just against the immediate costs and alternative uses of funds, but also against the future costs and human skills required for their maintenance. Assessing sustainability needs to consider the longer-term consequences.

520. The counting process is a prime target in many countries for automation and cost reduction, and many automated machines both record votes and tally them. Unless paper audit trails are recorded for each vote, transparency may be lacking in these automated counts. The counting process is considered to be a vulnerable part of an election, and always needs to be conducted in a transparent and verifiable manner by well-trained staff.

521. The requirement for openness at all stages of the counting and tabulation of votes may also limit the cost-saving measures that can be introduced into manual vote-counts. Stakeholders in the Union elections in Zanzibar (Tanzania) in 1995 and 2000 complained that events which took place during the tallying phase of the count adversely affected the election results and underlined the importance of transparency in the entire counting process. These cases involved changes made by unknown persons to some of the count results subsequent to figures being issued from polling stations. Opposition parties believed that the interference affected the outcome of the elections.

## CHAPTER SUMMARY

- There is continuous pressure on EMBs to increase their capacities and performance in order to promote effectiveness and efficiency.
- Sustainability refers to electoral policies and practices which are cost-effective and realistic, and meet the needs of all stakeholders in the electoral processes, both now and in the future. It is a greater challenge in new and emerging democracies.
- EMBs need to aim for financial and economic, institutional, socio-political and environmental sustainability in their activities, to enhance stakeholder confidence in the electoral process and to ensure their own survival – not necessarily meaning that they need to be permanent in their structure.
- The main elements of sustainability are institutional, financial and economic, and human resource sustainability.
- A comprehensive picture of an EMB's sustainability and capacity is only feasible if accurate evaluations of all the main elements are combined.
- System, organizational and individual needs assessments can assist an EMB to identify sustainability issues.
- Especially in new and emerging democracies, donor support levels and commitment have a major impact on EMB sustainability. Donor support may have positive and negative effects. It may improve the quality of a specific election, but its influence and any dependence by an EMB on it may have a negative impact on the EMB's sustainability.
- Donors have a responsibility to ensure that their support assists EMB sustainability, for example, through coordination on EMB needs and support for skills transfer.
- New technologies are seductive to EMBs, and often attractive to donors, but EMBs need to make objective decisions on their long-term usefulness and impacts on EMB sustainability. The extent to which new technologies are used by an EMB should be determined by the level of the country's resource endowment and the benefits to be derived through their use.

- Aiming for sustainability has impacts on choices of electoral systems, and on frameworks and procedures for costly, complex and integrity-demanding electoral processes such as boundary delimitation, voter registration, voting, and vote counting and tabulation. EMBS need to carefully consider the necessary levels of integrity required and technology used for these processes, and their effects on financial and socio-political sustainability.
- Human resources and their knowledge and experience are an EMBS's greatest asset. Investment in developing and retaining these, and in ensuring that institutional memory survives losses of experienced staff, is an essential ingredient in EMBS sustainability.
- Effective materials design, procurement and management policies, based on rigorous needs and cost-effectiveness analyses, and tools such as life cycle assessments, contribute significantly to EMBS sustainability.

# Lesotho: Building a Reputation

Carl Dundas

Lesotho achieved independence in 1966. In the post-independence election of 1970, the Basutoland Congress Party won the election, but the ruling party, the Basotho National Party (BNP), annulled the election and declared a state of emergency. The military took over the administration of the country in 1986 and ruled until 1993, when multiparty democracy returned to Lesotho.

The 1993 elections were transitional, marking the end of the military regime and the beginning of the restoration of the democratic system of government.

The second multiparty democratic elections were held in 1998, after the country had experienced a short period of upheaval and a serious threat to its young democracy.

The constitution was amended in 2001 to introduce the Mixed Member Proportional (MMP) electoral system. The number of seats in the National Assembly increased from 80 to 120, 80 to be elected in single-member electoral districts and 40 to be elected in accordance with the principle of proportional representation (PR).

Prior to the 1993 election, civil servants ran elections under the supervision of a government ministry. The provisions of the constitution and the National Assembly Electoral Act of 1992 established the Independent Electoral Commission (IEC) of Lesotho. Section 66 of the amended constitution establishes the composition, functions and independent status of the IEC, and the funding of its expenses.

The institutional framework of the EMB in Lesotho revolves around the IEC. It is a centralized, three-member institution with a normal staff complement of about 237. During election periods an additional 27,276 temporary election staff are employed throughout the country.

## Powers and Functions

The constitution gives the IEC broad responsibility for all activities relating to the organization and conduct of regular free and fair elections in the country. It organizes, conducts and supervises elections to the National Assembly and local authorities, as well as referendums.

The IEC is empowered to continuously review legislation and other matters relating to elections and referendums and to make appropriate recommendations with respect to them. It has the responsibility for carrying out tasks related to the organization and conduct of elections,

such as voter education, research into electoral matters, and the delimitation of electoral district boundaries. The IEC has a mechanism to conduct its own tendering for contracts and has been vested by government with powers to enter into arrangements with international donors.

## Funding and Accountability

The government meets the funding of the IEC, whose expenses, along with all other election expenses, are charged directly to the Consolidated Fund. The budget is prepared by the IEC and submitted, through the Ministry of Finance, to Parliament for approval. However, despite the sound constitutional framework for meeting election expenses, in practice only the budget for the electoral event itself receives prompt endorsement by the Ministry of Finance; the budget for the IEC's recurrent expenditure is often processed slowly.

The Act took account of the need for a high level of accountability with respect both to general electoral activities and to the financial affairs of the EMB. The IEC is required within a stipulated period after the end of each financial year to submit to Parliament, through the minister responsible for law and constitutional affairs, both an annual report on its functions, activities and affairs, and an audited statement of its revenue and expenditure for that year.

## The Professionalism of Electoral Officers

The professionalism of the electoral officers of the IEC has been under continuous review, and a determined effort has been made to upgrade the existing level. The background and culture of the majority of IEC staff is that of the civil service in Lesotho. The IEC is required to consult with the Public Service Commission when employing staff and may request the minister responsible for the public service to make any officer available to it. A continuing process of reform in the management and staff structure will enable any excess staff to be identified and lead to greater productivity of a better-trained staff complement.

## Relations with Political Parties

The IEC has had an uneasy relationship with the opposition parties since the 1993 elections, largely due to the lack of proportionality between the number of votes received by the different parties and the number of seats won. The opposition parties did not accept the election results, and confidence in the electoral system was eroded. When the 1998 elections again produced results that were largely favourable to the ruling party, open conflict erupted. This led to the creation of a transitional government and the establishment of an Interim Political Authority, which brought all the political parties together to work closely on electoral reform with the IEC, which was reconstituted.

Prior to the 2002 elections, with the assistance of the Interim Political Authority, the IEC played a leading role in the reform of the constitution and the National Assembly Election Act to enable the MMP electoral system to be established in 2001 and to implement other important changes to the delimitation of electoral district boundaries and the registration of voters. Those reforms contributed significantly to the delivery of improved quality of election services in 2002.

## **Relations with the Media and Other Institutions and Agencies**

The IEC's relationship with the media has been good. The government-owned media have cooperated with the IEC in the latter's monitoring role to ensure that news coverage extends to the campaigns of all political parties. The IEC is responsible for determining the allocation of air time for each political party.

The relationship between civil society organizations, donor agencies and observers, and the IEC has remained good since the IEC was formed.

Although the relationship with government has been good, it has not enabled the IEC to operate confidently as an independent EMB. Many members of the public and some legislators did not regard the IEC as an independent body, largely because of the apparent civil service status of the staff and the problems with funding disbursements from time to time.

The IEC has one of the most comprehensive and up-to-date legislative electoral schemes in the Commonwealth. The two major obstacles it faces are the lack of full control over the recruitment and supervision of election staff, and the need to put into full effect and operation the constitutional provision that all election expenses are charged to the Consolidated Fund.

# The US Administration of Elections: Decentralized to the Point of Being Dysfunctional

Robert A. Pastor

Although the United States is the oldest constitutional republic in the world, and one in which elections have been held since the English first settled in the early 17th century, it does not have a national organization for conducting elections. Indeed, the first law to govern the administration of elections was passed by the US Congress in 2002, more than 200 years after the approval of the US constitution. The administration of elections is more decentralized in the United States than in any other country in the world. Thirteen thousand separate entities at the local level are mainly responsible for the conduct of elections. The 50 states are theoretically responsible for the supervision of the elections, but few have more authority than the localities. The federal level of government is the least involved in elections.

## Historical Background

The US constitution of 1787 established an Electoral College to serve as an intermediary between the voters and the final choice for president and vice-president. That was a progressive innovation for the 18th century but is an anachronism in the 21st.

The constitution says very little about the administration of elections except to suggest that the states have responsibility for determining the procedures for choosing electors for the Electoral College. Over time, the individual states devolved responsibility for the administration of elections to the local level because most elections were for local offices, and national elections occurred at the same time. Counties and municipalities have registered voters, designed the ballot papers, purchased the voting machines and trained polling officials. Few states had a budget to help the local election authorities, and thus they had little power over the conduct of elections.

The only election conducted at national level in the USA is that run by the Electoral College, in which the electors designated by the candidates and chosen by the voters of each state then choose the president. Although Americans vote for four national offices (president, vice-president, senator and member of Congress), these and all other elections are technically the responsibility of the states. In reality, however, they are conducted by 13,000 counties and municipalities, and the election authorities at that level are selected and replaced in many different ways. Most officials are appointed by mayors, who are themselves elected at the local

level; others are appointed by political party officials; some are civil servants. This explains the wide range of administrative and technical procedures.

Until the end of the 19th century, the principal means of voting was a ballot paper given by the political parties to individual voters. This procedure lent itself to vote-buying, and in the 1880s states gradually adopted the 'Australian' secret ballot, which identified all the candidates on a single page, giving voters the opportunity to select the one they supported in privacy.

Although some reforms of the campaign finance system were implemented during the Progressive Era at the beginning of the 20th century, elections and politics remained heavily influenced by money. State laws regulate campaign finance at the state and local elections, but at the federal level the first major reform came in the form of the Campaign Finance Act of 1974 after the Watergate scandal.

In the presidential election of 2000, the losing candidate, Albert Gore, won the popular vote but lost in the state of Florida by 537 votes, which meant that he lost the election. A dispute over the recount was ultimately decided by a single vote in the Supreme Court. Many private and public organizations sought to learn from that experience, and as a result, Congress passed its first federal law on election administration, the Help America Vote Act of 2002 (HAVA).

## **The Legislative Framework**

The statutory requirements for most elections are defined by laws passed by each of the 50 states. HAVA is the only national law addressing the issue of electoral administration (except for civil rights laws and procedures to ensure that African-Americans and other minorities are not disenfranchised). That law sets national standards and requirements for voting, but makes most of them conditional on whether the states decide to accept funding from the Election Assistance Commission (EAC), established by the same law. By the distribution of funds and the requirement that states develop and publish plans for meeting the national standards and establishing state-wide computer-based registration lists, the new law aims to help the states retrieve authority over the conduct of elections and to exercise it in a way that will permit some uniformity at the national level. The states were mandated to be in full compliance with the law by 1 January 2006, but there were many laggards. It is clear that the law did not provide for sufficient uniformity or give the EAC sufficient strength to ensure that all states would assure the voting rights of citizens. A Commission on Federal Election Reform, chaired by Jimmy Carter and James A. Baker, and organized by the American University's Center for Democracy and Election Management, offered 87 recommendations to address the remaining problems in its report, published on 19 September 2005.

## **Institutional Structure**

The EAC was established in Title II of HAVA (Public Law no. 107-252). It is composed of four members, two nominated by Republicans in Congress and two by Democrats. (The Federal Election Commission (FEC) is similarly constituted, but its responsibilities relate only to the supervision of the campaign finance laws.)

The EAC is not an electoral management body but primarily a mechanism for transferring funds from the federal to the state governments to invest in new voting equipment and state-wide registration lists. The institutional structures responsible for administering elections

remain at the state and local level. In most states, the secretary of state is technically responsible for the conduct of elections, but the county and city election boards are the EMBs; they actually conduct the elections. Secretaries of state are elected and tend to be individuals who aspire to higher political office. State and local officials are usually appointed by political party officials, although some are civil servants or are appointed by local elected officials.

## **The Powers and Functions of the EAC, Secretaries of State and Local Officials**

The purpose of the EAC is to serve as an information clearing house, to oversee the testing, certification, de-certification and re-certification of voting system hardware and software, and to provide election assistance and publish voluntary guidance. Any EAC action requires the approval of three members, but its regulatory powers are sharply limited. It cannot, for example, 'issue any rule, promulgate any regulation, or take another action' imposing a requirement on any state or locality.

Thirteen thousand individual counties and municipalities continue to manage virtually every stage of the electoral process. Over time, as HAVA is implemented, it is hoped that the federal government will have more power to impose uniform rules throughout all 50 states, but currently the law is not strong enough to give it that power.

## **Funding and Accountability**

Until HAVA was passed, the federal government did not spend any money on elections, and the states spent very little. Virtually all funding was at the local level.

With the passage of HAVA, the federal government transferred nearly 3 billion US dollars (USD) between 2003 and 2005 to the states to purchase new machines and implement state-wide plans, including for computer-based, state-wide registration lists. Unfortunately, the EAC, which transferred the funding for machines to the states, is a weak institution, receiving for example less than 2 million USD to manage its office in its first year of operation, 2004.

The EAC (like the FEC) is accountable to the Congress, the executive branch and the courts. The local authorities are accountable to their communities and, secondarily, to the state officials and the courts.

## **The Professionalism of Electoral Officers**

For much of US history, election officials' posts were viewed as patronage jobs to be handed out by the party in power. To a great extent, this has not changed. At the local level, there are great difficulties hiring temporary workers, and as a result most are quite old and have great difficulty working through a long and stressful day. For the presidential election in 2000, approximately 100 million people voted in 200,000 polling districts. This required 1.4 million election workers, most with little training, supervised by 20,000 election administrators. Wide variations in electoral professionalism are thus inevitable.

## **The Strengths and Weaknesses of the US Electoral Administration**

Both the strength and the weakness of the US electoral administration system stem from its decentralized nature. It allows for great autonomy but no uniformity. Most Americans have focused on the result rather than the process, but close elections compel a re-focus on the process. Over time, if it is to respond to the many complaints, the federal government will need to insist on a much higher degree of uniformity of rules, and the states will need to retrieve authority from the local areas, starting with the registration list and the voter identification cards.