

# Reforming Electoral Processes

## What Is Electoral Reform?

540. ‘Electoral reform’ is a broad term that covers, among other things, improving the responsiveness of electoral processes to public desires and expectations. However, not all electoral change can be considered as electoral reform. Electoral change can only be referred to as reform if its primary goal is to improve electoral processes, for example, through fostering enhanced impartiality, inclusiveness, transparency, integrity or accuracy. Random and/or frequent electoral change, while it may be reformist, can also be confusing to voters, and thus defeat its purpose. Frequent change may also negatively affect the sustainability of an EMB’s operations.

541. Electoral reform often only catches the public eye when it involves changes to representational arrangements, such as electoral systems, but it is a much broader concept than this. There are three distinct areas of electoral reform, in each of which an EMB and its stakeholders may play different roles:

- a. *legal* – involving the amendment of the constitution, the electoral law, and/or related regulations and rules to enhance the integrity, relevance and adequacy of the legal framework within which the EMB delivers its services. This may include institutional reform of the EMB itself;
- b. *administrative* – the introduction within an EMB of new strategies, structures, policies, procedures and technical innovations that enable it to implement its legal responsibilities and deliver its services more efficiently, effectively and sustainably. These could include policies and practices on issues such as procurement, financial integrity or employment (such as gender balance in the recruitment of EMB staff); making informed voting accessible to groups such as women, those living in remote areas, and the physically impaired; or introducing new technology for services such as voting, voter registration or electoral logistics; or

- c. *political* – changes which take place in the political environment within which an EMB operates, such as giving it more autonomy or creating a more effective and transparent framework for its funding and accountability.

542. Since the mid-1980s, there have been substantial structural and procedural changes in the way elections are conducted around the world, such as the growing numbers of independent and permanent EMBs, and the increasing use of new technologies to deliver electoral services. Electoral reform has often been part of a package of general democratization initiatives. However, many countries in which there had been general satisfaction with a long-standing framework and style of electoral administration have also seen substantial reforms: for example, the introduction of an independent EMB and of significantly wider access to voting in Australia in 1984; the introduction of a new independent body with electoral functions, and a radically different electoral system, in New Zealand in 1993; and recent changes in Sweden to create a more independent electoral administration (see the case study).

543. The internationalization of electoral frameworks and administration continues to place countries under pressure to introduce electoral reform measures. The relatively recent development of generally acknowledged standards for ‘free and fair’ elections and of global and regional standards for electoral administration have created yardsticks by which each country’s electoral processes and administration can be assessed.

544. Reforms to electoral processes may be triggered by failure to deliver acceptable elections or by conflict resulting from disputed elections. Where countries are dependent on international donor contributions, these may be linked to the implementation of electoral reforms, as in Liberia. Financial constraints requiring electoral resources to be used more sustainably and effectively have had a significant bearing on administrative electoral reforms.

545. The increasingly widespread and expert independent and political party observation of elections has produced many well-documented assessments of electoral performance and recommended reforms, for example, in connection with Nigeria’s post-2003 elections. Civil society and the media have become more aware of electoral rights and standards. International observation of and technical assistance to elections in emerging democracies can also have an effect in the mature democracies.

546. While many electoral reforms have been initiated by governments, at times in response to societal or external pressures, EMBs themselves have often been powerful motivators of electoral reforms. More widespread public accountability and transparency of EMBs – a significant reform in itself – has had a multiplier effect on further electoral reform. Materials supporting electoral reforms have emerged from the increasing use by EMBs of election audits, and from the advocacy activities of civil society organizations and other stakeholders.

## Failing EMBs

547. Many EMBs fail to discharge their mandate in line with accepted regional or international standards. There are no comprehensive data on the reasons for EMB failure. Studies of individual EMBs have noted a number of internal causes, including:

- a. lack of stakeholder confidence in the EMB;
- b. government and/or political influence on EMB decisions;
- c. a partisan approach by the EMB or its members;
- d. a lack of EMB professionalism; and
- e. EMB incompetence or financial impropriety.

548. In other cases, the reasons for an EMB's failure are outside its control, for example, having to implement an electoral system that produces results that are not acceptable to major stakeholders, as in Lesotho in the 1990s. There may be deficiencies in the legal framework. In Liberia and Zimbabwe in the late 1990s/early 2000s, the failure of elections to meet acceptable standards was part of a failure of these countries' political systems.

549. Except where the entire political system is failing, electoral reform – of the EMB itself and/or of the broader electoral framework – may be able to save future electoral processes from failure. Notable examples of this in the 1990s are those of Mexico and South Africa.

## The EMB's Role in Electoral Reforms

550. While the EMB has a key role to play in all electoral reform, it may not be in a position to implement reform without the support of its key stakeholders – particularly the government, the legislature and the political parties. This is a significant reason for EMBs maintaining a strong relationship with their stakeholders (see chapter 8 of this Handbook).

551. An EMB can only implement *legal reform* within the established legal framework agreed by the government and legislature. However, an EMB may have a key research, review and advocacy role in promoting electoral legal reform, which can be guided by the standards detailed in International IDEA's publication *International Electoral Standards: Guidelines for Reviewing the Legal Framework of Elections*. Electoral legal reform can be assisted by establishing an appropriate permanent body of the legislature to monitor electoral activities and recommend electoral reforms to the government. Effective legal electoral reform depends on a multiparty approach within the legislature that subordinates political advantage to electoral ethical principles and good practice.

552. An EMB has more control over the implementation of *administrative reforms*, and can implement them more effectively, if it formally adopts a continuous review and reform process within its management policies. However, legal and administrative reforms often need to be synchronized to optimize their effectiveness. In India, for example, while the EMB has

modernized its election procedures extensively, reform of the election machinery has not kept pace (see the case study).

Unless an EMB maintains a process for review of its administrative strategies, policies, procedures and practices, its effectiveness will diminish, as it will have no mechanism to deal with change in its legal, stakeholder, technological, financial and social environments.

553. *Political and legal* reform issues in relation to electoral processes are often strongly associated. As with legal reform, EMBs do not control political reform, although again they can play a research and advocacy role, and cultivate support among key stakeholders.

554. Key steps for an EMB to consider in proposing and implementing electoral reforms include:

- a. assigning responsibilities to specific members/staff for the development, advocacy and implementation of electoral reforms;
- b. implementing effective processes, including post-electoral audits and evaluations, for review of the electoral framework and the implementation of electoral processes;
- c. consulting with stakeholders to ascertain their views on required reforms and to enlist their support for the EMB's reform programme;
- d. making submissions to the government and the legislature on desired electoral reforms;
- e. publicizing desired electoral reforms through the media and use of stakeholder networks;
- f. developing an electoral reform implementation strategy; and
- g. evaluating the effects of electoral reforms.

## The Scope of Electoral Reform

555. A significant area for electoral reform is the nature and structure of the *institutions* engaged in electoral management or in delivering electoral services. Here, reforms may enhance the independence of the EMB – for example, the adoption of Independent Model electoral management in countries such as Indonesia, Mexico, Nigeria, Romania and South Africa. Electoral responsibilities may be reassigned among existing and/or new bodies to promote better service delivery – as in New Zealand, Sweden and the UK. In some cases, as in Sweden, the suggestions for reform of electoral management were initiated by the EMB itself. In others, as in New Zealand and the UK, the reforms of electoral management were initiated by the government. Pressure from local civil society or international groups may also instigate reform of electoral management arrangements, as in Georgia and Liberia.

556. Reforms to *electoral processes*, such as the introduction of a new electoral system, may have a broad effect on an EMB's strategies, policies and procedures. They may target key electoral

issues such as electoral participation and representation, the delimitation of electoral districts, voter registration, the registration and oversight of political parties, and improving electoral integrity. They may target specific technical or technological aspects of the electoral process, such as introducing new procurement or employment processes, voter registration systems, or voting and vote-counting methods or systems. They may involve social policies, such as reducing a gender imbalance in representation, improving access to electoral processes for marginalized sectors of society, or improving the representativeness of the EMB's own staff.

557. *Electoral system reform*, as in Fiji (see the case study), Indonesia, Lesotho (see the case study), Liberia and New Zealand, is one of the most far-reaching reforms in election administration. It is often the result of a functional need, for example, of perceptions of an 'unfairness' in representation, or of government ineffectiveness or lack of responsiveness. In 2003 Indonesia changed its electoral system from closed list proportional representation (PR) in very large electoral districts to open list PR in small electoral districts, in order to address perceived deficiencies in the links between voters and representatives, while maintaining the consensus nature of Indonesian governance. Electoral system reform places a substantial information responsibility on the EMB, and may require it to implement new methods of electoral district boundary delimitation, voting and vote counting.

558. EMBs can play a significant role in reform of *electoral district boundary delimitation* – as advocates of more transparent and equitable boundary delimitation processes; in providing expert opinions on boundary delimitation issues; and in ensuring that they exercise any responsibilities for boundary delimitation impartially, equitably and with integrity. Some electoral reforms have introduced multi-member districts, as this type of system, usually based on PR, can make electoral boundaries less of an influence on determining election results. Other reforms have required boundary delimitations based on 'one person, one vote, one value' (OPOVOV). Some reforms have attempted to make boundary delimitation processes more transparent and objective, for example, by removing any role for the legislature in delimitation; having an independent body in charge of delimitation; and requiring open hearings and independent review of proposed boundaries.

559. The *process of registering electors* has attracted many efforts at modernization in both emerging and established democracies. Voter registration determines the ability of eligible voters to participate in an election, and thus is a key ingredient in the fairness of an election. As it generally occurs well before election day, and often outside the direct scrutiny of observers (especially where electoral registers are derived from civil or population registers), the internal integrity of voter registration systems needs to be very high. Reforms have targeted increasing the efficiency as well as the integrity of voter registration processes.

560. Many EMBs have implemented systems to improve the inclusiveness, fairness, accuracy and transparency of voter registration, for example, by providing for continuously updated voter registration, special registration provisions for transient voters, and safeguards against wrongful rejection of registration or removal from the electoral register. EMBs and other agencies responsible for maintaining data from which electoral registers are derived are improving the integrity of the electoral registers through better methods of checking the identity of qualified

persons, and reducing data processing times, often using modern technological solutions. EMBs need to ensure that technological solutions for voter registration enjoy the trust of the citizens and are sustainable, especially in emerging democracies where EMBs may have uncertain levels of future financial support.

561. There have been significant reforms in the role played by EMBs in *monitoring and regulating the activities of political parties*. Some are the consequences of legal reforms targeted at providing a more level playing field for political competition – for example, reforms in the administration of state funding of political parties and candidates' election campaigns, and the qualifications for registration of parties and candidates to contest elections. Others have been targeted at improving oversight of campaign contributions and expenditure, and the internal democracy of political parties – such as oversight of candidate selection processes. Reforms to promote a level playing field for elections have also given some EMBs responsibilities to administer or monitor arrangements that require the media to allocate campaign advertising opportunities equitably.

562. A growing number of EMBs are introducing *new voting methods*. Brazil and India have introduced EVMs with a view to replacing manual voting. Many of the issues that need to be considered in reforming electoral processes by introducing electronic voting are dealt with in chapter 10 of this Handbook and the case study on information technology.

563. There have been significant efforts to *make electoral participation more accessible*. Access to voter registration has sometimes been opened to those who are out of the country, of no fixed abode, or in prison. Access to polling has been widened for many people through the introduction of in-person absentee or postal voting, including for voters who are out of the country, and by providing special voting and voter information facilities for refugees, internally displaced persons, the disabled, the aged and those in remote areas, in prison or in hospital. EMBs have had to respond to all these reforms by introducing procedures and systems that enable the additional access while maintaining high integrity in the voter registration, voting and counting processes.

564. Reform of electoral access has attempted in some countries to provide equity in access for specific societal groups and for women. EMBs can promote equitable access by insisting on it in their own staffing, for example, by requiring gender balance in temporary staffing for polling stations, and using internal professional development programmes to ensure that women advance into EMB management positions.

**Box 4: Reforming the Electoral Process and the Management of Elections in Romania**

In March 2005, the Permanent Electoral Authority submitted to Parliament its report on the November–December 2004 parliamentary and presidential elections in Romania. This report included a number of recommendations for the improvement of electoral legislation based on the experiences derived from these elections. The recommendations are:

- a. to codify all relevant legal provisions and government decisions in electoral matters into a consolidated electoral code, to ensure coherence and clarity;
- b. to establish a Code of Conduct for Political Parties that participate in the electoral campaign;
- c. to review the present normative framework to ensure more active participation by observers, the media and civil society organizations in the electoral process;
- d. to harmonize regulations for electoral dispute resolution, and to clarify provisions relating to electoral fraud, including a clear definition of the sanctions for offences and of who is competent to impose them;
- e. to unify the management of elections under a specialized institution that is specifically established for this task, replacing the existing legal framework which provides for complex electoral management arrangements, involving many institutions with different roles: these include the Permanent Electoral Authority, the Central Election Bureau, government ministries, the National Institute of Statistics, the High Court of Cassation and Justice, and the Constitutional Court;
- f. to avoid amending electoral laws during the period preceding elections, except when this is necessary to correct serious deficiencies;
- g. to test alternative methods of voting (e-voting, postal voting etc.) in order to seek to increase the level of voter turnout;
- h. to initiate public information and voter education campaigns by the Permanent Electoral Authority to enhance voters' knowledge of the electoral process and encourage their participation, targeting in particular students, young people, minorities and persons with disabilities, and aiming to increase women's involvement in political life; and
- i. to ensure that proper training programmes for polling officials take place so that they are fully acquainted with the details of the electoral laws and the polling procedures.

These recommendations will be evaluated and assessed by the Parliament, the government, civil society organizations and political parties, in an attempt to gather the highest possible consensus, so that they can be then converted into legislation and regulations. In May 2006, a parliamentary special commission to prepare an Electoral Code was established. Despite the fact that the Permanent Electoral Authority does not have a legal power to initiate legislation, it was invited to send a representative to participate in the work of the commission and to present the above recommendations.

*Source:* The Permanent Electoral Authority of Romania (<<http://www.roaep.ro>>).

## Managing Electoral Change

565. Electoral change management requirements will depend on the extent of the reform and the specific electoral processes involved. Changes to the model of the EMB – for example, from a Governmental Model to an Independent Model – require particularly careful planning to ensure a smooth transition and the retention of skills and institutional memory. It is crucial that changes to electoral structures and frameworks are agreed long enough before electoral events to allow for the preparation of new materials and the effective implementation of training.

566. Especially where the process of change applies to the nature or structure and staff of an EMB, it is essential to appoint a skilled manager and communicator to oversee and implement the changes. Changing organizational structures and individual roles within structures will inevitably create tension. Transparency, honesty, serious consultation, communication and adequate forewarning are essential in managing personnel through electoral change. Timing is also critical. The staff of an EMB have skills and knowledge that may be difficult to replace, especially close to an election date. The involvement of members of the EMB in change management demonstrates the EMB's commitment to reforms.

567. The implementation of reforms relating to electoral technical processes may require the help of experts who specialize in particular technical areas. In implementing technical reforms, an EMB needs to be careful that the new procedural and system specifications are correct and have been correctly implemented. Thorough development review processes and pre-implementation testing are essential. The change management process also needs to include measurable indicators to evaluate the implementation of the electoral reforms, and clear responsibilities for reporting on indicators and for acting to improve performance if any indicator is not achieved.

## CHAPTER SUMMARY

- Electoral reforms are changes targeted at improving implementation of the guiding principles of electoral administration described in chapter 1 of this Handbook.
- Electoral reforms may be directed at the electoral legal framework – including the institution of the EMB – the administrative and technical processes of electoral management, and the political context for electoral activities.
- No aspect of electoral frameworks, systems, institutions, planning, management or operations is immune from reform or modernization. EMBs need to have a clear strategy for developing or responding to and implementing electoral reforms.
- EMBs have vital roles as advocates for electoral reforms in general, as implementers of institutional reforms, and as initiators and implementers of administrative, including technical, reforms.
- Electoral reform needs to be carefully managed to ensure that it fulfils its purpose without confusing electors and with minimal disruption to electoral administration.