

# Stakeholder Relationships

## Who Are the Stakeholders and What Is Their Role in the Electoral Process?

372. The stakeholders of an EMB are those individuals, groups and organizations that have an interest or ‘stake’ in the EMB’s operations. They can be classified either as primary stakeholders, who directly affect or are directly affected by the EMB’s activities, policies and practices, or as secondary stakeholders, who have a looser connection with the EMB’s activities. Genuine and open dialogue with stakeholders can contribute to confidence in the electoral process and trust in the EMB’s activities.

### Primary Stakeholders

373. Primary stakeholders include the following groups:

- a. political parties and candidates;
- b. EMB staff;
- c. the executive branch of government;
- d. legislatures;
- e. electoral dispute resolution bodies;
- f. the judicial system;
- g. election monitors and domestic and international election observers;
- h. the media;
- i. the electorate – voters and prospective voters;
- j. civil society organizations; and
- k. the donor community and electoral assistance agencies.

### *Political Parties and Candidates*

374. Political parties and candidates are key stakeholders whose concerns and interests an

EMB needs to consider when designing and implementing policies and activities. Unless the EMB enjoys a good relationship with, and the confidence of, political parties, its policies and programmes will attract criticism that will make it difficult for the EMB to enjoy widespread stakeholder support. Where political party nominees are appointed as full members of an EMB, as in Georgia, or as non-voting members, as in Mexico, there is a permanent structure for EMB dialogue with the political parties.

375. Political parties and candidates are more likely to have confidence in an EMB that maintains an open-door policy to them, that treats all political parties and candidates with respect, impartiality and fairness, and that considers their opinions and suggestions. It is important that all political parties believe that they are being treated equitably and are offered the same opportunities and information by the EMB. Regular meetings with political parties – at least one per month and more frequently during an electoral period – can provide a framework for reciprocal communication and can promote acceptance of the EMB’s timetables, processes and outputs.

376. EMBs in countries such as Canada, the Democratic Republic of the Congo, Ghana, Lesotho and South Africa have such arrangements. In South Africa, the law requires the EMB to set up political party liaison committees at all levels of government, from national to local level, and in Mexico political parties’ non-voting membership of the EMB serves a similar purpose. Other countries, such as Liberia in 2005, have instituted consultative structures although they are not legally required to do so. It is preferable for the EMB to meet all the political parties at the same time to discuss its decisions or policies, not separately. Minutes of these meetings need to be provided to all political parties, whether they have attended or not.

377. As well as these regular meetings, an EMB may be able to improve its relationships with the political parties by including their representatives in EMB-sponsored events. Examples of joint activities are familiarization visits to voter registration facilities, participation in voter education and information workshops, joint media interviews, or the EMB sponsoring public debates between candidates. Equal opportunity for participation should be given to all political parties and candidates.

378. It is important that political parties are involved in consultations about setting an EMB’s strategic objectives and in evaluations of its performance. As key EMB customers, political parties’ and candidates’ opinions on the EMB’s focus, priorities and service are a useful ingredient in improving electoral management. After each electoral event it is useful for the EMB to include political parties in general consultations with stakeholders on how to improve the electoral framework, and to consider them in any proposals the EMB may make for electoral reform.

### ***EMB Staff***

379. An organization’s greatest asset is its human resources – permanent and temporary staff, and those hired on contract. Unless an EMB safeguards the interests of its staff and responds to

their concerns, it may well fail to deliver successful elections. Staff that are not loyal to the EMB and its principles may frustrate the EMB's programmes. They may be corrupted by suppliers who want to win a tender or by politicians who want to win an election. Unhappy staff may strike, even during elections, and thus derail the electoral process.

380. An EMB cannot assume that its staff will be loyal and automatically share and work hard towards implementing the EMB's values: it needs to support and generate this loyalty and professionalism. It needs to treat all employees with honesty and fairness; provide competitive salaries and conditions; recognize the need for career opportunities; acknowledge staff achievements; provide a safe working environment; ensure equal opportunities; foster a culture of cooperation, teamwork and trust; train and develop staff to enable them to enhance and diversify their skills; and involve staff in the organization and planning of their work.

The EMB needs to make a determined effort to support its staff, instil in them the values of professional electoral administration, and respond genuinely to staff needs.

381. EMBs under the Governmental model and other EMBs which are staffed by public servants may be bound by public service-wide regulations and policies that may restrict the EMB's ability to deal in the most appropriate manner with its staff stakeholders. In such EMBs, the relationship with the staff may be more dependent on the EMB management's attitudes to staff than on the ability to provide material benefits.

### ***The Executive Branch of Government***

382. There are many reasons for an EMB to promote sound relations with the executive branch of government. The Treasury or Ministry of Finance is often responsible for the EMB's budget. EMBs under the Governmental model need to work within the confines of a line ministry and may need to maintain close relationships with local authorities implementing electoral processes. In many cases, an EMB relies on government ministries (and regional EMBs similarly rely on local authorities) for transport and other electoral logistical support, such as premises for polling stations, and on staff seconded from various government agencies to serve as election officials. Approvals from government purchasing agencies or import licensing agencies may be required for essential procurement. EMBs may be subject to audit by the state audit authority, and may also be required to respond to inquiries from the ombudsperson or the anti-corruption agency. An EMB relies on the police force for security and, in some countries, may rely on the armed forces for security and some transport services during electoral events.

383. Cooperation and coordination will be enhanced if an EMB strives to keep all relevant government ministries and agencies informed about its activities and to consult with them on a regular basis about the services and support it may require from them. It can be useful for there to be a permanent working group or liaison committee involving the EMB and the government

agencies on which the EMB relies for the provision of resources for electoral events. For independent EMBs, a ministry, such as the Interior Ministry or Ministry of Justice, may be the EMB's 'liaison' ministry for representations to the Cabinet or the legislature, as in Canada.

384. It is essential that the EMB maintains good liaison with whichever department is responsible for vetting its budget requests and releasing EMB funding, in order to ensure that this department is familiar with the EMB's programmes and the time-critical nature of its funding requirements. For a good relationship, it is important that the Treasury or Ministry of Finance has confidence in the budgeting, accounting, financial control and reporting systems used by the EMB.

385. Arrangements for the chair or members of an EMB to make courtesy calls on government leaders, which may include the head of state, to create awareness about the programmes of the EMB and the challenges it may face, such as legislative, financial or logistical constraints, will raise the EMB's profile with its executive branch of government stakeholders.

### ***The Legislature***

386. EMBs need access to the legislature to ensure that their views are considered in developing electoral legal frameworks and electoral resource allocations, and to obtain feedback on their performance from an important stakeholder. This access can be facilitated by having a formal point of contact in the legislature: for example, in Australia this is a special standing committee of the legislature, while in Namibia it is the speaker of the legislature. In the Solomon Islands the speaker of the legislature is also the chair of the EMB.

387. The legislature is the body usually responsible for making laws, including electoral laws, and it may also approve the government budget and scrutinize all public accounts, including those of EMBs. In many countries the EMB is required by law or convention to submit election reports and also annual reports to the legislature. Maintaining a good relationship with the legislature enables an EMB to put forward its budget proposals and reports knowing that they will be dealt with by a body that has some understanding of its activities.

388. In Costa Rica and Uruguay, the EMB has the power to place amendments to the electoral law on the agenda of the legislature. Canada and Palestine are examples where the EMB may make recommendations for amendments to electoral laws, although this is done by a line ministry or a government office in many other countries. Recommendations regarding amendment to the electoral law are also a major part of the remit of the UK Electoral Commission, which does not have responsibilities for the organization of elections – although it acts as an EMB for referendums (see the case study). EMBs may play a particularly important role in the development of the electoral legal framework in emerging democracies. It is advisable for an EMB to liaise with the legislature to sensitize it about electoral reform needs and the importance of amendments to electoral laws being passed long enough before an electoral event to allow the EMB to make appropriate preparations. There are numerous examples of delays in law-making which affected electoral performance, as in Malawi in 1997, arising from lack of

understanding or cooperation between the legislature and the EMB or between the legislature and the head of state.

### ***Electoral Dispute Resolution Bodies***

389. An EMB may have to deal with electoral dispute resolution bodies that have powers to deal with issues such as challenges to EMB decisions, disputes between the EMB and other stakeholders, the legality of the content of EMB regulations, or challenges to election results. These may be judicial, quasi-judicial or less formal conciliation bodies. Their decisions can greatly affect the activities and public perceptions of the EMB.

390. General openness with these bodies – including ensuring that they are well informed on all EMB activities and decisions through regular meetings, receive all EMB publications, and are invited to inspect EMB operations – can assist in maintaining a good relationship. This needs to be done in a manner that does not, and does not appear to, impinge on the independence of decision making of either the EMB or the dispute resolution body.

391. It is of critical importance that an EMB is professional and cooperative in any investigations of electoral disputes by these bodies. It will be difficult to maintain a good relationship if the EMB is obstructive of a dispute resolution body's access to relevant electoral materials or sites, if it lobbies to limit the powers of such bodies, or if its presentation of evidence on disputes is not professional.

### ***Judicial Bodies***

392. Many components of the judicial system may interact with EMB activities. EMBs may need the cooperation of the police and prosecuting authorities in investigating alleged electoral offences, and to appear before the criminal justice or administrative court systems for any resulting court action. The EMB, its members or its staff may be subject to judicial investigation or civil litigation, and EMB administrative policies and practices may be subject to challenges in tribunals. As with relationships with electoral dispute resolution bodies, it is extremely important that the EMB is professional, accessible and cooperative in its dealings with the wider judicial system.

### ***Election Monitors and Domestic and International Election Observers***

393. It is important for an EMB to create and sustain a good relationship with election monitors and observers. Both election monitors (who have power to intervene and rectify any shortcomings in the electoral process) and domestic and international election observers (who do not have powers to intervene and must only report what they have seen) can be critical players in the electoral process. EMBs need to put in place simple accreditation procedures and adopt effective and timely accreditation mechanisms.

394. An EMB can organize and/or participate in observer pre-election briefings, some weeks before voting day, for longer-term observers and observation planning teams. A further round of briefings could be arranged some days before voting day, whenever most domestic and short-term international observers are ready for deployment. It is increasingly common for EMBs to invite political parties and representatives of civil society to attend observer briefings so that they can brief observers about their impressions of the EMB's preparedness for elections. Observer briefing packs prepared by an EMB can also assist observers in their understanding of the election's framework and operational processes.

### ***The Media***

395. The media, both print and electronic, public and private, can be a key ally of an EMB in informing the public about its mandate and operations as well as informing and educating voters about democracy and elections. People who read newspapers, watch television and listen to the radio regularly tend to inform others about what they have read, seen or heard.

396. An EMB needs a media relations strategy that promotes regular positive contact with the media and ensures that the media have access to accurate electoral information – including on EMB activities. If an EMB does not promote a transparent relationship with the media, there is a greater risk that incorrect information that may undermine its credibility will be published.

397. Elements in implementing a media relations strategy for any EMB would include:

- a. identifying the relevant media and their coverage;
- b. identifying the key people in the various media who can ensure accurate and prominent reporting of the EMB's activities;
- c. being proactive and transparent in releasing information to the media;
- d. ensuring that the information given to the media is clear and easily understandable;
- e. developing a timetable for providing electoral information;
- f. creating one EMB spokesperson for the media and one point of administrative contact within the EMB for the media; and
- g. setting up a media centre within the EMB.

398. Some specific activities that will assist an EMB in its relations with the media include:

- a. facilitating training programmes for journalists;
- b. issuing regular media releases on electoral issues;
- c. organizing regular media conferences;
- d. having a readily accessible EMB media liaison officer;
- e. preparing a media information handbook on each electoral event;
- f. conducting media briefings on technical electoral issues; and
- g. making electoral data easily and freely accessible to the media.

399. Media conferences could be at least weekly during electoral periods and when the need arises at other times. It is advisable for an EMB to establish a full-time unit to assume responsibility for media relations and to appoint a person, preferably someone with a solid media background and who is respected in media circles, as its spokesperson.

400. EMBs may also need to deal with the media on a commercial basis, in relation to electoral advertising, or on a regulatory basis, if an EMB has functions in regulating political campaigns. Maintaining professionalism and probity in these relationships will assist in creating a positive atmosphere for the media's reporting of electoral activities.

### ***The Electorate***

401. An EMB primarily exists to render services to the electorate – not only those who regularly vote, but those who are entitled to vote. Given the many and wide-ranging tasks an EMB performs on behalf of voters, it needs to keep the electorate informed about its activities and programmes, and seek its views on EMB processes and performance. It is wrong to assume that, since political parties, civil society organizations, the legislature and the government are the institutions which by and large represent the electorate, an EMB need only deal with these institutions and can ignore individual voters.

402. An EMB can profit from creating direct channels of communication with the electorate. Potential means include telephone inquiry services; public inquiry desks and suggestions boxes at locations such as markets, shopping precincts or transport hubs; and interactive radio and television programming and 'town hall' type meetings featuring EMB members. Publicizing a list of EMB contact persons and their contact details on a regular basis is always a valuable service. In India, the EMB publishes a directory of contact details at national level on its web site within the information published under the Right to Information Act, and senior staff at state level are appointed as public information officers. During the 2006 general elections in Fiji, the electoral office distributed a voter satisfaction survey at a sample of polling stations to collect impressions and direct feedback from voters on the conduct of the elections.

403. It is important that an EMB responds quickly and accurately to all questions and comments received from the public. A delayed response, or no response, gives the EMB a public image of an inefficient organization that is not interested in service to the electorate. An EMB may also need to make an extra effort to provide electoral services, materials and information to those marginalized through disability, illiteracy or remoteness.

404. An EMB can use the media to inform and educate the electorate about elections, and undertake its own publicity programmes – such as print and audiovisual information products, and a regularly updated web site – to keep voters in touch with its activities. The Australian EMB publishes a stakeholder newsletter in both hard- and soft-copy form. It is helpful to set up a professional unit within the EMB to deal with media relations and voter information.

### ***Civil Society Organizations***

405. Civil society organizations dealing with a wide range of issues – such as democratic development, women’s empowerment, legal reform, human rights, civic education, governance and rights for people with disabilities – have a stake in an EMB’s activities. Regular consultation with these stakeholders, as is practised in the Democratic Republic of the Congo, Ghana and South Africa, will allow the EMB to be advised directly about their specific needs and the EMB’s programmes in their support to be discussed and publicized. EMBs may also build positive relationships with civil society organizations by using them as partners to implement electoral activities, for example, in training temporary electoral staff, or in implementing voter education and information programmes.

### ***The Donor Community and Electoral Assistance Agencies***

406. The key role played by donor agencies in democracy building and electoral assistance around the world makes them an indispensable partner of many EMBs. Donor funding may go direct to an EMB, or through an intermediary, such as a government ministry. There may be a direct bilateral electoral assistance agreement with a donor, or multiple donors’ assistance may be channelled through arrangements such as a UN Trust Fund (as in Indonesia in 2004 and in Liberia at the turn of 2004) or a UN Basket Fund (as in Haiti, Tanzania and Yemen). In all cases, an EMB needs to ensure that all donor requirements, including budgets, project implementation reports and financial reports, and any requests for access to inspect the EMB’s activities, are met with maximum efficiency and timeliness. Donor round tables can be used as a mechanism for an EMB to report on its progress in electoral administration and use of donor funding. Donors may require, and certainly appreciate, an EMB acknowledging donor assistance in its public relations events, publications and media productions.

### **Secondary Stakeholders**

407. The range of secondary stakeholders of an EMB is likely to be diverse. Nonetheless, it is certainly worth considering the following:

- a. EMB suppliers;
- b. the public at large; and
- c. regional and international networks.

### ***EMB Suppliers***

408. An EMB relies on many suppliers for products such as technology, equipment, vehicles, election materials, and services such as consulting, cleaning, security and transport. Unless an EMB maintains good working relations with these suppliers, its performance may be adversely

affected by, for example, suppliers not keeping deadlines or supplying substandard products and services.

409. To maintain good relations with its suppliers, an EMB should ensure transparency, professionalism and efficiency in the invitations for expressions of interest to supply goods and services; share information with suppliers and prospective suppliers on the EMB's values, such as strict adherence to integrity, dignity, professionalism and efficiency; pay suppliers within the deadlines agreed; and arrange suppliers' information forums to discuss suppliers' concerns and formulate agreed solutions.

### ***The Public at Large***

410. The general public is also an EMB stakeholder. As an organization promoting democratic values and improved governance, an EMB has responsibilities to be a good corporate citizen. In its activities it needs to consider the community's health and safety, and be environmentally safe. In its external and internal working relationships, an EMB has a responsibility to be a good practice model of the values that it represents, such as democratic decision-making processes; respect for the rule of law; non-intimidatory practices; honesty and incorruptibility; transparency; accessibility for all societal groups, including those marginalized through disability, illiteracy or remoteness; and promotion of gender balance. An EMB can seek to develop programmes of social responsibility by ploughing back into the community the skills, knowledge and other resources at its disposal.

### ***Regional and International Networks***

411. An EMB has stakeholders who do not form part of its immediate environment but have a bearing on its policies and programmes. The linkages of EMBs with the international community have become stronger as a result of intensified international cooperation in democracy promotion and electoral assistance. The creation of regional and international electoral networks has opened up opportunities for EMBs to meet regularly at conferences and workshops and to undertake study visits and other joint projects (see chapter 11 of this Handbook). Regional networks present opportunities for partnerships in sharing knowledge and materials and in the processes of peer review and evaluation.

412. International and regional instruments are a basic yardstick for assessing the quality of elections and have been widely used by election observers. The Global Declaration of Principles and Code of Conduct for International Electoral Observation adopted by the United Nations and by global and regional organizations in October 2005 is an example. An EMB that seeks to maintain a good reputation needs to align its practices and policies with internationally and regionally recognized principles, and be aware of global trends in electoral management.

## Maintaining Relationships with Stakeholders

413. It is important for an EMB to foster close cooperation with its stakeholders to ensure their support for its policies and programmes and to strengthen their confidence in what the EMB is doing. Unless the EMB works hard to create and sustain sound relations with its stakeholders, there are likely to be misunderstandings and suspicions about its activities. This may ultimately generate lack of public confidence and trust in the EMB and the electoral process.

414. Like any business, an EMB needs to undertake consultative activities that will help it 'know its market', that is, what the EMB's stakeholders – its customers – expect of it. But consultation alone is not sufficient. An EMB needs to develop an operational culture that makes it responsive to the expectations and needs of its stakeholders. This will generate support for and goodwill towards the EMB's policies and practices, and enhance its credibility. For example, an EMB may organize an election which, technically speaking, is of very high integrity and flawless in implementation, but if stakeholders are not involved and kept 'in the loop' about the process, their suspicion and distrust may lead to the election result being rejected.

415. The combined power, influence and interest of a stakeholder can be referred to as its *stakeholder value* to an EMB's policies and practices. Stakeholder value is the basis on which the EMB can develop an appropriate strategy for promoting sound relationships with each stakeholder. For example, political parties in general are a high-interest/high-power stakeholder in elections. If a significant political party rejects an election result because it mistrusts the way an EMB has conducted an election, the EMB may come under attack. Thus the relationship with political parties is an important one for the EMB to take very seriously. The EMB may not, however, need to be so focused on its relationships with low-interest/low-power stakeholders with only a peripheral interest in its activities.

416. An EMB's strategy for dealing with each individual stakeholder will also be guided by the attitude of each stakeholder towards the EMB. For example, if a stakeholder is supportive of the EMB's policies and practices, the EMB may find it useful to involve it in as many of its activities as possible. This would not be appropriate where stakeholder involvement could damage an EMB's independence of action. If a stakeholder is marginal, and has little influence on EMB policies, the EMB needs to monitor it and keep it informed of the EMB's activities, but may not need to invest too much effort to involve it. Where an EMB identifies a wholly unsupportive stakeholder it will need to analyse that stakeholder's potential intentions and reactions to EMB activities and develop in parallel a strategy for inclusion of the stakeholder and an appropriate defence strategy should this be unsuccessful.

417. There are a number of basic actions that an EMB can take to maintain good relationships with its stakeholders. These include:

- a. maintaining open, two-way communication with stakeholders;
- b. being sensitive to stakeholder needs and concerns;
- c. seriously considering stakeholder views when making decisions;

- d. treating stakeholders equitably, so that none are unfairly advantaged or disadvantaged by EMB activities;
- e. acting transparently, with meetings open to scrutiny and follow-up;
- f. maintaining the highest standards of ethics, respect for human rights, impartiality and care in its relationships with stakeholders; and
- g. equitably resolving any conflicts between the needs of EMB members and staff, and those of other stakeholders.

418. A relatively low-cost way in which an EMB can foster its stakeholders' awareness of its activities and build their loyalty is through a sustained effort of promoting open communication and dialogue. This could be by sharing its publications such as annual reports, election reports, financial reports and newsletters with all stakeholders, and regularly organizing information meetings to which stakeholders are invited.

## How to Deal with Difficult Stakeholders

419. Not all stakeholders will be well disposed to EMBs. Some may be 'difficult' for reasons that are legitimate, such as an EMB's failure to treat them with fairness, respect and impartiality. Others may simply be difficult for reasons such as personality clashes, past misunderstandings, or the seeking of political advantage. It is common for some candidates and political parties to threaten to boycott or withdraw from elections citing EMB incompetence or partisanship, or to blame an EMB whenever they have lost an election. This may occur because the EMB has not fulfilled its mandate to be fair and impartial, because of actions by bodies beyond the control of the EMB, or because of lack of public support for these political parties or candidates.

420. When attempts at inclusion fail, an EMB may need to decide whether it is wise to deal directly or indirectly with a difficult stakeholder, or whether to be on the offensive or defensive in dealing with this stakeholder. If a small political party with little following announces that it is boycotting an election, the EMB may decide to restate its position publicly and monitor the situation. If a large and influential party decides to boycott an election, the EMB may need to seek mediation by a third party. There may be advantage in approaching the courts for a binding determination if the differences between an EMB and a stakeholder relate to the interpretation of the law.

421. Liaison structures, such as working groups with civil society or suppliers, committees of the legislature, or political party liaison committees, may be useful in reducing or resolving differences between an EMB and its stakeholders. When a large majority in the liaison group supports the EMB's views, the dissenting views of a difficult stakeholder may be muted or stifled. On the other hand, when a large majority in the liaison group supports the difficult stakeholder, the EMB can recognize that it is dealing not with a difficult stakeholder but with common perceptions of its performance – in which case it may need to reconsider its policies and decisions.

422. Where differences between the EMB and a difficult stakeholder are nearly irreconcilable, an EMB can resort to a strategy of defending itself against attack. Media releases and appearances by the EMB's spokesperson on news and other programmes, and other publicity opportunities such as the EMB's web site, can be used to clarify the EMB's position, so that the public understands the EMB's side of the story. The EMB may seek to publicize areas of agreement, rather than emphasizing areas of difference, to demonstrate that it can work with a difficult stakeholder.

423. By ensuring that it is irreproachable in all its conduct by maintaining a high level of transparency, impartiality, dignity, integrity, professionalism, service and efficiency in all its dealings with stakeholders, an EMB can construct a good defence against detractors.

## CHAPTER SUMMARY

- An EMB's stakeholders are those groups which affect or are affected by the EMB's actions and to which it is accountable. Primary stakeholders include institutions such as legislatures, political parties, the executive branch of government, EMB staff, voters, the media, the electorate, civil society organizations, various components of judicial systems, election observers and donors. Secondary, more loosely affiliated, stakeholders include suppliers and the general public.
- An EMB needs to treat all stakeholders fairly and to maintain regular two-way communication and consultation with them. Methods may include meetings to consult or discuss policy, the provision of media briefings, the inclusion of stakeholders in EMB activities and training, and the wide distribution of EMB reports.
- EMB-initiated communication and consultation with stakeholders may be on issues such as strategic plans, election timetables and processes, electoral reforms, and voter education and information needs. Transparency, professionalism and reliability in an EMB's regular communications with stakeholders promote confidence in the EMB and the electoral process.
- An EMB culture needs to be responsibly sensitive to stakeholder needs and expectations. Relationships with stakeholders require active management by the EMB to promote goodwill and the EMB's credibility. The attention which an EMB pays to a particular stakeholder will vary depending on its importance and power.
- Despite an EMB's best efforts, it may have to deal with difficult stakeholders. EMBs need to decide whether to deal directly with these – for example, through liaison committees with a wide membership of stakeholders – or indirectly – using other institutions such as the courts for arguments over legislative interpretations.
- An EMB may need to take defensive action to protect its reputation, using the media and other publicity opportunities to explain its side of any difference with stakeholders. An EMB's best defence is a high standard of professionalism, integrity, transparency, impartiality and service in all its conduct.

# Fiji: A New System Under Pressure

Bill Gray

Fiji became an independent nation in 1970, with a governor general as head of state, a bicameral Parliament and an electoral system weighted in favour of indigenous Fijians. From that date, Fiji enjoyed some 17 years of political and constitutional stability. However, following two military coups in 1987, Fiji has experienced major constitutional and political turbulence, with the political balance of power between indigenous Fijians and Indo-Fijians being central to the events leading to the two coups and the development of two alternative constitutions – the first in 1990, under which Fiji was declared a republic, severing its ties to the British monarchy, and the current constitution providing for the Republic of the Fiji Islands, which was passed by the Parliament in 1997.

General elections were held in 1999 based on the provisions of the 1997 constitution, which saw a change from a First Past The Post (FPTP) voting system to the preferential Alternative Vote (AV) system, resulting in the election of a coalition led by Fiji's first non-indigenous prime minister.

In May 2000, a further coup was staged, and was followed by a period of constitutional and political uncertainty that culminated in a successful court challenge in 2001. The court determined the interim administration to be illegal and the 1997 constitution to be the supreme law of Fiji.

Further national elections were held in August–September 2001.

## The Legislative Framework

The legal framework for elections in Fiji comprises the 1997 constitution, the Electoral Act of 1998 (with subsequent amendments) and the Electoral (Counting Procedures) Regulations of 1999.

The 1997 constitution provides for a Parliament comprising an executive president and two houses. The upper House, the Senate, is made up of 32 appointed members. The House of Representatives has 71 members elected for a five-year term in single-member constituencies. Of the 71 seats, 25 are *open* seats, where the candidates and voters are from any ethnic group, and 46 are *communal*, that is, reserved on a racial basis: the candidates and voters in a communal

seat belong to just one ethnic group. There are 23 communal seats for indigenous Fijians, 19 for Indo-Fijians, one for Rotumans and three for 'general' electors (other races).

Registration and voting are compulsory, with the voting age set at 21.

The constitution provides for an independent Constituency Boundaries Commission (CBC), an Electoral Commission and a supervisor of elections.

## Institutional Structure

The Electoral Commission is made up of a chair and four other members. The president appoints the chair, who must be, or be qualified to be, a judge. The other four members are appointed by the president on the advice of the prime minister following consultation with the leader of the opposition. The independence of the commission is guaranteed by the constitution, according to which the Electoral Commission is not subject to the direction or control of any other authority or person.

The Constituency Boundaries Commission consists of a chair and two other members. The chair is appointed by the president and must be, or be qualified to be, a judge. The other two members are appointed by the president, one on the nomination of the prime minister and the other on the nomination of the leader of the opposition.

The supervisor of elections, who is appointed by the Constitutional Offices Commission, is charged with the day-to-day management of electoral matters, subject to the direction of the Electoral Commission. He/she must be qualified to practise as a barrister and solicitor in Fiji. The supervisor is appointed for a period of five years (with a possibility for reappointment) and can only be removed for due cause as set out in the constitution.

## Powers and Functions

The CBC is mandated to determine the boundaries of constituencies for both the communal and the open seats in the House of Representatives subject to meeting, as far as practicable, a series of criteria set down in the constitution.

The Electoral Act of 1998, along with the relevant regulations, sets out the specific powers of the Electoral Commission and the supervisor of elections, and prescribes details for the administration of elections. This includes the preparation and maintenance of the electoral registers; the conduct of elections (including postal voting and vote-counting); the handling of electoral offences; and the resolution of disputes by a Court of Disputed Returns.

The Electoral Commission has general responsibility for the registration of voters and the conduct of elections, and is empowered to make regulations in relation to a range of electoral matters including the registration of voters, the registration of political parties and candidates, and the penalties for violations of its regulations.

The supervisor of elections administers the registration of voters (there were 468,630 at the 2001 election) and conducts the elections for the House of Representatives and such other elections as are prescribed by the Parliament, subject to the direction of the Electoral Commission. He/she is required to take all reasonable steps to encourage all qualified persons to register on the appropriate electoral register; to publish the electoral registers at least once each year; to maintain a register of postal voters; to conduct elections in accordance with the law; and to appoint the registration and returning officers.

## **Financing**

Estimates of expenditure are prepared by the supervisor of elections on an annual basis and submitted through the Electoral Commission to the Parliament for appropriation. While no difficulties have been encountered in the flow of funds from the Parliament to enable the Electoral Commission and the supervisor of elections to carry out their responsibilities, there is a heavy reliance on international donors to fund national elections.

## **Accountability**

The Electoral Commission is required to make an annual report to the president concerning its operations and must submit a copy to both houses of Parliament. The Electoral Commission and the CBC are required, along with other statutory bodies funded by parliamentary appropriation, to account to the Parliament, while the supervisor of elections is subject only to the direction of the Electoral Commission.

## **The Professionalism of Electoral Officers**

The office of the supervisor of elections is staffed by five permanent officers who, during the 2001 general elections, were augmented by some 14,000 temporary election staff, drawn almost entirely from the public service. While the performance and impartiality of the officials have been generally praised by electoral observers, the complexity of the AV system has led to calls for better training for electoral officials and other stakeholders such as party agents. Electoral officials are required to adhere to a code of conduct.

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

The media (radio, television and the print media) are not censored and were regarded by international observers at the 2001 elections to have been robust but balanced in their coverage and analysis of the political campaign. As the media play a major role in informing the population on electoral matters, the supervisor of elections and the Electoral Commission maintain an open relationship with the media.

There are some 30 political parties registered with the office of the supervisor of elections and, while some parties have found themselves at odds with the office, generally reasonable working relations have been established. Relations with civil society organizations, international donor agencies and observer groups have been positive and productive, providing a platform for analysis and potential reform of the electoral processes.

## **Electoral Reform Management**

Following the 2001 elections, international observer groups and the Fiji Citizens' Constitutional Forum identified a range of issues arising from the conduct of the elections and made recommendations on the reforms needed. The supervisor of elections has indicated that the Electoral Commission and his office will consider the recommendations with a view to

improving the electoral system and the way it is administered. To the extent that suggested improvements need legislative changes, submissions may be put by the Electoral Commission to the Parliament for its consideration.

Undoubtedly the Electoral Commission, the Constituency Boundaries Commission and the supervisor of elections will continue to play their role in the administration of the electoral system of Fiji. The limited size of these bodies, the constitutional security they enjoy and the continued access to international funding and technical assistance point to their sustainability, albeit with a need for additional staff and professional training.

The office of the supervisor of elections faces significant challenges in order to become established as a credible and impartial administrator of the electoral system in Fiji. The Cabinet approved a restructuring of the office with a major increase of staffing levels prior to the 2006 election.

# Uruguay: The Electoral Court – A Fourth Branch of Government?

Sara Staino

The Oriental Republic of Uruguay gained independence in 1825 and, with influences from the Swiss republican model, a unique combination of quasi-presidentialism and a multiparty system was formed at the beginning of the 20th century. With the exception of a military interregnum from 1973 to 1984, Uruguay has held multiparty elections for more than a century.

The Electoral Law of 1924 marks the beginning of an autonomous and independent electoral management body. After almost a century in the hands of the executive power, elections and other election-related issues were finally brought together under the jurisdiction of the independent and permanent Electoral Court (Corte Electoral) which, as the new leading body of the electoral system, was made responsible for the conduct of elections. In 1934 the existence and powers of the Electoral Court were enshrined in the constitution.

## Institutional Structure

The Electoral Court consists of nine members elected by both houses of Parliament. Five are politically impartial members, nominated on the basis of their professional skills, and elected by a majority vote of two-thirds; and four are representatives of the leading political parties, elected by proportional vote by the members of the respective parties in the legislature. According to the constitution of 1952, the candidate with the highest number of votes among the five impartial members is chosen as president of the Electoral Court.

Subordinated to the centralized Electoral Court are 19 permanent electoral boards (*juntas electorales*) – one in each of the 19 departments of the country, a National Electoral Office (Oficina Nacional Electoral), which acts as the court's secretariat, and 19 regional electoral offices, one for each department. The lower-level bodies are elected by popular vote, and thus the political party structure in Parliament is represented throughout all levels of the election administration.

The electoral boards are responsible for the conduct of elections at departmental level. They oversee the scrutiny at polling station level, keep and organize the departmental electoral archive, ensure that electoral laws and procedures are respected, and declare the results of elections at local and departmental level. The electoral boards report directly to the Electoral Court.

The main task of the electoral offices is to facilitate the work of the Electoral Court and the electoral boards. The National Electoral Office in Montevideo mainly handles the court's

administrative matters, such as personnel, accounting and finances. It is also responsible for the National Electoral Archive and for general electoral services. The National Electoral Office functions as a technical division, heads the 19 departmental electoral offices, and reports directly to the Electoral Court.

## Powers and Functions

Article 278 of the 1934 constitution assigns the Electoral Court the competences to:

- exercise overall responsibility for electoral acts and procedures;
- provide administrative, consultative and financial leadership for the electoral organs; and
- decide appeals and complaints, and undertake the functions of a supreme electoral court of justice.

The court's electoral competence thus includes a range of functions. It is not only the manager of elections, responsible for, among other things, voter registration and the issuing of voting cards to eligible voters; it is also the highest court on all election-related matters, and thus it also hears and reviews electoral disputes and complaints. With the affirmative vote of six of its nine members, of which at least three must be neutral members, the Electoral Court has the authority to formally investigate the outcome of all elections and referendums, to reject election results and declare them null and void, and to carry out a new scrutiny of the results of a ballot.

Moreover, the court has the authority to issue administrative, jurisdictional and regulatory acts, and none of the acts it issues can or may be revised by any branch of government. This is an exclusive competence that no other independent organ of the state has: as Dr Carlos A. Urruty Navatta, the president of the Electoral Court, has said, 'The Court . . . has all the qualities needed to shape a branch of the government because it is created by the constitution, its competence is established in the constitution and its decisions are irrevocable'.

Other responsibilities of the Electoral Court are the conduct and oversight of the political parties' internal elections and university elections, the registration of voters, candidates and political parties, the maintenance of a permanent and updated electoral register, the issuing of voter cards and the announcement of the official results. The court does little in providing direct voter education and information, but on the other hand it does provide free electoral materials and offers the assistance of electoral officials for school education and mock elections held for educational purposes.

## Financing

The activities of the Electoral Court are financed through the state budget; the budget is prepared by the court itself and submitted to the executive branch for comment. Parliament decides by majority whether to approve the budget as proposed by the Electoral Court or to incorporate the observations and changes suggested by the executive branch. The funds appropriated are not allocated to specific budget lines and the court is free to decide how best to spend its funds.

## **Accountability**

There are no specific accountability requirements on the Electoral Court. As an organ with qualities similar to those of a branch of government, the court is not required to report on its activities to anyone. In practice, it is accountable to public opinion, partly expressed through the four political party representatives among its members. The EMB does, however, have financial accountability through external audit, and every year its accounts are submitted to the Tribunal of National Accounting.

## **The Professionalism of Electoral Officers and Staff**

The permanent staff of the electoral administration adds up to 1,003 officials, of whom 668 work at the central level and the remaining 335 work at the departmental level. On polling day itself the number of electoral officials is increased considerably in order to staff the polling stations. All government employees are required by law to offer their services to the electoral administration during elections and referendums. At the beginning of an election year the Electoral Court estimates the number of extra personnel required for polling day. If by any chance the number of civil servants is not sufficient, the polling stations may designate other citizens to help in the electoral process. Courses and instruction are offered to all new officials. Electoral officers are generally well skilled. However, the court usually strives to enhance the technical skills of its staff by ensuring that promotion of officers is done strictly on the basis of their professional capacities. For each election the court designs and implements special training courses for its staff at all levels.

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

The Electoral Court has extensive relations with other institutions and agencies. Its principal relations are with the political parties, with whom it liaises regularly, and with Parliament and the executive branch concerning financing, electoral legislation, and the security, transport and other logistical aspects of elections. Its relations with the media are fluid: the media have taken upon themselves the role of the principal source of information to the public on election matters. The Electoral Court does not have extensive relations with international institutions and agencies and receives no help from international actors.

The Electoral Court is well established within the democratic system of Uruguay and has been so since its establishment as an independent body in 1924. Because of its independence, professionalism and inclusiveness of political parties it is perceived among Uruguayan citizens as a widely-respected government institution. Even during the military interregnum in the 1970s, when most of the political institutions were occupied by the military, the court was left untouched and its decisions were respected. A classic example is the referendum for constitutional reform on the autocratic rule of the military that was organized by the court in 1980, when the court announced that the people had voted against continued military rule, and the military fully respected the outcome and withdrew from Parliament. This was the turning point for Uruguay and the end of the military regime. There is no doubt that the Electoral Court has been a stabilizing and legitimizing democratic institution which has been of great importance for Uruguay's return to democracy.

Nevertheless, like many other institutions of government, the Electoral Court suffers from a lack of technological means and assistance, and may need to modernize and computerize great parts of its administration in order to become more cost-effective. Manual registration of voters and issuing of voter cards has been manageable because of the small size of the population, but from the point of view of cost-effectiveness it is precarious.