

Assessing EMB Performance

Why is EMB Accountability Important?

424. Accountability means that an EMB is responsible for its activities, and must periodically provide evidence to its stakeholders and the public that its activities are effective and meet its prescribed legal, ethical, service and financial standards. The principle of accountability requires that the EMB provides comprehensive public information on its policies, their intended outcomes, its performance, and the resources it has used and intends to use, including public and other funds.

425. Accountability has a number of positive effects on the operations of an EMB. It aids the transparency of the EMB and promotes good governance. Accountability helps an EMB to gain the confidence of the public and important stakeholders, particularly political parties and government ministries. A lack of proper accountability mechanisms may lead to accusations of poor operational transparency.

Principles and Best Practices for EMB Accountability

426. The financial accountability principles dealt with in chapter 7 of this Handbook hold for an EMB's general accountability. Transparency and integrity are especially important for the accountability of an EMB. Transparency contributes to increased public trust and confidence in the EMB's operations, and may protect it against unfounded allegations.

427. An EMB needs to ensure that it has sufficient integrity controls on information it releases publicly under its accountability responsibilities. Knowingly or unknowingly disseminating incorrect or unreliable information diminishes the credibility of and public trust in the EMB. How fully can the public trust an EMB's election results if it has been found to have provided unreliable information on other critical issues?

Stakeholder Accountability

428. An EMB has both informal and formal accountability to stakeholders, and through them to the public. EMB accountability takes three main forms:

- a. *consultation and communication (informal)* through regular contact with primary stakeholders, transparent working methods, and regular reporting procedures;
- b. *performance accountability (formal)* through the submission of activity reports on an annual basis, or after every major electoral event, and performance audits and evaluations, to the legislature or the government and other stakeholders; and
- c. *financial accountability (formal)*, which entails the submission of financial statements and audits to, among others, the legislature or the government, to explain how the funds allocated to the EMB have been used.

Consultation and Communication

429. Regular consultation with its stakeholders promotes awareness about an EMB's operations and allows stakeholders to directly advise the EMB of their assessments of its performance and suggest potential improvements. These consultations could be regular or event-driven, mandatory or voluntary, structured or informal. There is a detailed discussion of EMB communications with stakeholders in chapter 8 of this Handbook.

Performance Accountability

430. An EMB is responsible for the development of policy decisions to give effect to its mandate and to ensure the implementation of those decisions. It is accountable for:

- a. electoral administration and how that administration functions;
- b. its compliance with all relevant laws and regulations; and
- c. delivering good-quality electoral services to voters and other stakeholders.

Mechanisms for performance accountability may be internal or external.

Internal Performance Accountability

431. Internal performance accountability refers to the mechanisms by which:

- a. an EMB's lower structures account to higher structures for their performance; and
- b. staff with managerial responsibilities within an EMB monitor and assess institutional performance, and take corrective action in relation to activities that do not meet the required output targets, service levels and performance standards.

The key responsibility of EMB managerial staff is to ensure that the performance of EMB staff is of high standard, and meets the standards and fulfils the work plans that are anchored in the EMB's strategic goals.

432. EMBs may also use the internal audit function to foster internal accountability. Past practices of internal auditors have often been to narrowly monitor institutional compliance with rules and policies, especially in the areas of finance and administration, but internal audit functions are increasingly being used as a performance enhancement tool, assisting senior management to identify means of improving an EMB's operational effectiveness.

433. Internal performance-based accountability also requires senior EMB secretariat staff to submit regular institutional performance reports and updates for review and consequent consideration of policy initiatives. EMBs may also consider following corporate board practice in regularly reviewing the performance of the head of the secretariat.

External Performance Accountability

434. The second level of performance accountability is external accountability, for example, requirements that an EMB report to the legislature or the executive branch of government. EMBs in countries such as Cambodia, Ghana, Georgia, Honduras, Lesotho and Russia submit their reports directly to the legislature. Countries which submit reports to the president include Fiji and Zambia. In the case of Zambia, the president is required to table the EMB's report before the legislature within seven days after receipt of the report from the EMB.

435. Some countries provide for EMBs to prepare performance and audited financial reports on an annual basis, for example, Bosnia and Herzegovina, Ecuador, Namibia, South Africa and Zambia. In the case of Bolivia, the EMB has to submit to the legislature both an annual report and a report after each election. The South African EMB is also subject to a rigorous series of accountability mechanisms. It must submit activity reports (including audited financial statements) to the legislature, both annually and following major electoral events, as well as prepare publicly available readiness reports on forthcoming electoral events. The president may also request the EMB to submit written reports to him/her on specific electoral matters. In the USA (see the case study), local authority EMBs are accountable to their communities, state officials and the courts.

436. In countries such as Costa Rica, Nigeria, Uruguay and Yemen, the EMBs have no formal performance accountability requirements. In Costa Rica and Nigeria there are committees of the legislature on electoral matters which could serve as an oversight mechanism on the EMB's activities. Uruguay's EMB is financially accountable through external audit of its financial statements, but is not otherwise accountable. In Palestine, while there is no legal requirement for the EMB to account to any branch of government, the EMB has published reports after major electoral events which are simultaneously circulated to the executive branch of government, the legislature, the political parties and the general public.

437. It is common for EMB performance reports to be both descriptive and analytical, highlighting challenges to the EMB's operations, including funding issues and improvements to the electoral legal framework that would enhance the EMB's effectiveness. Since these reports go to the legislature and may influence government decision making, it is important that they are sufficiently comprehensive and clear to capture the attention and interest of lawmakers.

438. EMB reports may also be proactively circulated to other stakeholders, such as political parties, government ministries, donors, civil society organizations, universities and educational institutes, the business community, and interested members of the public. Reports can be made widely accessible through cost-effective methods such as low-cost printing/copying or publication by CD-ROM or on the EMB's web site. Sending copies of reports to international electoral research and assistance organizations may help to promote international awareness about the EMB's country, including the challenges it faces and its election or democracy-building assistance needs.

Financial Accountability

439. An EMB has a responsibility to use the financial and other resources it receives effectively, to achieve its strategic objectives. It is accountable for:

- a. efficient use of its resources that achieves value for money;
- b. compliance with all relevant laws and regulations; and
- c. using ethical financial practices.

440. Financial accountability may be provided for in the electoral legal framework, as in Lesotho, or in general legal requirements for public-sector entities. Many EMBs, such as Liberia's, treat the statutory requirement as the minimum and offer more regular financial reporting than is formally required.

441. Like performance accountability, financial accountability has two components, internal and external.

Internal Financial Accountability

442. Internal financial accountability mechanisms are an EMB's internal procedures that promote control over its financial resources. They may include measures such as:

- a. creating an EMB subcommittee to oversee the EMB's finances;
- b. formal financial reporting structures within the EMB's secretariat and to the EMB's members (or, for governmental EMBs, to the host government department);
- c. the use of performance budgeting to ensure that all expenditure is in line with the EMB's operational and strategic objectives; and

- d. regular internal audits to monitor and review the EMB's financial management procedures and their implementation.

443. If an EMB cannot demonstrate that its internal financial accountability controls are sufficient to ensure the probity and effectiveness of its financial management, there is more likely to be pressure for more onerous external financial accountability controls. This may have negative effects on the EMB's financial autonomy and its capacity for independent action.

External Financial Accountability

444. External financial accountability mechanisms are primarily based on the external audit of an EMB's financial activities and statements. Additional external audits may be undertaken on specific financial systems (such as salary payments), or following allegations of corrupt or irregular practices within the EMB. In the latter case, state anti-corruption bodies may also be involved in the external audit.

445. Many EMBs' external financial auditing is undertaken by a government audit agency, such as the State Audit Commission in Bosnia and Herzegovina or the auditor-general in Canada, Honduras and Panama. In Romania and Turkey, external audit of the EMB is by an Audit Court which is responsible to the legislature. In Portugal, the governmental EMB may be audited by the Ministry of Finance and by the Audit Court. In countries such as Lesotho and Zambia, external auditing of EMB finances is undertaken by private auditing companies, while in Russia, the external audit is performed by the Federal Assembly through its Accounting Chamber. In Peru, an audit of EMB finances has to be undertaken no later than three months after elections.

446. An EMB normally incorporates audited financial statements within its annual or other reports for submission to the legislature and other stakeholders. For example, in Cameroon, the audited financial reports are tabled in the legislature, while the performance audit is submitted to the president.

447. Review of an EMB's financial accounts by a committee of the legislature, often called a Public Accounts Committee, can provide a public demonstration of the EMB's financial integrity. The framework of such reviews needs to ensure that the EMB is questioned fairly, rather than for political advantage. If auditors have identified poor financial management practices, members or senior executives of the EMB may be summoned to explain the circumstances and describe the remedial action that has been taken.

Accountability for the Use of Technology-based Systems

448. The increasing use of computer-based systems for electoral operations and management creates some additional challenges for EMBs' accountability. Apart from the

issue of sustainability (dealt with in chapter 10 of this Handbook), public confidence in their accuracy and reliability needs to be assured.

449. Lack of any tangible evidence of transactions in many computer systems, the lack of transparency and the incomprehensibility of computer programming to the bulk of the population, and the risks of interference with data, are widely publicized through media reports of computer worms, viruses and hackers. These can affect the credibility of EMBs relying on computer systems for vital tasks such as voter registration, voting and vote-counting, unless they are openly accountable for their use.

450. There is still intense debate about the reliability and security of computer-based systems for voting and counting of votes. Beyond technical performance issues, in the USA some of this debate entails the propriety of politically-aligned supplier behaviour. Media reports of alleged integrity problems with mechanical and electronic voting machines in the USA, including with direct recording electronic (DRE) 'touch screen' vote-recording machines (as in the state of Maryland in 2004) has increased pressure on EMBs to be open and accountable in their use of technology. These concerns led the 2005 report of the Baker – Carter Commission on Federal Electoral Reform to deal at length with concerns about electronic voting.

451. Measures that EMBs need to take to ensure integrity in computer-based systems include:

- a. rigorous pre-implementation testing of computer systems and public release of the results of the tests;
- b. use of open-source operating systems and applications, to promote transparency in the computer systems used;
- c. making test versions of computer programming code for computer systems available for public comment, where open-source code systems are used. For example, the Electoral Commission of the Australian Capital Territory posted proposed code for its computer-based vote recording and counting system on its web site, and invited comments from computer professionals;
- d. holding an audit-authenticated copy of the authorized code for each computer system in an independently controlled off-site location, and regular audited comparison of this with the code being used in the EMB, to detect and remove any unauthorized changes, as has been recommended in the USA;
- e. regular audit of computer systems, with particular attention paid to their security features;
- f. ensuring that computer-based systems all leave a paper-based audit trail that can be used to verify the system's results, as has been recommended in the USA; and
- g. ensuring that back-up systems are available in the event of computer system failure.

EMB Assessment Mechanisms

452. To meet internal and external accountability requirements, an EMB needs mechanisms

that can assess its activities, and assure itself and its stakeholders of the quality, effectiveness and probity of its operational and financial management. These mechanisms include internal quality controls, audits, evaluations, peer reviews and external oversight.

Internal Quality Controls

453. Internal quality assurance programmes are the starting point for assuring an EMB and its stakeholders that EMB activities meet service, effectiveness and appropriateness standards. Components of a quality assurance programme may include:

- a. stakeholder consultation on new systems and methods;
- b. implementation of formally reviewed, benchmarked design and development processes;
- c. rigorous pre-implementation testing;
- d. comprehensive training programmes;
- e. ensuring that professional staff are qualified to be members of the appropriate professional associations;
- f. formal post-implementation monitoring programmes; and
- g. robust reporting of faults and rectification processes.

EMBs may wish to follow the relevant International Organization for Standardization (ISO) guidelines and standards.

Auditing EMBs

454. An audit critically examines and assesses the EMB's activities, strictly within the parameters of the EMB's stated strategic objectives. Regular auditing is an essential means of ensuring that an EMB is accountable for its operations. Concepts of auditing publicly funded organizations now have a focus beyond the purely financial, looking also at the appropriateness and effectiveness of these organizations' strategies, operational methodologies, and performance in delivering services to the public.

455. Just as an EMB has performance and financial accountabilities, so too can an audit of an EMB fall into the basic categories of:

- a. *performance audit* – focusing on the economy, efficiency and effectiveness of its activities – or
- b. *financial audit* – focusing on examining an EMB's accounting records against accounting standards, to assess the efficiency and probity of the EMB in handling its funds.

456. An audit may fall neatly into one or other of the above categories or be some combination of both. It may be broadly based – examining overall EMB performance or transactions – or be limited to a particular activity, or a system operated by the EMB.

457. No matter what the type of audit, it is usually conducted in accordance with professional auditing standards. Audit reports, which are usually made public, would either certify this or explain why such standards could not be applied, and justify the standards or methodology used. The audit investigation and report may identify good and bad practice found; assess operational or financial management controls; identify non-compliance with the law or policies, and breaches of financial probity or integrity in operations; note improvements made since earlier audits; and assess the appropriateness of methods and systems used or the levels of service provided in achieving the objectives of the EMB.

458. A professional audit report is always objective, factual, accurate, complete and fair, and emphasizes the EMB's positive accomplishments as well as identifying any failings. It is good practice for auditors to discuss their draft findings and recommendations with the EMB, for the EMB to be given sufficient time to respond to these, and for the EMB's responses to be carefully considered before the audit report is finalized and publicly issued.

Performance Audits

459. Performance audits are an objective, independent and systematic examination of an EMB's activities and management systems to assess how effectively, efficiently and economically it has used its resources. They may be conducted internally by an EMB, or as an external review of the EMB. They may cover the whole range of an EMB's activities or focus on a particular function or programme. Performance audits identify strengths and weaknesses in an EMB's activities, and recommend any appropriate corrective actions. A performance audit is an important mechanism for improving electoral management, instituting good practice, improving public accountability and reinforcing institutional integrity.

Methodology and Scope of a Performance Audit

460. Performance audits involve both internal examination – that is, a review of an EMB's policies and records relevant to the audit, and interviews with relevant EMB members – and external examination – interviews with an EMB's stakeholders and review of media and other reports on its activities so as to obtain the external perception of the EMB's performance. These audits commonly undertake both cost-benefit and cost-effectiveness analyses, and use performance indicators – those included by the EMB in its strategic plan, where these are appropriate – and the standards of service either defined by the EMB or expected by its stakeholders, to assess the EMB's performance against its strategic objectives.

461. Components of a performance audit would usually include:

- a. interviewing the principal stakeholders, such as the political parties, voters, members of the legislature, civil society organizations, media organizations, relevant government ministries and agencies, and suppliers. This may include joint consultation with stakeholders at workshops or seminars;

- b. interviewing EMB members, secretariat staff, and where relevant, temporary staff or contractors engaged for the activities being reviewed;
- c. examining the EMB's strategic plan, management structure, relevant policies, operational plans and task assignments, and the implementation of these planned activities; and
- d. reviewing relevant constitutional instruments, laws, regulations, court or tribunal decisions, codes of conduct, and the EMB's computer and other systems, reports, procedures, manuals, guidelines and relevant records.

462. The specific criteria for and issues covered by a performance audit will be governed by the activity or activities to be audited. For example, a performance audit of an EMB's overall conduct of an election could use the following design criteria and address the issues listed in table 15.

Table 15: Election Performance Audit: Criteria and Issues

Election Performance Audit Criteria	Specific Election Performance Audit Issues
<ul style="list-style-type: none"> • Election preparation and design: the logic and completeness of election planning • Efficiency of election processes: cost-to-output ratios and resulting quality • Effectiveness of election activities: the contribution made by the EMB's services to election objectives • Impact: the effect of the EMB's conduct of the election on the wider democratic environment and state stability • Sustainability: the ability to maintain a stream of benefits from the election 	<ul style="list-style-type: none"> • The appropriateness of the EMB's regulations, policies, procedures and performance standards for its election objectives • The appropriateness of the EMB's structure and culture for delivering election services to the expected standards of service • The level of the EMB's compliance with the election's legal framework and its internal regulations and procedures • The level of any conflicts and duplication within the EMB's election activities, and between election and other EMB programmes • The impact of the electoral system on the EMB's systems and procedures • The effectiveness and sustainability of the use of technology for election purposes • The levels of knowledge about elections among the EMB members and staff, and the effects of training and staff development on these • The impacts of the EMB's information campaigns • The effectiveness of relationships between the EMB and other organizations with a role in the election • The EMB's performance in implementing the major election processes • The EMB's accountability to its stakeholders

Performance Audit Outputs

463. A performance audit’s output could be expected to include information in relation to the activities or processes being audited and recommendations targeted at assisting the EMB and its oversight bodies to improve the EMB’s services to stakeholders.

Table 16: Possible Performance Audit Findings and Recommendations

Performance Audit Findings	Performance Audit Recommendations
<ul style="list-style-type: none"> • Strengths and weaknesses of the EMB’s management systems and management team 	<ul style="list-style-type: none"> • Methods of improving management, operational and financial systems and procedures to improve performance against EMB objectives
<ul style="list-style-type: none"> • Strengths and weaknesses of methods used to implement relevant activities or processes 	<ul style="list-style-type: none"> • Methods of using resources more economically while achieving expected quality • Methods of using EMB resources more efficiently, reducing the cost-to-output ratio • Methods of improving EMB effectiveness by better achieving its planned objectives, performance standards and service levels
<ul style="list-style-type: none"> • Constraints that may have affected the EMB’s ability to achieve objectives related to the activities being audited 	<ul style="list-style-type: none"> • Changes to the EMB’s external environment that will assist the EMB to achieve its objectives and improve service delivery, longer-term viability and sustainability
<ul style="list-style-type: none"> • Determination of the extent to which the activities and processes reviewed have achieved the objectives, performance levels and service standards defined by the EMB and expected by its stakeholders 	<ul style="list-style-type: none"> • Improvements to the EMB’s framework and planned results, performance standards and service levels that would allow the EMB to meet its objectives in a manner that enhances its service to its stakeholders • Changes to improve the accountability and transparency of the EMB, and to increase public trust in the institution

464. Performance audits can have a wide range of impacts, both on the EMB and on the stakeholders’ perceptions of the EMB. These impacts can include savings in the use of resources, higher efficiency, strengthened management policies and practices, improved service quality, and a better understanding of accountability.

Financial Audits

465. The EMB's internal financial audit is its final internal checking mechanism to promote financial probity and integrity. An external financial audit of an EMB reviews the EMB's accounts to provide an independent opinion of their completeness, compliance, integrity and accuracy. Most EMBs are required to prepare and submit annual audited accounts, which are linked to achievements and activities based on the annual plan of work. The report may reflect the level of financial contributions by the state and by external sources, where appropriate, and the expenditure of these funds.

466. Electoral events generate many financial transactions through the acquisition of election supplies, materials and equipment, and the employment of large numbers of additional staff. Many EMBs have a relatively large dispersed staff, including thousands of temporary workers, and procure millions of dollars-worth of electoral equipment, services and materials, often in a very short time. This is an environment where corruption and misappropriation of funds may occur if adequate safeguards are not in place.

467. Financial audits aim to provide reasonable assurance that the financial statements of an audited EMB represent fairly the financial position, the results of operations, and cash flows in conformity with generally accepted accounting principles and financial reporting standards. Such audits seek to establish whether all financial transactions have followed the financial compliance criteria, based either on the EMB's own rules and regulations or on more general public-sector financial accountability laws or rules. They also assess and provide an opinion on whether the EMB's internal control structure for finance and safeguarding assets is suitably designed and implemented to ensure accuracy and integrity in financial management records and to prevent fraud.

468. Financial audit may cover some or all of the following areas:

- a. financial statements and information (such as revenue and expenses, cash receipts and disbursements, and the inventory of assets);
- b. budget requests and variations between estimated and actual financial performance;
- c. compliance with laws and regulations, especially on procurement, accounting, reporting on contracts and grants, and anti-corruption measures; and
- d. internal controls on funds, assets and financial reporting.

Programme Evaluation by EMBs

469. Programme evaluation is another widely used tool to help EMBs improve their accountability. The boundaries between performance auditing and programme evaluation are blurred. Both provide independent, objective analyses of how an EMB may use its resources better. A performance audit will generally concentrate on the economy, efficiency and effectiveness of the EMB's performance in relation to the objectives stated in its strategic plan or other legal and operational framework documents. A programme evaluation will generally

start from the basis of questioning whether the electoral framework, and consequent strategic objectives that the EMB has determined, meet the needs of the EMB's stakeholders.

470. Key questions for a programme evaluation of an EMB's activities include:

- a. Do the legal framework for the EMB's activities and the EMB's objectives meet the needs and objectives of the EMB's stakeholders?
- b. Are the services the EMB provides necessary?
- c. Could the EMB's services be provided more effectively?
- d. What are the long- and short-term impacts of the services being provided?

471. Programme evaluations are wholly outcome-focused, feeding back into the EMB's strategic planning cycle. They concentrate on how an EMB serves its stakeholders, including whether the needs assessments on which an EMB's strategies and activities are based are still valid. As they are stakeholder-focused, they concentrate on obtaining the expectations of stakeholders of the EMB and their views on the appropriateness and performance of its current activities. In an environment of changing societal attitudes and political and legal frameworks, and technological advances, these evaluations assist the EMB to identify areas of activity that no longer effectively meet its stakeholders' needs. A programme evaluation may review whether specific EMB services are still needed, or whether other institutions are better placed to use all or some of the public funds available for specific electoral services, for example, voter education and information, than the EMB.

Post-election Reviews

472. Post-election reviews are a tool that is being used increasingly by EMBs to assess the adequacy or otherwise of the legal and management structures for elections, and of their performance in delivering credible elections. These reviews are complementary to the financial and performance audits. Countries which provide for the submission of performance reports after every major electoral event include Botswana and Georgia. The Botswana EMB engaged a team of electoral experts to conduct a review of its performance during the country's 2004 general elections. This review produced several key recommendations with far-reaching implications, including requirements for constitutional and legal amendment.

Table 17: The Botswana Post-election Review 2004: Terms of Reference

Legal Framework	<ul style="list-style-type: none"> • Assess the relevance, adequacy and effectiveness of the legal framework in place to guide the Independent Electoral Commission (IEC) in the execution of its mandate (Electoral Act and Constitution) • Assess the clarity of the legal framework with particular emphasis on the nature of the Commission's mandate • Assess the adequacy of the functions of the IEC and its Secretary as stipulated in the Constitution of Botswana • Explore the need for a specific Act of Parliament on the IEC's persona, functions, its employees and other relevant legal matters • Propose reform or otherwise of the existing legal framework
Operational framework (Execution of Mandate)	<ul style="list-style-type: none"> • Assess the IEC state of preparedness for the 2004 general elections • Evaluate if the IEC in preparing for the 2004 elections observed its mandate relative to the existing legal framework • Assess the relevance, adequacy and effectiveness of the IEC Civic and Voter Education Programmes • Assess the effectiveness of the IEC in conducting the 2004 elections and identify real and perceived problems and weaknesses • Assess the Commission's relationships with its major stakeholders. This assessment should give priority to the Commission's relationship with the executive in order to suggest most effective ways of IEC-Government liaison which enhances IEC accountability and transparency but preserves its independence • Assess how best to promote good communication between the Commission and the Secretariat
Appointment of the Commission and related staffing issues	<ul style="list-style-type: none"> • Evaluate procedures for the appointment of the members of the Commission and the Secretary and propose improvements where necessary • Assess the competence and adequacy of the Commission's electoral staff • Identify weak links and propose development interventions • Assess if the Commission should have the powers to hire, discipline and fire its staff at all levels, including the Secretary
Financing	<ul style="list-style-type: none"> • Assess the adequacy of the IEC financing and also the effectiveness of the current funding mechanisms
Independence of IEC	<ul style="list-style-type: none"> • Assess to what extent the IEC is and should be independent • Propose parameters that should define the independence of the IEC • Suggest reporting channels for the IEC
Future performance evaluations	<ul style="list-style-type: none"> • Look into ways of institutionalising performance evaluations as part of the normal post-election routines of the IEC.
Other issues	<ul style="list-style-type: none"> • Assess relevance and adequacy of IEC's current strategic plan and propose improvements • Issues relevant to gender and elections, including gender mainstreaming in the IEC.

Source: Taken from Dundas, Carl W., Maundeni, Zibani and Balule, T., 'Final Report: Audit of the Independent Electoral Commission's (IEC) Preparedness to Conduct Legitimate and Credible Elections in October 2004. Report of a Team of Consultants Appointed to Audit the Operation of the 2004 Elections in Botswana', (no place, no publisher), December 2004.

473. A post-election review report analyses what worked well, what did not, and why. It may cover every aspect of the electoral system, processes, and management structures and capabilities, and is better if based on the analysts’ direct experiences of the electoral event, not just examination of records. Polling and vote-counting activities, voters’ attitudes, and the response of stakeholders to EMB actions can be matters for detailed examination in a post-election review. A post-electoral event review could also address how the EMB’s funding processes help or hinder EMB sustainability. The review report can examine the strengths and weaknesses of the EMB and the electoral framework, and make suitable recommendations for remedial action. The results of the review need to feed in to discussions about electoral reform and the procedural development of the EMB throughout the electoral cycle.

474. The twin approach of needs assessment studies prior to a general election and a post-election review of EMB performance during an electoral period can assist in identifying the level of sustainability of free and fair elections that can be achieved over the longer term.

Table 18: EMB Post-Election Review Cycle Checklist

Responsibility	Action
EMB management	<ul style="list-style-type: none"> • Before electoral period commences, develop the scope and terms of reference of the review following consultation with stakeholders, and appoint responsible EMB manager and review team, and/or external consultants (if required) • Explain to EMB staff the nature and purpose of the review
Review team	<ul style="list-style-type: none"> • Develop plan and timetable for information collection during and after the electoral period, analysis and reporting • Review the documentary framework for the relevant election processes – such as the legal framework, EMB policies and procedures, and relevant documents issued by other bodies • During the electoral period, witness election processes, interview external stakeholders and EMB staff, and continuously collect relevant election performance data • Conduct post-election interviews or round tables of stakeholders for views on overall election performance • Collect data after the election to cover gaps in existing data, and on issues such as election result disputes • Analyse data and draft review report
EMB management	<ul style="list-style-type: none"> • Review and respond to draft review report
Review team	<ul style="list-style-type: none"> • Draft final review report considering EMB management response
EMB management	<ul style="list-style-type: none"> • Present review report to stakeholders • Discuss recommended changes in review report with EMB staff • Advocacy to stakeholders, including government and the legislature, of electoral reforms recommended in the review report • Develop new policies and procedures based on the review findings and recommendations, and any resulting electoral law reform • In consultation with stakeholders, develop the scope and terms of reference for review of the next election, paying particular attention to issues noted in the review of the previous election

Peer Reviews

475. Peer reviews can bring the knowledge of experienced electoral practitioners to both internal and external review (audit and evaluation) mechanisms. Using EMB field staff from one geographical area to assist with financial or performance audits or post-election evaluations in another geographical area of the EMB, as was practised by the Australian EMB in the early 1990s, can be extremely beneficial. The EMB offices being audited may be more likely to take note of recommendations from peers who have had to solve similar management problems, and both the reviewer and those being reviewed can broaden their knowledge through the exchange of ideas. Similar benefits arise from using appropriately senior experienced electoral professionals, from the same or another country, on EMB external review teams.

External Oversight Issues

476. External oversight of an EMB is part of its external accountability, and may be implemented through mechanisms such as external audits or evaluations, reviews of EMB activities by an ad hoc or other specially appointed body, or reviews by a committee of the legislature, such as an electoral affairs or public accounts committee.

477. If an entity undertaking external oversight of an EMB is not fully independent, it may be subject to interference that improperly inhibits its scope and/or methodology. There may be attempts to change or influence the content of oversight reports. Constraints on oversight bodies may include restrictions on terms of reference, on the time allowed for investigations, on access to information, or on access to sufficient funds and other resources to carry out the task. For example, the Indonesian election monitoring body, Panwas, both monitors the conduct of the election and is the body of first instance for most election disputes. While it is expected to act independently, it is appointed and funded by the EMB. Conflict in 2004 between Panwas and the EMB over Panwas' challenges to EMB decisions led the EMB to issue regulations to remove any role for Panwas in challenges or disputes involving the EMB.

478. Oversight bodies need rights to examine documents and computer files, to verify services paid for and property acquired with public funds, and to interview EMB members, staff, and other persons. These rights can be guaranteed if they are included in the legal framework. If not, the EMB can enhance its credibility by allowing free and unimpeded access. Official oversight agencies may be given the authority to obtain court-enforceable subpoenas to compel the EMB and other organizations to produce specific documentation, with sanctions for non-compliance. Where an oversight agency is given investigative powers, it is usually able to administer and take affidavits under oath.

479. To be effective, oversight must be subject to rigorous quality control so that it is professional, impartial and accurate. Adequate numbers of skilled staff with a keen appreciation of the legal, financial and operational frameworks within which election tasks are conducted will facilitate good practice in oversight duties. The findings of oversight bodies need to be objective and targeted towards encouraging improving EMB services.

CHAPTER SUMMARY

- Accountability to its stakeholders aids EMB transparency and good governance, and positively influences the general public's perception about the EMB's professionalism and impartiality.
- 'Informal' accountability through regular communication with stakeholders, and formal performance and financial accountability mechanisms, are all necessary, complementary measures, ensuring that an EMB is accountable for compliance with the law, financial probity, operational integrity and effective customer-focused activity.
- Performance accountability is both internal and external. Internal measures include management monitoring and the use of internal audit to examine performance issues. External measures can include external reviews and requirements for reporting to stakeholders such as the legislature. Wide distribution of EMB reports can make a broad range of stakeholders aware of the EMB's challenges and achievements.
- An EMB is similarly internally and externally financially accountable. Internal measures include financial reporting and control mechanisms, and regular internal audits. External measures include external audits and regular provision of audited financial statements to stakeholders such as legislatures and donors, and review by an appropriate body.
- The use of technology-based systems, especially for voting and the counting of votes, places additional accountability requirements on EMBs, as these systems may not be transparent to or easily understood by stakeholders. High levels of quality and integrity assurance, including evidence of transactions, must be maintained.
- In order to assure stakeholders of the effectiveness and probity of its performance, an EMB may use a variety of measures including pre-implementation and real-time quality assurance controls, and later audit, evaluation and external oversight mechanisms. Use of peer review processes can give added credibility to audit and evaluation findings and recommendations.
- Evaluation is the analysis of the electoral framework as a whole, while audit is a method used to analyse/evaluate specific issues inside the framework. Evaluation can encompass an audit, but an audit cannot encompass an evaluation.

- Performance and financial audits can identify good practices being used by an EMB, deter and detect fraud, corruption and malpractice, and identify how an EMB can improve its methods of complying with financial requirements, and improve its operational performance and institutional integrity in order to meet the objectives of its strategic plan.
- Performance audits assess the economy, efficiency and effectiveness of an EMB's activities, and can have a significant impact on improving an EMB's quality of service, cost-effective use of resources, and strengthening of electoral management. The impact of financial audits can be to improve internal financial controls, and promote compliance with the relevant rules and the efficient use of financial resources.
- As well as audits, an EMB may undertake programme evaluations of specified parts or all of its activities. Programme evaluations examine not just how well the EMB has done what it intended to do, but whether the EMB's strategic objectives are appropriate for its environment and meet the needs of its stakeholders. They assess how an EMB's activities could be improved to better meet these needs in an economical, efficient and effective manner. They are an effective way of assisting EMBs to meet the challenges of a changing external environment.
- Well-planned post-election reviews are particularly useful to EMBs. Recommendations from these reviews can feed into internal EMB policy and procedural reform, and EMB advocacy for electoral framework reform, throughout the electoral cycle.
- Independent external oversight of an EMB may be through external audit or evaluation, by a standing committee of the legislature, or by a specially appointed ad hoc body. To be effective, it needs access to all relevant materials and personnel, a strongly independent, impartial and professional culture, and rigorous quality controls.

Elections and Technology

Sean Dunne

Technology Systems and Elections

Over the past 20 years, electoral administrators have readily adopted two main types of technology into the electoral process: database systems (to support voter registration systems) and geographical information systems (GIS, for re-districting and logistics planning). It should be noted that, while they have brought great benefits in efficiency and effectiveness to the electoral process, these earlier technology adoptions were drawn from other fields, where the technology had been thoroughly and rigorously developed and tested. In comparison, the emerging field of electronic voting (e-voting) is new and exists primarily within the field of public and private electoral administration.

In a fully electronic voting system, voter identification, voting, the counting of votes and the transmission of data would all be performed by electronic and digital equipment without human processing. As yet, no country has achieved this level of modernization at the national level of election administration. However, systems that combine the use of manual processes and electronic technology (hybrid systems) offer a wide range of solutions, several of which have been used in a number of countries. The combination of these manual and electronic processes into a suitable hybrid system is influenced by a wide range of factors, and may arguably be considered unique in any given country.

One basis on which to compare the degree of automation of different systems is the 'trusted code base' (TCB). The TCB refers to the amount of computer code that is necessary to support a particular system. Simply put, the larger the code base that is required to support a system, the more complex it is and the more vulnerable to accidental or intentional manipulation. The 'trusted' aspect of this computer code refers to the degree to which it has been rigorously tested and accepted as accurate and correct.

Internet-based systems – those connected to the World Wide Web – raise significant security and technology-related concerns. Security issues relate to the exposure of the system to an unknown threat environment with similarly unknown threat capabilities. This environment includes not only national actors but also, by virtue of the online environment, foreign governments and hackers. Internet-based systems have the largest code base requirements. Moreover, as these systems communicate over the Internet travelling through public routers, certain parts of the code base cannot be considered trusted.

The two main types of technology being introduced in the polling activity of elections are direct recording electronic (DRE) systems and optical scanning technologies.

DREs are systems that allow voters to input their vote directly into the system, normally via a touch screen or keypad device, and the votes are automatically tabulated. These systems can also incorporate a sub-system to integrate directly with a voter registration card that has a unique identifier built in, for example, on a magnetic strip or a code that can be manually entered via a keypad. DRE systems normally have a requirement for a medium-to-high code base.

Optical scanning technologies relate to the scanning of ballot papers, where a voter's choices are indicated by a circle, oval or rectangle being filled in, in pen or pencil, on a standard printed ballot paper. These systems are not unique to electoral administration and are commonly called 'bubble forms' (due to circles being regularly used), which are used in several countries for national student examinations involving multiple choice questions. The TCB requirements for optical scanning technology systems are usually small in comparison to other solutions.

Electronic Voting

There are several challenges for an EMB that is assessing the benefits of introducing electronic voting. At the outset, these challenges include securing the resources necessary to effectively control and manage the evaluation and/or development process, as well as a clear mandate from government for one body to be solely responsible for the management of the process. This latter feature has become increasingly prominent, as competition among private-sector vendors of e-voting technologies has led to aggressive methods to introduce their products into new markets.

Depending on the circumstances in the particular country, electronic voting can require corresponding amendments in a number of areas (several of which may be outside the sole purview of the EMB), including the electoral law; the laws governing the rules of evidence (how evidence may be presented before a judicial body); investigative capacities; regulations and procedures for dispute resolution; the structure, staffing and core competences of the electoral authorities; the voter registration process; the candidate/party registration process; the training of electoral officials; the regulations for electoral observers; and the tabulation and announcement of results. Moreover, it necessitates dedicated programmes of consultation (with political parties and civil society) and a broad process of voter education.

Accordingly, the introduction of e-voting is normally viewed as a major reform to the electoral process. Where it has been introduced successfully, this has been done as a gradual process, with a pilot programme and phased adoption over several elections, allowing candidates/parties, voters and the electoral authorities to adapt to the new technology. This gradual approach allows for modifications to be made progressively and for the process to be halted if unforeseen difficulties arise.

There are many claims associated with electronic voting, such as that it increases voter turnout or improves security. However, there are few statistical studies of the impact of these systems on the electoral process and on corresponding political practices. Moreover, there is little evidence at this time to support claims that a particular technology will have the same impact in one country as it does in another. Thus, as with the process of electoral reform in general, the value and benefit of e-voting should be measured against the unique circumstances in which it is being proposed.

In general terms, electronic voting is associated with the following benefits:

- Symbolically, e-voting can be associated with the degree of modernity of a country.
- It allows multiple ballot ‘papers’ to be available at a polling site while avoiding regular logistical difficulties.
- It can make it impossible for voters to spoil their ballot ‘paper’ and to cast a spoiled ballot paper (a ballot that is not valid), whether accidentally or intentionally.
- It can permit photographs of candidates to be included on the ballot ‘paper’ at minimal cost (which assists with voters whose levels of literacy are low).
- It allows for the rapid tabulation of votes, which can be available within minutes of the closing of the polls.
- It can remove the possibility of some types of human error or fraud associated with manual voting processes.
- It can give illiterate or disabled voters more independence in casting their vote.

Main Issues

System Evaluation or System Development

A fundamental decision for electoral administrators is whether to seek a ready-made e-voting solution or to pursue the development of a customized system. A ready-made system that is adopted, by definition, will require changes in the electoral process to incorporate the system. In contrast, a customized system will more readily fit into the electoral process. However, customized system development is a more lengthy process and poses extra challenges in managing the development process, as opposed to the simpler evaluation process.

Since the 2000 presidential elections in the USA there has been a rapid expansion in the development of ready-made electronic voting systems by private vendors. This was further stimulated by the subsequent Help America Vote Act (HAVA), which made around 3.8 billion US dollars (USD) of federal funding available for the upgrading of US voting technologies. These systems of various configurations are generally offered to electoral authorities as ‘off-the-shelf’ hardware solutions. However, they can be customized to a certain degree by modifications to the software that operates these systems.

In contrast, Brazil’s national adoption of e-voting evolved over several years and was a customized development, where the federal electoral authorities defined specific and extensive requirements. Supported by other specialized areas of government, the electoral authorities then issued a call for proposals from the private sector to design and produce an electronic voting machine. A successful bidder for the contract to produce the machines was then selected through a competitive process of testing and analysis.

Total Cost of Operation

One of the main claims offered in support of introducing electronic voting is that of cost-effectiveness. However, traditional system developments in the computing field suggest that the initial capital investment to purchase a system can be as low as 25 per cent of the cost of the system over its expected lifetime. Subsequent costs that must be considered are those of voter education campaigns, maintenance, repair, secure warehousing, reprogramming, upgrading, staff recruitment and retention, audit and verification, temporary polling staff training and equipment replacement. Also – specific to the nature of the e-voting solution selected and its expected lifetime of use – it must remain secure in the face of other technological advances.

This can impose a lifetime limitation on certain technologies, estimated at 10 to 12 years, after which a new system may need to be installed.

Security

A central discussion within the electronic voting debate is the issue of security and its vulnerability in the presence of computer code, as outlined above in the discussion on the trusted code base. It is strongly recommended that the electoral authorities have ownership (complete access and control) over the source code for any e-voting machinery they employ. This usually involves two main code bases: the operating system (which runs the machine) and the application software (which is the program being used). To ensure that this requirement is met, the operating system is usually an open source operating system, such as BeOS or Linux. Other operating systems that are not open to inspection and customization for copyright reasons cannot be considered 'trusted' in this context.

The automation of polling processes by the incorporation of technology can mitigate certain types of security threat, such as certain types of tampering by polling staff. However, it is recognized that, while removing vulnerability to some types of fraud, technology creates new vulnerabilities. This is a heightened concern when the system is networked and centralized. In these cases, vulnerability to internal fraud is greatly increased and the impact of that fraud can be drastic. The introduction of technology may therefore require new 'check and balance' procedures to be introduced within the internal administration of the EMB.

Audit and Verification

To ensure that electronic voting equipment has the confidence of the electorate, a process of visible audit is normally required. Audit processes may occur prior to, during and after the polling event of an election. The means by which the audit is undertaken is a key decision for the EMB. Ultimately, the goal of the audit process is to assure the EMB itself, political contenders and voters that the system is accurate and secure. In some countries, electoral authorities or vendors have placed their source code for a system on the Internet so that anyone who wishes can assess the reliability of the software. Several options exist for these purposes, including one or more of the following:

- the EMB maintaining an internal unit for the purpose of audits;
- involving a trusted third party, such as a multilateral international organization;
- using an independent contractor, contracted for the purpose of audit;
- using open verification, where the system is made accessible to political parties, electoral observers and civil society to test and audit the operation of the system; and/or
- using another governmental institution to provide an auditing function.

In conjunction with the audit process there is the ongoing concern of the difficulty of verifying the tabulation done by a DRE voting system. Without a paper trail, if a failure occurs or allegations of manipulation arise, most DRE systems do not provide a means by which to verify the result. This concern is at the heart of the 'paper trail' debate that surrounds electronic voting. One approach to this issue is that the DRE produces a paper receipt for the voter that is placed in a regular ballot box. In the short term this may be a desirable confidence-building measure; however, in the longer term, it may be argued that under this scenario the machine has

simply replaced a pen – at much greater expense. Other approaches have sought to incorporate three or more independent tabulation systems, built in to the design of the system. These three independent tabulations can then be compared at the end of polling. Moreover, regular polling procedures may also be applied, such as the exclusion of a machine's results from the final election count if it is challenged and the challenge is not resolved, followed by re-polling at a later time.

Dispute Resolution

A major impact of introducing electronic voting systems is the impact on existing electoral dispute mechanisms. The challenges that arise in this context are the securing of evidence and the mechanisms by which disputes are to be evaluated and resolved. In some countries, where electoral disputes are handled by the judicial system, these matters may be subject to special provisions, requiring legislative amendments. Also, to investigate these matters effectively may require specially trained personnel within the EMB or the national law enforcement agency. At the outset, the existing rules of evidence pertaining to electronic or digital evidence should be reviewed to assess the need for special measures or amendments.

Interconnection with the Electoral Register

The collaboration between an electronic voting system and the means by which a voter's identity is verified is a core concern in assessing the suitability of a technology solution. As noted above, most e-voting systems are a hybrid combination of manual and automatic processes. In many cases, the process of voter identification is still a manual activity. To integrate the two systems normally requires that technological upgrades be made to the voter registration system, so that it 'interlocks' with the e-voting system. Also, a major factor in the integration of these processes is whether a voter is allocated to a specific polling place to cast a vote.

Transmission of Polling Results

In any secure communication system, information to be transmitted should be sent via three different media, for example, via the Internet (as an encrypted message), by facsimile transmission and by hand. If any information is changed during transit over any one medium, when it is reconciled with the other two transmissions, any error can be readily detected and resolved. A benefit of e-voting systems is that the tabulation from an electronic system is already in a digital form. Thus it can be easily transmitted over the Internet, printed as a pre-formatted facsimile and, if available as removable media, physically transported.

Contracting of External Service Providers

In considering the introduction of electronic voting technologies an EMB must determine whether the system will be maintained internally, depend upon other government authorities or rely on external service providers for certain services. If a decision is made to internalize the process this can require significant changes to the structure, staffing and functions of the

electoral authority. One of the main concerns in this area is the recruitment and retention of skilled staff who may later be sought after by private-sector vendors after they have gained experience and training in the implementation of such systems. If external service providers are used, contracts should be clear on actions to be taken if the company goes bankrupt, seeks to increase the cost of its services or is bought by a competitor. Also, if appropriate, contracts should stipulate that the company provides training to electoral officials for the ongoing maintenance and operation of the systems adopted.

Transparency and Electoral Observation

One impact of adopting electronic voting solutions is the lack of transparency associated with the polling exercise for electoral observers. Without invasive techniques, the process can become opaque for electoral observer groups, which may cause criticisms of the process. This issue may be addressed by allowing electoral observer groups to conduct independent audits of the e-voting systems prior to polling and after polling. Alternatively, electoral observer groups may be provided with independent audit reports as outlined above in the subsection on audit and verification. In some countries, this transparency concern has been a principal argument for retaining manual systems.

The 'Digital Divide'

Technology can be strongly associated with several social divisions. Usually, the adoption of technology is associated with demographic groups that are urban-based, wealthy and young. Through day-to-day exposure to various technologies these demographic groups are considered more conversant and comfortable with electronic voting solutions. In some circumstances, this association can lead to allegations that e-voting will disproportionately benefit those political parties that are supported by technology-literate constituencies. While there are few or no available studies to prove this correlation, political parties may raise the issue and allege that there is an intentional bias behind the proposal to introduce the technology. In part this concern may be addressed by ensuring that intense voter education campaigns are designed and implemented to familiarize all voting demographic groups with the technology. In some countries this has been done by using e-voting machines for private elections held for sporting or social clubs.

Recommendations

As in any electoral reform process, the introduction of electronic voting should be considered a sensitive exercise and the adoption of these systems should be subject to full processes of political and civil consultation and consensus building. The uniqueness of each country's electoral process means that in determining the appropriate solution the political, historical, cultural and religious factors that shape its elections must be considered. In these circumstances, the determination of an appropriate technology solution cannot be addressed in isolation and must be judged in terms of its impact on the overall credibility of the electoral process.

To this end, a clear and unambiguous definition of the problems that e-voting will attempt to address is necessary. Once defined, the specifications of a system should be outlined that will resolve the problems identified. Following the specification process, the range of solutions that

might be available can be considered through a vendor demonstration event. In this scenario, producers of e-voting systems can be invited to demonstrate their solutions to the electoral authorities, political parties and civil society representatives. It is important that these events be conducted with a pre-established set of benchmarks upon which to evaluate the suitability of the demonstrated systems. On the basis of these events, the electoral authorities can determine whether to adopt a ready-made solution, pursue a fully customized system or reconsider the initiative.

It is recommended that:

- Any solution adopted should try to meet the requirements with the smallest necessary TCB.
- The EMB should be the owner of the source code for the system.
- Any system that is adopted should be assessed in terms of the projected total cost of operation of the system over an agreed lifetime of operation.
- The arrangements for the maintenance and operation of the system should ensure that the system can be cost-effectively sustained.
- The process of adopting this form of technology should be undertaken in a planned, gradual way.

Conclusion

The ultimate test of any electoral process is the confidence and acceptance of the electorate and political competitors that it will provide a fair and accurate result. Sufficient resources and a clear mandate for the EMB to manage and control this process are essential. Furthermore, experience has shown that the process by which these systems are incorporated into the electoral administration and socialized is as significant as the technology itself for achieving the successful adoption of these systems into the electoral process.

Vanuatu: Limitations to the Independence of the EMB

Jeannette Bolenga

Background

The independent Republic of Vanuatu has a Westminster-style constitution and a 52-member unicameral Parliament elected by the Single Non-Transferable Vote (SNTV) election system. In parallel to Parliament there is an elected 22-member Malvatumauri National Council of Chiefs, which has a solely advisory role in areas relating to Melanesian indigenous values, custom and tradition. This body has no women members, despite the existence of women chiefs in many communities.

The independent Electoral Commission is responsible for the conduct of parliamentary, provincial and municipal elections and has a supervisory role for elections to the Malvatumauri. The six provinces and two municipalities of the country are delimited into six single-member and 11 multi-member electoral districts, containing altogether over 309 polling stations. There are severe disparities between the electoral districts in terms of size of population, resources and geographical features. Out of a total population of 205,754 as of July 2005, 133,497 people were registered electors.

The rate of re-election of incumbent members of Parliament is high. Some members have retained their seats since the first-ever general election in 1979, held in preparation for independence in 1980. Four women have been elected to Parliament, including two elected in 2004.

Historically, the first elections for the Port Vila and Luganville municipal councils were held in August 1975, followed by elections in November 1975 for the Representative Assembly, which replaced the earlier Condominium Advisory Council. Universal suffrage was achieved on 29 November 1979: article 4(2) of the constitution gives the franchise to all citizens reaching the age of 18. A voter can stand for election at the age of 25. The general election of 7 July 2004 was the seventh conducted by the Electoral Commission, which was established by the constitution at independence on 30 July 1980.

There are two types of voting, the ordinary and the proxy vote. Proxy votes can be obtained upon application up to 72 hours before polling day. Each voter can be the proxy for two electors who are unable to cast an ordinary vote.

Institutional Framework, Powers and Functions

The 1980 constitution, signed on 5 October 1979, and the 1982 Representation of the People Act (CAP 146) as amended provide for all matters relating to democracy, its institutions and elections. Article 20 of the constitution specifies the powers and functions of the Electoral Commission to oversee the conduct of voter registration and elections to Parliament, the Malvatumauri National Council of Chiefs, and provincial and municipal councils; to announce election results; to promote public awareness and the provision and development of information for the citizen and voter education; to provide policy advice to the Minister of Internal Affairs, the government, the Parliament, and other departments and agencies; and to conduct research into electoral issues. The Electoral Commission has powers to override the decisions of the principal electoral officer (PEO) or dismiss a voter's appeal on his registration; to declare candidates endorsed for elections; to declare a candidate elected unopposed; to declare a vote null and void at the official count; to declare recounts for contested results and appeals; to declare candidates duly elected as members of Parliament; and to make appropriate orders for the conduct of voter registration and elections. The Electoral Commission has a chair and two other members who are appointed by the president for a term of five years on the advice of the Judicial Service Commission (JSC). All members were men until 1998 when a woman was appointed and another serves on the current commission. Members receive sitting allowances appropriated by Parliament under the Electoral Office Budget.

The Electoral Commission is assisted by a secretariat, called the Electoral Office, headed by the PEO. According to article 19 of the constitution, the PEO and all other electoral officers are public servants. Their duties and responsibilities are set out in the constitution and the Representation of the People Act. Staff capacity has always comprised a PEO, a compiler, an assistant compiler and an office assistant. Although these positions are permanent the former PEO occupied it on a temporary basis for six years (1997–2003). The current PEO and office assistant are permanent staff, while the compiler and his assistant are on acting appointments since 1 January 1999.

Under article 4(3) of the constitution, political parties are free to form and contest elections. Registration is not mandatory and there is no legal provision for the registration of political parties, although the PEO maintains a register. Some political parties choose to register under the Charitable Organizations (Incorporation) Act, and in the 2004 general election only five out of 17 political parties were registered. Eligible candidates for parliamentary, provincial, municipal and Malvatumauri elections are considered and endorsed by the commission through a legal instrument.

For voter registration, the PEO appoints provincial and municipal executive officers as registration officers (ROs), who through their administrative structures appoint area council secretaries (ACS). The ACS appoint their assistants to undertake registration. The ROs and their assistants claim hourly allowances which are paid by the Electoral Office. In this way, the Electoral Commission and the PEO are able to effectively oversee the conduct of annual registration and elections from a distance. Voter registration takes six months to complete before the electoral register for each polling district is established by the PEO on 1 July of each year, as specified by section 20(2) of CAP 146. Eligibility to vote and registration are not automatic. Each voter is required to produce two witnesses to confirm their eligibility in the polling district of their residence to the ROs. The provisional electoral list is established about mid-May and dispatched to the provincial, municipality and area council headquarters for public inspection at the request of voters for a period of not more than 14 days, which must end on 15 June each year (CAP 146, section 16(2)(c)). Electors have an opportunity to inspect the provisional register, petition the PEO for wrongful omission, and/or appeal against the decision

to the Electoral Commission. Registration and voting are voluntary.

Under the constitution, the Electoral Commission is independent. It is not easy for any government to direct its work or abolish it as it does with other government departments. The commissioners work independently of the government. Despite its statutory independence, however, significant limitations exist, caused by issues of access to budget funds and the recruitment and termination of the appointment of electoral officers. The government may take the opportunity to try to compromise the neutrality of the Electoral Commission through ministerial pressure, or directly inhibit its operations, for example through the budget process. The overlapping and multiple lines of authority for reporting also impact on the good intentions of the Electoral Commission and the PEO in ensuring effective electoral management (see the section on accountability below).

Financing

The Commission and its Electoral Office are financed through an annual appropriation from Parliament. Budget submission requirements and procedures are covered under the Vanuatu Government Financial Regulation Act. While this budget is substantial in an election year, it is never adequate to cover all election costs. As the Vanuatu Elections Observer group put it in their 2002 report, the Electoral Commission was significantly under-resourced and lacked sufficient funding to undertake a national public education campaign informing citizens of their basic democratic rights and freedoms.

There is also a tradition of donor funding of certain aspects of the election process. For the 2002 general elections the European Union funded the printing of ballot papers to the sum of 10 million vatu (VUV) as the initial election budget of 40 million VUV was reduced by the Ministerial Budget Committee (MBC) to 30 million but only 25 million VUV was appropriated by Parliament. In 1998 the Electoral Commission entered into a partnership with the Wan Smol Bag Theatre in producing and performing the Election Play throughout Vanuatu in villages and schools, with funding from the British Government. The play and the radio slots were developed after consultation with the PEO and in collaboration with the Electoral Office.

Accountability

In terms of financial accountability, the PEO is accountable, as required by the Vanuatu Government Financial Regulation Act, to the Ministry of Internal Affairs, the Ministerial Budget Committee and the Parliament. As a public servant the PEO is also accountable to the Public Services Commission (PSC). There are thus overlapping and multiple lines for reporting. The PEO reports to the Electoral Commission, the PSC, and the minister and director-general of the Ministry of Internal Affairs. These arrangements have had a negative impact on long-term capacity-building and institution-strengthening initiatives because they create confusion and conditions that are conducive to conflict, duplication of effort and political interference.

The Professionalism of Electoral Officers

Electoral officers are qualified public servants in their own right prior to becoming electoral officers. Professionalism is acquired on the job. Electoral officers gain in competence and improve

their performance as a result of gaining knowledge and understanding of the constitution and the electoral legislation and by actually performing their registration and polling duties.

Recruitment and Training of Polling Officers

Returning officers for each province and municipality are appointed by the PEO, and they in turn appoint polling officers for polling stations in each electoral district. Polling officers are recruited on a voluntary basis following open appeals to interested citizens on the national radio and newspapers, and are confirmed after attending half-day training sessions on the voting procedures and rules conducted by the Electoral Office. The polling team comprises the presiding officer and two polling clerks. The use of teachers and community leaders as polling officers helps in promoting public interest in the election process. However, polling officers tend to be recruited along political party lines depending on which party dominates the province or the municipal council, and there have been allegations of lack of independence, transparency and accountability. The Electoral Office is currently developing a more independent and transparent recruitment system.

Relationship with the Media

There is almost no formal recognition of the role of the media as a forum that can contribute positively to effective electoral administration, voter education and credible elections. The radio is the main medium for communication and the dissemination of election information. Weekly and daily newspapers and television are restricted to the urban centres of Port Vila and Luganville where the percentage of the educated and literate in the population is high. However, over 80 per cent of the population live in rural areas, and indigenous mechanisms for transmitting important election and campaign information have proved more reliable than state facilities, which have often failed.

Politicians and candidates have equal opportunities to use the media. However, those who can afford to publish and to pay for screen and air time have greater access and use it to their advantage. There has been no research to verify allegations of partisan reporting or unbalanced reporting in news coverage.

On polling day, only those with accreditation from the PEO may enter polling stations. The media – like the international and domestic observers – were able to observe the official count for the first time ever in the general election of 2 May 2002.

Relations with Other Institutions and Agencies

The Electoral Commission has cordial relationships with other state, corporate and civil society organizations (CSOs). However, engaging other institutions in electoral development initiatives has not been easy, even with those that have general responsibility for certain services; for example, the Ministry of Education has not been able to develop appropriate curricula for school children and young adults in secondary schools. This may be due to a lack of understanding on the ministry's part that it has a joint responsibility, together with the Electoral Commission and other stakeholders, to promote civic education.

Some positive relationships have, however, been established over the years. For example, in the absence of ongoing voter education programmes, political parties, CSOs, candidates and

voters have taken on the responsibility of educating their members and families, and the EMB has cooperated with other stakeholders in such initiatives.

In 1998, the Ombudsman's Office issued official statements on freedom of movement, choice, speech and association, supporting human rights and democracy, in connection with concerns raised by community leaders and political parties and candidates in some communities on restrictions imposed on campaigning.

Transparency International (TI) Vanuatu and the Electoral Commission cooperated with international and domestic observers during the 2002 elections. Since 2003, through European Union funding, TI Vanuatu has been collaborating with government departments and CSOs in developing citizen awareness curricula and materials. In 2004 the Vanuatu Education Policy Advocacy Coalition (VEPAC, a loose coalition of NGOs, CSOs and individuals who seek to bring about changes to education policies to meet the education needs of all members of society) initiated and staged an Education Forum where parties and candidates presented their education policies to voters and the public in Port Vila.

The Sustainability of the EMB

Minimal effort has been put into ensuring the sustainability of the EMB. Political will is difficult to secure and budgets for long-term development and reform, although realistic, have not been approved. The political culture in place lends itself to criticism of politicians as being only readily available to negotiate a supplementary budget for elections if the result will promote their own careers. Capacity building in terms of setting institutional priorities, training, mentoring and feedback is adversely affected by consistently inadequate annual budgets and lack of trained and available human resources. A restructured permanent Electoral Commission would be needed, with the powers and the human and financial resources to undertake reforms to strengthen and improve electoral administration.

Electoral Reform Management

No major reforms have occurred over the past 25 years, although the Electoral Commission has endorsed several proposals for reforms aiming to serve the voters and introduce impartiality, transparency, accuracy and professionalism into electoral administration. Political will on the part of both government and Parliament is lacking.

In particular, it has been difficult for government to secure the funding required for a computerized voter registration system – a European Community (EC) initiative of 1990 to improve the voter registration system and the maintenance of the electoral register. The project has been on the Electoral Office's annual budget submission since 1997 and every year so far it has been deferred.

Vanuatu has a history of inflated electoral registers since the 1970s, when they were compiled under the Condominium administration for two municipal council elections, for the Representative Assembly elections in 1975, and in preparation for the 1979 general elections. They remained heavily inflated at independence in 1980 and were updated in 1983. In preparation for the 1987 elections they were totally redone in 1985 and 1986, and they were updated each year until the 1991 elections. In 1992 new registrations were undertaken for the purposes of computerizing the electoral registers. The registration system was grossly abused in the colonial period and has been so since 1991 – and even more so now in this era of the

splintering of political parties and factions – to ensure that certain parties and leaders retain their seats in Parliament.

Three days after the 7 July 2004 elections, the ballot boxes and papers for two constituencies (Tanna and Other Southern Islands) were seized, even though under police escort, at the air terminal on Tanna and burned by frustrated voters and supporters of two losing candidates. The episode was associated with the anomalies of multiple registration of voters and abuse of the proxy vote.

A computerized system might ensure concise and accurate electoral registers, with each voter registered only once. It could also tackle the problem of abuse of the proxy vote, and the government would save on the cost of printing the ballot papers associated with the SNTV system. Another reason advanced for computerizing the electoral registers was to increase the turnout on polling day in the urban constituencies of Port Vila and Luganville. The government endorsed a system that would have been similar to the computerized government payroll, but funds were diverted elsewhere. Since then, while the Ministerial Budget Committee has claimed that the new system is important and is appropriate for Vanuatu, it has deferred parliamentary consideration each year.

Many issues of the credibility of elections thus remained outstanding in 2006.

Nigeria: A Need for Modernization

Carl Dundas

Nigeria achieved independence from British colonial rule in October 1960. The first post-independence national election was held in 1964 and the resulting government lasted until January 1966. Between 1966 and 1998 there were seven military regimes and two democratic administrations.

There were a series of electoral commissions after independence. The National Electoral Commission was replaced in the early 1990s by the National Electoral Commission of Nigeria, which was in turn replaced in 1998 by the Independent National Electoral Commission (INEC). INEC was charged with the task of planning and conducting national democratic elections.

The 1999 constitution and the Electoral Act of 2002 govern the legislative framework which applies to elections. The constitution has provisions dealing with the establishment of INEC and with electoral tribunals, as well as with the delimitation of electoral district boundaries and the registration of political parties.

Institutional Structure

Nigeria has a federal system of government with different tiers of jurisdiction involving several levels of elections – presidential elections; elections at federal level for the Senate and the House of Representatives; at state level, the elections of governors and state legislatures; and local government elections. INEC is responsible for all elections except local government elections. It consists of the chair, who is the chief electoral commissioner, and 12 other members. The chair and members of INEC are appointed by the president, who must consult the Council of State, and the appointments are subject to confirmation of the Senate.

Powers and Functions

The principal powers and functions of INEC are to organize, conduct and supervise all elections at the federal and state levels, and to register political parties in accordance with the provisions of the constitution and the Electoral Act. INEC is also responsible for the delimitation of electoral district boundaries.

Financing

There are two practical issues relating to the funding of INEC – the approval of election expenditure and the disbursement of the approved funds on a timely basis. The salaries and allowances of commissioners are charged directly on the Consolidated Revenue Reserves, but election expenses are not. INEC therefore has to join the queue at the Ministry of Finance and Treasury. The disbursement of funds to INEC has not been timely and this has contributed to the lack of confidence in the electoral system in Nigeria. The delay of almost two years in the voter registration exercise in 2000 was blamed largely on the lack of funds.

Accountability

The legislative scheme for elections in Nigeria does not expressly place accountability requirements on INEC, but oversight mechanisms do exist in the National Assembly in the form of committees of the Senate and the House of Representatives on electoral matters. These mechanisms have not proved adequate, however, to ensure effective reporting by INEC and full accountability.

The Professionalism of Electoral Officers

INEC, having been established only in 1998, inherited a patchy record of democratic experience of organizing multiparty elections from its forerunner electoral management bodies. Moreover, it has not recruited and trained its electoral staff to the level required to manage electoral organization along modern lines; it has relied instead mainly on the continued use of civil servants who follow civil service practices, work ethics and culture. Approximately 500,000 temporary election staff are needed for each election. There are approximately 2,000 staff at headquarters and over 6,000 permanent staff in the states.

Relations with Political Parties, the Media, and Other Institutions and Agencies

The relationship between INEC and the opposition political parties has been poor. Perhaps the most significant reason for this is a lack of transparency on the part of INEC. This has been aggravated by the weakness of the public relations programme and a failure to meet important deadlines, such as those set for the registration of voters and completion of the electoral register, as a result of untimely disbursement of funds to INEC by the government.

INEC has a framework within which to regulate media behaviour during an election campaign. The Electoral Act states that INEC may determine rules and regulations for election campaigns with respect to a candidate and his party (section 29), but also lays down several rules which the electronic and print media are required to observe, failing which they incur stiff penalties.

The relationship between INEC and stakeholder institutions and agencies has been mixed. Its relationship with the governing political party, the government and the executive branch has been described at times as too close and as compromising INEC's independence. Its relationship with the legislature, although normally good, was not enough to generate sufficient influence to

gain support for the reforms that INEC proposed to the 2002 Electoral Bill, before it became law. Civil society groups have mixed views about the quality of their working relationship with the EMB.

Electoral Reform Management

Following widespread criticisms of the manner in which the 2003 elections were managed and organized, INEC took the initiative in convening a series of workshops and seminars to discuss with stakeholders necessary electoral reforms. As early as July 2003, INEC also invited the Commonwealth Secretariat, IFES and the United Nations Electoral Assistance Division to undertake a review of the country's electoral arrangements and make recommendations regarding electoral reform.

Nigeria has the potential to sustain its electoral process through its own resources, although currently it obtains considerable assistance from bilateral donors and international agencies, both governmental and non-governmental. There is a need to make elections more cost-effective – a point that was emphasized by the president of Nigeria at an election seminar at the headquarters of INEC in December 2003. There is a need for modernization in many aspects of electoral organization and management in Nigeria, at the headquarters of INEC and at the principal offices in the states.

The 2003 elections were the first successful elections in Nigeria in that one civilian administration succeeded another. The major constraint on building a sound basis for the proper organization of multiparty elections is the lack of modern election management practices. Lack of professionalism among the electoral staff is another constraint. Finally, failure to approve budgets and disburse funds in a timely fashion remains a major obstacle to good electoral management.