

3. The electoral system

The choice of electoral system should ensure that the international standards for democratic elections are met in terms of institutions elected, the frequency of elections and the organization of electoral units.

The choice of an electoral system should ensure that the political cleavages of a society are properly addressed by the electoral legal framework in such a way that the main conflicts and differences between and among social groups can be accommodated through the system of political representation. This is to guarantee political inclusiveness and representation. Thus the choice of electoral system is best approached as an exercise in which particular goals (e.g., proportional election outcomes, strong local district representation) are first enumerated, before moving on to consider which electoral system is most likely to deliver such goals in the context of a particular country's social, political, geographic and historical situation.

Choosing an electoral system

Choosing an electoral system is one of the most important institutional decisions for any democracy. An electoral system can help to "engineer" specific outcomes, such as encouraging cooperation and accommodation in a divided society. Electoral systems are the rules and procedures through which votes cast in an election are translated into seats won in the legislature or some other office (e.g., a presidency). Electoral systems can also influence other aspects of the political system (e.g., development of the party system) as well as being of importance to the link between citizens and their leaders (e.g., political accountability, representation and responsiveness). Thus electoral systems have many long-term consequences for democratic governance.

An electoral system has three main tasks:

- To translate the votes cast into seats won in a legislative chamber;
- To act as the conduit through which the people can hold their elected representatives accountable; and
- To give incentives to those competing for power to frame their appeals to the electorate in distinct ways. In divided societies, for example, where language, religion, race or other forms of ethnicity represent a fundamental political cleavage, particular electoral systems can reward candidates and parties who act in a cooperative, accommodating manner to rival groups, or they can punish these candidates and instead reward those who appeal only to their own group.

Thus a country's choice of electoral system is the foundation upon which the legal framework of an election is built. The application of a particular electoral system within a particular country context can make a significant positive or negative impact on the electoral fortunes of the various political contenders. If there is a question of the appropriateness of a particular electoral system to a specific country, it would be useful to examine the results of the previous elections, with a view to seeing whether, for example, the ruling political party significantly benefits at the cost of other parties or whether other factors in the system significantly distort the international standards or thwart a

valid democratic result. For example, in a proportional representation (PR) system where the law establishes a percentage of the vote as a legal threshold for securing a seat in the legislature, this percentage can be "adjusted" in such a way as to benefit certain parties and adversely affect other parties, to the point of even eliminating others.

Electoral systems are often categorized according to how proportionately they operate in terms of translating votes cast by electors into seats won by parties. A typical three-way structure divides such systems into plurality-majority, semi-proportional and PR systems. Plurality-majority systems typically give more emphasis to local representation via the use of small, single-member electoral districts than to proportionality. By contrast, PR systems typically use larger multi-member districts and deliver more proportional outcomes. Semi-proportional systems offer yet other approaches, as well as various mixtures of plurality and proportional models (such as the "mixed" models by which part of the legislature is elected via PR and part from local districts, a common choice in many new democracies over the past decade).

There is no "best" electoral system suitable to all and no universally recognized standard. The choice of electoral system needs to be made with desired goals in mind. The effects which different kinds of electoral system can promote are ultimately contextual and depend on the specific cleavages and divisions within any given society. While some electoral systems are certainly more likely to produce, say, more proportional electoral results than others, the overall consequences of electoral systems are highly context-specific.

When reviewing the electoral system an important consideration is whether a country is sharply divided along political, religious, ethnic or other lines and whether minorities are properly and equitably represented in the political system. If a country has some particular problem, which could be either directly attributed to the choice of electoral system or remedied by using a different electoral system or by introducing certain reforms to the existing electoral system, the advantages and disadvantages of the different electoral systems should be described along with related recommendations for resolving existing inequalities. (For more details see the International IDEA Handbook of Electoral System Design).

Institutions elected and frequency of elections

In a federal polity there are central as well as provincial or state (federal unit) legislatures that are elected, and either one of these or both levels might have legislatures that are bicameral. Sometimes the mandate of the EMB or the scope of the electoral law includes provisions for election to municipal and other local bodies as well. In countries where the chief executive (president) is directly elected, or elected through a directly-elected college of representatives (the USA, for example), the electoral law will include provisions relating to election to that institution as well. Normally the regulation of election to political party offices does not fall within the mandate of electoral law and the EMB but, in such cases, it should also be examined.

As a general principle, international standards require that all seats in at least one chamber of the national legislature be freely contested in a popular vote, held at reasonable intervals as established by law. This could, in practice, be up to six years. However, there may be situations where a country is seeking admission to a particular international organization, or is a signatory to a particular international instrument, and may be required to hold popular or direct elections for other institutions within other specified timeframes.

Special provisions for under-represented groups

In many countries the electoral system includes provisions intended to promote the inclusion of historically under-represented groups in elected institutions. Most often this is to assist the election of women, ethnic and linguistic minorities or groups with treaty or similar rights within the state.

Such provisions can take the form of :

- Reserved seats: where a number or percentage of seats can only be contested by candidates from, and sometimes only voted for by voters from, designated historically under-represented groups.
- Rules pertaining to candidate recruitment and selection: where parties are required to put forward a set number or percentage of candidates from designated historically under-represented groups.

Where such provisions exist, the law must clearly define the group that is the subject of the provision, whether the provision is a transitional or permanent measure, and must detail the mechanism for enforcement. Any such provisions should be carefully examined to ensure that they do not themselves lead to exclusion from elected institutions.

Checklist

- Does the legal framework provide that all seats in at least one chamber of the national legislature are subject to direct or popular elections to be held at regular and reasonable intervals as provided by law?
- Does the legal framework clearly provide an electoral formula for converting votes into legislative seats?
- Has any adjustment to the legal threshold for securing a seat in the legislature been made which could benefit a party or parties at the expense of others?
- Is the length of the term of the institution being elected acceptable?
- Does the country have sharply divided political, religious or ethnic minorities, and does the existing electoral system accentuate such differences?

