Government by the People:  
Independent Electoral Bodies and the Struggle for Democracy

Why do some countries succeed in holding free, fair and open elections that advance the struggle for democracy while in other countries electoral processes are manipulated in ways that prop up authoritarian regimes?

Democracy enables popular self-governances based on the holding of free, fair and inclusive elections in which citizens choose their political representatives. While there are other elements necessary for a system to be genuinely democratic, “(t)he idea of democratic self-government is incompatible with electoral farces.”

Yet even as more countries began holding elections in recent decades, many rulers developed a “menu of manipulation” to tilt electoral processes in their favor. The menu includes both legal rules and informal practices that restrict who is able to vote; exclude entire groups from competing in elections; interfere with voters’ choices by intimidation or vote-buying; prevent winners from taking office; reduce the power of elected officials by giving unelected figures the final say in decisions; and restrict civil and political liberties, including access to the media and to resources needed to compete in elections.

At the same time, however, many countries have carried out genuinely free and fair elections despite obstacles such as authoritarian dominance or violent conflict. And within this group, many have established stable democratic governments. As one democracy scholar

---

1 Schedler, Andreas. 2002. The Menu of Manipulation. Journal of Democracy, Vol.13 No.2, p38. Among other elements necessary for a system to be considered democratic one should include, at a minimum, the rule of law. Schedler also includes bureaucratic integrity, political accountability and public deliberation.

2 Ibid. p.39-40
has observed, when elections cross a “hard to specify but real threshold of openness and competitiveness, they tend to take on a life of their own.” Once this happens, elections stop being shams and become real struggles for power.

This raises the question examined in this case study: under what circumstances are societies able to carry out elections that advance democracy instead of sustaining authoritarian rulers? One important part of the answer is the type of electoral management bodies (EMBs) a country establishes to carry out electoral processes. According to one study, “independent EMBs free from partisan influence and government control provide a much greater chance of successful elections.” The following sections discuss how these organizations come into being.

**What are Electoral Management Bodies?**

An electoral management body (EMB) is an organization that is legally responsible for managing one or more of the elements that are essential for the conduct of elections. EMBs go by different names --Election Commission, Department of Elections, Electoral Council-- and they can be established and regulated by a variety of legal frameworks. In many countries, such as Costa Rica, Ghana, India, Indonesia, South Africa and Uruguay,
EMBs are established by the constitution, making it more difficult to alter their status. In other countries, they originate in statutes passed by the legislature. The main functions of EMBs are determining who is eligible to vote, receiving and validating the nominations of participants in electoral processes, conducting polls, and counting and tabulating the votes. In addition, EMBs may have legal initiative or an advisory role on electoral matters as well as self-regulatory powers. They may also be in charge of registering voters, determining the boundaries of electoral districts, monitoring the media, controlling party finance and campaign expenditures, resolving electoral disputes, and carrying out voter education and information activities.

There are three main types of EMBs: Independent, Governmental, and Mixed. In the Independent model, the organizations responsible for elections are institutionally independent and autonomous from the executive branch of government. An Independent EMB is not accountable to a government Ministry (although it may be accountable to the legislature or the judiciary), it has and manages its own budget, and its members are not part of the executive branch. In contrast, a Governmental Model EMB is part of the executive branch, often within the Ministry of the Interior and/or local government bodies. It is accountable to the executive branch, and its budget is contained within the government’s budget. A Mixed model EMB usually has two components, an independent policy or

---

governing organization and a governmental body responsible for implementing electoral processes.

Whatever model is chosen, all EMBs should aim to ensure the legitimacy and credibility of electoral processes. There is no one formula for success. EMBs are regarded as impartial and independent in some countries that use the mixed model, such as Spain, as well as in countries using the governmental model, such as Finland and Sweden. A formally independent EMB does not guarantee *de facto* neutrality. Like other democratic institutions, the conduct of electoral processes depends on the behavior of government figures and political actors and on the nature and extent of citizens’ activism to demand adherence to democratic norms of behavior. There is, however, a growing international consensus in favor of independent electoral management bodies, particularly in countries with weak government institutions. How do such organizations develop?

**The Origins of Independent Electoral Management Bodies**

Truly independent EMBs originate when there is a dispersal or sharing of political power, and a consensus among elites supporting impartial elections. Uruguay and Costa Rica are among the earliest countries to adopt independent elections bodies. In both, wars in the early 20th century led to a situation in which elites negotiated agreements to share access to political power by means of elections. Structurally independent EMBs were established and the struggle for political power shifted from the battlefield to the electoral arena. More recently, changes in the political balance of power within countries and distrust that incumbents would hold fair elections, along with social and economic development and the spread of democratic norms influenced the adoption of independent EMBs in a number of countries. Examples include Mexico, Ghana, South Africa, Ukraine, Indonesia, Afghanistan, Iraq, and Tunisia. Two of these countries illustrate different paths to independent EMBs.

---

1 Ibid. p.22.
Mexico

In Mexico, progress toward independent EMBs occurred against a backdrop of extensive and decades-long electoral malpractice on the part of the longest reigning hegemonic political party in the world at the time, the Institutional Revolutionary Party (PRI). In 1988, the PRI’s presidential candidate, Carlos Salinas, was declared the winner. Unbeknownst to anyone at the time, his victory was the beginning of the end of PRI hegemony. The extent of the vote tampering – including an electric power outage which, when it was over, revealed a last minute surge of PRI votes - touched off a crisis whose outcome instigated a series of incremental reforms of electoral administration over the next decade.

How did this happen? Social pressures and greater political pluralism beginning in the 1970s set the stage for change. Although the PRI always won elections, some political opposition was tolerated. During the 1988 election crisis, one opposition party (the PAN) made a deal to ally with the PRI in exchange for being given certain elected seats regardless of the actual votes cast. The crisis ended, but ironically, the agreement to cooperate in electoral fraud paved the way to substantive electoral reforms in the near future. A short time after reaching this agreement with the PRI, the PAN demanded more changes that put Mexico on the path to independent EMBs.

The first milestone was a new electoral law in 1990 and the creation of the Federal Electoral Institute (IFE), a permanent body responsible for performing all activities related to preparing, organizing, conducting and overseeing every federal electoral process, as well as related activities such as adjustment of electoral boundaries, maintaining the voter registry and issuing voter cards, control and oversight of parties and campaign financing, and civic education. The 1990 law also mandated the creation of a special electoral civil service, which came into being in 1992. More reforms prior to the 1994 presidential elections removed the president’s role in nominating the IFE’s policymaking body, increasing its independence, and codified a role for electoral observers. In 1996, the electoral court was

---


3 IFE’s policymaking body was composed of representatives from political parties, the legislature
placed under the jurisdiction of the Supreme Court, whose members were empowered with naming electoral court magistrates. Previously, these magistrates had been named by the executive, with the legislature’s approval.

All these reforms had their origins in interparty bargaining. As Mexico scholar Todd Eisenstadt notes, each successive reform furthered the PRI’s decline and by the late 1990s brought “an electoral system designed to provide legal ‘cover’ of authoritarianism to the doorstep of democracy.”

Eisenstadt argues that the PRI undertook reforms even though they eroded the party’s control due to growing support for opposition parties and internal divisions within the PRI. International influence also played a role. As Mexico negotiated the North American Free Trade Agreement, “the appearance of clean domestic elections grew in importance to the Mexican government.” The activities of Mexican human rights and election monitoring NGOs added to the pressures for reform. By the 2000 presidential elections, a non-PRI candidate, Vicente Fox, won the presidency for the first time in seven decades and Mexico’s Freedom House rating moved from Partly Free to Free.

**Ghana**

Like Mexico, Ghana’s electoral reforms took place against a background of severe mistrust about the fairness of the electoral process and opposition parties’ demands for electoral reforms. Unlike Mexico’s piecemeal institutional development, however, Ghana embarked on reforms in the context of a new legal framework and a strategy aimed at building consensus on reform.

In 1992 presidential elections, Ghana’s incumbent military leader, J.J. Rawlings, was declared the victor amidst widespread allegations of fraud. This outcome was rejected by the opposition, which threatened to boycott elections until reforms were carried out. Episodes of violence occurred throughout the country. Rawlings remained in the presidency, but the

---

1 Eisenstadt op. cit. p 89.
2 Ibid. p. 91
need to address opposition demands and reduce political conflict was evident.¹ This was the backdrop to elections management reforms.

The new 1992 Constitution provided the legal basis for reforms by mandating the establishment of a new Electoral Commission (EC). The EC was given ample powers, including the conduct of all national and local elections and referenda, the delimitation of electoral constituencies, establishing a voters’ register, registration of political parties, and voter education. Structural independence was thus legally established, but behavioral independence was not assured. This was promoted by the EC’s decision to create a unique body, the Inter-Party Advisory Committee (IPAC), to increase trust and forge consensus behind reforms. IPAC brought together representatives of political parties and the election authority in regular monthly meetings that were closed to the public and the media to promote frank exchange of views. Although it was a non-statutory advisory body— the EC had final say in all decisions as stipulated in the Constitution— IPAC was a significant innovation that promoted communication and helped the reform efforts succeed. According to one study, the “cooperation secured through IPAC meetings positively changed the relationship between the parties and the EC.”² The opposition reversed its boycott and agreed to participate in the 1996 elections.

Between 1992 and 1996, the EC undertook other important initiatives, including compil-


ing a new voters’ register to replace the previous, highly flawed one. Unlike past processes, this time the political parties were involved in the registration exercise in a collective effort to create an accurate and reliable list of voters. To address disputes over voter registration, the EC established Registration Review Committees at the national, regional and district levels. Training information was disseminated and training programs for election officials and political party agents were designed and implemented. Innovations such as transparent ballot boxes were introduced to make ballot box stuffing more difficult.

Finally, civil society groups played an important role in promoting the success of the new electoral management bodies and the credibility of Ghana’s elections. Two poll watching groups were formed prior to the 1996 elections: Ghana Alert and the Network of Domestic Election Observes (NEDEO). The latter comprised 23 national organizations, including the Federation of Muslim Councils, Ahmadiyya Muslim Mission, Ghana Association of Women Entrepreneurs, the Christian Council/Catholic Secretariat, and Ghana Journalists Association, among others. These groups trained more than 4000 personnel nationwide and made arrangements for monitoring the pre-election environment as well as carrying out poll watching, including in the conflict prone areas of northern Ghana. As one Ghana expert wrote, the presence of domestic election observer organizations “provided an opportunity for the Electoral Commission to demonstrate its independence from the ruling party, as the latter and its agents expressed strong opposition to the domestic groups and put pressure on the Electoral Commission to deny accreditation.”  

In the short time span between the 1992 and 1996 elections, Ghana’s Electoral Commission spearheaded reforms and innovations that resulted in an electoral process seen as free and fair, albeit not without need of improvements. This is reflected in Freedom House’s ratings of political and civil liberties in Ghana, which improved from Partly Free in 1998 to Free in 1999.2

**Lessons Learned**

The experiences of Mexico and Ghana provide insights into how societies develop independent EMBs and carry out increasingly free and fair elections. Ghana shows that a new legal framework can be the motor for change when deliberate efforts are made to get rival elites to buy into reforms and when citizens get involved in helping to make the reforms

---

1 Gyimah Boadi, 1999, p. 113.
work. Ghana also demonstrates the importance of inventing ways for diverse groups to communicate with each other and build consensus on reforms, as occurred with the creation of IPAC. Mexico shows that inter-elite bargaining can propel the gradual establishment of independent electoral bodies. Counter-intuitively, the inter-party agreement to dole out some political positions to the opposition PAN – a clearly non-democratic practice – acted as a wedge that opened the door to other opposition party demands and the enacting of genuinely democratic electoral reforms during the 1990s. But the ongoing reform process was not a guaranteed outcome. Rather, it was made possible by the growing popular support for opposition parties and the PRI’s decline, and the opposition parties’ decision to use whatever leverage they had to get reforms establishing independent and professional EMBs and a more open, fair electoral landscape.

Turning to more recent examples in the Muslim world, Tunisia and Afghanistan both adopted independent EMBs but to date their experiences have been very different. Between the 2011 ouster of Tunisia’s long-time dictator, Zine el Abidine Ben Ali, and 2015, the country began institutional reforms but reached a political stalemate. This was overcome thanks to the activism of civil society groups.\(^1\) The Tunisian General Labor Union formed a coalition with three other associations, which became known as the Quartet. They produced a roadmap for political progress and instigated a national dialogue which led to the

passage of a new constitution and the naming of the Independent High Authority for Elections (IESE) in 2014. The IESE became a permanent commission composed of a President, two judges, a lawyer, a notary, a university professor, an engineer, and communications and public finance specialists. By the end of 2015, it was considered a model for the region, having administered three well-organized elections that earned citizens’ confidence. Tunisia also provides the example of an Islamist party, Ennadha, who won power and proved willing to give it up. The willingness to search for consensus and to adopt compromise positions, as well as the initiative of civil society organizations in overcoming a serious political impasse, make Tunisia an important example for the Arab world and beyond.

Afghanistan’s constitution established an Independent Electoral Commission (IEC) but, in contrast to Tunisia, electoral authorities continue to struggle to institute impartial and professional electoral practices. To be sure, Afghanistan presents daunting challenges, including violence from the Taliban and other insurgent groups, local warlords, ethnic divisions and executive interference. The 2009 presidential elections were mired in controversy and marred by “industrial scale fraud.” Indicating the lack of dialog and consensus

---

3 Ibid. p. 61
building efforts, all electoral laws were issued by presidential decree until 2013. In that year, the legislature passed two laws that strengthen the impartiality of EMBs, but much work remains to be done. The 2014 presidential elections were followed by an unprecedented audit of the vote overseen by the United Nations. This revealed fraud on the part of both top contenders and resulted in an agreement to form a power sharing National Unity Government. An important bright spot, however, is the growing activism of Afghan civil society groups in electoral matters. The Afghan Civil Society Elections Network (ACSEN) has more than 150 member organizations in all of the country’s provinces. ACSEN carries out a wide range of activities, including public outreach campaigns, acting as a liaison between civil society members and EMBs, and spearheading initiatives such as recruiting and training female poll workers and security personnel. Other civic organizations have worked with local mullahs and ulema to discuss elections from an Islamic perspective. The growth of citizen involvement, and the fact that the IEC has worked closely with citizens’ groups, holds out hope for improvements in the behavioral independence of Afghanistan’s EMBs and the integrity of future elections.

Establishing genuinely independent EMBs is more likely when political leaders take

steps to forge political consensus supporting such reforms. As an expert observes: “There is no safe recipe, except that consensus and acceptance among the elites is needed.” This raises the question of what encourages political elites to undertake consensus-building initiatives? One answer is perceptions of self-interest. If key political groups think it is to their advantage to engage in dialogue and to reach compromises on reforms, change becomes more likely, as in Mexico. Equally important is the fact that political activism and the initiative of civil society groups can induce elites to enter into dialogue and hammer out reforms, as in Tunisia. When citizens mobilize and demand changes, whether in civil society organizations or by becoming active in political parties -or both- they can change the balance of power, influence how political leaders perceive their self-interest, and help make reforms happen. Once enacted, citizen involvement also plays an important role in ensuring that reforms are properly implemented, as in Ghana and Afghanistan.

**What are some “best practices” for establishing independent EMBS?**

With respect to institutional arrangements, some best practices to achieve independent EMBS include the following:

- establish EMBS that are by law structurally separated from government bodies. In addition, legal provisions should not make it too easy for an incumbent government to amend the laws. This can be done by requiring approval by a 2/3 vote of the legislature, or some other qualified majority vote, to ensure a broad variety of political forces agree to the changes.

- choose appointment and nomination procedures for EMBS officers that require input from groups other than an incumbent party or Executive. This may be accomplished by requiring legislative approval, but if the legislature is controlled by the Executive’s party this may not ensure impartial members. Another option is the appointment of independent professionals, including judges and other impartial experts, as in Tunisia.

- establish professional, merit-based staffing by creating a special electoral civil service or other means of ensuring neutral and well trained personnel.

- provide consistent funding for EMBS, such as setting a percentage of the national budget, to avoid ad-hoc budgets decided by the Executive.

- make organizational decisions based on the principles of independence of decision

---


2 Countless examples of citizen engagement to improve the fairness of elections exist. In Nigeria, for example, grassroots groups banded together to organize real-time elections monitoring using text messages to report irregularities to the electoral commission. http://voices.nationalgeographic.com/2011/04/12/nigerians-mobilize-for-free-and-fair-elections/
make and action, impartiality, integrity, transparency, efficiency, professionalism and service-mindedness.¹

- adopt constitutional, electoral law and other institutional arrangements that disperse power and thus help to create trust and a stake in the system, even among losers. Proportional representation electoral systems, for example, increase the chances that more parties will enter government. This limits the capacity of one party to rig the rules in their favor in future elections. Power dispersing arrangements may also increase the likelihood of negotiation, compromise and consensus-building efforts, by creating a situation in which large parties need to bargain for the support of smaller ones to pass legislation.²

**International Influence**

Internationally accepted covenants assert the universal right to free and fair elections as the basis for choosing governments. The United Nation’s Universal Declaration of Human Rights, for example, states that “The basis of the authority of government…(should be) the will of the people…(and) this will shall be expressed in periodic and genuine elections.”³ The International Covenant on Civil and Political Rights, whose signatories include Iran, Iraq, Libya and Tunisia, also enshrines the right to participate in “genuine periodic elections.”⁴ These agreements provide normative ammunition for citizens to demand

---

¹ IDEA 2014, op.cit. p 21.
³ See http://www.ohchr.org/EN/UDHR/Pages/Introduction.aspx
⁴ Article 25, International Covenant on Civil and Political Rights. http://www.refworld.org/docid/3ae6b3aa0.html
free and fair elections and genuinely independent EMBs.

During the past several decades, international organizations, regional bodies, political party institutes and other international groups have become increasingly involved in observing, advising, monitoring and mediating elections in other countries. These groups often provide important technical and financial support. Under the best outcomes, they can increase voter turnout and confidence, induce local actors to play by the rules, and facilitate needed reforms. In Guyana, for example, international observers leveraged their invitation by requiring the creation of new vote counting procedures and a new voter registration list before agreeing to participate.¹ More and more international groups are making available online resources in a variety of languages describing how to establishing impartial elections management bodies and increase the integrity of elections. These include: the BRIDGE project (Building Resources for Democracy and Governance); the Global Commission on Elections, Democracy and Security; the Global Network of Domestic Election Monitors; and International IDEA, particularly the IDEA Handbook on Election Management Design.

**Conclusion**

Reforms to establish independent EMBs are more likely to succeed when they have the backing of key political groups, secured through processes of dialog, bargaining and

---

compromise. Well-designed legal and organizational frameworks lay the ground work for independent EMBs to develop. Civil society groups and citizen involvement are also essential to making reforms work by generating pressure for electoral integrity, carrying out monitoring activities, publicizing irregularities, and raising the costs to elites of manipulating electoral processes. Genuinely free and fair elections are foundational to building democracy. If they were not, autocrats would not spend so much time and effort trying to prevent them from taking place.
Learn More

News, Analysis and Resource Materials

- ACE The Electoral Knowledge Network. An online resource with extensive information on elections administration and electoral processes, including comparative data, practical information on managing elections and the opportunity to ask questions and exchange information through the ACE Practitioners Network. Content available in Arabic, English, French, Russian and Spanish. http://aceproject.org


available in Arabic, Farsi and many other languages.


- The Global Network of Domestic Election Monitors. The organization’s aim is to further the achievement of free and fair elections. The website includes an electronic resource center of over 1000 best practice documents, arranged by topic. Content is available in numerous languages. http://www.gndem.org/

