POL 843
ELECTORAL COMMISSIONS AND ELECTORAL
MANAGEMENT

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Introduction

**Pol 843   Electoral Commissions and Election Management
               (3 Credit Unit)**

This course, POL 843- Electoral Commissions and Election Management, is a three credit unit course for postgraduate students in the Department of Political Science. The course examines the history or origin of electoral commissions, and their relevance in the management of democratic elections across the world. The course further lays bare the legal frameworks, organizational structures, membership compositions, procedures and processes of electoral commissions or Election Management Bodies (EMBs) that will ensure a transparent, free and fair elections. The materials have been developed with special reference to Nigeria's electoral commission and systems. It also provides you with information on the organization and requirements for the course. There are compulsory prerequisites for this course. The course guide tells you briefly what the course is all about, what you are expected to know in each unit, what course materials you need to use and how you can work your way through these materials. It also emphasizes the necessity for self-assessment exercises. Some brief possible answers are also provided as guide for the students. There are also periodic tutorial classes that are linked to this course and students are expected to participate in such tutorials to ensure more effective learning and assimilation of the course content.

Course Aims and Objectives

The general aim of this course is to help you gain more knowledge and nuanced understanding of election commissions and election management, and to enable you appreciate their usefulness in democracy. To achieve the general aim set out above, POL 843 has the following as specific objectives:
1.   Assess the historical overview of election management bodies
2.   Examine the operations and management of electoral management bodies
3.   Examine appointment, powers and functions of members of electoral management bodies
4.   Assess the processes involved in election monitoring, observation and integrity
5.   Examine the requirements for electoral security in order to ensure free, fair and peaceful conduct of elections
6.   Examine the use of technology in elections and the future of technology in elections
In addition to the general objective of the course, each unit also has specific objectives. It is advisable that you read them before you start

working through the unit. Reference may be made to them in the course of study of the units as self-assessments exercises (SAEs).

Expected Outcomes

On successful completion of the course, you should be able to:
a.   define the concept of electoral management bodies,
b.   explain the status of EMBs members,
c.   highlight the dimensions of election management,
d.   discuss the Legal Framework for EMBs
e.   narrate the history and philosophy of the electoral commission in Nigeria (INEC)
f.   list the functions of INEC,
g.   mention some of the problems of INEC,
h.   discuss the types of electoral commission,
i.   explain the models of electoral management,
j.   define centralised and decentralized EMBs,
k.   discuss recruitment and appointment of EMB members,
l.   highlight the qualifications/requirements for membership of EMB,
m.   explain decision making processes of the EMB,
n.   discuss the powers and functions of EMB members,
o.   define the concept of integrity in election monitoring,
p.   explain the forms of election monitoring,
q.   discuss the benefits of election observation,
r.   evaluate the electoral process,
s.   highlight the code of conduct for political parties,
t.   discuss the relationship between the media and the electoral process.
u.   explain the essence of election and technology,
v.   discuss types of technology used in elections,
w.   highlight the guiding principles of the use of technology in elections
x.   explain the guiding principles for the election security,
y.   discuss principles and operations of the security forces in elections,

Working through the course

To complete the course, you are required to read the entire modules one to four and carefully study each of the units and other related materials respectively. It is also necessary to undertake practical exercises for which you require a pen/pencil, a note-book, and other materials that will be listed in this guide. The exercises are to aid your understanding of the units being presented. At the end of each unit, you will be

required to submit written assignments for assessment. At the end of the course, a final examination will be written.

Course Materials

The major materials needed for this course include:

(i)   Course guide
(ii)   Study guide
(iii)   Assignment file
(iv)   Relevant textbooks including the ones listed under each unit
(v)   You may also need to listen to educative programmes and special reports on electronic and print media.
(vi)   In addition, you also need to read newspapers, news magazine, and academic journals. You also need to interact with the computer to explore Internet facilities (specifically browse Google Scholars to access some of the referenced materials).

Study Units

The course is divided into four modules with each module consisting of four units making a total of sixteen units for the entire course work. They are listed below:

Module 1   Conceptual and Historical Overview of Election Management Bodies

Unit 1   Conceptualizing Election Management Bodies and Election Management
Unit 2   History and Philosophy of Electoral Commissions in Nigeria
Unit 3   Types of Election Management Bodies
Unit 4   Models of Election Management Bodies

Module 2 Appointment, Powers and Functions of Members of Election Management Bodies

Unit 1   Permanent versus Temporal, and Centralised versus Decentralised EMBs
Unit 2   Recruitment and Appointment
Unit 3   Condition of Service
Unit 4   Powers and Functions

Module 3   Election Monitoring, Observation and Integrity

Unit 1   Monitoring and Observation of Elections

Textbooks and References

Certain books have been recommended in the course. You may wish to
purchase them and, or access them online for further reading.

Alvarez, R. M., Lonna, R. A. & Thad E. H. (2012). Evaluating
          Elections:A Handbook of Methods and Standards. New York:
          Cambridge University Press.

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          Press.
Bowler, S., Thomas B., Todd D. & Paul G. (2015). "Election
          administration and perceptions of fair elections." Electoral
          Studies, 38, p. 1-9.

Catt, H., Andrew E., Michael M., Alan W. & Peter W. (2014). Electoral
          Management Design: Revised Edition. Stockholm: International
          IDEA.

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          Elections: Continuity   and change in electoral democracy.
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Orji, N. (2015). The 2015 Nigerian General Elections. Africa Spectrum,
          50(2), 73-85. doi:10.1177/000203971505000204

Acronyms

ABBREVIATION	MEANING
ACE	Administration and Cost of Elections
ACEEEO	Association of Central and Eastern European Election Officials
AU	African Union
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CD-ROM	Compact Disc-Read Only Memory
ECN	Electoral Commission of Nigeria
ECOWAS	Economic Community of West African States
EMBs	Election Management Bodies
ET	Election and Technology
FEC	Federal Election Commission
FEDECO	Federal Electoral Commission
HTML	Hyper-Text Markup Language
ICCPR	International Covenant on Civil and Political Right
IFES	International Foundation for Electoral Systems
INEC	Independent National Electoral Commission
J2EE	Java 2nd Enterprise Edition
JOC	Joint Operations Centre
NDI	National Democratic Institute for International Affairs

NEC	National Electoral Commission
NECON	National Electoral Commission Of Nigeria
NGO	Non-Governmental Organization
OAS	Organization of American States
ODIHR	Office for Democratic Institutions and Human Rights
OSCE	Organization for Security and Co-operation in Europe
PDF	Portable Document Format
PHP	Personal Home Page
POL	Politics
RoE	Rules of Engagements
SADC	Southern African Development Community
SAEs	Self-Assessment Exercises
UK	United Kingdom
US	United States
UN	United Nations
URL	Uniform Resource Locators
UoF	Use of Force Policy

Self-Assessment Exercises

In each of the units of the four modules in this course, provisions have been made for suggested questions which were derived from the units to guide students. The essence is to enable the student to undertake an independent self-assessment of his or her understanding of what he or she must have learnt from the unit.

Possible Answers

There is also, at the end of each unit, a set of possible answers to the self-assessment exercises provided. Students are advised to use the answers as guide to delve more into the issues raised in the self-assessment exercise.

Final Examination and Grading

There will be a final examination at the end of the course. The examination carries a total of 70 percent of the total course grade, while 30 percent is earmarked for continuous assessment purposes, making it 100 percent for the entire course. The examination will reflect the contents of what you have learnt, the self-assessments and tutor-marked assignments. You therefore need to revise your course materials beforehand.

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MODULE 1   HISTORICAL OVERVIEW OF ELECTION MANAGEMENT BODIES

Unit 1   Conceptualizing Electoral Management Bodies and Election Management
Unit 2   History and Philosophy of Electoral Commission in Nigeria
Unit 3   Types of Election Management Bodies
Unit 4   Models of Electoral Management

Unit Structure

1.1   Introduction
1.2   Learning Outcome
1.3   Concept of Election Management Bodies
1.4   Status of EMBs Members
1.5   Election Management
1.6   Dimensions of Election Management
1.7   Legal Framework for EMBs
1.8   Summary
1.9   References/Further Readings/Web Resources
1.10   Possible Answers to SAEs

1.1   Introduction

An election is a formal group decision-making process by which a population chooses an individual or multiple individuals to hold public office. Elections have been the usual mechanism by which modern representative democracy has operated since the 17th century. Elections may fill offices in the legislature, sometimes in the executive and judiciary, and for regional and local government. The task of conducting elections is usually saddled with the electoral commission, which is the focus of this unit.

1.2 Learning Outcome

It is expected that by the end of this unit, you should be able to:

- define the concept of EMBs,
- discuss the concept of election management
- explain the composition and structure of EMBs
- highlight the dimensions of election management
- discuss the Legal Framework for EMBs

1.3 Concept of Election Management Bodies

The complexity and specialist skills necessary for electoral management require that an institution or institutions be responsible for managing electoral activities. Such bodies have a variety of shapes and sizes (structure), with a wide range of titles to match, such as Election Commission, Department of Elections, Electoral Council, Election Unit or Electoral Board. The term Election Management Body (EMB) has been coined to refer to the body or bodies responsible for electoral management, regardless of the wider institutional framework in place.

An EMB is an organization or body that has the sole purpose of, and is legally responsible for, managing some or all of the elements that are essential for the conduct of elections and direct democracy instruments—such as referendums, citizens' initiatives and recall votes—if those are part of the legal framework. These essential (or core) elements include:

- determining who is eligible to vote;
- receiving and validating the nominations of electoral participants (for elections, political parties and/or candidates);
- conducting election or polling;
- counting the votes; and
- tabulating the votes.

If these essential elements are allocated to various bodies, then all bodies that share these responsibilities can be considered

EMBs. An EMB may be a stand- alone institution, or a distinct management unit within a larger institution that may also have non-electoral tasks.

In addition to these essential elements, an EMB may undertake other tasks that assist in the conduct of elections and direct democracy instruments, such as voter registration, boundary delimitation, voter education and information, media monitoring and electoral dispute resolution. However, a body that has no electoral responsibilities, but focus on other areas, like for example, boundary delimitation (such as a boundary delimitation commission), electoral dispute resolution (such as an electoral court or tribunal), election media monitoring (such as a media monitoring commission), or the conduct of voter education and information (such as a civic education commission), is not considered an EMB because it is not managing any of the essential elements identified above. Similarly, a national population or statistics bureau that produces electoral registers as part of the general process of population registration is not considered to be an EMB.

Different EMBs may be established for different electoral processes. In Mexico and Poland, the EMBs are responsible for both presidential and parliamentary elections; in Australia, the national EMB deals with national-level elections, while state-level elections are the responsibility of separate state-level EMBs. In the United Kingdom (UK), the arrangements for the conduct of elections and referendums are separate. Some bodies that are not engaged in any of the essential elements of elections may nonetheless be popularly regarded as EMBs. The US Federal Election Commission (FEC) defines its mission as 'administering and enforcing federal campaign finance laws'. However, such institutions do not qualify as EMBs under the definition above.

In addition to the division of functional responsibility for different elements of the electoral process, electoral responsibilities may be divided between bodies at different levels. For example, some elements of the conduct of elections may be managed by a national-level electoral commission, a

ministry (such as the Ministry of the Interior) or a national government agency, while others are implemented by local-level commissions, regional branches of government departments or local authorities (as in Spain). The term EMB may also apply to a national electoral commission that co-manages elections together with local authorities, such as the Swedish Election Authority, which coordinates ballot paper printing, the distribution of seats and the announcement of results at the national level.

Election management bodies are the individual or collection of organizations or bodies that are tasked with "managing some or all the elements that are essential for the conduct of elections" (Catt et al. 2014, 5). Essential tasks include: determining voter and candidate eligibility, conducting polling, and counting and validating votes (Catt et al. 2014, 5). However, EMBs can be tasked with organizing any of the steps in the electoral process, ranging from boundary delimitation, voter and candidate registration, campaign media and finance monitoring, voter education, to post-election dispute adjudication (Elklit & Reynolds, 2005).

These tasks may be carried out by one or multiple organizations. In some countries, the adjudication of election results will be a task allocated to the courts or to a specialized electoral court (Chernykh et al. 2014), voter registration can be a task carried out by the civil registration office or national statistics office, and monitoring of media conduct in elections is sometimes carried out by specialized media monitoring agencies, etc. (Catt et al. 2014). Organisations involved in electoral management therefore often have multiple, and sometimes conflicting tasks. As Mozaffer and Schedler (2002, 8) set out, this can involve reconciling the imperatives of bureaucratic efficiency, political neutrality and public accountability.

Electoral processes that are rife with administrative problems or partisan bias can generate election outcomes that do not reflect the will of the people, and electoral processes that lack transparency can generate distrust among citizens and political

actors. Ultimately, therefore, the legitimacy and credibility of election outcomes depend on electoral processes that strike a balance between these varying imperatives. Hence, electoral management is of crucial importance to guarantee the "institutionalized uncertainty" that democracy requires (Mozaffer & Schedler, 2002).

1.4   Status of EMBs Members

For an EMB to operate effectively, its members need to have a relatively high status that entitles them to respect from and a relationship of equality with the government, the legislature and society. In India, the three EMB members—the chief election commissioner and the two election commissioners—have the status of judges of the Supreme Court. The head of an EMB especially needs a status that affords her or him access to the highest levels of government and ensures adherence to the EMB's decisions. The chair of the EMB in Pakistan (the chief electoral commissioner) has the same conditions of service as the chief justice, as do his counterparts in numerous other countries.

While it is important that EMB members have a high status, it is also important that members do not behave as though they are bigger than the EMB institution they serve, or come to be regarded by society as 'the EMB'. Personality-based institutions can be highly polarizing. A good-practice? model for EMB members to follow is to personalize the institution they serve, rather than institutionalize the person or persons leading the EMB. For example, decisions may be described as the 'decision of the commission' rather than 'the decision of the commissioners'.

1.5   Election Management

Electoral management is the application and implementation of electoral rules. The rules for how elections will operate are traditionally designed towards the top of the political system in law by parliaments and executives. However, the implementation of these rules is needed for democracy to function in practice.

This process is not just a technical task since it may involve granting discretion to front line policy officials who make every-day decisions about how rules are implemented, resources are spent and stakeholders or citizens are negotiated with. It is therefore inevitably political as actors negotiate the implementation process, and the consequences of rules are entirely contingent on the implementation phase.

Election management covers three sets of related activities: organizing, monitoring and certifying elections:

a. Organizing the actual election process (ranging from pre-election registration and campaigning, to the actual voting on election day, to post-election vote counting) (Birch, 2011; Elklit & Reynolds, 2001),

b. Monitoring electoral conduct throughout the electoral process (e.g. monitoring the political party/candidates' campaigns and media in the lead-up to elections, enforcing regulation regarding voter and party eligibility, campaign finance, campaign and media conduct, vote count and tallying procedures, etc.),

c. Certifying election results by declaring election outcomes.

1.6 Dimensions of Election Management

Election management can be organized in many different ways (Catt et al. 2014; Wall et al. 2006). In order to map variation in election management around the world, the following dimensions are distinguished:

16.1 Centralisation: Centralisation refers to whether election management is carried out by a single national-level organization or whether election management is carried out by multiple electoral management bodies at sub-national levels of administration (for example federal and state level EMBs; or national and municipal EMBs). This is relevant for EMB performance because organizing elections closer to local constituencies may make electoral management more efficient and sensitive to local needs (James 2017). Conversely, decentralized election management may also generate significant

differences in EMB performance within a country, as research on the highly decentralized election management systems in the US and the UK has shown (Bowler et al. 2015; Clark 2016; James 2017).

Independence: Independence refers to the extent to which EMBs are formally independent from government, e.g. the degree to which EMB independence is embedded in the legal framework. It comprises the procedures for appointment, tenure and removal of EMB president and board members, control of the EMB budget, and EMB reporting requirements. To what extent are EMBs formally independent of government? What is the scope of tasks of EMBs? What appointment procedures and tenure rules are used for EMB presidents and boards? Who can dismiss EMB presidents and boards and under what conditions? Who decides on the EMB budget? What formal accountability structures are in place? This is relevant for EMB performance because formally independent EMBs may be better able to operate impartially in practice, and thereby strengthen electoral integrity. However, the link between formal independence and de facto independence may not be that strong, and findings on the consequences of formal EMB independence for electoral integrity are mixed (see van Ham and Garnett in this issue).

Capacity: Capacity refers to the degree to which election management organizations are stable and sustainable organizations that are sufficiently resourced to have the capacity to deliver elections. This refers not only to whether election management organizations are permanent or temporary, but also to the resources available to EMBs. What amount of resources do EMBs have? How secure are these resources and do they fluctuate strongly between election and non-election years? Where are resources spent? (e.g. new technology, personnel development, election logistics, etc.) (Clark 2016; James & Jervier 2017).

Scope and Division: Scope and division of tasks refers to the range of elements of the electoral process that EMBs are tasked with managing. As discussed above, EMBs can be tasked with

managing the entire electoral process, or just a narrow sub-set of these tasks. This is relevant for EMB performance in a number of ways. For example, EMBs that are responsible for organizing elections and monitoring electoral conduct, but not for dispute adjudication may be (or perceived to be) more impartial (Chernykh et al. 2014). Likewise, EMBs with responsibility for a more limited sub-set of tasks may be more efficient, though this may depend on the quality of cooperation with the other organizations involved in electoral governance, to which we turn next. Apart from scope, division of tasks refers to the extent to and the way in which electoral management tasks are carried out by multiple organizations. As discussed above, in some countries electoral management is carried out by a network of agencies, with, for example, boundary delimitation commissions, statistical offices, media and tax auditing agencies, and specialized electoral courts all involved in specific elements of the electoral process, generating a network of agencies involved in electoral governance. This is relevant for EMB performance because EMB capacity to deliver efficient, impartial and transparent electoral processes may depend on the quality of these agencies as well as the quality of their collaboration with the EMB.

Relation to External Actors: Relation to external actors refers to EMB relations with actors that are not directly responsible for electoral management, but that have a stake in the electoral process, either because they are participants (e.g. political parties, candidates, citizens), because they are sub-contractors providing products or services to the EMB (e.g. ballot printing agencies, companies providing election technology equipment and services), or because they are national or international NGOs and organizations committed to improving election management (e.g. Venice Commission, Association of World Election Bodies, Association of European Election Officials). The latter also includes national and international election observation missions and election assistance practitioners, such as the International IDEA, the International Foundation for Electoral Systems (IFES), and the Carter Centre. These relationships with external actors may affect EMB performance in a number of ways. Interactions with domestic stakeholders and international organizations may

provide feedback on EMB performance, opportunities for learning and suggestions for improvement, help to hold the EMB to account, and provide pressure for electoral reform, all of which may help to increase EMB efficiency, impartiality, and transparency. Conversely, relationships with subcontractors pose an entirely different set of questions, especially in relation to election technology companies. James (forthcoming) identifies different types of policy governance networks including a variety of different external actors at the domestic and international level.

Technology: Technology refers to the technical software and hardware used to organise and implement elections. This includes both the front-end technology such as vote scanning machines, but also the back-office equipment such as voter registration database software. Key questions to be asked are what types of technology are used to run elections? Who owns the technology? Who provides technology support during elections and what safeguards are in place to prevent errors and external interference? Who makes the decisions about technology use and ownership? At one extreme more sophisticated, digital solutions might be used, but at another, paper-based solutions might be put in place. In terms of ownership, state-ownership might be common in some countries, but private sector ownership more common in others.

Personnel: Personnel refers to the people that run elections, e.g. the staff working for national, regional and local level EMB, as well as the temporary staff that assist in running polling stations on election-day. This dimension refers not only to the number of employees involved in managing elections but also their levels of expertise, training, recruitment methods, public service orientation and the systems used to manage them. This is relevant for EMB performance because having EMB staff with sufficient training and expertise in electoral procedures is likely to enhance both perceptions of and actual EMB efficiency in delivering elections. In addition, EMB staff professionalism and public service orientation is likely to strengthen EMB impartiality. Who are the officials that work within the "black-box" of electoral management bodies? To what extent is their recruitment based on

Weberian ideals of meritocracy and skill? How long have staff been in their post? What qualifications and training do they have? Have norms of professionalism been adopted? What policies are in place to monitor and improve employee performance? What is the level of job satisfaction among employees? These questions are central to the study of public sector performance, but they remain rarely asked in the field of elections

1.7   Legal Framework for EMBs

The study of electoral processes in any particular jurisdiction will always reference specific considerations of social and political context. Even in the context of international law and standards, "States have, and must have, wide discretion to establish institutions in accordance with national and local conditions and requirements." As any other legal institution, electoral systems cannot be created or adopted in a blind way. Historical, social, political, economic and cultural particularities of each country have to be taken into account. Such conditions will likely be central to the planning, definition, objectives and the stages that the democratization of any single country has to follow.

For example, the starting point for a country which has overcome an authoritarian regime is not always the same. While some countries have been democratic (as the Czech Republic), others may have never or not recently been so, such as may happen with those that have just finished a lengthy colonial period. The democratization strategy followed in a country characterized by high levels of social development and education is unlikely to be similar to the one followed in a country lacking minimum social structures.

Democratization seen as the conclusion of a process suggests that it is necessary to take into account each country's particularities. Democratization is the final stage of a process that must not to be extended more than necessary. Democratization requires, however, a period of stabilization and a number of successful elections and stable governments to be

become consolidated. It can be risky to rush the undertaking of a democratization process. Any democratization process based on undemocratic institutions and on undemocratic laws will be frustrating. Exaggerated expectations, as well as impatient actions, are always dangerous. Social and political particularities have to support the adoption of democratization models.

The most basic questions are why a legal framework is important to democratic elections and what exactly is meant by the term "legal framework"? The first question is well answered by a publication of the National Democratic Institute for International Affairs (NDI) entitled, Promoting Legal Frameworks for Democratic Elections:
Establishing the "rules of the game" for elections should be a vital concern to political parties, candidates and citizens alike. Democratic elections serve to settle fairly and peacefully the competition among those seeking to exercise governmental powers as representatives of the people. Democratic elections also serve as the means for citizens to express freely their will as to who shall have the authority and legitimacy to wield the reins of government as their representatives. It is thus in the direct and immediate interests of electoral contestants – political parties and candidates – and of the population as a whole – citizens and their associations – to ensure that the rules for electoral competition, as well as the way those rules are enforced, guarantee that a genuine democratic election takes place.

From an electoral point of view, "legal framework" has both a broad and a technical meaning. Broadly speaking, a legal framework may be seen as the entirety of a group of constitutional, legislative, regulatory, jurisprudential and managerial rules that together establish the voting rights used by citizens to elect representative officials. In a more technical sense, the legal framework can also be seen as a collection of procedural techniques. From this topic's point of view, "legal framework" is understood in both such meanings however the default approach will be to develop a working definition of

"legal framework" as broad as possible in order to achieve a more fulsome understanding.

Indeed, a legal framework may also be further extended by electoral regulations that authorize citizens to use public powers on their own (using legal devices to achieve legislative goals, to define public policies, to impeach any public officer). Elections are neither the only way to choose public officials (there are legal and randomly made appointments; besides, elections are also undertaken by collegiate institutions such as corporations' boards following no electoral laws whatsoever) nor are used to exclusively to select public officials. As a matter of fact, citizens also use elections to accept or reject legislative bills, governmental decisions or resolutions taken by a public authority (referendum, collective lawsuits and impeachments are used to do so too).

Many UN member countries incorporate into their domestic law (using a variety of constitutional means) key UN decisions and treaties, such as the 1966 International Covenant on Civil and Political Right (ICCPR) and the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). In such cases, domestic electoral laws, and EMB policies and actions, need to consider the treaties' provisions as treaty obligations that their country has voluntarily adhered to, especially in relation to issues such as universal and non-discriminatory suffrage, secret and free voting, the rights of women to be elected and hold public office, and the rights of minority language groups. Bilateral agreements between countries and regional treaties on supranational bodies (e.g. the European Union) may also contain electoral requirements. While complementary laws are usually required to give effect to such treaties, EMB actions that contradict rights contained in ratified treaties may still be legally challengeable.

Member states of regional bodies, such as the Organisation for Security and Cooperation in Europe (OSCE), the Organization of American States (OAS) and the African Union (AU), are increasingly committing themselves through either legislative or

executive ratification to implement treaties and decisions adopted by the regional bodies. In 1990, the OSCE adopted the Copenhagen Commitments, through which its participating states "solemnly declare that among those elements of justice which are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings are…free elections that will be held at reasonable intervals by secret ballot or by equivalent free voting procedure, under conditions which ensure in practice the free expression of the opinion of the electors in the choice of their representatives" (Bekoe, 2013). The AU Charter on Democracy, Elections and Governance provides that "State Parties shall:

1. Establish and strengthen independent and impartial national electoral bodies responsible for the management of elections.
2. Establish and strengthen national mechanisms that redress election- related disputes in a timely manner.
3. Ensure fair and equitable access by contesting parties and candidates to state controlled media during elections.
4. Ensure that there is a binding code of conduct governing legally recognized political stakeholders, government and other political actors prior to, during and after elections. The code shall include a commitment by political stakeholders to accept the results of the election or challenge them through exclusively legal channels" (Bekoe, 2013).

The AU has backed up the charter in practice by establishing an electoral support unit within its secretariat.

Similar frameworks have been developed by sub-regional bodies, such as the Southern African Development Community (SADC) and the Economic Community of West African States (ECOWAS). One example of such a regional and enforceable treaty that affects the legal frameworks for EMBs is the ECOWAS Protocol on Democracy and Good Governance of 2001, under which member countries commit themselves to

independent or impartial electoral administration and timely electoral dispute resolution.

1.8   Summary

This unit has discussed elections as a usual mechanism by which modern representative democracy has operated since the 17th century. Elections may fill offices in the legislature, sometimes in the executive and judiciary, and for regional and local government. The unit focused on concept of election management bodies, status of EMBs members, election management, and dimensions of election management.

Self-Assessment Exercises (SAEs)

a.   Define the concept of election management bodies,
b.   Define election management and what it entails,
c.   Highlight the dimensions of election management

1.9   References/Further Readings/Web Resources

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Unit 2   History and Philosophy of Electoral Commission in Nigeria

Unit Structure

2.1   Introduction
2.2   Learning Outcome
2.3   History of Electoral Bodies in Nigeria
2.4   Functions of INEC
2.5   Values of INEC
2.6   Problems of INEC
2.7   Summary
2.8   References/Further Readings/Web Resources
2.9   Possible Answers to SAEs

2.3   Introduction

Elections have been the usual mechanism by which modern representative democracy has operated since the 17th century. Elections may fill offices in the legislature, sometimes in the executive and judiciary, and for regional and local government. The task of conducting election is usually saddled with the Election Management Body (EMB). EMB is a body charged with overseeing the implementation of electioneering process of any country. The formal names of election commissions vary from jurisdiction to jurisdiction, and may be styled an electoral commission, a central or state election commission, an election board, an electoral council or an electoral court. Election commissions can be independent, mixed, judicial or executive in nature. They may also be responsible for electoral boundary delimitation. In federations, there may be a separate body for each subnational government. An election commission has a duty to ensure elections are conducted in an orderly manner

2.4   **Learning Outcome**

It is expected that by the end of this unit, you should be able:

- To narrate the history and philosophy of the electoral commission in Nigeria
- To list the functions of INEC
- To describe the values of INEC
- To mention some of the problems of INEC

2.3   **History of Electoral Bodies in Nigeria**

The origin of Electoral bodies in Nigeria can be traced to the period before Independence, when the Electoral Commission of Nigeria (ECN) was established to conduct the 1959 elections. The Federal Electoral Commission (FEC), established in 1960 conducted the immediate post-independence federal and regional elections of 1964 and 1965 respectively.

The electoral body was however, dissolved after the military coup of 1966. In 1978, a new Federal Electoral Commission (FEDECO) was constituted by the regime of General Olusegun Obasanjo. FEDECO organized the elections of 1979, which ushered in the Second Republic under the leadership of Alhaji Shehu Shagari. It also conducted the general elections of 1983.

In December 1995, the military government of General Sani Abacha, which earlier dissolved National Electoral Commission (NEC) in 1993, established the National Electoral Commission of Nigeria (NECON), which also conducted another set of elections; from the Local Government councils to National Assembly. These elected institutions were however not inaugurated before the sudden death of General Abacha, on June 1998, aborted the process. In 1998 General Abdulsalam Abubakar's Administration dissolved NECON and established the Independent National Electoral Commission (INEC).

The body organized all transitional elections that ushered in the 4th republic on May 29 1999. It has since taken several steps to

reposition itself to deliver credible elections that would sustain Nigeria's nascent democracy. As a permanent body, INEC comprises the workforce recruited since 1987 under the defunct National Electoral Commission (NEC). Its presence has been established in all the 36 states, the Federal Capital Territory as well as in the 774 Local Government Areas of Nigeria.

2.4   Functions of INEC

The Independent National Electoral Commission (INEC) was established by the 1999 Constitution of the Federal Republic of Nigeria to among other things organize elections into various political offices in the country.

The functions of INEC as contained in Section 15, Part 1 of the Third Schedule of the 1999 Constitution (As Amended) and Section 2 of the Electoral Act 2010 (As Amended) include the following:

1.   Organise, undertake and supervise all elections to the offices of the President and Vice-President, the Governor and Deputy Governor of a State, and to the membership of the Senate, the House of Representatives and the House of Assembly of each state of the federation;
2.   Register political parties in accordance with the provisions of the constitution and Act of the National Assembly;
3.   Monitor the organization and operation of the political parties, including their finances; conventions, congresses and party primaries.
4.   Arrange for the annual examination and auditing of the funds and accounts of political parties, and publish a report on such examination and audit for public information;
5.   Arrange and conduct the registration of persons qualified to vote and prepare, maintain and revise the register of voters for the purpose of any election under this constitution;
6.   Monitor political campaigns and provide rules and regulations which shall govern the political parties;
7.   Conduct voter and civic education;

8. Promote knowledge of sound democratic election processes; and

9. Conduct any referendum required to be conducted pursuant to the provision of the 1999 Constitution or any other law or Act of the National Assembly.

2.5 Values of INEC

According to Birch (2008), INEC shall be guided by the following values in the performance of its duties:

1. Autonomy: INEC shall carry out all its functions independently, free from external control and influence.

2. Transparency: INEC shall display openness and transparency in all its activities and in its relationship with all stakeholders.

3. Integrity: INEC shall maintain truthfulness and honesty in all its dealings at all times

4. Credibility: INEC shall ensure that no action or activity is taken in support of any candidate or political party.

5. Impartiality: INEC shall ensure the creation of a level playing field for all political actors.

6. Dedication: INEC shall be committed to providing quality electoral services efficiently and effectively, guided by best international practice and standards

7. Equity: INEC shall ensure fairness and justice in dealing with all stakeholders.

8. Excellence: INEC shall be committed to the promotion of merit and professionalism as the basis for all its actions.

9. Team work: INEC shall create a conducive environment that promotes teamwork among its staff at all levels.

2.6 Problems of INEC

1. Political Interference: The interference by the ruling party or government who may wish to influence election results to enable them to remain in power at all cost.

2.   Inadequate Security: lack of security during voting may provide an ample opportunity for political thuggery, intimidation and harassment of electorates.

3.   Inadequate voters Register: This may create room for unscrupulous politicians and their supporters to rig the election in favor of their candidates and political parties.

4.   Insufficient electoral materials: This includes ballot papers, boxes, indelible ink and voters register may cause disorder during elections.

5.   Delay of Electoral materials: late arrival of electoral materials contributes to the problems of electoral commission.

6.   Rigging: This problem is perpetrated by political parties, candidate and their supporters during elections.

7.   Low level of Literacy: This Constitutes problems to the commission because some of the voters may not be able to vote properly during elections.

8.   Poor funding: This problem can hinder the conduct of free and fair election in a country, especially if the body depends on the executive arm of government.

9.   Dismissal of officials: This is a serious problem if the executive arm of government is involved in the dismissal of the officials of the commission.

2.7   Summary

This unit has discussed elections as a usual mechanism by which modern representative democracy has operated since the 17th century. Elections may fill offices in the legislature, sometimes in the executive and judiciary, and for regional and local government. The unit focused on the history and philosophy of electoral commission in Nigeria, functions of INEC, values of INEC and problems of INEC.

Self-Assessment Exercises (SAE's)
a.   List the functions of INEC
b.   Describe the values of INEC
c.   Mention some of the problems of INECS

2.8   References/Further Readings/Web Resources

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2.9   Possible Answers to SAEs

a. The functions of INEC as contained in Section 15, Part 1 of the Third Schedule of the 1999 Constitution (As Amended) and Section 2 of the Electoral Act 2010 (As Amended) amongst other includes: to organize, undertake and supervise elections; register political parties; register voters; undertake the accreditation of election observers and monitors; collate and announce election results.

b.   The values of INEC includes: autonomy, transparency, integrity, credibility, impartiality, equity, excellence, dedication, and team work.

c.   Some of the problems of INEC are: political interferences, security risks, insufficient electoral materials, logistics challenges, rigging, poor funding, etc.

Unit 3   Types of Election Management Bodies

3.1   Introduction

An election commission, or Election Management Body, is a body charged with overseeing the implementation of electioneering process of any country. The formal names of election commissions vary from jurisdiction to jurisdiction, and may be styled   an electoral   commission, a central or state   election commission, an election board, an electoral council or an electoral court. Election commissions can be independent, mixed, judicial or executive in nature. They may also be responsible for electoral boundary delimitation. In federations, there may be a separate electoral management body for each subnational government.

3.2   Learning Outcome

It is expected that by the end of this unit, you should be able:

•   To discuss the types of electoral commission,
•   To discuss the merits and demerits of each type of EMBS

3.3   Clasification of Election Management Bodies

As has been proven through actual practice, an election management body (EMB) may take any one of several different

forms. It may be a temporary or a permanent body; a partisan, partially-partisan, or non-partisan body; a centralized or decentralized body; a specialized judicial body or government ministry; or even a mixture of several of these types and thus not easily categorized In this section, we shall explore these possibilities and discuss generally the advantages and disadvantages often associated with each. To facilitate this discussion, we first examine some of the primary duties of the EMB, which we split into two distinct categories: administrative and supervisory. In fact, under Administrative Bodies, we will not only examine this distinction, but also attempt to detail some of the tasks an EMB must complete to serve well as both an administrative and supervisory body.

Having discussed the various types of national-level bodies, we then turn our attention to Regional and Local Election Bodies. In doing so, of course, we recognize that many of the attributes of these lower-level bodies depend on the type of national body, the structure of the electoral system (whether it is nationally, regionally, or locally-focused), and the nature of the delegated responsibilities. Furthermore, we recognize that the nature of the delegated responsibilities ranges from significant, yet limited, to critical to the success of the electoral process. In short, we assert that there are always many important decisions to be made and tasks to be accomplished during the electoral process, but that it is up to the constitution or national authority to determine exactly which body is responsible for the various types of activities and specify the nature of the relationships between the national, regional, and local levels.

Another important issue, addressed in Relationship of Regional and Local Bodies to Higher-Level Bodies, concerns the flow of work and information within the electoral system. As has already been noted above, each level of the electoral system has certain duties, abilities, and limits. In this section, we discuss these duties, abilities, and limits in the context of the relationships between the three levels of the EMB. As part of this discussion, we emphasize the need for both routine and extraordinary methods of communication between the three

levels, as means of managing the electoral process and addressing specific situations as they arise.

Overall, we realize that there is not one particular type of electoral system that will work in every electoral environment. Thus, we have written this section to present some of the alternatives in election management currently being implemented in electoral systems throughout the world. Ultimately, the country's political, economic, and social circumstances must determine the composition of the electoral model and the manner in which an electoral system is established or modified.

3.3.1 Multiparty-based EMBs

Many countries, especially those that have experienced difficult transitions from authoritarian rule to multiparty democracy, have chosen multiparty-based EMBs. In such societies, public servants are likely to have been largely discredited as electoral policymakers because of a history of being agents of previous authoritarian regimes. The fight against authoritarianism may also have polarized society to the extent that it is difficult to find public figures who are widely accepted as impartial to serve on an EMB for a transitional election. Many Central and Eastern European countries adopted multiparty-based EMBs during their transitions.

Multiparty EMBs comprise a mixture of political party nominees. The legal framework may entitle all recognized or registered political parties contesting an election to be represented equally on the EMB (as in Guam), or a threshold may restrict representation to, for example, parties represented in the legislature or with more than a specified proportion of members in the legislature. For example, of the 20 members nominated by political parties in Guinea-Bissau, half are nominated by the political party of the president and the others by the opposition parties (Lewis & Kew, 2015). In Albania, the party-affiliated members represent the distribution of seats in the legislature(Orji, 2015). In Venezuela in the mid-1990s, the

larger parties each had their own representative, while smaller parties of the left and right were represented collectively (Orji, 2015).

Political party-based appointment often implies that EMB members are serving on the EMB as political party representatives or agents. However, while each individual member is seen from the outside as partisan, each also ensures that the others do not take partisan advantage — so the EMB can nonetheless be credibly perceived as an impartial body. Political party-based members often hold office for a fixed term and cannot be dismissed except for a justifiable cause, such as a breach of their duties, or upon their withdrawal by their nominating authority. Frequent replacement by parties of their representatives, however, has the potential to disrupt the work of the EMB.

In Guinea-Bissau and Mozambique, political party nominees to an EMB are eminent persons who are required to maintain high standards of impartiality and professionalism, and thus they do not serve as political party representatives.

Many electoral analysts believe that having political party representatives on an EMB engenders consensus among actors in the electoral contest and enhances transparency, both of which improve confidence in the electoral process. Voters may feel more encouraged to participate in elections if the leaders of political parties play an active role in the electoral process, specifically through representation on the EMB.

Yet a political party-based EMB can imperil or cripple decision-making, especially where political parties' critical interests are at stake. The presence of politicians on the EMB may undermine confidentiality in matters such as the security of ballot materials. Multiparty-based EMBs also tend to generate dissatisfaction, especially among minority parties that might be excluded from the EMB either because they are not represented in the legislature or because they did not participate in the negotiation that led to the initial appointments of EMB members.

3.3.2 Expert-based EMBs

Expert-based or non-party-based EMBs are those that the legal framework requires the institution to be made up of individuals appointed on the basis of their professional standing. In some cases, members of an expert-based EMB may be nominated by political parties or civil society, but this does not imply that they will be directed by their nominating parties or act in a partisan manner. In Mexico, although the EMB is a permanent body with 11 expert voting members, each political group in the legislature and each national political party also provides one non-voting representative (Lewis & Kew, 2015).

Qualifications to be a member of an expert-based EMB may include impartiality, a minimum age, professional qualifications and electoral knowledge. Expert-based EMB members are often eminent public figures renowned for political neutrality who have expertise in fields such as law, public administration, political science or the media. Expert-based EMBs are found in countries such as Australia, Bangladesh, Canada, Costa Rica, India, Indonesia, Poland, Thailand and Ukraine. The law in many of these countries stipulates that EMB members must not have been active in party politics in the recent past, and must not be a political party member while serving as a member of the EMB. Nevertheless, in highly politicized situations, nominees may be seen as friendly to a particular party or faction, and there may be the perception that the parties have divided the positions between them rather than choose impartial members who are acceptable to all.

One common form of the expert-based model is judicial EMBs. In Brazil, for example, elections are the responsibility of national and state electoral tribunals, which are considered a specialized segment of the judicial branch, comprising judges of various categories along with a small number of expert lawyers; below the tribunals, regular judges are detailed for a short time to oversee electoral preparations and operations in each electoral district. The EMBs of Costa Rica and Guatemala are judicial in nature, as all of their members are judges (Thurston, 2015).

3.3.3 EMBs with both Expert and Multiparty Membership

Some electoral legal frameworks specify that EMBs have a mixed membership of party representatives and politically non-aligned members, such as judges, academics, civil society representatives and career public servants. For example, in Côte d'Ivoire, EMB members are appointed by political parties, law and judicial societies, and government ministries (Lewis & Kew, 2015). This may combine advantages from both models, producing even-handed bodies that have both political party buy-in and transparency in their operations.

This combined model can be implemented in various ways. In Mexico, the members nominated by political parties can take part in debates but cannot vote on decisions (Kew, Bello & Iwuamadi, (2020). In Mozambique, the five members designated by the parties in the legislature then select the eight expert members from nominees provided by CSOs (Kew, Bello & Iwuamadi, (2020). In Croatia, a standing national EMB comprising Supreme Court judges and other distinguished lawyers is expanded for the electoral period by representatives of the majority and opposition blocs of political parties in the national legislature. Each electoral district has similarly constituted EMBs (Thurston, 2015).

Like multiparty EMBs, combined EMBs can find decision-making difficult. For example in the 1999 Indonesian elections, the combined EMB was unable to validate the election results because members representing some very minor political parties refused to sign the validation unless their parties were allocated seats to which they were not entitled by their votes (Kew, Bello & Iwuamadi, (2020).

3.3.4 Merits and Demerits of Multiparty, Expert and Mixed EMBs

Table 7: Advantages and Disadvantages of Multiparty, Expert and Combined EMBs

	Advantages	Disadvantages
Multiparty EMBs	• May promote electoral participation by opposing political forces. • May encourage voter participation. • Enhances electoral transparency. • Ensures political party input to the EMB's policy development. • Ensures links with critical electoral stakeholders. • Brings political experience to the management of electoral processes.	• Members' actions may be motivated by political interest. • May not have appropriate professional experience or qualifications. • May be unwieldy if all parties are represented. • May lack credibility if some parties are excluded or if political parties are not respected. • May find consensus decision-making difficult. • EMB unity may suffer due to public disputes between parties.
Expert EMBs	• Impartial and neutral membership promotes the credibility of the EMB. • Likely to reject political pressure. • Professionalism of members. • Makes a range of expert knowledge available on the EMB. • Eminent public figure members raise the profile of the EMB. • May have a broad range of professional networks on which the EMB can draw.	• May not always be aware of relevant political factors. • Political actors may have limited access to EMB activities. • May not have good links with critical electoral stakeholders. • Members may need to address conflict of loyalties between the work of the EMB and the views of the organizations they come from. • The best 'experts' may not be willing to serve. • It may be difficult to find 'non-partisan' members in transitional environments.
Combined EMBs	• May achieve balance between political and technical considerations. • May encourage participation, and expert members may counterbalance any attempt at partisan actions. • The EMB is transparent to political participants and has some professional credibility. • Both expert knowledge and political input are available to the EMB. • Links with both critical electoral stakeholders and public figures. • Has both political experience and professional networking capacities.	• Political and expert elements may have different agendas. • EMB may experience competitive leaking of information between its components. • May be unwieldy if all political and expert elements are represented. • May lack credibility if some parties are excluded. • May find consensus decision-making difficult. • High-calibre experts may not be willing to work with political elements.

Source: https://aceproject.org/ace-en/topics/em/emd/emd01/emd01c/EMBTable7.png

3.4   Summary

This unit has discussed elections as a usual mechanism by which modern representative democracy has operated since the 17th

century. Elections may fill offices in the legislature, sometimes in the executive and judiciary, and for regional and local government. The unit focused on types of electoral commission, and types of EMBS.

Self-Assessment Exercises(SAE)

a.   Identify the types of electoral commission,

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3.6   Possible Answer to SAE

a. An election management body (EMB) may take any one of several different forms. It may be a temporary or a permanent body; a partisan, partially-partisan, or non-partisan body; a centralized or decentralized body; a specialized judicial body or government ministry; or even a mixture of several of these types and thus not easily categorized.

Unit 4   Models of Electoral Management

Unit structure

4.1 Introduction

This unit examines the various model of electoral management and what the expectations are in each of the respective model with their distinguishing attributes or characteristics.

4.2 Learning Outcomes

- To explain the different model of electoral management,
- To discuss the expectations of EMBs under different electoral management model,
- To explain the EMBs attributes under the three broad models of electoral management.

4.3   Types of Electoral Management Models

4.3.1 The Independent Model of Electoral Management

The Independent Model of electoral management is used in countries where elections are organized and managed by an EMB that is institutionally independent and autonomous from

the executive branch of government; its members are outside the executive. Under the Independent Model, the EMB has and manages its own budget, and is not accountable to a government ministry or department. It may be accountable to the legislature, the judiciary or the head of state. EMBs under this model may enjoy varying degrees of financial autonomy and accountability, as well as varying levels of performance accountability. Many new and emerging democracies have chosen this model, including Armenia, Bosnia and Herzegovina, Burkina Faso, Canada, Costa Rica, Estonia, Georgia, India, Indonesia, Liberia, Mauritius, Nigeria, Poland, South Africa, Thailand and Uruguay.

In some countries, two bodies are established to manage elections, both of which are independent of the executive and can be considered independent EMBs. One of these bodies is likely to have responsibility for policy decisions relating to the electoral process, and the other to be responsible for conducting and implementing the electoral process. There may be provisions to insulate the implementation EMB from interference by the policy EMB in staffing and operational matters. Examples of this 'double-independent' framework under the Independent Model include Jamaica and Romania.

4.3.2 Governmental Model of Electoral Management

In countries with the Governmental Model of electoral management, elections are organized and managed by the executive branch through a ministry (such as the Ministry of the Interior) and/or through local authorities. Where EMBs under this model exist at the national level, they are led by a minister or civil servant and are answerable to a cabinet minister. With very few exceptions, they have no 'members'. Their budget falls within a government ministry and/or under local authorities. Countries that use this model include Denmark, Singapore, Switzerland, the UK (for elections but not referendums) and the United States. In Sweden, Switzerland, the UK and the United States, elections are implemented by local authorities. In Sweden

and Switzerland, the central EMB assumes a policy coordinating role.

4.3.3 Mixed Model of Electoral Management

The Mixed Model of electoral management usually involves two component EMBs and a dual structure:

1.   a policy, monitoring or supervisory EMB that is independent of the executive branch (like an EMB under the Independent Model) and
2.   an implementation EMB located within a department of state and/or local government (like an EMB under the Governmental Model).

Under the Mixed Model, elections are organized by the component governmental EMB, with some level of oversight provided by the component independent EMB. The Mixed Model is used in France, Japan, Spain and many former French colonies, especially in West Africa, for example Mali and Senegal.

The powers, functions and strength of the component independent EMB in relation to the component governmental EMB vary in different examples of the Mixed Model, and the classification of a particular country as using this model is sometimes not very clear. In the past, the component independent EMB was sometimes little more than a formalized observation operation, although this version is dying out, having been abandoned, for example, in Senegal. In other cases, the component independent EMB supervises and verifies the implementation of electoral events by the component governmental EMB, and tabulates and transmits results, as in Congo (Brazzaville). In some Francophone countries, the Constitutional Council is engaged in the tabulation and declaration of results and can be considered a component independent EMB within the Mixed Model. In Chad, this applies to referendums only, and not to elections. In Mali, where elections are organized by the Ministry of Territorial

Administration, both the Independent National Electoral Commission and the Constitutional Court undertake their own tabulation of results; the country thus has three component EMBs (one governmental and two independent).

The relationship between the component EMBs in a Mixed Model is not always clearly defined in legislation or practice, and friction can result. In the 1999 elections in Guinea (which used the Mixed Model at that time), the majority and opposition representatives in the component independent EMB had conflicting approaches to its role in supervising and verifying the elections; thus its effectiveness was heavily disputed.

4.3.4 Expectations of EMBs under different Electoral Management Models

A country's electoral management model is an important factor in EMB behaviour, but far from the only one; it is simplistic to think of three different behaviour patterns. EMB behaviour also depends on the legal framework, political and social expectations, and the cultural environment within which each EMB operates. Influences include the political commitment to allow an EMB to act freely and impartially, the range of powers and functions given to an EMB, the qualifications of members or staff for appointment and their terms of office, the way in which members and/or staff are selected and appointed, the oversight and accountability framework, and whether the EMB has a legal personality and is thus able to sue and be sued. For example, an independent EMB comprising representatives of competing political parties and an independent EMB comprising non-aligned academics or others free of political association may both follow the Independent Model, but are likely to operate differently. Similarly, an EMB under the Governmental Model with a sponsoring department that controls local electoral management offices is likely to behave differently from one that depends on numerous local authorities to implement electoral activities.

However, there are some general characteristics, advantages and disadvantages of the three Models and their EMBs. Tables 1, 2, 3, 4 and 5 list some key issues.

Table 1: Characteristics of the Three Broad Models of Electoral Management and their Component EMBs

Aspect of the Model and the Component EMB(s)	Independent Model	Governmental Model	Mixed Model	
			Independent Component	Governmental Component
	Independent EMB(s)	Governmental EMB(s)	Component Independent EMB	Component Governmental EMB
Institutional arrangement	Is institutionally independent from the executive branch of government.	Is located within or under the direction of a department of state and/or local government.	Is institutionally independent from the executive branch of government.	Is located within or under the direction of a department of state and/or local government.
Implementation	Exercises full responsiblity for implementation.	Implementation is subject to executive branch of government direction.	Has autonomy to monitor or supervise, and in some cases set policy for, implementation.	Implementation is subject to executive branch of government direction, and monitoring or supervision and in some cases policy setting by independent component.
Formal accountability	Does not report to executive branch of government but with very few exceptions is formally accountable to the legislature, judiciary or head of state.	Fully accountable to executive branch of government.	Does not report to executive branch of government and is formally accountable to the legislature, the judiciary or the head of state.	Fully accoutable to executive branch of government.
Powers	Has powers to develop the electoral regulatory framework independently under the law.*	Powers are limited to implementation.	Often has powers to develop electoral regulatory framework independently under the law. Monitors or supervises those who implement elections.	Powers are limited to implementation.
Composition	Is composed of members who are outside the executive branch while in EMB office.	Is led by a minister or public servant. With very few exceptions has no 'members', only a secretariat.	Is composed of members who are outside the executive branch while in EMB office.	Is led by a minister or public servant. Has no 'members', only a secretariat.
Term of office	Offers security of tenure, but not necessarily fixed term of office.	Usually no members, therefore N/A. Secretariat staff are civil servants whose tenure is not secured.	Offers security of tenure, but not necessarily fixed term of office.	Term of office is not secured.
Budget	Has and manages its own budget independently of day-to-day governmental control.	Budget is a component of a government ministry's budget or local authority budget.	Has a separately allocated budget.	Budget is a component of a government ministry's budget or local authority budget.

*A few countries which use the Independent or Mixed Model of electoral management do not have independent EMBs with regulatory powers.

Source: https://aceproject.org/aceen/topics/em/ema/ema05/EMBTable1.png

Table 2: What an EMB under the Independent Model Is, May Be and Is Not

Aspect	Essential Attributes	Possible Attributes	What It Is Not
Institutional arrangement	Institutionally independent from the executive branch of government.		Is NOT part of the structure of a department of state and/or local government.
Implementation	Exercises full responsibility for implementation.	May be a legal entity which can sue and be sued in its own right (e.g. Azerbaijan, Botswana, Democratic Republic of Congo, Kenya and Lithuania) or not a legal entity (e.g. Mozambique).	Is NOT above the constitution or law.
Accountability	Is subject to good governance constraints.	Typically is formally accountable to the legislature, the judiciary or the head of state. May have varying levels of financial autonomy and accountability. May have financial autonomy through drawing up its own budget and receipt and use of public funds with minimal involvement of the executive branch of government. May have varying levels of performance accountability.	Is NOT formally accountable to the executive branch of government. Is NOT free of policy, financial, and performance accountability and good governance constraints.
Powers	Has powers to make policy decisions independently under the legal framework.	Typically has powers to develop the electoral regulatory framework independently under the law. Usually has broad overall powers and functions for electoral implementation. May have powers to hire, fire and discipline its own staff. May have power to establish its own procurement and accounting procedures.	
Composition	Is composed of members who are outside the executive while in EMB office.	Members may be non-aligned 'experts' or politically affiliated.	
Term of office	Members have security of tenure.	Members have a fixed term of office.	Members can NOT be removed/ dismissed arbitrarily by the executive branch.
Budget	Has and manages its own budget independently of day-to-day governmental control.	May have a separately allocated budget from the legislature. May receive funding from the executive branch or the donor community.	Does NOT fall within the budget of any government ministry.
Staff	Has autonomy to determine its staff needs, rules and policies.	May be able to access personnel from within the public service.	Staff members are NOT necessarily public servants.

Source: https://aceproject.org/aceen/topics/em/ema/ema05/EMBTable2.png

Table 3: What an EMB under the Governmental Model Is, May Be, and Is Not

Aspect	Essential Attributes	Possible Attributes	What It Is Not
Institutional arrangement	Is located within a department of state and/or local government.	May be a department, an agency or a local authority.	Is NOT an institution that is independent of the executive branch of government.
Implementation	Implementation is subject to direction by the executive branch of government.	Implementation responsibilities may be shared with ministries, departments or local authorities.	
Accountability	Is fully account-able for policy, finance, per-formance and governance to the executive branch of government.		
Powers	Powers are limited to imple-mentation.	May often share electoral implementation responsibilities with other departments and local governments.	Does NOT have independent regulatory powers.
Composition	Is led by a minister or civil servant.	With very few exceptions has no members, only a secretariat. Selection of members (if any) and secretariat may be done exclusively by the executive.	
Term of office		Usually has no members and therefore no term of office.	
Budget	Budget is a component of a government ministry's budget.	May receive funding from donor community.	Does NOT decide on its own budget.
Staff	Is primarily staffed by public servants.	May be able to access personnel from outside the public service.	Can NOT hire and fire its own staff.

Source: https://aceproject.org/aceen/topics/em/ema/ema05/EMBTable3.png

4.3.5 EMBs Attributes under the Broad Models of Electoral Management

Mixed Model electoral management encompasses a variety of structures, internal relationships and attributes. Apart from the characteristics noted in Table 1, it is difficult to codify their essential and possible attributes. The relationship between the component EMBs in a Mixed Model is significant in determining its attributes and methods of operation. Effective legal frameworks for Mixed Model electoral management clearly specify the division of powers and functions between the component policy, monitoring or supervisory EMB(s) and the component implementing EMB(s) and their interactions. Table 4 shows some examples of attributes of component EMBs under Mixed Model electoral management.

Table 4: Examples of Attributes of EMBs under Mixed Model Electoral Management

Country	France		Japan	
Component EMBs	**Component Independent EMB**	**Component Governmental EMB**	**Component Independent EMB**	**Component Governmental EMB**
Title	Constitutional Council	Ministry of Interior, Bureau of Elections	Central Election Management Council (CEMC)	Ministry of Internal Affairs and Communications, Election Division
Composition	Body defined in the constitution with 9 appointed members, 3 each appointed by the president, the national assembly and the senate.	N/A	5 members appointed by the parliament	N/A
Structure	Permanent	Permanent	Temporary. Term of office 3 years.	Permanent
Relationship between Component EMBs	Oversight and some dispute resolution only.	Organization and piloting of the electoral process, the major functions.	A secretariat within the ministry gives the CEMC administrative support; the minutes of the CEMC meetings are available on the ministry's website.	Implementation of CEMC instructions and decisions and ensuring their implementation by highly decentralized EMBs at regional and local level.
Distinct powers and functions of the Component EMBs	Acceptance of nominations in presidential elections. Watching over the regularity of presidential elections and referendums, and declaration of their results. Ruling on disputes over the results of parliamentary elections.	Organization and administration of all elections.	Exercise of general direction and supervision of the administrative conduct of national elections.	Administrative conduct of all aspects of elections.

N/A = Not applicable

Source: https://aceproject.org/aceen/topics/em/ema/ema05/EMBTable4.png

Advantages and Disadvantages of the three different Election Management Models

Table 5: Advantages and Disadvantages of the Three Different Electoral Management Models

	Advantages	Disadvantages
Independent	• Provides a conducive environment for the development of electoral corporate identity and staff professionalism. • Is less likely to be subject to restrictions on who can be involved in electoral management, as it may be able to draw on outside talent. • Concentration on electoral business may result in better planning and more cohesive institutionalization of election tasks. • Is in control of its own funding and implementation of electoral activities. • Electoral administration tends to be under unified control even if different service providers are used. • Electoral legitimacy is enhanced as the EMB is perceived to be impartial and not subject to political control.	• May be isolated from political and electoral framework decision-makers. • May not have sufficient political influence to acquire sufficient or timely funding. • Member turnover may reduce corporate experience and institutional memory. • May not have the skills or experience to deal with bureaucratic and corporate environments. • May be higher cost, as institutional independence makes it difficult to co-opt low-cost or no-cost governmental structures to assist in electoral implementation.
Governmental	• Has self-renewing corporate memory and sustainability. • Has available a pool of bureaucratically experienced staff. • Is well placed to cooperate with other government departments in providing electoral services. • Has cost advantages through resource synergies within and between government departments. • Has a power base and influence within government.	• Credibility may be compromised by perception of being aligned with the current government or subject to political influence. • Is subject to internal decisions of government departments or local authorities on funding allocations and electoral policies. • May not have staff with the appropriate electoral skills. • Bureaucratic style may not be appropriate to electoral management needs. • Electoral administration may be fragmented among a number of arms of the executive branch of government with differing agendas.
Mixed	• Credibility of prominent members of independent EMB may enhance electoral legitimacy. Implementation EMB has self-renewing corporate memory and sustainability. • Has available a pool of bureaucratically experienced staff augmented by outside independent talent. • Implementation EMB is well placed to cooperate with other government departments in providing electoral services. • Independent EMB is in control of its policies and funding. Implementation EMB has cost advantages through resource synergies within and between government departments. • Dual structure provides checks independent of external observation.	• Credibility may be compromised as electoral activities are implemented by governmental bodies and monitoring powers may not be sufficient to rectify electoral irregularities. • Member turnover in independent EMB may reduce corporate experience and institutional memory. • Independent EMB may not have sufficient political influence to acquire sufficient or timely funding. Implementation EMB is subject to internal departmental or local governments' decisions on funding allocations and electoral policies. • Independent EMB may be lacking in real-world political skills. Implementation EMB bureaucratic style may not be appropriate to electoral management needs. • Electoral administration may be fragmented among a number of arms of the executive branch of government with differing agendas.

Source: https://aceproject.org/aceen/topics/em/ema/ema05/EMBTable3.png

4.4   Summary

This unit has discussed the different models of electoral management, expectations of EMBS under different electoral management model, EMBS attributes under the three broad models of electoral management.

4.5   Self-Assessment Exercise(SAE)

a.   Identify and discuss the different models of electoral management.

4.7   References/Further Readings/Web Resources

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4.6   Possible Answer to SAE

a. There are three broad models of electoral management with each having its distinguishing features. The models are: Independent model; Governmental Model; Mixed model, which is a combination of both the independent and governmental models. Students are expected to understand and be able to explain the respective distinguishing features according to: Institutional arrangement; Implementation; Formal authority; Powers; Composition; Term of office; and, Budget.

**MODULE 2   APPOINTMENTS, POWERS AND
                  FUNCTIONS OF MEMBERS OF
                  ELECTORAL MANAGEMENT BODIES**

Unit 1   Permanent and Temporary and Centralised and
              Decentralised EMBs Unit Structure
Unit 2   Recruitment and Appointment of EMB Members
Unit 3   Condition of Service for EMB Members
Unit 4   EMB Powers and Functions

**Unit 1   Permanent and Temporary and Centralised and
             Decentralised EMBs Unit Structure**

Unit Structure

1.1   Introduction
1.2   Intended Learning Outcomes
1.3   Electoral Cycle
       1.3.1 Permanent and Temporary EMBs
       1.3.2 Centralised and Decentralised EMBs
       1.3.3 EMBs in Federal Countries
1.4   Summary
1.5   References/Further Reading/Web Resources
1.6   Possible Answers to Self-Assessment Exercise(s)

**Unit 1   Permanent and Temporary and Centralised and
              Decentralised EMBs**

1.1   Introduction

Having discussed what Electoral Management Bodies are, it is
important to understand the scope of Electoral Cycle, and how it
determines the nature, as well as the structure of EMBs.

1.2   Learning Outcomes

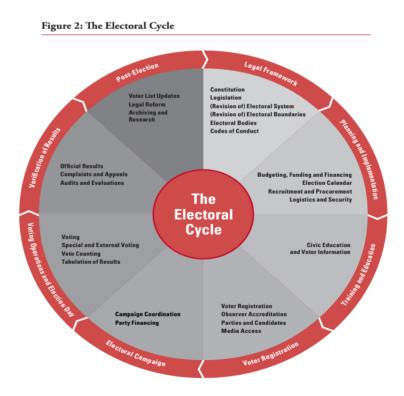It is expected that by the end of this unit, you should be able:
•   to understand what constitutes an electoral cycle
•   to define centralized and decentralized EMBs

- to explain the nature of EMBs in federal countries

1.3   Electoral Cycle

There are many phases to the electoral process: in an election, for example, these include the design and drafting of legislation, the recruitment and training of electoral staff, electoral planning, voter registration, the registration of political parties, the nomination of parties and candidates, the electoral campaign, polling, counting, the tabulation of results, the declaration of results, the resolution of electoral disputes, reporting, auditing and archiving. After the end of one electoral process, it is desirable for work to begin on the next. Note that each of the activity is very important to the success of an EMB and for the success of the conduct of elections. While they tend to be in silos, they are inter-related and mutually reinforcing. Each activity in the electoral cycle must be prioritized and implemented accordingly as the success of one is equally dependent on the success of the other. The entire process is described as the electoral cycle, illustrated in Figure 2.

Figure 2: The Electoral Cycle

1.3.1 Permanent and Temporary EMBs

In determining whether a permanent or temporary EMB is appropriate, workloads throughout the electoral cycle need to be considered, and the cost of maintaining a permanent institution has to be compared with the expense and time required to establish a new body for each election. Where a temporary EMB appears appropriate, it is important to consider how institutional memory relating to elections will be maintained. Where electoral events occur regularly—such as regular partial or by-elections and continuous voter registration—or where continuing electoral development work, such as on-going voter education and information or advocacy of electoral law reform is needed, a permanent electoral institution is justifiable. Countries such as Armenia, Australia, Brazil, Canada, Indonesia, Mexico, the Philippines, South Africa and Thailand maintain permanent EMBs.

Some countries have temporary EMBs that function only during the electoral period. Such countries may follow any of the Independent, Governmental or Mixed Models. In some cases, the governmental EMB has to be temporary because the civil servants who run elections have other full-time duties and are assigned to the EMB only during electoral periods. However, some countries with a Governmental Model of electoral management, such as Sweden, maintain a small skeleton staff to take care of electoral issues between elections, including updating the electoral register. In some countries that use the Mixed Model, the component governmental EMB is permanent in order to preserve institutional memory, while the component independent EMB is temporary and is set up only during electoral periods.

Countries such as Bulgaria, Niger and Romania, whose electoral management follows the Independent Model, have permanent central EMBs that coexist with temporary subordinate EMBs at lower levels. The Russian Federation has permanent EMBs at both the federal and constituent unit levels, and Georgia has permanent EMBs at both the central and district levels. Both have temporary EMBs at the local level during the election period. Depending on the responsibilities of the subordinate EMBs and the logistics required, these structures are

usually appointed from one to six months before polling day. Permanent EMBs were created in much of Central and Eastern Europe following encouragement from the Association of Central and Eastern European Election Officials (ACEEEO) (now the Association of European Election Officials) and the recommendation of Organization for Security and Co-operation in Europe Office for Democratic Institutions and Human Rights (OSCE/ODIHR) election observer missions that such structures would enhance institutional memory and operational continuity.

1.3.2   Centralised and Decentralised EMBs

The level of an EMB's power concentration or devolution depends very much on the system of government in the country. In unitary countries, the responsibility for elections will be determined at the national level. Federal countries may have separate EMBs at the national level and in each state/province, which often operate under different legal frameworks and may implement different electoral systems.

The nature of the EMB will usually be defined in the electoral law, whether this takes the form of a single omnibus law — as in the Philippines — or a separate law specifically relating to electoral administration — as in Indonesia. The legal framework may distinguish between powers and functions that are given to a central or national EMB and those given to regional or lower-level EMBs. In unitary countries, such vertical divisions of power and functions may be between different branch levels of the one national EMB, or between national and local EMBs, as in the UK.

It is common in a unitary system, as in Costa Rica, Ghana and the Philippines, to have one central EMB that is responsible for all elections, which has subordinate offices at both the provincial and local levels. Countries with laws that define separate, hierarchically accountable EMBs at national, regional, administrative district and even village level often assign devolved or different powers and responsibilities to each level. Many countries, such as Indonesia, Lithuania and Slovakia, have a central EMB that devolves responsibilities for implementing some electoral functions.

Countries that use the Governmental or Mixed Model may rely on local authorities to conduct all or part of the electoral activities. For example, Sweden operates a highly decentralized electoral management structure that consists of a national EMB for policy coordination and local authorities that manage elections, and Hungary and Switzerland devolve some powers to local EMBs. Devolving electoral powers and responsibilities to local authorities without appropriate oversight may make it more difficult to maintain electoral consistency, service, quality and—ultimately—the freedom and fairness of elections. The United States is a good example of this difficulty.

1.3.3 EMBs in Federal Countries

In federal countries, the national- and provincial-level EMBs may each have separate, devolved structures. The nature of the relationship between such EMBs, and the powers and responsibilities of each, depend on the provisions of the law. There are a variety of approaches to this relationship.

a.   In Australia and Canada, the national EMB is responsible for national (federal) elections, while provincial EMBs are responsible for provincial and local elections.

b.   In Brazil, the state EMBs are generally responsible for running all elections, and the national EMB is involved in the tabulation and declaration of the results for national offices.

c.   In India, the national EMB exercises overall superintendence, control and direction over state elections. The conduct of these elections is the direct responsibility of the state chief electoral officer, who is a senior civil servant appointed by the national EMB.

d.   In Nigeria, the national EMB assumes responsibility for federal and state elections and referendums, while the provincial EMBs are only responsible for local elections.

e.   In the Russian Federation, a central EMB at the national level is responsible for all federal elections; regional EMBs are responsible for elections in the 89 regions that make up the federation; and lower-level EMBs are responsible to the central EMB for federal elections and to the regional EMB for republic, regional and local elections.

f.   In Switzerland, a national EMB is responsible for policy coordination, while local authorities manage elections.

While there are often rivalries between EMBs at the national and provincial levels in federal systems, there are examples of cooperation. For example, in Australia, state electoral laws specifically provide that the electoral registers for provincial and local elections are to be jointly maintained with the national EMB, rather than the provinces maintaining their own registers. Such coordination in electoral laws has significant cost-saving benefits.

1.4   Summary

This unit has discussed Electoral Cycle and how it determines what category of EMB is appropriate. It examined EMBs in several countries practicing federal and confederal system of government, and explained both centralised and decentralised EMBs.

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Self-Assessment Exercise (SAEs)

a.   Define centralised and decentralized EMBs,

b.   Explain EMBs in federal countries,

1.5   Possible Answers to SAEs

a.   The nature of an EMB is usually defined by the legal framework
      governing the establishment and operations of the EMBS. The
      level of an EMB's power concentration or devolution depends
      very much on the system of government in the country. In
      unitary countries, the responsibility for elections will be
      determined at the national level (i.e. centralized EMB). Federal
      countries may have separate EMBs at the national level and in
      each state/province, which often operate under different legal
      frameworks and may implement different electoral systems (i.e.
      decentralized EMB).

b.   In federal countries, the national- and provincial-level EMBs
      may each have separate, devolved structures. The nature of the
      relationship between such EMBs, and the powers and
      responsibilities of each, depend on the provisions of the law.
      However, there are a variety of approaches to this relationship
      which students should understand and be able to replicate given
      the different context based on country specificity.

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Unit 2   Recruitment and Appointment of EMBs Members

Unit Structure

2.1   Introduction

The overriding consideration when appointing EMB secretariat staff is a fair selection procedure that chooses the most suitable candidates. An EMB may often delegate the power of appointment to the head of the secretariat or one of its members, who may then delegate the appointment of lower- ranking officials to other secretariat staff. The appointment of temporary staff for voter registration and polling station work is often done by election committees or returning officers, or their equivalents, at the electoral district or local level. It is good practice to require EMB staff to sign the EMB's code of conduct as a condition of appointment. It is also good practice to inform the public about senior appointments to the EMB and its secretariat by placing this information on the EMB website, and in newspapers and other media. To speed-up the process of the integration of new staff into the EMB, it is important that the organization develops a comprehensive orientation programme that is compulsory for all new staff within the first weeks of their appointment.

In some countries, such as Mexico, the EMB has full hiring and firing powers over its secretariat staff. The law requires that all management, supervisory and technical officials of the EMB are members of the Professional Electoral Service, which is essentially a specialized civil service devoted entirely to electoral work. Citizens may gain provisional access to the service by taking training courses, winning a

contest for membership or passing an examination. Full membership can only be obtained after passing required annual performance evaluations, undertaking further training and being involved in managing an election. Initial recruits in 1992 were obtained through responses to a national media campaign.

2.2   Intended Learning Outcome

It is expected that by the end of this unit, you should be able:
- to discuss recruitment and appointment of EMB members,
- to highlight the qualifications of EMB member,

2.3   EMBs Membership

EMB members need a very high level of management skills and commitment to maintaining integrity under pressure. Ideally, an EMB should include members with a wide range of the skills needed to ensure that it can function effectively, such as legal, communications, education, logistics, technology and corporate management skills. Public confidence in EMBs is enhanced where the electoral legislation contains (1) qualifications for appointment to EMBs that are clearly defined and appropriate for the complex task of managing electoral processes impartially and (2) selection and appointment mechanisms that are transparent and based on the candidates' merits. The mode of selection and appointment, and the tenure, of EMB members vary by country.

There are various titles for EMB members; each has its own nuances that are related to the basis, role and powers of the policymaking members of the EMB. In Canada, the chief electoral officer is both the chief and sole policymaker and the head of the administration (secretariat), and is the sole EMB member. The frequently used term 'commissioner' is not applied consistently. In many countries that use the Independent or Mixed Model, EMB members are referred to as commissioners. In Australia, the electoral commissioner is both the head of the secretariat and a full voting member of the EMB (although

not the head of the EMB), while the deputy and assistant commissioners are the staff of the secretariat. In India, the EMB has three members, the chief election commissioner and two election commissioners, and the most senior members of the secretariat are known as deputy election commissioners. In Francophone countries and Latin America, an EMB head may be termed 'president', and in Latin America the term 'councillor' is sometimes used to describe EMB members.

The chairs of EMBs in Bangladesh, Nigeria and Pakistan, who by law are known as chief electoral commissioners, serve as the EMBs' chief executive. The role of such a chair is similar to that of an executive chair or executive director in the corporate world. Unlike chairs in some other EMBs, this type of chief electoral commissioner has executive powers and is more 'hands on' in directing the electoral process. Although he or she may be assisted by other commissioners and the secretariat, the chief electoral commissioner in these countries will have the final say in matters of finance and administration, and also on key aspects of the electoral process.

2.4   Status of EMBs Members

For an EMB to operate effectively, its members need to have a status that entitles them to respect from and a relationship of equality with the government, the legislature and society. In India, the three EMB members—the chief election commissioner and the two election commissioners—have the status of judges of the Supreme Court. The head of an EMB especially needs a status that affords her or him access to the highest levels of government and ensures adherence to the EMB's decisions. The chair of the EMB in Pakistan (the chief electoral commissioner) has the same conditions of service as the chief justice, as do his counterparts in numerous other countries.

While it is important that EMB members have a high status, it is also important that members do not behave as though they are bigger than the EMB institution they serve, or come to be regarded by society as 'the EMB'. Personality-based institutions can be highly polarizing. A good-practice model for EMB members to follow is to personalize the institution they serve, rather than institutionalize the person or persons leading the EMB. For example, decisions may be described as the

'*decision of the commission*' rather than '*the decision of the commissioners*'.

2.5   Recruitment and Appointment of EMBs Members

The process of appointing EMB members involves nomination or advertisement, selection and appointment. In some countries the law has specific rules for all three stages in the process, but in others only the body that makes the appointment is specified.

Recruitment through pen advertisement: In Iraq, members of the expert-based EMB are recruited through open advertisement. Interested candidates may apply directly to be considered for appointment or be nominated by members of the public. Applications are received and screened (through public interviews) by an independent body. The names of shortlisted candidates are submitted to the head of state for final appointment.

While open advertising and screening mechanisms can provide a broad range of applicants for EMB member positions and promote competence in the selection of members, they do not necessarily guarantee that the most appropriate candidates are chosen. Where the mechanism for screening and appointing EMB members is dominated by one political grouping, competent candidates who are not in favour with this grouping may have lesser chances of selection.

Table 9: Some Advantages and Disadvantages of Open Advertising for Members of EMBs

Advantages	Disadvantages
• Fosters transparency in appointment. • Provides a wide pool of prospective members. • Allows for open selection on merit. • Promotes inclusiveness by allowing all stakeholders to nominate candidates. • Contains checks and balances in the appointment process as the responsibilities for nomination, screening and appointment can lie with different bodies. • Opens opportunities for candidates outside the favoured elites.	• Eminent professionals may be unwilling to submit themselves to public screening. • People may be discouraged from applying, as failure to be appointed will be publicly known. • Cost of advertising and screening processes. • Time taken to complete appointment process. • Oversight of membership and operations of screening committees may be required. • Open advertising and selection processes may disguise the fact that a dominant political group still determines EMB membership.

2.6   Appointment of EMBs Members

The head of state appoints EMB members in many countries. In Canada, Latvia and Mexico, the legislature is responsible for appointment, while the court is responsible for appointment in Costa Rica. The division of EMB appointment powers between the executive and legislature (and judiciary) provides checks and balances in appointment procedures and enhances the appointment process. If one branch of government (especially the executive) has the sole right to appoint EMB members, there is a danger that such appointees, even if they are men and women of integrity, may be perceived by the public, and especially the opposition parties, as pawns of the appointing authority.

Even if the power to appoint EMB members is divided between the executive and the legislature, this arrangement will be fettered if the same party dominates both branches, or if the executive effectively controls the legislature. In this case, the requirement of a two-thirds majority in the legislature to approve EMB appointments could be a useful remedy, because it may give minority parties a veto power; this voting rule is used in Mexico, Nigeria, Uruguay and Yemen.

The extent to which the head of state makes his or her own choice, chooses after consultation or follows the decision of others varies. In Pakistan, the head of state chooses all members, while in Guyana and Saint Lucia the head of state appoints all members but chooses only some of them. The unilateral appointment of EMB members, especially by the executive branch, has been criticized by many analysts, who argue that it could encourage the appointment of government and ruling party sympathizers rather than impartial arbiters.

Some form of consultation in appointing members of the EMB is more common. Involving the legislature, including opposition parties, in the confirmation process can help provide some degree of multiparty support for the appointments. Parliamentary factions and groups are consulted in Ukraine, and in Trinidad and Tobago appointments are made based on the advice of the prime minister following consultation with the opposition leader.

Whether the final choice is made by the head of state or the legislature, a nominating committee or less formal grouping of individuals is used for part of the process in some cases. In Guatemala, the nominating committee is composed of university rectors and deans of law and a representative of the bar association. In Bhutan, a short list is jointly proposed by the prime minister, the chief justice, the speaker, the chairperson of the National Council and the leader of the opposition party. In Papua New Guinea, the Electoral Commission Appointments Committee is made up of the prime minister, the leader of the opposition, the chair of the Parliamentary Committee on Appointments and the chair of the Public Service Commission. In Vanuatu, the president appoints based on the advice of the Judicial Service Commission. In Malaysia, the president appoints after consulting the conference of rules (comprised of the heads of each Malay state). In the Philippines, the president appoints with the consent of the Commission on Appointments. In Zambia, the president uses a selection committee comprising members of the Supreme and Constitutional Courts, the Civil Service Commission, the Judicial Service Commission, a representative of church bodies and the ombudsman. In South Africa, candidates are nominated by a panel made up of the president of the Constitutional Court, a representative of the Human Rights Commission, a representative of the Commission on Gender Equality and the public prosecutor. In South Sudan, the selection process must include consultation with women and civil society groups. In Zambia, the shortlist is advertised to all for public scrutiny.

In many cases the nominating committee decides who to appoint, but in some cases a committee presents a list of names that includes more names than there are places to be filled, and another body makes the final choice from within that group. In Indonesia and South Africa, the legislature chooses from the names proposed by the panel. In Brazil, the president selects two from a list of six provided by the Supreme Federal Court. In Lithuania, the minister of justice and the bar association each provide a shortlist and the members are selected by drawing lots.

Another way to share the role of appointing EMB members is to let specified bodies select a certain percentage of members instead of appointing all members in the same way. For instance in South Korea, three of nine are appointed by the president, another three are elected by the National Assembly and the final third is nominated by the chief justice of the Supreme Court. In Lithuania, some members are nominated by the minister of justice and the bar association. In Latvia, the Supreme Court elects one member of the EMB and in Botswana the Judicial Service Commission chooses five of the seven members from a list of recommendations from the all-party conference. Key government departments each designate a member of the EMB in Portugal. In some cases, individuals are EMB members because they hold another position, such as auditor general (Tonga), head of the Department of Statistics (Germany) or chief judge of the Maori Land Court (New Zealand prior to 2010).

2.7   Qualification for Appointment

Whether the personal qualifications required for appointment to an EMB are detailed in the electoral law generally depends on whether the EMB is expert based or multiparty based. For multiparty EMBs, political parties usually use their own criteria for appointing their representatives to the EMB, such as seniority in the party hierarchy, party membership or professional qualifications.

There are some multiparty EMBs for which the law defines criteria for members' qualifications, such as not being a party activist or not having recently held political office. In Mozambique for example, members of the multiparty EMB are required by law to be professionally qualified and to carry out their work with integrity, independence and impartiality. This means that political parties are obliged to nominate candidates who meet the qualifications of non-partisanship and independence. Such nominees are in many cases eminent members of the community rather than members of the political parties that nominated them.

In the case of expert-based EMBs, the electoral law may define an extensive set of personal qualifications for EMB members, as it does in Indonesia. Alternatively, the law may rely on its definition of the EMB's expected behaviour and functions to define the qualities of

EMB members to be appointed, such as being known for their moral integrity, intellectual honesty, neutrality and impartiality (Senegal). It is typical to expect EMB members to meet the criteria of professional competence and political neutrality. In Mexico, the Philippines and Vanuatu, previous election candidates are not eligible, and in Bosnia and Herzegovina, Mexico, Moldova, Nepal and South Africa, those with a high political profile are not considered.

In some countries, appointment is open only to those with legal training. All members of the EMB in Pakistan, Poland and Turkey must be a current or former senior judge, and the chair must hold such a position in Australia, Botswana, Portugal and Tanzania. In Lithuania, Mexico, Nepal, the Philippines, Russia and Ukraine, EMB members must have at least a university degree. In Bosnia and Herzegovina, Mauritius and the Philippines, a law degree and time practicing as a lawyer are required.

Other formal requirements for EMB membership generally include citizenship and often age. Requirements for gender and ethnic balance in EMB membership are considered as the case applies based on the specificity of a nation. Citizenship requirements are common (for instance Liberia, Lithuania, the Philippines, Senegal and South Africa). However in Iraq, two of the nine members do not need to be citizens; in Tonga and Fiji, citizenship is not a requirement for the chair; and citizenship is not a requirement in New Zealand. A minimum age is mentioned but varies from 25 in Guinea to 30 in Mexico, 35 in Liberia and the Philippines, 40 in Pakistan and 45 in Nepal.

The manner in which EMB members are nominated for appointment may influence the type of person chosen, which may work in favour of or against certain sectors of society. For example, in Indonesia in 2001, it appears that the initial nominations for potential members of the new EMB were sought solely from distinguished academics; thus most nominees were also academics. Open processes can hide a more controlled environment of appointment to EMBs. For example, the 1999 EMB law in Azerbaijan required that half the EMB members be appointed by the legislature and half by the president. Since the

president's party controlled the legislature, this resulted in a nominally non-partisan but in reality government-influenced EMB.

2.8   Summary

EMB members have their peculiar nuances that are related to the basis, role, status, and power of the policy making members of the EMBS. There are different systems, structures and complexities that revolves around recruitment and appointment of EMB members in different countries. For instance in Iraq members of the expert- based EMBs are recruited through an open advertisement and in South Africa, candidates are nominated by a panel made up of the president of the Constitutional Court, a representative of the Human Rights Commission, a representative of the Commission on Gender Equality and the public prosecutor.

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Self- Assessment Exercises (SAE)

a.   Discuss recruitment and appointment of EMB members

2.10   Possible Answer to SAE

a.   The process of appointing EMB members involves nomination
        or advertisement, selection and appointment. In some countries,
        the law has specific rules for all three stages in the process, but
        in others only the body that makes the appointment is specified.
        It could be through open advertisement, or selective head-
        hunting or nominations. The head of state appoints EMB
        members in many countries. In Canada, Latvia and Mexico, the
        legislature is responsible for appointment, while the court is
        responsible for appointment in Costa Rica. The division of EMB
        appointment powers between the executive and legislature (and
        judiciary) provides checks and balances in appointment
        procedures and enhances the appointment process. If one branch
        of government (especially the executive) has the sole right to
        appoint EMB members, there is a danger that such appointees,
        even if they are men and women of integrity, may be perceived
        by the public, and especially the opposition parties, as pawns of
        the appointing authority.

Unit 3   Condition of Service for EMBs Members

Unit Structure

3.1   Introduction
3.2   Intended Learning Outcomes
3.3   Conditions of Service and Security of Tenure of EMBs Members
3.4   EMB Members Decision Making Process
3.5   Meeting of EMB Members
3.6   Close and Open Meetings of EMB Members
3.7   EMB Member Committee
3.8   EMB Members Relationship with the EMB Secretariat
3.9   Summary
3.10   References/Further Readings/Web Resources
3.11   Possible Answers to Self-Assessment Exercise(s)

3.1   Introduction

Staff of governmental EMBs under the Governmental and Mixed Models, and of independent EMBs that use public servants as staff under the Independent and Mixed Models, are usually employed under conditions broadly equivalent to those of public servants of similar rank and seniority. In Australia, the public service regulations allow the EMB (in common with other public agencies) considerable flexibility in its employment practices. Special allowances for electoral work, particularly to compensate for the long hours involved during electoral periods, may also be available. In independent EMBs that are responsible for their own staffing, the salaries and conditions of senior secretariat staff are often pegged to those of senior public servants. In Romania, EMB staff are employed on contract with conditions equivalent to those of legislature staff. Salaries and conditions that are better than the public service standard may be offered to attract the highest-quality permanent and temporary staff, and as compensation for the long hours of electoral period work. However, the continued payment of higher salaries to officials of independent EMBs between elections has been criticized as inefficient.

3.2   Learning Outcomes

It is expected that by the end of this unit, you should be able:
- to state the conditions of service and security of tenure of EMB members,
- to explain the EMB members decision making process,

3.3   Conditions of Service and Security of Tenure of EMBs Members

In countries with full-time EMB members, their conditions of service, especially salaries and benefits, are generally publically known. As constitutional public bodies, the conditions of service for many EMBs are determined by the independent body that sets terms for parliamentarians, judges and other public bodies—such as the Commission on Remuneration of Representatives (South Africa) or the Law on Remuneration of Public Officials (Latvia). EMB members may be appointed under the same conditions of service, including pay levels, as senior judicial officers or other senior public officials. For instance in Ghana, the chair has the same terms as a justice of the Court of Appeal, and the other commissioners are equivalent to a justice of the High Court. In some places such as Bangladesh and Liberia, EMB members receive police protection in recognition of their senior public position.

Part-time EMB members usually receive a sitting allowance when they attend EMB meetings. Some countries augment this with a monthly retainer allowance. Such allowances are determined by the government in line with its own policies and regulations. EMB members' remuneration is often charged directly to the consolidated fund. This arrangement assures members' benefits and salaries during their term of office, and helps them maintain full independence in their work.

EMB members' security of tenure and immunity from unwarranted harassment such as salary cuts, reductions in conditions of service or malicious prosecution and from the danger of removal from office by

either the executive or any other authority, provides a framework within which members of the EMB can carry out their work impartially, professionally, without fear and favour, and resisting political pressures. EMB members may be less confident about taking decisions that are unpopular with the executive or legislature if they know that they may be removed from office, or their salaries and conditions may be reduced, without due process of law.

In many countries, the tenure protection for EMB members in the electoral law is the same as that for senior judicial officers: they can only be removed from office for a cause, such as misconduct or mental and physical incapacity. This is the case in Malaysia, Pakistan and Zambia. In India, a two-thirds majority of the legislature is required to remove an EMB member, even when misconduct is proven. In other places, EMB members are less secure in their positions and can be recalled by parliament (Latvia) or on proof of misconduct (Liberia). In South Sudan, a commissioner can be removed by the president for repeated absence from EMB work; if convicted of a crime involving fraud, dishonesty or moral turpitude; or if two-thirds of commissioners recommend removal on the grounds of partiality, incapacity or gross misconduct in the work of the EMB. Protection from arbitrary reductions in salary and conditions of service may also be guaranteed by law.

Another safeguard for commissioners who may be taking decisions that are unpopular with some political groups is immunity from prosecution for activities undertaken while serving on the EMB. In Senegal EMB members cannot be investigated, arrested or prosecuted for their work on the EMB, and in Mozambique they have legal immunity except for actions that would have an improper effect on the election result. In Guinea and South Sudan, commissioners can only be prosecuted if they are caught in the process of committing a crime. Protecting the tenure of party representatives on multiparty-based EMBs can be a complex issue. If parties are responsible for appointing and removing their EMB representatives, they may also be free to replace them when they wish, as they are in Mexico.

3.4   EMB Members Decision Making Process

Methods of making EMB decisions vary according to the model of electoral management, a country's decision-making culture and the requirements of the electoral law. Where the Governmental Model is used, EMBs rarely have 'members', and administration may be directed by the executive branch of government; thus the role of a governmental EMB may be as much one of proposing as determining action. Powers to determine policy and administrative issues may be delegated to the chief of the EMB secretariat by the government institution within which it is located.

For EMBs under the Independent Model and component independent EMBs under the Mixed Model, electoral law may specify some decision-making issues, such as the election of the chair, the decision-making powers of the EMB chair and/or members meeting in plenary, the requirements for majority or super- majority votes, the role of the chair in voting and the use of casting votes.

While some key aspects of decision-making may be covered by the electoral law, it is usual for the details of the EMB's decision-making processes to be defined in standing orders or administrative procedures determined by the EMB members. Many use the normal standing orders employed in their country rather than create a unique set. Such documents may define a range of issues, including EMB members' authorities, such as:

i.   The role of the chair;
ii.   Responsibilities for decision-making and the ability to delegate these;
iii.   Methods of calling EMB meetings;
iv.   Frequency of meetings;
v.   Responsibility for meeting agendas;
vi.   The processes of decision-making: proposals, rules of discussion, and types of voting and/or requirements for consensus;
vii.   Attendance at meetings and quorums;
viii.   Rights and roles of secretariat staff at meetings;

ix.   Invitations to outsiders to attend EMB meetings;
x.   Taking, authenticating and issuing meeting minutes;
xi.   Method of issuing EMB policies and directions;
xii.   Methods of suspending or altering standing orders; and
xiii.   Responsibilities for media conferences.

3.5   Meeting of EMB Members

Regular EMB member meetings help develop agreed policy directions, review EMB performance and provide guidance on policies to EMB secretariat staff. The level of detail considered will depend on the extent to which the role of implementing policy is delegated to the secretariat or chief election officer. In many instances, a quorum consists of 50 per cent of the members; sometimes, as in Botswana, one of those must be the chair or their designated deputy. A number of decision rules apply. In many places, including Bhutan, Botswana and Latvia, a majority of those present can take a decision, which given a quota of half of the members means a decision can be made by a quarter of members. In Georgia, a decision is made by a majority vote of those at the meeting, as long as that also comprises a third of the total membership. In Guam and Saint Lucia, decisions need the agreement of half of all members, while in Bosnia and Herzegovina two-thirds of members need to agree, although if that does not occur on an issue at two successive meetings, then a majority of all members must approve the decision. In Georgia and Latvia, a member with a dissenting opinion on a matter has the right to put his or her views in writing and to attach them to the minutes; however, he or she cannot prevent the majority decision being executed. It is common for the minutes of EMB member meetings to be signed by both the chair and the secretary, and in some cases (especially in multiparty EMBs) by all members of the EMB, in order to authenticate them.

While full-time EMB members may be available daily to provide direction to EMB secretariat staff, part-time members are more likely to meet only occasionally to deliberate policies and activities that shape the EMB's operations. Outside electoral periods, full-time EMBs may meet every week, while part-time EMBs usually meet less frequently, often monthly. During peak electoral event periods, more frequent meetings are usual; full-time EMBs may meet as often as daily.

3.6   Close and Open Meetings of EMB Members

EMB meetings that are open to the public may promote greater trust in the EMB. Where meetings are open to the public by law, it is important that the EMB publicizes the dates of its meetings. It is also important that it cooperates with the police to ensure the maintenance of security and protocol during EMB sessions. In Bosnia and Herzegovina, Lithuania and Moldova, the law provides for EMB meetings to be open to members of the public, and members of the public may record or film EMB sessions provided that such activities do not disrupt the proceedings. In Lithuania, EMB meetings are broadcast live on their website. In Guam, the EMB holds a public meeting at 4 p.m. on the third Thursday of every month.

In South Africa, EMB meetings are closed to any person who is not a member, unless he or she attends by special invitation, and often only for a specific item. Closed EMB meetings may allow more open discussion, especially on sensitive matters, and members do not have to fear public reprisals for personal views on any matter brought before the EMB. Decisions can be presented as agreed upon by the entire EMB, with no report on how close the vote was, and so give a unified voice to the EMB, similar to the idea of cabinet decisions in the Westminster model. However, closed meetings reduce the transparency of EMB decision-making and can lead to public suspicions about the influences on the EMB. Any closed EMB meetings need to be followed quickly by a public announcement or media conference on their deliberations and results. Decisions taken during each meeting still need to be publicized, and the law often specifies that certain decisions must be included in the formal gazette or government newsletter. Many EMBs list all decisions on their website.

3.7   EMB Member Committee

For EMBs with a relatively large number of members it can be advantageous for the EMB to form committees to oversee or manage some of its activities. In Indonesia, the formation of such committees, which are responsible to the full membership of the EMB, has allowed greater specialization and concentration by EMB members on key

policy tasks. They may be an advantageous means of rationalizing oversight workloads during periods of peak electoral activity. In some cases, such committees have the power to co-opt non-EMB members, such as professionals from outside the EMB, or EMB secretariat staff. Some EMBs establish a smaller group that is entirely or mainly made up of their members, which interacts with the EMB secretariat on behalf of the members as a whole. In Mexico, the law provides for the permanent use of six committees: electoral training and civic education; electoral organization; political parties; professional electoral service; voter register and reports and complaints. The Nigerian EMB has 15 committees covering core election roles such as logistics as well as organizational matters such as tendering and staff welfare.

3.8 EMB Members Relationship with the EMB Secretariat

Where Independent or Mixed Models of electoral management are used, the relationship between EMB members and EMB secretariats is critical. Appropriate roles for EMB members can vary widely. EMBs made up of part-time members are more likely to adopt a more hands-off approach of providing broad policy review and oversight, while full-time members may be more directly involved. Members of component independent EMBs under the Mixed Model may be less likely to be involved in detailed administration issues, and more involved in overall integrity and quality control. In elections marking a transition to multiparty democracy, members of EMBs under the Independent Model that use a public service secretariat, and members of component independent EMBs under the Mixed Model, may find it particularly prudent to assume a publicly visible operational management role in order to enhance the public credibility of the electoral process. In some countries, EMB members may assume the responsibility of head of a department of the secretariat. Where EMB members are involved in the day-to-day leadership and management of the EMB's activities, as was the case in Indonesia in 2004, allocating specific direction and oversight tasks in these manner clarifies responsibilities and provide greater clarity to the secretariat staff. Individual members of the EMB in Thailand take on a similar management-oriented role.

Elements that can promote an effective working relationship between EMB members and the secretariat include a clear delineation of powers and tasks between the members and the secretariat, clear hierarchical authority between the two, and competent appointments that generate mutual respect. Where public servants make up the secretariat of an EMB under the Independent Model, it is important that they report directly and only to the EMB—not also to an outside government department. Where the Mixed or Governmental Model is used, a single departmental reporting responsibility for electoral issues handled by the secretariat staff of a governmental EMB is highly preferable for the same reasons.

3.9   Summary

This unit has discussed conditions of service of EMB members. It emphasized the complexity and specialist skills necessary for electoral management require that an institution or institutions be responsible for electoral activities. Such bodies have a variety of shapes and sizes, with a wide range of titles to match, such as Election Commission, Department of Elections, Electoral Council, Election Unit or Electoral Board. The term electoral management body (EMB) has been coined to refer to the body or bodies responsible for electoral management, regardless of the wider institutional framework in place. An EMB is an organization or body that has the sole purpose of, and is legally responsible for, managing some or all of the elements that are essential for the conduct of elections and direct democracy instruments—such as referendums, citizens' initiatives and recall votes—if those are part of the legal framework

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Self-Assessment Exercise (SAE)

i.	Explain the EMB members decision making process

3.11   Possible Answers to SAE

i.   EMB members' decisions making process vary and it is based on the model of electoral management, a country's decision-making culture and the requirements of the electoral law. Where the Governmental Model is used, EMBs rarely have 'members', and administration may be directed by the executive branch of government; thus the role of a governmental EMB may be as much one of proposing as determining action. Powers to determine policy and administrative issues may be delegated to the chief of the EMB secretariat by the government institution within which it is located. However, for EMBs under the Independent Model and component independent EMBs under the Mixed Model, electoral law may specify some decision-making issues, such as the election of the chair, the decision-making powers of the EMB chair and/or members meeting in plenary, the requirements for majority or super- majority votes, the role of the chair in voting and the use of casting votes.

Unit 4   EMBs Powers and Functions

Unit Structure

4.1   Introduction
4.2   Intended Learning Outcomes
4.3   Mandates of EMBs
4.4   Extent of Powers, Functions and Responsibilities
4.5   Summary
4.6   References/Further Readings/Web Resources
4.7   Possible Answers to Self-Assessment Exercise(s)

4.1   Introduction

The majority of EMBs have the powers to make rules, regulations and determinations that are binding on all players in the electoral process—voters, political parties and candidates, the media and observers—provided they are consistent with both the constitution and the electoral laws. These powers may be limited by law to specific aspects of the electoral process, or the law may give the EMB a general regulation-making power.

4.2   Learning Outcomes

By the end of this unit, you will be able to:

- discuss the extent of powers, functions and responsibilities   of Electoral Management Bodies (EMBS).

4.3   Mandates of EMBs

Some EMBs have executive, legislative and judicial powers. For example, the establishment of powerful EMBs was necessary to curtail the dominance of the executive over the other branches of government under the oligarchic governments of Latin America. In countries such as Costa Rica and Uruguay, EMBs became known as the fourth branch

of government. These EMBs can make regulations, directions and reviews of regulations that are binding on the electoral processes, and their decisions cannot be reviewed by any other branch of government. They also have executive powers to call and conduct elections, to certify or nullify election results, and to resolve electoral disputes.

In other parts of the world, EMBs have some power to investigate and enforce laws related to the conduct of elections. The Bhutan EMB has the powers of a court, and the Thai EMB has the legal powers of a law enforcement agency. In Bosnia and Herzegovina and Liberia, the EMBs can compel anyone to appear before it during an investigation. In the Philippines and Russia, the EMB is obliged to carry out inquires in connection with complaints that the law has been breached. In Canada the EMB has the power to investigate possible breaches, but it usually delegates these to the police.

The Liberian, Mexican and Portuguese EMBs can impose fines. In Thailand, the EMB can indict those who break election laws. In Bosnia and Herzegovina the EMB can impose civil penalties for non-compliance, but must first seek to achieve compliance. The Canadian EMB can enter into a compliance agreement with any person who has committed or is about to commit an offence against the Elections Act. In Cambodia and South Africa, the EMBs have the power to investigate and resolve disputes of an administrative nature or disputes that do not necessarily fall within the courts' jurisdiction. In many other countries (such as Australia, Bhutan, Tonga and Ukraine), the EMB refers any suspicions of a breach of electoral law to the police.

The majority of EMBs have powers that are primarily of an executive nature, related to implementing electoral activities. Many EMBs, such as Bhutan, Cambodia, Ghana, Liberia, Russia, South Africa, Thailand, Tonga and Zambia, can make binding regulations and prescribe penalties for their breach. Regulations issued by EMBs are subject to review by the courts, and they must be consistent with the electoral laws. In South Africa, such reviews are conducted by an electoral court.

In some countries the EMB's powers extend to determining election dates, within parameters set by law that are often fixed to a time period defined by the end of an elected body's term of office. In some

countries with fixed terms of office for the legislature and executive, the EMB is responsible for formally determining the election date. In India, the EMB has the power to draw up an election schedule and issue the election writ. The Russian EMB can call an election if the legislature has failed to do so. Many EMBs have the power to order re-polling or re-counting if an election at a particular location has violated the law. For example, local government election commissions in Indonesia can order re-polling or re-counting in individual polling stations if processes have not been correctly followed, and the Namibian EMB can order a re-poll in the event of violence or an emergency. In some cases, such as in Bhutan, Thailand, Uruguay and Zambia, the EMBs have a broader power to order re-polling if an election did not proceed in a fair and honest manner as defined by law.

However, many EMBs have no influence over when an election is called. For example, in countries such as Mexico and the United States, which have presidential constitutions that stipulate the separation of legislative and executive powers, elections are held on a fixed date. However, in countries with parliamentary systems that follow the Westminster model, the government's tenure depends on its ability to retain the support of a majority of members of the legislature. The power to call elections may belong either formally or in practice to the leader of the government, who can use it for political advantage. Even where the government has the power to nominate the election date, there have been cases, such as Nepal in 2007 and 2012, where the EMB has successfully postponed the election date that was initially announced by the government.

4.4   Extent of Powers, Functions and Responsibilities

Particularly in emerging democracies, electoral legal frameworks are being designed to cover all electoral process matters that are relevant to the delivery of free, fair and credible elections. This can have the advantage of promoting electoral integrity by ensuring that EMBs exercise control over the entire process. In many countries, EMBs have powers and functions across a wide range of activities throughout the electoral cycle. The core functions in the conduct of an election are:

a.   Determining who is eligible to vote: the right of adult citizens to participate in elections is one of the cornerstones of democracy, and ensuring that only eligible people vote helps confer legitimacy on the election process.

b.   Receiving and validating the nominations of electoral participants (for elections, political parties and/or candidates): the right to stand for election is a fundamental political right, and ensuring that all contestants have followed the law helps confer legitimacy on the election.

c.   Conducting polling: the ability to safely cast a vote is at the core of an election.

d.   Counting the votes cast so that the election result reflects the will of the voters.

e.   Tabulating the votes in accordance with the electoral system/laws so that the winners can be identified.

f.   Running a credible organization so that the legitimacy of the election is not compromised by the actions of those conducting the election.

Most of these functions may be expanded in some situations, giving EMBs a range of other functions:

1.   Determining who is eligible to vote

    a.   identifying and registering voters
    b.   identifying and registering voters living in another country who are still eligible to vote
    c.   developing and maintaining a national electoral register

2.   Receiving and validating the nominations of electoral participants (for elections, political parties and/or candidates)

    a.   registering political parties
    b.   regulating political party financing
    c.   overseeing political party pre-selections or primaries

3.   Conducting polling

    a.   planning and implementing electoral logistics

b.   hiring and training temporary electoral staff

c.   training political parties' and candidates' poll watchers

d.   directing the police or other security services to ensure a peaceful election

e.   accrediting and regulating the conduct of election observers

f.   adjudicating electoral disputes

g.   organizing external voting for those not in the country

h.   Counting the votes

i.   Tabulating the votes

j.   announcing and certifying election results

k.   Running a credible organization

l.   making national or regional electoral policies

m.   planning electoral services

n.   training electoral staff

o.   reviewing and evaluating the adequacy of the electoral framework and the EMB's own performance after elections.

Other common functional areas of work are:

a.   Delimiting electoral district boundaries

b.   Regulating the election campaign period

c.   Regulating the conduct of political parties and candidates, in particular during the election campaign

d.   Registering third parties and regulating their behavior

e.   Regulating the conduct of the media during elections

f.   Regulating opinion polls

g.   Controlling and where possible preventing electoral   fraud

h.   Instilling community responsibility to encourage democracy at home and elsewhere:

    i.   conducting voter information/education and civic education

    ii.   supporting access for all

    iii.   promoting equality and equity policies and practices

    iv.   providing electoral research facilities

v.   advising the government and legislature on electoral reform issues

vi.   participating in international electoral assistance services

i.   Providing services for conducting private organizations' (such as trade unions, civil society organizations) elections.

4.5   Summary

This unit has discussed EMB powers and functions. It emphasized that majority of EMBs have the powers to make rules, regulations and determinations that are binding on all players in the electoral process—voters, political parties and candidates, the media and observers—provided they are consistent with both the constitution and the electoral laws. These powers may be limited by law to specific aspects of the electoral process, or the law may give the EMB a general regulation-making power.

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Self- Assessment Exercise (SAE)

1.   Discuss EMB members powers and functions

4.7   Possible Answer to SAE

1.   Though not exhaustive, the core functions in the conduct of an election amongst others includes:

    i.   Determining who is eligible to vote

    ii.   Receiving and validating the nominations of electoral participants (for elections, political parties and/or candidates)

    iii.   Conducting polling;

    iv.   Counting the votes cast so that the election result reflects the will of the voters

    v.   Tabulating the votes in accordance with the electoral system so that the winners can be identified

    vi.   Running a credible organization so that the legitimacy of the election is not compromised by the actions of those conducting the election.

MODULE 3   ELECTION MONITORING, OBSERVATION AND INTEGRITY

Unit 1   Monitoring and Observation of Election
Unit 2   Electoral Integrity
Unit 3   The Media and Elections
Unit 4   Enforcement Agencies

Unit 1   Monitoring and Observation of Election

Unit Structure

1.1   Introduction

Election observation is a valuable tool for improving the quality of elections. Observers help build public confidence in the honesty of electoral processes. Observation can help promote and protect the civil and political rights of participants in elections. It can lead to the correction of errors or weak practices, even while an election process is still under way. It can deter manipulation and fraud, or expose such problems if they do occur. When observers issue positive reports, it helps build trust in the democratic process and enhances the legitimacy of the governments that emerge from the elections. Election observation by domestic groups encourages civic involvement in the political process. Following elections, reports and recommendations by observer groups can lead to changes and improvements in national law and practice.

1.2   Learning Outcomes

It is expected that by the end of this unit, you should be able:
- to define the concept of integrity in election   monitoring,
- to explain the forms of election monitoring,
- to discuss the benefits of election observation,
- to evaluate the electoral process,

1.3   Integrity in Election Monitoring

1.3.1 Independence

Oversight agencies and inspectors generally have a sufficient degree of independence to ensure their impartiality. This means they need sufficient human and financial resources to do their job without having to rely unduly on other institutions. Their staff members are non-partisan in their approach and have no personal stake in the outcome of their work. As organizations, oversight bodies should have the independence to perform their duties without interference. Auditors should be shielded from any political pressure, in order to ensure their objectivity and enable them to report their findings and present their

opinions conclusions without fear of repercussions. As far as possible, the merit principle should apply in determining their salaries, training, job tenure and promotion.

Lack of independence can give rise to various problems:

a.   Interference or undue influence that limits or alters the scope of oversight, audit or investigative work;
b.   Restrictions on the oversight procedures and mechanisms that can be selected for use;
c.   Unreasonable restrictions on the amount of time allowed for completing an investigation or audit;
d.   Interference in the selection of personnel for oversight, audit or investigation;
e.   Restrictions on funds or other resources required for oversight, preventing the organization from carrying out its responsibilities;
f.   Influence exerted to alter the content of audit or investigative reports; and
g.   Threats to terminate the employment of oversight staff, auditors or investigators due to the content of their reports.

Access: For effective oversight, the agency responsible needs access, when requested, to electoral offices, personnel and information. The oversight agency must be able to examine documents and computer files or databases. It needs physical access to verify the existence and condition of goods and services purchased with public funds. Access is usually guaranteed by law and regulation. In addition, in many systems, official oversight agencies have the authority to compel election or other authorities, or third parties, to provide information or furnish documentation.

1.3.2 Quality and Accuracy

Good oversight should be professional, impartial, accurate and timely. It is more easily achieved if the agencies responsible have properly trained staffs who applies good practices, sound judgment, and understanding the electoral system and its legal context. The findings of oversight agencies should be accurate and reflect the actual situation in its entirety. Problems and instances of non-compliance should be documented and reported in context. Oversight reports should not be

subjective in approach, or contain unsubstantiated or biased opinions. Accurate, unbiased and factual reports containing all relevant information can help electoral administrators correct integrity problems.

Oversight agencies would benefit from an internal quality control system that vets investigative reports prior to their being disseminated. Internal review can help ensure compliance with applicable standards, policies and procedures. Effective quality control depends on a number of factors, including the extent of the agency's resources, the degree of autonomy allowed to it, and its organizational structure.

1.3.3 Authority

Integrity is enhanced if the oversight body can publish its findings and recommendations without unnecessary reviews or potential interference. A report or its findings should not be suppressed, censored or altered because it criticizes or might embarrass electoral administration, the Government or ruling party, or certain election participants and/or their supporters. The ability to publish findings and recommendations is crucial to the independence of the oversight body. It is vital for the transparency of the process, and to ensure the accountability of electoral administrators and election participants.

1.3.4 Political Use of Oversight

However, official oversight should not become a political tool. Instead, it should seek to provide regular, impartial audits of the electoral administration and the actions of election participants. However, elected politicians also have a legitimate oversight function for instance, as members of legislative committees with jurisdiction over electoral law or the electoral system. It should be taken into account, however, that sometimes parliamentarians may use their legislative role and powers for political ends. For example, political considerations may affect the timing of an investigation (e.g., initiated at a politically sensitive moment), its scope, or the timing of the release of a report (e.g., just before an election). All this can hamper the administration of elections—for example, by giving rise to funding freezes or calls for the resignation of senior executives of the EMB or other agencies or entities. Legislative oversight serves a core checks-and-balances function, but it can be difficult to separate politics from

this type of oversight. One of the balances on legislative oversight is independent monitoring, including by the media and NGOs.

1.3.5 Enforcement of Findings

Integrity problems identified by oversight bodies require serious attention. Most systems have mechanisms to ensure that oversight findings and recommendations are acted on by the EMB or other affected organizations. Special investigators are mandated to determine the facts, gather evidence and, depending on the case, consult with prosecutors concerning potential formal proceedings. These mechanisms are usually contained in the legal framework, which may also ensure compliance by authorizing sanctions, such as a freeze on public funds or the levying of fines on violators. Criminal infractions revealed through oversight are usually referred to the justice system.

In most electoral systems, one or more bodies are responsible for official oversight and supervision of election administration. This may be a separate office within the main EMB (such as an auditor or inspector general) or a separate institution, including a legislative committee, court or special statutory body. Inspector-general or auditor-general offices can provide oversight of the electoral process on a regular basis. In some systems, they work together with electoral administrators to improve management and the electoral process; this is part of their mandate to ensure efficiency and accountability, promote savings and curb waste, fraud and abuse. This type of oversight can help managers identify systemic deficiencies and make corrections to ensure compliance with all regulations and achievement of intended results. An inspector-general or an independent oversight commission may also investigate complaints made by employees or other participants in the electoral process. The complaints may be allegations of misconduct or mismanagement, illegal activities, waste, abuse of authority, or public safety or security threats.

1.4   Monitoring Individuals

Individual citizens are the first line of defence for free and fair elections. A well-informed voter who makes acute observations and raises the right questions can expose, stop or deter an integrity problem. Even a voter who is not well-informed, but who questions something that does not seem right or correct, can be an effective

integrity mechanism. A voter can challenge unfair or arbitrary actions by sending letters to the press or by filing a citizen complaint (where permitted, sometimes requiring a certain number of submitters) with election management or an enforcement body.

On election day, voters typically spend anywhere from 20 to 45 minutes at the polling station, looking for their names on the voter list, queuing, and marking and casting a ballot. In some cases voters may spend more time, depending on how large the crowds are at the polling place, and the complexity of the voting process (e.g., number of candidates, complexity and number of ballot-papers). During their time at the polling station, voters can protect their own interests and those of their fellow citizens by keeping a protective eye on the electoral process and reporting irregularities. They may also gain a valuable impression of the atmosphere at the station and the immediately surrounding area. A number of civil society groups and non-governmental organizations encourage voters to protect the integrity of the electoral process through recording their observations and reporting them to electoral authorities and regular observers.

1.4.1 Organized National Election Observation

Monitoring of the process by organized national NGOs acting as independent observers is an essential tool for promoting election integrity. These groups span a wide spectrum of organizations and other civil society groups, including national and local citizen groups, citizen networks, human rights groups, student associations, professional bodies and religious groups. The sponsoring organizations typically collect information in a systematic way from their observer teams, analyse the significance of their findings, and assess the overall quality of electoral procedures and the electoral process more generally, and publish their findings. Well-organized national observers can be very effective guardians of election integrity, especially in countries in transition. The activities of national observers foster transparency and accountability on the part of the electoral administration, and can help to instil public confidence in the integrity of the electoral process. Codes of conduct for observers set ethical and professional standards for observing elections.

1.4.2 Benefits of National Observation

In a few cases the presence of international observers is indispensable for instance, elections in countries requiring a   peacekeeping force or undergoing a difficult transition, or where non-partisan civil society groups are virtually non-existent or non-functional. In the long term, the forming of domestic groups that are able to monitor elections without external assistance is an essential part of democratic development. National election observers have important advantages over international observers. They can more easily turn out in large numbers, even in the thousands. They know the political culture, language and territory. Consequently, they are able to notice many things that may pass unremarked by foreign observers. National monitoring groups are often better equipped than international observers to carry out particular types of specialized monitoring efficiently. Examples include verifying the voter registry, monitoring the complaints process, documenting instances of intimidation and human rights violations, and media monitoring. Unlike international observers, national civic organizations have an important role to play in implementing civic education programs and actively promoting (not simply recommending) electoral reform.

1.4.3 Accrediting Observers

Observers and monitors can function more effectively if they are officially accredited by the electoral management or policy-making body. Accreditation gives them access to election sites. Integrity problems may arise if accreditation procedures or requirements are used to limit the number of observers, or to deny access to certain groups of observers or monitors. If the procedure is too time-consuming and cannot be completed before Election Day, or if accreditation is selective, the electoral process may lose credibility and the election management body will be viewed as having something to hide.

Most electoral systems establish eligibility requirements for observers and monitors in the election laws or procedures. For example, the law often requires that NGOs proposing accreditation of observers should have democracy, human rights and/or elections included in their purposes as registered in their organizational charters. In addition, the EMB may be given authority to assess applicant organizations in terms

of their past performance, not solely legal registration. Straightforward and objective requirements for NGOs to seek observer status can help minimize problems such as discrimination or favouritism.

Sometimes additional behavioural conditions are added to eligibility requirements. These are generally used to exclude persons considered to be anti-democratic or whose activities might threaten the peace. In South Africa, for example, accreditation is provided only to observers who will pledge to uphold conditions conducive to a free and fair election, including impartiality and independence from any political party or candidate contesting the election, competent and professional observation, and adherence to the code of conduct for observers.

1.4.4 Security Problems and National Observation

In countries undergoing transition or in a post-conflict situation, national observers may be subject to intimidation and/or threats. This situation may affect the observers' ability to travel, observe freely and report on the information collected without self-censorship or fear of retribution. For example, a report on the 1998 national elections in Cambodia indicates, "Threats, intimidation and violence were daunting challenges to the Cambodian observers during this year's election process. None of the groups suggested that their ability to release public statements was compromised by the political environment. They noted, though, that intimidation affected their ability to gather information on the process and those threats coloured the reports received from observers."

1.4.5 International Election Observation

International election observation has become an important mechanism for ensuring election integrity in countries undergoing a transition to democracy or in post-conflict societies. International observation today enjoys near-universal acceptance, and can help raise voter confidence and evaluate the legitimacy of an electoral process. International observation has also become a learning opportunity for national electoral administrators and election participants. It promotes bilateral exchanges of knowledge and information on electoral practices, sometimes leading to lasting cooperative relations.

Usually international observation occurs when there are concerns about the freeness or fairness of an election. For international observation to be an effective detector and deterrent of integrity problems, it needs to be adapted to the type of electoral system and election it is covering. An election in a post-conflict society requires a different kind of observation from an election in a country adopting electoral reforms.

1.4.6 Decision to Organize an International Observer Mission

Most international observers need an invitation to take on a mission. The first question that arises is whether an electoral process must meet certain quality standards to be observed. Some organizations feel that an electoral process and the broader situation in-country must meet a minimum threshold before they will send an international observer mission. They are concerned that international observation might be perceived as conferring legitimacy on an illegitimate election. However, a country with an electoral process falling short of basic requirements may actually need international observers to help identify and deal with illegal and fraudulent practices.

1.4.7 Effectiveness of International Observation

International observation should cover the entire electoral process rather than a specific aspect, such as voting and/or counting of the ballots to be effective in ensuring election integrity. Observers should have proper qualifications and training. One of the most common criticisms levelled at international observation is that it has become a form of "electoral tourism", with observers sometimes lacking professional experience, and arriving just a few days before the election. To ensure that observer missions are effective and reliable, several conditions must be met:

a.   Adequate time period. Observer missions should have enough time to get organized and observe the pre-election (such as candidate and if possible voter registration), and the post-election phases (counting of the votes, consolidation of the results and resolution of major disputes, if applicable).

b.   Adequate resources. Effective missions require enough qualified observers and the means (communications, transportation, interpreters) to help them perform their work

properly.

c.   Qualified observers. To ensure that their work has credibility, observers should be qualified and trained.

d.   Comprehensive coverage. Observers should observe the electoral process as thoroughly as necessary to be able to make a credible judgment. Most effective are large-scale checks covering the entire electoral process,   performed   nationally rather than regionally, and including all regions rather than only problem areas.

1.4.9 Accreditation

To be able to enter electoral sites and undertake credible observation, international observers must be accredited by the electoral management or policy-making body. Accreditation should permit observers to operate in accordance with international standards for electoral observation, including assigning monitors to engage in both stationary and mobile types of observation.

1.5   National Election Observation: Efficacy

Experience suggests that there are several prerequisites for national observation to be effective:

a.   Proper organization. National groups need to be able to recruit and train observers and field them according to a detailed observation plan. The groups need to know where registration sites and polling stations will be, where to send observers, what reports should contain, and how and when they should report their findings. They have to be able to consolidate the information systematically, evaluate it, write it up accurately and disseminate it in timely fashion.

b.   Credibility. National observers and their efforts should be professional—in other words, well informed, well organized, accountable and transparent. Observation should be systematic and should cover enough of the electoral process to allow an informed assessment to be made. Analysis must above all be impartial, and reports should be accurate and balanced.

c.   Accuracy. Groups may have varying ability to accurately observe and objectively report on observations. Some groups may not have the capacity to cover the entire process, and may extrapolate from limited observations. They may also report rumour or opinion as fact. The reports should clearly state the number of observers, the steps of the process and the sites observed for readers of observation reports to be able to judge the reliability of the findings. National observers should substantiate the information they report and provide support for their findings. Inaccurate or unreliable information can undermine trust in the electoral process and the conclusions of observers.

d.   Objectivity. Coverage and reports should be non-partisan, objective and balanced. In some societies it is very difficult to find independent observers. That is why national observation groups must be able to convince all participants in the electoral process that they are neutral. They must not only be entirely fair, but also be seen to be fair.

e.   Adequate equipment and staff. National observation groups need adequate financial and human resources to undertake comprehensive observation, retain qualified staff, and train and equip them. Some groups rely on volunteers, but they still incur certain expenses, provide training and purchase equipment. A good communications network is essential to retrieve information from observers scattered across the country, and to convey the information to the public in an appropriate and timely manner.

1.5.1 International Observers: Roles and Rules

International observation plays an important role in safeguarding election integrity. This role may be compromised if election observers do not follow certain rules that should guide their conduct during their mission.

International Observers' Role in Maintaining Election Integrity:
Serious and professional international observation can help maintain election integrity in many ways:

a.   Disseminating international standards and good practices: Electoral administrators, politicians and national observers can learn to better understand international standards for free and fair elections by engaging in liaison with international observers and studying their reports. International observer missions also provide electoral administrators the opportunity for comparative exchange of professional knowledge with other experts, particularly on integrity mechanisms.

b.   Deterring integrity problems. The presence of international observers monitoring the election process may help deter attempts to disrupt or tamper with the process. There is a public perception in most countries that international observers will be able to uncover fraud on election day. But, in fact, this perception may be misplaced since international observers have only limited data and may not understand the "local" way of doing things.

c.   Detecting integrity problems. Experienced observers can detect problems or questionable activities, and bring them to the attention of the election management body and the public. International observers, like national ones, cannot actually intervene in an electoral procedure, but may ask questions about its conduct in an informational way. Early identification of issues in this manner can allow a problem to be solved before it is too late.

d.   Holding a fragile process together. In situations of conflict or in countries in transition, the presence of international observers can to some extent deter violence and intimidation. Their ongoing presence may help reassure candidates, monitors and voters that it is safe to participate. The presence of international observers may also convince opposition politicians that competing in the election is preferable to boycotting, or engaging in civil disobedience or disturbance.

e.   Increasing the credibility and legitimacy of the process. Through their reporting and analysis, observers can uphold or denigrate the legitimacy of the electoral process and its outcome. If their reports show that the election is
proceeding within acceptable parameters, this finding reinforces

the acceptability of the process and the legitimacy of the results.

f.   Developing the capacity of national observers. If international observation is occurring simultaneously with national observation, the example set by international observers can help develop and improve the capacity of national observation efforts. For example, international observers can provide a model to emulate concerning how to set up a nationwide election observation effort, conduct a parallel vote tabulation and assimilating field observation reports. They can also encourage national observers, and perhaps inform them of standards and best practices relevant to their activities.

g.   Relationship with national observers. But it must be cautioned that international observers should not actually coordinate with national observers in terms of deployments or other aspects of their mission, since that would potentially detract from the perceived independence of the international observers and their accountability to the organization which has authorized and supported their mission. Similarly, international observers should not share non-public information concerning their activities or impressions since that might compromise mission security and lead to unauthorized disclosures of information.

1.5.2 Rules of Conduct for International Observers

To ensure the legitimacy of their work, international observers have to follow internationally recognized standards of conduct. Several organizations that specialize in international observation have developed codes of conduct to guide such observers' behaviour. The main requirements for ethical and professional observation are as follows:

a.   Respect the sovereignty of the host country. To maintain the credibility and effectiveness of their election observation mission, international observers must respect the laws of the host country and the rules of its election management body. They must not attempt to give instructions to electoral administrators or interfere with governance of the country being observed. They must also respect accreditation rules during their mission.

b.   Objectivity. To be effective, international observation must be objective and non-partisan, and must provide balanced reports. Objectivity protects the credibility of the mission and helps maintain the integrity of the electoral process. When observers do their work, they must be very careful not to show a preference for any particular party or candidate lest they compromise the objectivity required for preparing impartial reports.

c.   Non-interference in the election process. International observers must not interfere with the work of electoral administrators. Their mandate is not to supervise, correct mistakes or resolve local conflicts, but only to observe, report and assess.

d.   Accuracy. The reliability of the observation and assessment depends on the accuracy with which international observers report the facts. Many of the observers do not have an opportunity to observe the entire electoral process; accordingly, they must avoid generalizing on the basis of limited observations. Observation reports should clearly indicate the basis for the information presented, and not extrapolate beyond it.

e.   Avoid conflicts of interest. Election observation should be kept strictly separate from technical assistance for elections. International observers should not be engaged in electoral assistance activities in the country where they are observing (for example, assisting electoral administrators, developing electoral legislation or training election staff). Professional and credible assessment of an electoral process requires reasonable separation from the administration being observed.

1.6   Evaluate Elections: Standards

Common standards for evaluating elections pose many difficulties. For one, international standards, while clearly articulated and binding through international legal instruments, are abstract and require interpretation and judgment before they can be applied to specific instances. Furthermore, it can be difficult to reach a general conclusion about an election on the basis of existing standards alone: there is no established formula on how instances of violations or irregularities relate to a broader quality assessment of an election or its outcomes.

Experience shows that it is not always easy to reach an overall conclusion. International observer reports may disagree because different observer groups use different criteria or are influenced by disparate interests or perspectives. The result is that such inconsistencies may engender confusion in the country in which elections are observed.

The adoption of common observation standards is increasingly viewed as essential to ensure the credibility and legitimacy of election observation missions. One set of proposed criteria is as follows:
Observation should cover a broad range of issues:

a.   Administration and functioning of the election process;
b.   Legal and institutional framework for the process;
c.   Political context and climate in which the election is held (exercise of political rights).

Observation should cover the entire process from beginning to end, including:

a.   The pre-election period, including candidate registration and the campaigning;
b.   Election day and vote counting; and
c.   The post-election period, including vote tabulation and announcement of results, resolution of complaints, and assumption of elective office by the winners.

Coverage should be as broad as possible:

a.   Sufficient observers stationed throughout the country;
b.   Including party and candidate agents and monitors, national observers and official monitors and overseers.

1.7   Summary

This unit has discussed elections monitoring and observation. It has been established that carefully designed and conducted election observation can improve the implementation of the human rights of women and help to enhance their participation in electoral processes.

Comprehensive observation should include an assessment of how all elements of an election process affect women as well as men. Targeted observation efforts can focus specifically on aspects of women's participation in elections. Since women should have the opportunity to participate equally as observers, observation itself can serve to bring more women into the political process. Any election can be enhanced by observation, but comprehensive observation is particularly helpful in countries in which a significant proportion of the population may lack trust in the electoral system. Post-conflict countries are among the best examples of this, but the same may be true of countries holding their first democratic elections, new democracies that have held very few elections, countries with weak human rights records, or countries with extremely strong executive powers and long-time rulers.

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Self-Assessment Exercises (SAE's)

a.   Define the concept of integrity in election monitoring.

b.   What are the main requirements for an ethical and professional international observer mission?

1.9   Possible Answers to SAE(s)

a.   The concept of integrity in election monitoring is fundamentally based on the independence of the monitors and the monitoring organization. Oversight agencies and inspectors generally have a sufficient degree of independence to ensure their impartiality. This means monitors and their organisations need sufficient human and financial resources to do their job without having to rely unduly on other institutions. Their staff members are non-partisan in their approach and have no personal stake in the outcome of their work. Election monitors should be shielded from any political pressure, in order to ensure their objectivity and enable them to report their findings and present their opinions/conclusions without fear of repercussions.

b.   The requirements amongst others include:
  i.   Respect the sovereignty of host country
  ii.   Objectivity
  iii.   Non-interference in the election process
  iv.   Accuracy, Avoid conflicts of interest.

Unit 2   Electoral Integrity

Unit Structure

2.1   Introduction

The legitimacy of an election depends in large part on the actual and perceived integrity of the electoral process. If voters and candidates believe that an election is fraudulent or has been poorly administered, they may not accept the outcome. At best, this can breed public dissatisfaction or disinterest; at worst, violence, ineffective governance and long-term instability. With donor support, election managers can take an important step toward avoiding these outcomes by conducting an exhaustive and systematic assessment of likely vulnerabilities in the electoral process and taking appropriate actions to mitigate risks. As part of the International Foundation for Electoral Systems' (IFES) electoral integrity portfolio, an innovative assessment methodology, the Electoral Integrity Assessment, was developed to fill a major gap in efforts to combat systemic manipulation, malpractice, and fraud in elections. Use of this unique IFES methodology empowers election management bodies and their partners to design tools to deter, detect, and mitigate election vulnerabilities.

The media play an indispensable role in the proper functioning of a democracy. Discussion of the media's functions within electoral contexts often focuses on their "watchdog" role: by unfettered scrutiny and discussion of the successes and failures of candidates, governments, and electoral management bodies, the media can inform the public of how effectively they have performed and help to hold them to account.

2.2   Learning Outcomes

It is expected that by the end of this unit, you should be able to:
* discuss the policies that protect electoral integrity
* discuss electoral integrity
* discuss the effect of electoral integrity
* explain the bodies overseeing election integrity
* highlight the code of conduct for political parties,

2.3   Adopting Policies that Protect Electoral Integrity

In considering electoral policy and the roles of various institutions in designing it, the following are some of the issues facing policy-makers:

a.   Can the elections be competitive and free?
b.   Are the dates set by the electoral calendar reasonable?
c.   Do the legal and institutional frameworks guarantee equal treatment and equal opportunity?
d.   Are electors able to register and vote freely without unnecessary problems?
e.   Are all the votes that have been cast counted correctly and reflected in the official results?
f.   Are political parties able to register and participate in elections? Are they free to campaign and get their message out?
g.   Do all parties and candidates have equitable access to the media?
h.   Can candidates and parties communicate their messages to voters without interference?
i.   Are electoral districts delineated fairly?

j.   Is the formula for distributing public resources (e.g. free broadcasting time or public funding for campaigns) fair and implemented in good faith?

2.4   Effect of Election Integrity

2.4.1   Positive Effect on Integrity

To ensure that their political interests are protected, political parties and candidates can officially observe the electoral process. Most political parties monitor the entire process, including how the EMB is composed, how candidate and voter registration is conducted, how other candidates and parties campaign, how voting and vote counting proceed, and how results are announced. This enables them to identify cheating, discrimination or other deviations from the regulations.

Unlike independent observers, political party monitors usually have some authority to intervene in the process if they believe laws or regulations are not being followed. Sometimes they are asked to certify election documents (*e.g.*, vote tallies) with their signatures. If they find they are not allowed full and equal access to the process, they can file a complaint with the electoral body; this helps electoral administrators or policy bodies to identify problems and increase the credibility and transparency of the electoral process.

Through their monitoring activities, political parties and candidates play a balancing role throughout the election process. Reports that bring to light a large number of irregularities may spark public debate and trigger public support for electoral reforms or corrective measures. Positive reports may allay public concerns about integrity issues and foster public trust in the system.

2.4.2   Potential Negative Effect on Integrity

The activities of political parties and candidates may also give rise to integrity problems because they have a stake in the outcome of elections and compete with each other during campaigns. Political parties/candidates may attempt to bypass the system or use unethical methods to win an election or challenge the election results. Especially in countries in transition to democracy, a dominant party may

monopolize the media and receive preferential media treatment; or a ruling party may misuse government resources for campaign purposes. In response, smaller parties might boycott the process, claiming it was not fair or transparent. In response, some electoral systems employ a code of conduct to regulate the behaviour of political parties, candidates and their supporters during an election. Codes of conduct should be adapted to the special circumstances of each electoral system. In established democracies, where campaign financing may be an issue, ethical codes contain detailed instructions on what should and should not be done during campaigns. In emerging democracies, the codes focus mainly on ruling out the use of violence and promoting acceptance of election results.

2.4.3 Protecting Election Integrity

If the electoral management body is also responsible for reviewing or drafting laws, it should ensure that any proposed legislation includes provisions necessary for protecting electoral integrity. Among other things, electoral legislation should specify the role and mandate of each institution involved, the powers it has to fulfill its role, and the control mechanisms which apply at each stage of the process.

Electoral oversight bodies ensure that the election process is conducted in a neutral and transparent manner. Election participants have the ability to convey their messages to voters and the results are an accurate and faithful expression of the will of the voters. Such bodies should also consider whether the public resources provided for the holding of elections are sufficient and used to good effect, and that election officers are held accountable for the way they manage funds, conduct the election and administer the process

2.5   Oversight Bodies

Active oversight of the electoral process is an important means of safeguarding integrity. In many electoral systems, a particular governmental authority is mandated to oversee, or even more actively supervise, the electoral process. This agency may be located within the EMB itself, or in a separate institution, such as an auditor general's office, or an independent commission or court. In *Canada* the federal

Commissioner of Canada Elections bears this responsibility;
in *Mexico* the Federal Electoral Tribunal plays a similar role.

Occasionally, conflicts arise from the actions of Government officials, such as "*Ombuds*-persons" or Public Defenders, exercising their general (non-election specific) jurisdiction to investigate and respond to violations of human or civil rights. The risk is that their actions may discredit the conduct or results of an election in a way that cannot be remedied. In *Georgia,* the highly-respected Public Defender at the time sought to *subpoena* the video continuously captured in certain polling stations (as part of a pilot program insisted upon by opposition parties) during the 2008 Parliamentary elections. By this time, the complaint and appeal process had already been concluded, and final results announced. The purpose of the Defender's action was to determine if the vote totals recorded in those polling stations could possibly have been as large as reported. While laudable in themselves, such actions might undermine the credibility of the electoral process after the results have been accepted.

Oversight agencies generally address potential or actual integrity problems in all aspects of the electoral process, including:

a.   Election administration and management;
b.   Voter and candidate registration;
c.   Election campaigns;
d.   Candidates' financing; and
e.   Voting and vote counting.

In addition to providing routine oversight of the electoral process, oversight agencies may also be empowered or undertake investigations or consider formal complaints. To be effective, oversight agencies should generally have:

a.   Freedom to decide what must be reviewed;
b.   Access to information needed for reviews;
c.   Ability to publish their findings and recommendations without censorship or political interference; and
d.   No personal or institutional interest in the outcome of oversight.

2.5.1 Task for Oversight Agencies to ensure Election Integrity

To protect election integrity, oversight agencies can have the following tasks:

Provide independent oversight of the electoral process: This can be done through:

a.   On-going, non-partisan monitoring of the electoral administration to check that objectives are met, resources are protected, laws and regulations are followed, and mechanisms are in place to safeguard the process and its assets;

b.   Regular, independent and objective auditing of the electoral administration and financial operations—plus specific audits and investigations conducted as needed to deal with complaints or concerns identified during routine monitoring; and

c.   Independent assessment of the performance of the electoral administration in order to obtain information needed for transparency, improving public accountability and facilitating decision-making and corrective action.

Review compliance with legislation and regulations: Oversight agencies can:

a.   Review electoral policies and procedures to check compliance with legal requirements;

b.   Check whether electoral administration complies with specific performance requirements and submits financial reports as stipulated by law

c.   Consider measures to promote accountability on the part of electoral administration.

Detect and Prevent Problems, Including Corruption, Abuse of Power and Discriminatory Practices: Oversight agencies may promote the effective and economic use of administrative assets and systems; they may also seek to detect and prevent waste, fraud and abuse. They may review legislation and regulations, and make recommendations regarding the impact of these on economy and

effectiveness of electoral administration and operations. They may recommend policies to promote economy, or to detect and prevent fraud and abuse. Depending on the agency's mandate, oversight may deal with such issues as misconduct by election officers, vote buying, election fraud, obstruction of justice and other breaches of public trust related to elections.

Promote Transparency and Credibility of the Election Process:
Public access to the results of oversight makes the election process more transparent, and builds the credibility and legitimacy of the results. The public should be able to check whether the decisions made by the electoral management body comply with legislation and regulations, and discourage discrimination, fraud and abuse. Oversight reporting highlights problems stemming from programs and operations, and brings them to the attention of the electoral management body and principal electoral administrators, as well as all others with a need to know (such as parliamentary oversight committees and parliamentarians, and governmental accountability offices). In countries in transition to democracy, confidence in the process can be bolstered and voter turnout can be increased with the help of oversight by a neutral and professional mechanism that has gained the trust of political parties and electoral administrators through objective and professional work.

Ensure compliance with the legal framework: Oversight agencies may play a similar role as enforcement agencies, if they have power to determine responsibility for actions, as well as impose punitive measures. The actual enforcement power of an oversight agency depends on its specific mandate but may include taking corrective or enforcement action. These could include imposing civil sanctions, such as fines or suspensions, on violators. In serious cases, the oversight agency can recommend such administrative (including disciplinary) sanctions as termination of employment or referral of the matter to the criminal justice system.

Monitor compliance, including with codes of conduct: Some electoral systems include oversight committees that monitor the conduct of electoral administrators and candidates. These committees or agencies may be citizen bodies or a government office/inspector. They monitor the enforcement of codes of ethics included in the

electoral system. The US city of Seattle, for example, has created an Ethics and Elections Commission. This citizen body interprets, administers and enforces the Seattle Elections Code, Code of Ethics and other related codes. It investigates complaints received about code violations, and can settle a complaint either directly with the employee or through a public hearing. The Commission can prescribe sanctions for any violation but it has no disciplinary powers.

2.6   Code of Conduct for Political Parties

Voluntary Code of Conduct: The International Institute for Democracy and Electoral Assistance (International IDEA) has developed a model Code of Conduct for Political Parties Campaigning in Democratic Elections. This voluntary code establishes ground rules for ethical behaviour. It can be applied to political parties and candidates around the world.

Mandatory Code of Conduct: Some electoral systems provide for adoption of a mandatory code of conduct that all parties and candidates must follow if they are competing in elections. Such a code may form part of the legal or regulatory framework and violators may be subject to administrative and legal sanctions. A candidate who fails to comply could be disqualified and face legal action. Most codes are essentially voluntary but sometimes such codes provide for consultation and mediation concerning the circumstances and effect of violations.

An example of a code for a country in transition is the 1995 South African Electoral Code of Conduct for Political Parties. The Code is binding on any party, candidate or party representative submitting an application to participate in elections. The Code essentially required participants to behave as follows:

a.   Publicly condemn violence and intimidation.
b.   Do not engage in violence or intimidation, or in language or action that might lead to violence or intimidation.
c.   Do not allow weapons to be carried at political meetings, marches, demonstrations, voting stations, etc.
d.   Do not publish or repeat false, defamatory or inflammatory allegations about political opponents.
e.   Cooperate with other political parties to avoid holding political activities at the same time and place.

f.   Do not prevent eligible voters from having access to political opponents.

g.   Do not destroy, disfigure or remove other political parties' campaign materials.

h.   Do not plagiarize other political parties' symbols, colours or acronyms.

i.   Do not try to bribe eligible voters.

j.   Do not abuse positions of power, influence or privilege.

k.   Do not discriminate on the basis of race, sex, ethnicity, social class or religion.

l.   Facilitate equal participation for women, and their access to political activities and to voting.

m.   Cooperate with the electoral authorities in investigating issues and allegations in connection with the election.

n.   Take all reasonable steps to protect election officers, voter registration officers and their representatives from insult, hazard or threat in the course of their official duties.

o.   Reassure voters that the secrecy and integrity of the ballot will be maintained, and that no one will know how any other person has voted.

p.   Take necessary and reasonable steps to instill discipline in party/candidate representatives, employees or supporters, and guide them to follow the Code, comply with laws and regulations, commit no election irregularities, and adhere to election regulations.

q.   Establish and maintain communication with the government, voter registration officers, returning officers and election committees, and with parties and candidates at provincial and local level. This includes exchanging names, addresses and telephone/fax numbers of their agents, supervisors and representatives.

2.7   Summary

This unit has discussed election integrity and media. It has been emphasised that election integrity is crucial for political representation. If elections are flawed, rigged, or fraudulent, there is no level playing field for parties and candidates contesting the electoral race, and voters' preferences are unlikely to be translated truthfully into election

outcomes. Election fraud directly affects the formation of preferences, as well as the translation of preferences into votes in the chain of representation, thereby undermining the capacity of elections to generate accountability and responsiveness.

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Self-Assessment Exercises (SAE)

a.   Discuss the tasks for oversight agencies in ensuring election integrity

2.9   Possible Answers to SAE

a.   The tasks amongst others includes:
      i.   Provide independent oversight of the electoral process
      ii.   Review compliance with legislation and regulations
      iii.   Detect and prevent problems, including corruption, abuse of power and discriminatory practices
      iv.   Promote transparency and credibility of the election
      v.   Process
      vi.   Ensure compliance with the legal framework
      vii.   Monitor compliance, including with codes of conduct.

Unit 3   The Media and Elections

Unit Structure

3.1   Introduction
3.2   Intended Learning Outcomes
3.3   The Media
3.4   Media Oversight of the Electoral Process
3.5   Responsibility to Provide Fair and Balanced Reporting
3.6   Media Code of Conduct
3.7   Summary
3.8   References/Further Reading/Web Resources
3.9   Possible Answers to Self-Assessment Exercise(s)

3.1   Introduction

The free flow of information is essential to a free and fair election. The media disseminates election-related information and plays several roles that may affect election integrity. Journalists monitor elections, from a news perspective,1 and they may act as accredited national or international election reporters. They may uncover election-related fraud and corruption, and otherwise provide information on election developments to the public. EMBs also have specialized media departments which specifically interface with media houses and provide for its media relations with all stakeholders and the general public.

3.2   Learning Outcomes

It is expected that by the end of this unit, you should be able to:

• discuss the media oversight of the Electoral Process
• discuss the media code of conduct

3.3   The Media

The work of the media results in much greater transparency for the election process, helping to safeguard election integrity. However, incorrect or biased reporting may give rise to false impressions, give the public an unfair perception of a particular candidate or the entire process, and thereby undermine the credibility of an election. Such actions are inconsistent with the media's primary responsibility to keep the public informed in an objective manner.

The media play an indispensable role in the proper functioning of a democracy. Discussion of the media's functions within electoral contexts often focuses on their "watchdog" role: by unfettered scrutiny and discussion of the successes and failures of candidates, governments, and electoral management bodies, the media can inform the public of how effectively they have performed and help to hold them to account. Yet the media also have other roles in enabling full public participation in elections:

a.   By educating voters on how to exercise their democratic rights;
b.   By reporting on the development of an election campaign;
c.   by providing a platform for the political parties and candidates to communicate their message to the electorate;
d.   By providing a platform for the public to communicate their concerns, opinions, and needs, to the parties/candidates, the EMB, the government, and to other voters, and to interact on these issues;
e.   By allowing the parties and candidates to debate with each other;
f.   By reporting results and monitoring vote counting;
g.   By scrutinizing the electoral process itself, including electoral management, in order to evaluate the fairness of the process, its efficiency, and its probity;
h.   By providing information that, as far as possible, avoids inflammatory language, helping to prevent election-related violence.

The media are not the sole source of information for voters, but in a world dominated by mass communications, it is increasingly the media

that determine the political agenda, even in less technologically developed countries. A report by the Cairo Institute for Human Rights Studies put it this way:

The media plays a major role in keeping the citizenry abreast of current events and raising awareness of various issues in any society. It also has an extremely significant impact on the public's views and way of thinking. The media is the primary means through which public opinion is shaped and at times manipulated. If this is the media's role then in normal course of events, it becomes even more vital in exceptional periods, one of which is electoral junctures, when the media becomes a primary player. Elections constitute a basic challenge to the media, putting its impartiality and objectivity to the test. The task of the media, especially national media outlets, is not and should not be to function as a mouthpiece for any government body or particular candidate. Its basic role is to enlighten and educate the public and act as a neutral, objective platform for the free debate of all points of view.

It is for this reason that election observation teams, for example, routinely comment upon media access and coverage of elections as a criterion for judging whether elections are fair. Monitoring the media during election periods has become an increasingly common practice, using a combination of statistical analysis and the techniques of media studies and discourse analysis to measure media's role in an election. The numerous ways in which media ensure democratic electoral processes generally fall into one of the following categories:

a.   Media as transparency/watchdog
b.   Media as a campaign platform
c.   Media as open forum for debate and discussion/public voice
d.   Media as public educator

3.4   Media Oversight of the Electoral Process

The media can help safeguard election integrity by uncovering fraud and corruption, and reporting irregularities in the electoral process. They help to ensure that electoral decision-makers are accountable for their actions, and also help to deter unethical or illegal conduct by officials or election participants. In addition, for many voters the media is an important source of information on election processes and

developments. Transparency works to improve the electoral system since if defects, problems or other weaknesses are detected and made public electoral administrators or policy makers may be forced to take corrective action.

3.5   Responsibility to Provide Fair and Balanced Reporting

Voters often mostly learn about the electoral process from news coverage of elections, perhaps even more than from political advertising or official programming. The media have a special responsibility to the public given the ability of the media to reach voters and citizens' faith in what they read in the newspapers, hear on radio or see on television. They must offer fair and balanced reporting and ensure that everyone is treated equally. If they do not, the media may pose a serious threat to electoral integrity. The following should be considered:

a.   Inaccurate reporting may give voters and policy makers the wrong impression. This may happen if the media carry false statements, use facts selectively or simply do not meet professional standards—for example, by not checking information or reporting rumour as fact.

b.   What appears as irresponsible reporting may in fact be deliberate. Members of the press may seek to sway public opinion through the selection of stories and the tone it adopts toward them.

c.   The media may stir up nationalist or discriminatory sentiment by focusing negatively on immigrants, minority ethnic groups, or a particular political party.

d.   The media may destroy a candidate's credibility through unsubstantiated allegations of illegal or unethical activities.

e.   Biased media may give preferential treatment to large advertisers. Most political parties, candidates and interest groups run paid advertising in the media. These commercial benefits can undermine the principle of equal treatment for all election participants.

f.   Also, so-called journalists may reflect their political preference by favouring a particular party and tending to criticize others.

g.   Reporting on public opinion polls within a short period of time before voting day can subconsciously influence voters.

3.6   Media Code of Conduct

The following are principles of ethical behaviour for the media, based on the Code of Ethics of the Society of Professional Journalists, the Associated Press Managing Editors' Statement of Ethical Principles and Gannett Newspaper Division's Principles of Ethical Conduct for Newsrooms.

Report the truth

a.   Be a watchdog of the political and electoral process.
b.   Ensure accurate, balanced and impartial coverage of the news. Make sure the news content is substantiated, accurate, complete and in context.
c.   Do not make assumptions. Check facts, and make a good-faith effort before publication to get comments from the persons or organizations involved.
d.   Seek solutions along with exposing problems and corruption.
e.   Use neutral words to ensure impartial, dispassionate reporting. Be careful with technical terms, statistics, estimates and election results. Be careful with headlines and make sure they reflect the facts of the story.
f.   Avoid inflaming emotions over controversial issues.
g.   Label opinions and personal interpretations as such, and limit opinions and editorials to the editorial pages.
h.   Label advertising clearly so it is not confused with the news.
i.   Be honest and fair in the way the news is gathered, reported and presented. Do not lie or fabricate. Do not pretend to be a police officer, public official or anyone other than a journalist in pursuing a story. Do not plagiarize. Do not alter photographs or graphics to mislead the public.

Minimize harm

a.   Be transparent and honest with the reader.
b.   Act honourably and ethically in dealing with news sources, the public and colleagues.
c.   Do not expose the private life of a private citizen without reason.
d.   Be sensitive when interviewing, and recognize that gathering news can cause harm or discomfort.

e.   Respect the rights of persons involved in the news. Observe common standards of decency, and treat people with dignity, respect and compassion.

f.   Balance the right of an accused person to a fair trial with the public's right to know.

Act independently

a.   Avoid conflict of interest by refusing to accept gifts, favours or other benefits from anyone being covered in an article or from newsmakers, politicians or other journalists.

b.   Avoid being influenced by advertisers on the content of your reporting.

c.   Do not give favourable rates to one political advertiser and not others.

d.   Do not give money for sources or stories.

Be accountable

a.   Be accountable to the public for the fairness and accuracy of what you write.

b.   Honour pledges of confidentiality to a news source; otherwise, identify sources.

c.   Be accountable for how you behave and collect news.

d.   Obey the laws and the standards of ethical journalism.

3.7   Summary

This unit has discussed election and media. It has been emphasised that media's functions within electoral contexts, often focuses on their "watchdog" role: by unfettered scrutiny and discussion of the successes and failures of candidates, governments, and electoral management bodies, the media can inform the public of how effectively they have performed and help to hold them to account. The media is expected to be honest and fair in the way the news is gathered, reported and presented. Do not lie or fabricate. Do not pretend to be a police officer, public official or anyone other than a journalist in pursuing a story. Do not plagiarize. Do not alter photographs or graphics to mislead the public.

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Self-Assessment Exercise(SAE)

> a.   Highlight the role of the media in ensuring electoral integrity in the electoral process

3.9   Possible Answer to SAE

a.   The media have roles in electoral integrity by undertaking the following: the participation of citizens in election by educating voters on how to exercise their democratic rights; reporting on the development of an election campaign; providing a platform for the political parties and candidates to communicate their message to the electorate; providing a platform for the public to communicate their concerns, opinions, and needs, to the parties/candidates, the EMB, the government, and to other voters, and to interact on these issues; allowing the parties and candidates to debate with each other; reporting results and monitoring vote counting; scrutinizing the electoral process itself, including electoral management, in order to evaluate the fairness of the process, its efficiency, and its probity; providing information that, as far as possible, avoids inflammatory language, helping to prevent election-related violence.

Unit 4   Enforcement Agencies

Unit Structure

4.1   Introduction
4.2   Intended Learning Outcomes
4.3   Election Management and Oversight Bodies
         4.3.1   Regulatory Agencies
         4.3.2   Investigative Agencies
         4.3.3   Security Forces
         4.3.4   Prosecution
         4.3.5   Courts
         4.3.6   Interest Group Organizations
         4.3.7   Non-Governmental Organizations
4.4   Summary
4.5   References/Further Reading/Web Resources
4.6   Possible Answers to Self-Assessment Exercise(s)

4.1   Introduction

Enforcement agencies deter those thinking of subverting system, and they identify and punish (investigate, arrest and prosecute) those who have broken the law. Different agencies usually share responsibility for enforcement, depending on the nature and severity of the violation. An investigation may be launched by an oversight or supervisory body but later transferred to an enforcement agency. For example, criminal cases uncovered during a routine audit may be referred to the justice system. If the prosecuting authorities decide to pursue a case, they could charge and prosecute the alleged perpetrator, and the courts may impose a sentence if the defendant is found guilty. Effective enforcement requires a functioning legal system and respect for the law. To ensure the integrity of the enforcement system, its independence must be safeguarded. In countries where the criminal justice system is inadequate, an electoral court or similar body can be empowered to enforce election laws. Following are the principal institutions of legal enforcement to maintain election integrity: regulatory agencies, investigative agencies, security forces, Courts of law/Election Tribunals, interest-based organizations like NGOs, etc.

4.2   Intended Learning Outcome

It is expected that by the end of this unit, you should be able to:

- discuss enforcement agencies of electoral integrity

4.3   Election Management and Oversight Bodies

Election management and oversight bodies may be accorded enforcement powers. In *Mexico*, for example, the Federal Electoral Institute and the Federal Electoral Tribunal are mandated to oversee the enforcement of election legislation, consider challenges and apply sanctions in cases of administrative error. EMBs may have enforcement powers, usually acting on the basis of a submitted complaint. While EMB-imposed sanctions are usually limited to administrative actions (including disciplinary referrals) or minor civil penalties, EMBs may also refer electoral violations to the prosecutors in appropriate cases. In *South Africa*, the Chief Electoral Officer may institute civil proceedings before a court, including the Electoral Court, to enforce provisions of the electoral law.

4.3.1 Regulatory Agencies:

Regulatory agencies often have the power to enforce their own regulations, subject to appropriate procedural requirements. EMBs with regulatory power may also sanction individuals found guilty of violating regulations and, depending on the circumstances, impose administrative sanctions, levy fines or make referral for criminal prosecution.

4.3.2 Investigative Agencies

Each country has institutions and procedures for investigating allegations of electoral wrongdoing or other criminal misconduct. Investigators can:

a.   Investigate incidents and complaints to determine the facts and collect evidence against individuals or organizations; and

b.   Make findings of fact, summarize evidence collected and report the results of investigation to the responsible authorities, including an EMB.

4.3.3 Security Forces

Election security is the responsibility of the government and is usually handled by the police. Good security is essential for safeguarding election integrity. It assures voters and candidates that the campaign will be conducted in an open climate, free of fear or intimidation. Good security can support voter turnout and confidence in the secrecy of the voting. The primary roles of security forces during elections are to:

a.   Protect the physical safety of individuals, electoral sites and materials involved in an election;
b.   Investigate crimes and, where applicable, arrest the suspects; and
c.   Provide a deterrent against resort to violence or fraud as an electoral tool.

4.3.4 Prosecution

Prosecution of electoral wrongdoing is an essential part of enforcement. It lets those interested in manipulating or subverting the election process know that such actions will not be tolerated and will be punished. To maintain electoral integrity, the prosecutorial authorities may:

a.   Initiate investigations (depending on the system);
b.   Determine whether the evidence warrants a prosecution, and who should be prosecuted;
c.   Establish priorities for prosecuting pending cases; and
d.   Prosecute individuals accused of having violated election-related laws or regulations.

In most countries, the prosecutor is a government employee or elected official. (If elected, the prosecutor is inherently more sensitive to public opinion and even the political context of cases.) The prosecutor has considerable discretion in determining which cases to prosecute. Abuse of this discretion can raise questions about the integrity of the enforcement process.

4.3.5 Courts

The Judiciary ensures that laws are enforced on the basis of impartial legal standards, rather than political or other factors. The role of the courts in safeguarding electoral integrity varies according to each country's electoral system and degree of trust in the justice system. In countries where there is little trust in the EMB or regular justice system, specialized courts may be established, as they were in *Mexico* and *Kenya*. Such specialized courts may play an active role in adjudicating electoral disputes that might otherwise be settled by an electoral management body. In general, to safeguard election integrity, the courts may:

a.   Provide a non-political forum to hear cases on election law violations, whether criminal or civil;

b.   Help resolve electoral disputes through special remedies such as recounts or certifying results;

c.   Interpret the election laws and even determine their constitutionality and

d.   Depending on the nature of the violation, determine responsibility and sentence those found guilty of a criminal violation.

4.3.6 Interest Group Organizations

Interest groups are not directly involved in electoral contests. Their purpose is mainly to influence public policy, sometimes including supporting parties and candidates in elections who are favourable to the interests of their members or supporters. These groups may be interested only in a particular issue, or in the success of a candidate or political party sharing their views more generally. Such groups vary in size, resources, power and objectives, but all use the same methods to influence public opinion and promote their position—including lobbying, campaigning, advertising through the mass media, and providing information to candidates, lawmakers and policy makers.

This section discusses interest groups that represent particular social, economic or ideological interests. Interest groups that act on behalf of the broader public interests are discussed under Non-Governmental Organizations (NGOs). Interest groups may play a positive role in maintaining election integrity since they monitor the process to ensure

that opposing interests do not receive preferential treatment. However, the amount of money that certain interest groups expend to sway public opinion and political preferences raises integrity issues. These are discussed in greater depth in the discussion of Campaign Financing.

The amount of money spent and how it is directed raises concerns that through their various activities interest groups are attempting to buy influence and obtain special treatment. As a result, many countries require interest groups to register as public associations and disclose their overall activities and spending. Interest groups are not usually required, however, to register with electoral authorities – but only the relevant tax authorities and civil organization registrars. Organized interest groups that are active in supporting candidates or parties in an election, especially through making financial contributions, can be required to disclose these as part of election-related financial reporting. Consideration might be given to requiring interest groups that are politically active, especially during elections, to provide further information about their activities, such as advertising campaigns – especially if these are carried out in support of, or even in concert with, election participants.

In the *United States,* it has proven difficult to track or control such efforts by various interest groups, partly due to disagreements at the bipartisan Federal Election Commission. Another issue has been the US Supreme Court's interpretation of such activities by interest groups as constitutionally-protected free speech. But the Court has been careful to keep open the option of requiring disclosure and reporting of the activities of interest groups with respect to elections, including the amounts of their expenditures. It could be possible, however, to bring interest groups within the sphere of electoral management, including through developing suitable codes of conduct. To accomplish this would probably require a major effort by civil society.

4.3.7 Non-Governmental Organizations

The concept of a non-governmental organization (NGO) - as opposed to other interest groups – includes that they should work to advance the public interest, in an ethical manner, and not be organized as profit-making enterprises. Although NGOs are not mainly profit-making, this does not wholly prevent them from pursuing profit-making

activities, provided that these should be in support of and related to their other goals.

Unlike other interest groups, which do not normally play a formal role in the electoral process, NGOs may participate as independent observers. The NGOs that are registered for this purpose are usually those whose charters include human rights, democracy and electoral improvement. Often electoral authorities also consider, in addition to an organization's charter, its previous activities in the rights, democracy and election fields.

During elections, NGOs' observation and reporting activities help make the process more transparent. NGOs may also help transparency of campaign financing by closely monitoring and publicly reporting on contributions and spending. They may undertake voter education programs, sometimes aided by the authorities or international sources of assistance, and help distribute election information. Beyond the electoral process *per se,* they may lobby policy makers and electoral administrators in support of better electoral policies and legislation protecting individual rights and freedoms, or for more effective regulatory legislation, such as on campaign financing.

4.4   Summary

This unit has discussed enforcement bodies of electoral integrity. It has been emphasized that election integrity is crucial for political representation. If elections are flawed, rigged, or fraudulent, there is no level playing field for parties and candidates contesting the electoral race, and voters' preferences are unlikely to be translated truthfully into election outcomes. Therefor it is important that enforcement agencies are actively and proactively engaged before, during and after elections to ensure a free, fair and peaceful conduct of elections.

Self-Assessment Exercise (SAE)

a.   List the enforcement agencies of electoral integrity discussed

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4.7   Possible Answers to SAE

Election management and oversight bodies, regulatory agencies, investigative agencies, security forces, prosecution, courts, interest groups and Non- government organisations.

MODULE 4 ELECTORAL SECURITY AND THE USE OF TECHNOLOGY IN ELECTIONS

Unit 1   The Use of Technology in Elections
Unit 2   Networks/ Internet
Unit 3   Election Security
Unit 4   Election Security Actors

Unit 1 The Use of Technology in Elections

Unit Structure

1.1   Introduction
1.2   Learning Outcomes
1.3   Essence of Elections and Technology
1.4   The Meaning of "Technology"
1.5   Implementing Technology for Election Administration
1.6   Types of Technology used in Elections
        1.6.1 Guiding Principles:
        1.6.2 Take a Holistic View of the New Technology:
        1.6.3 Consider the Impact of Introducing New Technologies
        1.6.4 Maintain Transparency and Ensure Ethical Behaviour while Adopting New Technology
        1.6.5 Consider the Security Issues related to the New Technology:
        1.6.6 Test the Accuracy of Results Produced by the use of Technology:
        1.6.7 Ensure Privacy:
        1.6.8 Ensure inclusiveness
        1.6.9 Consider the technology cost-effectiveness
        1.6.10 Evaluate efficiency:
        1.6.11 Evaluate sustainability:
        1.6.12 Evaluate the flexibility of the technology to adapt to new election regulations:
        1.6.13 Consider the service provided to the users by the technology:
1.7   Technologies with Electoral Applications
1.8   Summary
1.9   References/Further Reading/Web Resources
1.10 Possible Answers to Self-Assessment Exercise(s)

Unit 1   The Use of Technology in Elections

1.1   Introduction

The history of the use of technology for elections is concerned with meeting three basic needs: a voting interface, a list of eligible electors and the management of the voting process. In the 1800s, these needs were met using the available technology of the day, including printing presses and writing implements, such as steel-nib pens, fountain pens and, in the late 1800s, typewriters. However, most processes were then (and in some places still are today) manual. Electoral rolls were written by hand or manually typed, and kept in books and on cards. Ballot papers were distributed, marked and counted manually. Election results were manually calculated and communicated by tally board and print.

The mid- to late 1800s marked the beginning of a technological revolution that has continued to this day. As technology advanced, election management bodies (EMBs) applied the various innovations to management. The invention of electricity and the development of power stations led to electric typewriters, more efficient printing processes, and electronic voting devices and, eventually, computers, in addition to all those other lifestyle benefits we now take for granted, such as better-lit and better-heated workplaces. The invention of the internal combustion engine revolutionised transport, making rapid movement of large quantities of material and personnel possible on an unprecedented scale. The development of mass communication techniques that took place in the 1900s also had electoral implications. Sound and vision recording and transmission, leading to radio, television, telephones, facsimiles, audio tapes, video tapes, compact discs and the Internet, have all been used for electoral purposes. While these technological innovations gradually improved the management of the electoral process from the 1800s to the mid-1900s, it took the development of the computer to revolutionize it.

1.2   Learning Outcomes

It is expected that by the end of this unit, you should be able to:

• explain the essence of election and technology,
• ascertain the procedure for implementing technology for election administration,

- discuss types of technology used in elections,
- highlight the guiding principles of the use of technology in elections

 1.3   Essence of Elections and Technology

In many countries, technology is present in activities related to the electoral process, and in some cases it is essential to the conduct of elections. Technology is used, for example, to compile voter lists, to draw electoral boundaries, to manage and train staff, to print ballots, to conduct voter education campaigns, to record casted votes, to count and consolidate vote results and to publish election results. The appropriate application of technology to elections can increase administrative efficiency, reduce long-term costs and enhance political transparency.

Technologies used for elections can include familiar and older ones like printing presses, ball point pens, manual typewriters, electronic calculators and radios, or newer technologies like computers, optical scanners, digital mapping and the Internet. The logistics of modern large-scale elections can be a considerable challenge for countries without access to technology. The complexity level of technology used for the administration of elections around the world varies enormously. The rate of technological change is so high that election management bodies (EMBs) must regularly re-evaluate their use of technology to determine whether they should adopt new or updated technology to improve their performance.

This Elections and Technology (ET) topic area aims to assist EMBs in this task by:

a.   Describing technologies that are currently being used for electoral processes;
b.   Presenting guidelines for the evaluation, choice and implementation of new technologies;
c.   Providing examples of so-called best practices in the use of technology as well as examples where technology has not lived up to expectations;
d.   Examining some of the emerging technologies and trends to identify those that may apply to elections in the near future.

The ET topic area is different from the other topic areas included in the Administration and Cost of Elections (ACE) Project. While the other topic areas cover specific aspects of the election process, the ET topic

area covers technology appropriate to those topic areas. The use of technology in elections is not an end in itself, but assists in the various aspects of electoral administration. For example, electronic database management systems can be used in several components of the election process, such as voter lists, material inventories, personnel management, payroll, election results dissemination and statistics. To relate the use of technology to specific election processes, the ET topic area contains links to relevant topic areas on the ACE Project website and to the Internet.

1.4   "The Meaning of "Technology"

"Technology" can be defined as anything involving the application of science and engineering. This broad definition can cover any manufactured item, so a more limited definition is adopted to consider items directly relevant to election administration. "New technology" can mean new in one place and old in another, in addition to being an evolving concept. The Gutenberg printing press, wristwatches, manual typewriters and ball point pens were once considered new technology when they were developed, but in the 21st century they are hardly thought of as technology.

"Elections and technology" often refers to software programs and electronic equipment, such as computers, printers, scanners, bar code readers and the Internet. But there are other technologies used in elections that do not directly involve computers, but rather new materials, such as cardboard, fibreglass and plastic used in polling equipment. Within this topic area "technology" may refer to existing or so-called old technology, as well as emerging or developing technology. It may include computer hardware and software, other electronic equipment, mechanical devices and some materials. References might also be made to non-electronic innovations and techniques with specific electoral applications. The main focus is on practical issues such as the type of technologies that are currently in use around the world and guidelines for the implementation and maintenance of technologies.

1.5   Implementing Technology for Election Administration

On the process of implementing specific technologies for elections administration, there are a few considerations to take into account, some common to any implementation of technologies others more specific to the electoral process:

a.   Elections can be a high risk activity. They have to be conducted properly, open to public scrutiny, and there is not much room for

errors. Unlike other applications of technology, where systems can be introduced gradually with extended testing and implementation schedules, many election systems are used for the first time on Election Day and, therefore, must work correctly or the entire election may be jeopardized.

b.   An electoral management body needs to consider the upgrade of existing technology versus the introduction of new technology. Thorough evaluations are necessary to avoid incurring high costs for relatively minor improvements. Depending on the application, it may be more appropriate to continue using the existing system.

c.   This leads to the consideration of the cost-effectiveness of implementing a new technology. Evaluation studies of costs and savings associated with introducing technology need to take into consideration, not only the initial costs involved in purchasing equipment and materials, but also the cost of setting up the new system, additional expertise and the need for ongoing maintenance and management. (This will likely involve obtaining an additional commitment of funds through the relevant government budgetary process).

d.   Another consideration is the sustainability of technologies under evaluation. In most applications, there is a need to ensure that the technology adopted can be used during extended periods covering several elections. Adopting technologies that can become quickly obsolete or unusable may prove expensive and unsustainable in the long-term. Some technologies are changing at such rapid rates that it is almost impossible to avoid short-term obsolescence. In this case, it is important to study existent technology standards and trends in order to adopt protective measures that can decrease both the impact of future versions or systems and technical incompatibilities. Personal computer processing power is a good example of how "state-of-the-art" technology can rapidly become obsolete and therefore how important it is to choose suppliers that ensure upward compatibility that will facilitate the smooth transfer of data from an old to a new computer. In addition, other alternatives such as leasing equipment rather than purchasing, might be considered to optimize the use of resources.

e.   To determine the appropriateness of implementing new systems with new technologies, other factors such as the local physical environment and infrastructure need to be considered. A country with an intermittent power supply, for example, may not be an

appropriate location for implementing a wide area network of personal computers that require a reliable power source. High humidity or high levels of dust or sand may also restrict the choice of appropriate technology.

f.   Security issues are also involved. Particularly for systems used for recording, tallying or transmitting voting data, the technology must ensure the security of the data as well, if not better, than the equivalent manual processes that are being replaced.

g.   Before new technologies are introduced, it is important to consult with all of the stakeholders who are likely to be affected. EMB staff must be willing and able to implement the changes. Participants in the election process such as political parties, candidates, members of parliament and the media need to be consulted if the change affects them as, for example, in a case where an electronic voting system is being considered. New technology may also require changes to the relevant electoral laws and rules, which means that these changes need to be negotiated and guaranteed before a commitment to the new technology is made.

h.   Time frames for implementing new technology need to be carefully studied and defined:

      i.   to consult with stakeholders
      ii.   to identify and evaluate needs
      iii.   to evaluate and select specific technology to be adopted
      iv.   to implement the new system
      v.   to test the system features and outcomes in order to make sure that it works properly when needed
      vi.   to train the users of the system

It is common for EMBs to underestimate how long it takes to implement a new system. And yet, if not enough time is allocated to implementing the new system or if implementation is rushed, even though the system may be considered ready at election time, there is an increased risk that one of its crucial steps will fail. (In the late 90s elections were cancelled in a Latin American country on the day of elections because the new voting system was not ready). Another potential pitfall is attempting to do too much too quickly. If possible, it is better to introduce new technologies gradually, even over a series of electoral events, instead of trying to implement new technology all at once, in a single step.

Once a decision on a new system is taken, an implementation plan needs to be developed with expected outcomes, timelines, allocation of

responsibilities, checklists, standards, quality controls, training of support staff, training of users and an implementation budget. If possible, it may be useful to undertake a pilot program first, to test the new system on a small scale. After the successful testing of pilot systems, preparations for a full-scale system implementation can start, including a "load test" where the system is tested by conducting a mock exercise that is as close as possible to the real situation.

Another essential step for the successful implementation of a system using new technologies is to determine who is going to use the system and in what capacity, in order to organize appropriate training sessions. In the case of systems used only by EMB staff, for instance, it may be necessary to only train related staff. Where the system is used by EMB staff and outsiders, different training sessions might be needed; one adapted to the staff and another to the outsiders. For example, if an electronic voting system is introduced, EMB staff may have to be trained as trainers who, in turn, train polling workers to assist voters. In addition, a massive communications campaign might be organized to prepare voters to handle the new system and technology. Time for conducting user training has to be built into the implementation plan.

Then come the risks: any technology, new or old, can fail. When new technologies are first implemented, the risk of failure can be higher than with tried and tested systems. Consequently, it is important to have in place contingency plans. Often this involves setting up manual back-up systems that can kick into operation at short notice whenever the technology fails. For example, where ballots are being counted electronically, plans have to be in place to enable a switch to a manual count whenever the electronic system fails. Computer systems also have to be designed with appropriate back-up systems, such as the use of mirrored servers, automation of back-up copies of data and off-site facilities to regularly store copies of data.

1.6   Types of Technology used in Elections

If an EMB is considering the use of new technology for election purposes, it might want to start by looking at technology currently in use for similar purposes, who is using it and what issues have arisen in its use. The Elections and Technology topic area looks at three main categories of technologies, with sub-categories, currently in use around the world:

i.   Communications: Telecommunications, Radio, Networks and the Internet.

ii.   Computer Hardware and Software: Word Processing, Spreadsheets, Database Management Systems.
iii.   Other technologies: Specialized Electronic and Mechanical Devices, Non-electronic Innovations and Materials.

This is followed by a review of technologies used within specific electoral administration, such as:

i.   Boundary Administration
ii.   Technology for Voter Registration
iii.   Technology for Regulation of Party and Candidates
iv.   Technology for Reaching Voters
v.   Technology for Voting Operations
vi.   Technology for Corporate Management

The ET topic area also looks at issues related to the use of technology, such as management of technology and trends that may affect the future use of technology in elections.

1.6.1 Guiding Principles

Whenever an electoral management body (EMB) considers the use of technology to facilitate and improve the electoral process, it is advisable to follow several guiding principles that have been identified over the years and that can help to establish and maintain public confidence in the electoral process.

These guiding principles are:

a.   Take a holistic view of the new technology
b.   Consider the impact of introducing new technologies
c.   Maintain transparency and ensure ethical behaviour while adopting new technology
d.   Consider the security issues related to the new technology
e.   Test the accuracy of results produced by the use of technology
f.   Ensure privacy
g.   Ensure inclusiveness
h.   Consider the technology cost-effectiveness
i.   Evaluate efficiency
j.   Evaluate sustainability
k.   Evaluate the flexibility of the technology to adapt to new election regulations
l.   Consider the service provided to the users and their trust in the new technology

1.6.2 Take a Holistic View of the New Technology

Technology is just a tool and therefore it is not an end in itself. When technology is applied to any activity related to electoral administration and elections, it is important to consider carefully the electoral context in which the technology is used. For example, if technology is being considered for vote counting, the guiding principles that apply to vote counting also apply to the technology. It is also good to keep in mind that electoral processes involve more than just operations and technology. They include relevant laws, regulations and guidelines, social and political context, organisational culture, procedures developed to complement the technology and training of technicians and users.

1.6.3 Consider the Impact of Introducing New Technologies

When a new system is being considered to replace another, an evaluation is needed to assess the impact of the change on all stakeholders. Once the system is adopted, the transition phase needs to be carefully managed to ensure that problems do not occur and that all functions can continue to be effectively carried out. These are some strategies that can be used by electoral administrators to minimize the impact of new systems, new technology and changes on electoral processes:

i.   Allow plenty of time for implementation and avoid starting implementation too close to Election Day.
ii.   Keep in mind that implementation of a new project often takes longer than expected.
iii.   Plan for new systems to be finished well before the earliest practicable election date and enforce cut off dates after which no system changes are allowed.
iv.   Have alternatives ready to be implemented in case the new system cannot be used for whatever reason.
v.   Manage information about the technology and changes so that stakeholders do not have unrealistic expectations and do not impose impossible deadlines.
vi.   Avoid imposing a new, untried or unsuitable technology.
vii.   Schedule enough time to thoroughly test new systems and provide training for staff and users as needed.

A system implementation schedule can be influenced by whether there is fixed term or variable term election systems. With fixed term elections, implementation schedules can be set around a known election date while with variable term elections, new systems should

ideally be in place and ready to go before the earliest likely date for the election.

1.6.4 Maintain Transparency and Ensure Ethical Behaviour while Adopting New Technology

Transparency, meaning openness and accountability, is a key feature for the credibility of democratic elections. An indicator of transparency can be the access by electoral observers, both domestic and international, to all procedures at every stage of the electoral process. With manual processes, transparency is relatively straightforward, as the processes are usually visible and it is not difficult to provide meaningful access to observers. By contrast, with the use of some technologies it may be more difficult or even impossible for observers to testify that the outcome is correct. Electronic voting systems are one example where in some cases it is almost impossible to insure that the vote that is registered is indeed the vote cast by the voter and, therefore, that the resulting vote counting is accurate. On the other hand, the use of technology may enhance transparency once the data entry into the respective system is proved to be accurate and large quantities of data can produce meaningful reports with very few errors.

With the use of technologies, transparency may have to be provided in completely different ways depending on the technology. This may involve the use of techniques, such as creation of audit trails, creation of log files, code verifications, digital signatures and compilation checks, among others. As a result, the skills needed by observers of electoral processes using various technologies, may be completely different than those needed to observe manual processes. To ensure transparency, the election management body may seek the assistance of specialized experts or auditors able to verify the accuracy of their systems and to provide special training to observers.

Related to the issues of transparency and trust, EMBs are expected to follow appropriate ethics when implementing new technology. For instance, when choosing technology suppliers, EMBs are supposed to ensure that the tendering processes are fair and open, without favouritism or corruption and that all government purchasing procedures applicable to the selection of technology are followed. When buying hardware and software, EMBs have to ensure that proper licences are obtained. Apart from the legal and ethical problems with using unlicensed or unregistered software, users also run the risk of not being notified of known bugs, software fixes or upgrades.

1.6.5 Consider the Security Issues Related to the New Technology

Computer systems used for elections must include high levels of security. Unauthorised persons must be prevented from accessing, altering or downloading sensitive electoral data. Demonstrable security levels are another way of ensuring that election systems are transparent and trustworthy. Various mechanisms exist to provide for computer security. These include password protection, encryption, verification programs and physical isolation.

1.6.6 Test the Accuracy of Results Produced by the Use of Technology

Accuracy is vital to the credibility of an election, particularly voters' lists, vote recording, vote counting and the reporting of election results. To ensure that technological systems are trustworthy, there must be ways to test and verify that data is recorded properly and that the manipulation of this data produces accurate outputs. System accuracy may be tested by randomly entering known data into the system and verifying that the resulting outputs are correct. In addition, for voting systems, a test is supposed to be performed to verify that the same set of data processed through several randomly chosen, similar but independent systems produces the same results. On the whole, it would be expected that accuracy would increase as new and improved technology was adopted.

1.6.7 Ensure Privacy

Electoral computer systems often contain sensitive personal data on large numbers of individuals, which can include names, addresses and other personal details. While many countries have privacy laws and policies that place restrictions on access to personal information, as a general principle, every person has the right to personal privacy. If a person's privacy is invaded by improper use of electoral data, both the person and the respect accorded to the electoral process may suffer.

Accordingly, security built into electoral computer systems should take account of the need to protect the privacy of personal data held on them. Audit trails can be built into systems containing personal data to track and monitor which individuals have accessed or modified personal data and to prevent any unauthorised invasion of privacy.

1.6.8 Ensure Inclusiveness

Where a technology with impact on internal and/or external users is being adopted, it is advisable to organize a consultation process with those users or their representatives to ensure that their needs are met and that they are satisfied that the new system is acceptable and reliable. It is important to provide sufficient information to users to enable them to feel included in the process and therefore increase the likelihood that the new technology will be successfully implemented.

Since election technology has the potential to directly affect the political process, it is important to engender a sense of ownership in its users, much more so than might be considered for other government systems. In addition, access and equity considerations are to be taken into account when adopting new technology to ensure that people with special needs are included.

1.6.9 Consider the Technology Cost-effectiveness

Depending on the application, the use of technology may imply a substantial upfront investment, even if the benefits are considerable and possible long-term savings can outweigh the initial cost. In addition, relatively low-cost technology can also replace high cost, low-tech processes, leading to savings in the long-term. Costs with ongoing maintenance also need to be considered and may be much higher than expected. Therefore, before making a commitment to implement new technology, it is important to determine whether it is financially viable by getting a complete account of all likely costs and savings, namely:

i.   Basic up-front costs of the technology itself
ii.   Expected costs with add-on equipment such as peripherals and communications
iii.   Installation and implementation costs
iv.   Expected on-going troubleshooting and maintenance (addition of new features, and performance and capacity optimization) costs over system life span
v.   Expected costs of warehousing related equipment
vi.   Expected costs related to documentation, design of new procedures, staff training and user training
vii.   Expected financial benefits from increased efficiency and comparative costs of other available technologies that offer the same functionality.
       In addition, the following related studies might also prove useful:
i.   Cost-benefit survey

ii.   Assessment of expected improvements in efficiency or service versus extra costs
iii.   Likelihood of funding during the project life span
iv.   Evaluation of likelihood of sharing the new system and related maintenance costs with other agencies or organizations
v.   Assessment of the opportunity for joint ventures that could reduce costs without compromising integrity
vi.   Evaluation of similar solutions, if they exist, implemented by either other election management bodies or other organizations

These considerations and the results of these studies can help to identify additional functions, benefits and user satisfaction to be provided by a technology under investigation. These considerations can also help to provide a realistic estimate of expected costs or savings needed for a thorough evaluation of a technology's cost /efficiency ratio. This, in turn, can help determine whether the technology is worthwhile, viable and affordable. Relatively minor improvements may not justify the extra cost and by the same token, if a low-cost, low-tech solution is available and it is acceptable for the specific task, there may not be a need to implement a proposed high-cost, high-tech solution.

Whenever possible, the expected life-span of the technology is also supposed to be determined. In principle, a technology that can be re-used for more than one purpose or for more than one election is more cost-effective than one that can only be used once before it needs to be replaced. In addition, before accepting a technology purchase, there is a need to ensure that there are available funds to cover implementation costs as well as ongoing maintenance. Generally this implies commitments through the relevant government budgetary process.

1.6.10 Evaluate Efficiency

Although it is often expected that a new technology is more efficient than the old one, it might not be the case in practice. It is possible to replace an efficient manual process with an inefficient automated one if the new process is not carefully thought through. When deciding to implement a new technology, it is important to ensure that the new system is more efficient than the one it replaces. One of the anticipated benefits of technology is the ability to perform accurately large complex tasks in a relatively short time compared to the time needed to undertake the tasks manually. While this may enable EMBs to reduce costs by deploying fewer staff, it may also lead to additional pressure on staff as productivity rises and more is expected of them.

1.6.11 Evaluate Sustainability

Technology is generally expensive to acquire, but if it is sustainable, and able to be used for more than one purpose or more than one election, it can be more cost-effective in the long term. New technology may also require the use or availability of other technologies or specific infrastructures, such as communications and electrical energy networks. For example, if a country has an intermittent power supply, implementing a network of personal computers may not be the best choice. High humidity or high levels of dust or sand may also restrict the choice of appropriate technology.

In general, local infrastructure must be capable of supporting a chosen technology. If it is not, it could mean that the technology being considered is not appropriate or that there is a need to upgrade the infrastructure, in which case costs and benefits should be carefully assessed. There is also a need to evaluate the technical and financial capacity of the electoral management body (EMB) to maintain a new system during an agreed upon or required time span. Usually, it is desirable for an adopted technology to be used for several years; therefore funds will need to be secured, not only for initial implementation, but also for the foreseeable life of the technology. These funds need to be budgeted for and guaranteed before committing to a new technology.

Another aspect related to the sustainability of a new system is the availability of appropriately skilled staff to run and maintain it, either by the EMB or by outside service providers. The costs associated with keeping staff skills up-to-date and the capacity of both EMB and service providers to retain trained staff need to also be considered. Another potential pitfall is attempting to do too much too quickly. Instead of implementing a radically new technology (compared to the existing local technology) in one step, it may be more appropriate to gradually implement change over a series of electoral events.

1.6.12 Evaluate the Flexibility of the Technology to Adapt to New Election Regulations

A technology that is flexible is also more likely to be cost-effective and sustainable. It may be desirable to adopt a technology that has the potential for more than one use if this does not compromise the primary need for the technology. In cases of transitional environments, where the future of election management methods is uncertain, it is desirable to avoid purchasing technology that is highly specialised and

inflexible, and to purchase instead more generic products that can facilitate the use of a wide range of applications.

Another of the perceived advantages of using technology for elections is its ability to provide users with greater flexibility and more options. Therefore, procedures may be implemented to ensure that the new technology does not reduce flexibility by limiting the number of options available. For example, it may be more desirable to introduce electronic voting, in addition, to using manual ballots, rather than completely replacing manual ballots with electronic voting, to ensure that users without electronic.

1.6.13 Consider the Service Provided to the Users by the Technology

Elections are largely about providing a service for its clients, the voters. When choosing a new technology, the level of client service—ease of use and voters' satisfaction—as well as how the technology is perceived by its users' needs to be a priority consideration for the EMB in order to ensure that the credibility of the electoral process is not jeopardized.

There are a number of strategies that can be adopted to reduce users' unrealistic expectations or suspicion and ensure trust:

a.   Assessment of stakeholder receptivity to review specific technologies
b.   Clear definition of technology objectives
c.   Use of open and regular consultation process with all relevant stakeholders
d.   Verification of legal implications of adopting a specific technology
e.   Use of rigorous technology evaluation processes including need for and implementation risks
f.   Provision of appropriate levels of security for the electoral process different tasks
g.   Verification of funds availability to cover all implementation, maintenance and training costs
h.   Setting up transparent tendering and purchasing processes accepted by all stakeholders
i.   Organization of effective training strategies both to electoral administrators and users
j.   Assessment of references, use of external audits and verification checks to assert the trustworthiness of external vendors, technical staff, software programmers and   consultants

involved in supplying and/or maintaining
technology skills or access are not disadvantaged.

1.7   Technologies with Electoral Applications

Telecommunications technology refers to distance communications, such as radio, telephone, television, satellite, microwave, data communication, and computer networking. In the 21st century, it is essential to the conduct of most elections. Depending on the country, all or some of these telecommunications technologies are used by the electoral administration to transmit information: via voice in telephony and radio, documents in faxes or data including text, sounds and images, in computer networks.

Telecommunications technologies continue to evolve rapidly and are becoming increasingly affordable and reliable to communicate voice, data and even images between distant and isolated places around the world. This facilitates the organisation of elections by enabling communication of electoral officers stationed at remote locations with their respective regional and national offices.

The main components of a telecommunications system are: the transmitter, a device that originates communication; atmosphere or cables, the medium over which the transmission takes place and the receiver, the end point of the transmission. The transmitter transforms or encodes the data/message into a signal, which is transmitted to one or more receivers that decode it to make it understandable to the user, a person or a computer or other piece of hardware. This transmission can be bi-directional, if at the end of the transmission path there is a combination of transmitter and receiver. In the case of a "broadcast" signal the transmission goes only from one transmitter to many receivers, such as a radio or television set.

As the signal travels through the transmission medium from the transmitter to the receiver it is likely to be degraded or even modified by the interference of other signals. Most of the time, the decoding mechanism is capable of recovering the message and making it understood by the final user of the message. Specific security issues are associated with the use of telecommunications systems. In particular, there is the possibility of undesired or unauthorized modification of the transmitted signal or message, between the transmitter and the receivers. For example, interference with telephone transmitting signals can result in conversations being heard by third parties without the knowledge of the people at both ends of the

transmission path. There is also the possibility that data can be stolen or modified during its transmission by interfering with the radio frequency emissions that carry the data.

Electoral administrators need to be aware of the possibility of a security breach when data such as the results of vote counting, voter data registration or even payments to third parties are transmitted from one place to another. Telephone and facsimile are frequently used by electoral officials. Besides personal communications, electoral authorities can use the telephone for public communication campaigns and can establish toll-free telephone numbers to handle questions from voters and/or for voting.

Mobile telephones provide a flexible alternative to standard telephones, particularly where there is no reliable infrastructure for standard telephones. They may also be a faster and more affordable way to create a voice communications network. Mobile phones can also facilitate communications among offices that have no access to standard phones services and also between electoral offices and polling sites on Election Day.

Satellite phones and facsimiles can be used to communicate between places where no standard or mobile phone service is available. During voter registration periods and election days, this technology, if available, can solve serious problems of communications with remote areas, especially those without any access to telecommunications infrastructure. The use of public radio by electoral administrators is probably the best method for promoting voter participation in elections and disseminating information. Radio is relatively inexpensive and has the potential to reach a wide audience, including linguistically and culturally diverse audiences as well as those who have difficulty with printed material for literacy or disability reasons.

Television is also widely used by electoral authorities to promote participation in elections and to disseminate information in many countries its reach is still restricted to a few cities and television ownership can be low. Television is also a practical and powerful medium for reaching audiences who have difficulty with printed material. However, the use of television may be expensive unless television stations consider broadcasting electoral information a public service and decide to offer substantial discounts.

Telecommunications technology also enables computers and/or groups of computers to be connected through networks, including Local Area

Networks (LANs) and Wide Area Networks (WANs), making possible the communication and sharing of data. These networks employ specialized software to allow computer around the world to communicate via intranets, extranets and the Internet (World Wide Web) and transmit voice, images and data, including emails.

1.8   Summary

This unit has discussed **the use of Technology in Elections.** Most technological applications that have electoral uses are general in nature, and can be used for many different tasks beyond election management. That said there is at least one branch of technology that is election specific: mechanical or electronic voting machines. These have largely been confined to elections in the United States. The first mechanical voting machines used levers to turn counting wheels. The first official use of a lever type voting machine was in Lockport, New York in 1892. Their use was gradually extended, and by 1930, lever machines had been installed in almost every major city in the United States. By the 1960s over half of the votes in the United States were cast on lever machines.

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Self-Assessment Exercises(SAE's)

1)   Explain the essence of election and technology,
2)   Highlight the guiding principles of the use of technology in elections

1.10   Possible Answers to SAEs

1)   Technology is at the centre of electoral operations and credibility. Technology is involved in the entire process of the election cycle. It is used, for example, to compile voter lists, to draw electoral boundaries, to manage and train staff, to print ballots, to conduct voter education campaigns, to record cast votes, to count and consolidate vote results and to publish election results. The appropriate application of technology to elections can increase administrative efficiency, reduce long-term costs and enhance political transparency.

2)   The fundamental guiding principles for the use of technology in election are:

a.   Take a holistic view of the new technology
b.   Consider the impact of introducing new   technologies
c.   Maintain transparency and ensure ethical   behaviour while
d.   Adopting new technology
e.   Consider the security issues related to the new technology;
f.   Test the accuracy of results produced by the use of technology
g.   Ensure privacy
h.   Ensure inclusiveness
i.   Consider the technology cost-effectiveness
j.   Evaluate efficiency
k.   Evaluate sustainability
l.   Evaluate the flexibility of the technology to adapt to new election regulations;
m.   Consider the service provided to the users and   their trust in the new technology.

Unit 2   Networks/ Internet

Unit Structure

2.1   Introduction
2.2   Intended Learning Outcome
2.3   Types of Networks
         2.3.1 Local area network
         2.3.2 Wide area networks
         2.3.3 The Internet
         2.3.4 Intranets
         2.3.5 Extranets
2.4   The World Wide Web
2.5   Website Design
2.6   Internet security
2.7   Summary
2.8   References/Further Reading/Web Resources
2.9   Possible Answers to Self-Assessment Exercise(s)

2.1   Introduction

Most election management bodies (EMBs) need to share data stored in computers within their own administration and with outside organisations and the public. Computer networks enable two or more computers to communicate and share data and commands.

2.2   Intended Learning Outcome

It is expected that by the end of this unit, you should be able to:

- discuss the types of computer networks for the use of EMBs

2.3   Types of Networks

These networks, described below, may be set up by connecting computers through cables, modems, radio waves or a combination of these.

1.   A local area network (LAN) covers a local area, like an office or a small group of buildings.
2.   A metropolitan area network (MAN) usually spans a city or a large area like a university campus. A MAN typically uses

wireless infrastructure or optical fibre connections to link their sites.

3.   A wide area network (WAN) covers a wide geographical area, involving a vast array of computers and LANs. The best example of a WAN is the Internet.

2.3.1 Local area network:

A LAN can connect computers, workstations and other devices such as printers and scanners within a small geographic area such as an office or office building through a common communications line or wireless link. Although there are several ways to set up a LAN, typically, each computer corresponds to a node in a LAN which can execute programs and share the resources of a single computer processor or server. This means that several users can share devices as well as data located away from them. Users can also use the LAN to communicate with each other, by sending email or engaging in chat sessions.

LANs are capable of transmitting data at fast rates and may serve as few as two or three users or as many as thousands of users. However, the geographic distance of a LAN is restricted and there is a limit to the number of computers that can be attached to a single LAN.

Besides specialized hardware, a LAN requires special operating system software to allow the various devices connected to the LAN to communicate with each other and to ensure the security of the LAN resources and to control the users' access rights to those resources. In addition to the benefits derived from being able to share data and programs, LANs allows systems administrators to impose standards on computer hardware, software and users procedures. Users may be required to store data on the central file server rather than their local hard drives, thereby ensuring that the organizations' data can be centrally managed and backed up and that the data is available to all authorised staff on the LAN.

2.3.2 Wide area networks:

Several LANs can be connected to create a wide area network (WAN). WANs can allow geographically dispersed computers to communicate with each other and to share data. For example, an EMB with several different offices, each with its own LAN, can have an EMB-wide WAN, allowing data to be shared across the organisation.

WANs can be used to link computers with access to appropriate telecommunications from anywhere in the world. WANs can be

connected by cables or optical fibres, or by microwave links or radio links, using ground-based or satellite transmitters. These links can be privately owned, but they are often part of the public telecommunications infrastructure. Many WANs are organisation-specific, connecting all of an organisation's employees to one network regardless of their physical locations. Many users do not see a distinction between their LAN and their WAN.

2.3.3 The Internet

The largest WAN is the Internet, which is a collection of networks linking millions of computer users around the world. It is made up of thousands of smaller commercial, academic, domestic and government networks. It carries various information and services, such as electronic mail, file sharing and the World Wide Web. Apart from the complex physical connections that make up its infrastructure, the Internet is held together by multilateral agreements and by technical specifications or protocols that describe how to exchange data over the network. Any communications network, wired or wireless, that can carry two-way digital data can carry Internet traffic. Millions of people worldwide have easy, instant access to a vast and diverse amount of online information through keyword-driven Internet research using search engines like Google and Yahoo.

Specific networks may use security, authentication and encryption technologies which limit the access to some or all of their information by the general public while encouraging the use of new ways of home-working, collaboration and information sharing among its authorized users. The Internet has already proven to be a useful way for EMBs to communicate information to voters in countries where access to the Internet is widely available. Some countries are also starting to use the Internet to allow voters to cast their votes in referendums as well as national, regional and local elections.

2.3.4 Intranets

An intranet is a LAN or even a WAN that is set up like the Internet, but used internally in an organisation to facilitate communication and access to information restricted to its staff and authorised users. Internet technologies are also used to provide new interfaces to corporate management information systems, such as human resources management systems, procurement and financial systems. Several EMBs have already set up intranets containing an in-house website that is accessible only to EMB staff for administration and training purposes.

These intranets may not be connected to the Internet itself, but if they are, there is probably firewall software that acts as a gateway through which all access to the organisation's data is filtered and can be monitored by the organisation's security department. Where external e-mail access is provided, known sources of spam and specific types of e-mail attachment can be blocked by the organisation. It should also be noted that e-mails sent and received this way can be required to be produced by the organisation in the event of legal action against it by a third party.

2.3.5 Extranets

Like an intranet, an extranet is a private computer network that uses Internet technology and the public telecommunication system to securely share part of its business information or operations with suppliers, vendors, partners, customers, or other businesses. Access by the general public is not authorized. This means that an extranet requires security and privacy. These can include firewalls server management, use of digital certificates and message encryption.

2.4   The World Wide Web

The World Wide Web consists of a global network of computers, each one offering services or data, called websites. These websites contain interconnected "pages" of data in the form of text, still pictures, moving video and animation, and sound. Consequently, websites can provide information using a variety of delivery techniques, unlike traditional books, videos or audiotapes, which are more static and offer limited search facilities. For this reason, websites and CD-ROM programs that have the same features as websites are described as "multimedia".

Multimedia programs contain "hyperlinks" that enable the user to navigate through the pages of data. Users can follow items of interest, rather than be locked into a sequential progression of information as in a book or video. Internet hyperlinks facilitate navigation within the same website or from one website to another, providing flexible access to information.

Simple websites are created using a programming language called hypertext mark-up language (HTML). Websites are accessed via computer programs called web browsers (Microsoft's Internet Explorer, Mozilla's Firefox, Apple's Safari and others), which are widely available for little or no cost. Websites that service many hundreds or thousands of users, offering more advanced data and

multimedia services are increasingly programmed in languages such as PHP, Java and others, using and following two major architectural paths. Net from Microsoft, and J2EE (Java 2nd Enterprise Edition), which is an open source software.

Most website documents are imaged and viewed by a program called Adobe Acrobat, which uses the "PDF" format. The advantage of the tools listed above (HTML, Java, Adobe Acrobat and web browsers) is that they can be run on most computing devices that are increasingly portable and wireless, expanding access to World Wide Web.

Each page in a website is identified by a uniform resource locator (URL), a unique electronic address that enables its access from web browsers via the Internet. The first words in URLs are called "domain" and they have become a standard part of the corporate identity of many businesses, and government and non-government agencies. Indeed some Internet specific businesses are known only by their domain name. The domain of the ACE Project is www.aceproject.org.

Here are some points to keep in mind when designing and maintaining an electoral website:

a.   Designing a website is not the same as designing a book or a brochure. Some elements of print design do not work well on screen and websites are much more flexible than print.
b.   Keep download times to a minimum. Do not use complicated pictures or graphics that take a long time to download, as many users will leave your site rather than wait.
c.   Let users navigate quickly. Do not make users wade through irrelevant information to get to what they need.
d.   Keep language brief and simple, except where there is a clear need for more complex information.
e.   Keep your website up-to-date. Websites are now an element of the public face of many electoral authorities and out-of-date websites lack credibility.
f.   Give a staff member or work unit clear responsibility for maintaining the website.
g.   Try to use standard website conventions, such as recognizable hyperlinks, clear site maps and other conventional navigation methods. Users will find your site easier to navigate if they do not have to learn new rules just for your site.
h.   Make sure your website is usable on all common hardware and software platforms. Some designs do not work well on all platforms.

The Internet is both a passive and an active medium. Passive uses focus on communication of information, via still and moving images and sound, where the user simply receives information. Active uses involve two-way communication, where the users can relay information to the providers and vice versa. Active uses include email, on-line commerce and on-line information sharing, such as electronic voting or voter registration.

Many electoral authorities now have websites. In countries where significant numbers of electoral users have access to the Internet, electoral websites have become an integrated part of the service delivery strategy of electoral authorities. Websites are an excellent way to convey large amounts of information to users. Traditional communication methods such as newspapers, brochures, radio and television are only able to carry limited amounts of electoral information. Electoral authorities can now greatly expand their information delivery capabilities by including references to their websites in their advertising. Websites can be structured to deliver as little or as much information as the user desires.

In addition to delivering information, electoral websites can also be interactive. Users can complete transactions on-line, such as applying for electoral enrolment or voting in elections. Forms can be completed on-line, such as campaign finance disclosure returns, or forms can be downloaded for printing on the user's printer and returned by mail (particularly where a user's hardcopy signature is required).

Election results can be progressively broadcast "live" on websites, as they are counted on and after election night. By the end of the 1990s, some electoral authorities were beginning to replace "physical" tally rooms with "virtual" tally rooms on their websites (for example, the Australian Electoral Commission did this with its 1999 referendum on amending the Australian Constitution).

Election results in spreadsheet or database form can also be made available on websites. Academics, journalists and other researchers can download this data for their own use. Websites are also useful for publishing election campaign finance data, which in some jurisdictions can cover many hundreds or thousands of pages. Database technology can be used to interrogate this data on-line so as to extract particular items of interest from the vast amount of information provided. Websites can also be developed for use inside an organisation. Internal networks, called intranets, function in much the same way as the Internet, but access is only provided to authorized users. Intranets used

by electoral authorities can include internal resources, such as staff lists, user manuals, training programs, on-line electoral rolls and databases.
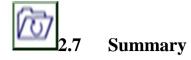
2.5   Website Design

Website design is crucial to the operation of a website. Internet users are well known for their intolerance of websites that are slow to download or hard to understand or navigate. There are many books and Internet sites available that aim to teach good website design. As a relatively new communication medium, website design is an evolving discipline. Electoral authorities can choose to have their websites set up and maintained by professional web designers, or they can develop and maintain their websites in-house. There are advantages and disadvantages to both choices. External designers are more likely to produce a professional result but may cost more and be slower to respond to update requests than in-house designers. On the other hand, in-house designers may not have the skills of professional designers, but they may cost less and be better able to update the site quickly and accurately.

2.6   Internet Security

Internet security is a crucial issue for electoral authorities providing on-line transactions with clients, particularly on-line voting. Security is also important for email systems where sensitive information may be transmitted. Even simple websites should be protected from unauthorised changes, such as deletion or alteration of web pages or redirection of users to inappropriate off-site URLs. Internet security is a complex field that is constantly evolving as the Internet develops and Internet "hackers" find new ways of attacking websites. Electoral authorities should consult Internet security professionals for the latest strategies available to them.

There are some general security strategies:
a.   Encrypt data so that only the sender and the receiver are able to decipher the information.
b.   Protect websites so that unauthorised users are not able to change data.
c.   Provide secure websites that prevent outsiders from accessing data being transmit

2.7   Summary

This unit has discussed the types of networks that can be used to facilitate electoral processes**.** Internet services make it easier for the transmission of electoral updates during the period of elections. It also points out the importance of investing in internet security to protect the website from unauthorized changes and hackers.

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Self- Assessment Exercise(SAE)

i.   Highlight the types of networks and give their full meaning

2.9 Possible Answers to SAE

i.   The types of networks are: Local Area Network (LAN), Metropolitan Area Network (MAN) and Wide Area Network (WAN)

Unit 3   Election Security

Unit Structure

3.1   Introduction

Election security data includes information from regulatory, security, and judicial institutions. Data from the regulatory institution includes the specific standards and/or clear rules for engagement of the police and military in the electoral process. From the regulatory institution and/or security institutions, all non-sensitive deployment plans for security forces should be made available to the public, as well as the deployments strategy for personnel present at polling stations on election day, including the number of security personnel that should be present at each station. Police should also collect and make publicly available information on incidents of electoral violence. Incident reports should be detailed and include type, date, time, place, victim(s), perpetrator(s), witness(es), gender(s), ages, any political affiliations and a brief description. From the judicial institution/s, data includes information about how electoral security and violence complaints are handled, including the legal framework, if any, and the legal adjudication process for election-related security incidents.

In order for an election to be inclusive, participatory and competitive – and ultimately, to reflect the will of the people – it is essential that electoral contestants can campaign; citizens can cast informed, secret ballots without fear of retribution; officials can effectively administer the process; and civil society, media and parties can engage and observe, free from fear and harm. In many places, EMBs help

coordinate processes and personnel to protect various aspects of elections. The security plan for a given election must take into account the implications of deploying armed personnel. While their deployment can be necessary where potentials for electoral violence are significant, their presence may intimidate or dissuade citizens from participating. Input from civil society in the planning phases can help ensure that citizens' concerns are more fully considered and that they are informed about the measures in place to ensure their security. At the same time, electoral security requires more comprehensive measures than deployment of security forces. The analysis of past incidents and patterns of violence is vital for allocating anti-violence resources. Identifying early warning signs is necessary for preventative measures, while addressing rumours concerning potential or actual incidents of electoral violence is important for mitigating potentials for violent reactions. Often, this means that information must be available in near real-time to be effectively used.

3.2   Intended Learning Outcomes

It is expected that by the end of this unit, you should be able to:
*   explain the guiding principles for the election security
*   discuss principles of security forces operations

3.3   Guiding Principles

The organisation and conduct of credible elections demand adherence to principles and rights, which in practice, impose significant challenges for ensuring effective security, including:

a.   Transparency requires that the steps of an electoral process be well advertised to the public;
b.   Elections must be held in compliance with national laws that usually create immutable timeframes;
c.   Freedom of speech and association can create a politically-charged atmosphere which may polarise communities;
d.   The institutions responsible for the administration and security of an election must fulfil their mandates impartially, and may be constrained by the need to avoid perceptions that they are favouring a particular political competitor;
e.   Inclusiveness requires that an election be a highly decentralised operation, with massive logistical requirements involving the recruitment of tens of thousands of temporary staff, and the

operation of polling places and offices.

3.4   Principles of Security Forces Operations

To operate effectively within these electoral requirements, security forces need to be guided by their own principles, including:

3.4.1 Equitable and Rights-based

Participants in an election must be treated in an equitable manner by both security forces and electoral officials. Reasonable and proportionate responses to actions must be consistent, which cannot be influenced by arbitrary factors, such as, political affiliation. An election is a mechanism by which people are able to exercise their political, civil and human rights. Security protocols must consider and acknowledge these rights, as well as the heightened sensitivity and scrutiny to the respect for these rights that occur during an election period.

3.4.2 National Ownership

Elections are a sovereign process. However, in some circumstances such as, post-conflict or transitional elections, national security forces may need to be strengthened by international forces. To the degree permitted, the security of an election should fall within the ownership and control of a national authority to reflect sovereignty and avoid allegations of international interference. Advantageously, indigenous security forces are the most sensitive to their cultural practices and may therefore be best positioned to interpret and respond to emerging threats.

3.4.3 Strategic

Elections are normally planned 18 to 24 months before polling day and occur as a widely dispersed exercise requiring significant planning and preparatory activities. Security forces (police and/or military) rarely possess sufficient standing resources to secure an election, and simultaneously carry-out their regular duties. Integrated strategic planning by the electoral and security institutions is essential to prioritise, allocate and coordinate necessary resources.

3.4.4 Non-partisan and Impartial

To be effective, security forces must avoid allegations of partisan bias. If security forces are found to behave in a partisan way, rather than defusing tensions they may heighten them and undermine their

own function in the process. During the election period (especially during the campaign period) normal security actions may become the subject of analysis which evokes political dimensions. In politics in general, and in elections in particular, perception is as important as reality. As such, senior security managers must actively consider these political dimensions to preserve not only the reality, but the perception of impartiality.

3.4.5 Flexible and Efficient

Electoral processes can face late-stage amendments to accommodate emerging legal, operational or political conditions that arise. In the first instance, security planning should include a range of contingency plans and resources to ensure flexibility. Alternatively, clearly defined constraints on security capabilities and resources based on efficient planning should be available to inform decision makers on the range of options that are feasible to accommodate. The efficiency of these operations, both in delivering substantive security services and adjusting to changes, is an important indicator for the confidence of the electoral participants.

3.4.6 Transparent and Accountable

In security operations there is always a tension between operational security policies of 'need to know' and the public interest. In an election period, disclosure policies are normally best weighted towards the public interest, recognising the importance and value of transparency. In cases where it is necessary to protect information, extra accountability measures may be necessary to ensure post-event justifications. Transparency in this context also refers to enhancing consultative mechanisms with political groups, civil society and other organisations to ensure the role and functions of security forces are well understood in the process.

A favourite saying of this author is: 'The best operational solution is rarely politically feasible'. In many cases, the political dimensions of an election can create obstacles to otherwise seemingly simple security decisions. This feature of the electoral process highlights the potential frustrations that can arise between security and electoral officials. Ultimately, an operational solution cannot be considered desirable if it does not address the necessary political conditions. This discord emphasizes the need for strong communication and coordination between security forces and electoral institutions.

3.5   Summary

This unit has discussed electoral security. In any election, authorities take steps to ensure that voters, candidates, pollworkers, observers, and other actors involved in an election experience the process free from fear or harm and to ensure that sensitive election materials are kept secure. The specific security requirements for a given election will vary greatly depending on the context. In places with ongoing conflict, or where there is a significant potential for violence, securing an election will need to address a multiplicity of factors and will likely involve deploying relatively large numbers of security personnel, such as police or military forces, to protect physical locations and individuals. In every election, there will be plans in place for the secure transfer and storage of election materials, especially ballots and ballot boxes. Safeguards to any technologies used in the election process should also be adopted to prevent hacking or manipulation.

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Self-Assessment Exercises (SAEs)

a.   Explain the guiding principles for the election   security,

b.   Discuss principles of security forces operations,

3.7   Possible Answers to SAE

a.   The guiding principles for ensuring effective security, includes:

      ii.   Transparency;
      iii.   Elections must be held in compliance with national laws that usually create immutable timeframes;
      iv.   Freedom of speech and association;
      v.   Impartiality;
      vi.   Inclusiveness;
      vii.   Highly decentralised operation.

b.   The principles for security forces operations to ensure credible elections are: equitable and rights-based; national ownership; strategic; non-partisan and impartial; flexible and efficient; transparent and accountable.

Unit 4: Election Security Actors

Unit Structure

4.1   Introduction
4.2   Intended Learning Outcomes
4.3   Election Management and Oversight Bodies
4.3   Responsibilities / Duties of Election Security Actors
4.4   Electoral Special Security Measures
        4.4.1   Joint Operations Centre (JOC)
        4.4.2   Dedicated Training on Security
        4.4.3   Weapon Exclusion Zones
        4.4.4   Coordination of Campaign Rallies
        4.4.5   Campaign 'Cooling-Off' Period
        4.4.6   Security Media Component (Proactive and Reactive)
        4.4.7   Enhanced Communications Network
4.5   Rules of Engagement or Use of Force Policies
        4.5.1   Code of Conduct
        4.5.2   Investigation Taskforce
4.6   Election Security Threats and Analysis
        4.6.1   International terrorism
        4.6.2   Organised Crime
4.7   Summary
4.8   References/Further Reading/Web Resources
4.9   Possible Answers to Self-Assessment Exercise(s)

4.1   Introduction

In broad strokes, election security arrangements can be divided into three main types: static (e.g. protection of warehouses, polling stations and offices), mobile (e.g. protection of voter registration teams or campaign rally sites) and reserve (e.g. contingency forces to support either static or mobile forces as required). Within each of these three broad categories, the types of security tasks involved vary widely and depend upon significantly different capacities (skills and numbers) and lawful authorities. In many cases, the assignment of these tasks will be dictated by 'best fit' to function (involving a division of labour among several security institutions or contractors), but can be constrained by legal, financial and political conditions.

4.2   Learning Outcomes

It is expected that by the end of this unit, you should be able to:

•   discuss the responsibilities and duties of election security actors
•   discuss special election security measures.

4.3   Responsibilities / Duties of Election Security Actors

Legally, the assignment of security responsibilities to institutions for an election varies significantly worldwide. In many cases, the police force is designated with the primary responsibility for election security, due to constitutional limitations imposed on the domestic deployment and use of military forces. In some countries, the involvement of the military forces is outright prohibited and uniformed personnel are required to stay in barracks on polling day. In other countries, the military is integrally involved, but may do so under special arrangements, such as the head of the electoral management body temporarily assuming the mantle of Commander-in-Chief of military forces. Elsewhere, police forces may be able to utilise military personnel and equipment through regular legal provisions (such as secondment arrangements).

The financial arrangements for security services can become a controversial issue between security and electoral institutions. This controversy (if it arises) principally stems from the high costs associated with such large scale operations, additional costs incurred by late amendments, and whether the costs should be borne as part of the electoral process (and therefore by the electoral management body) or as a function of the security forces (and therefore by the budget of the security forces).

The resolution of this problem will depend on the formal arrangements of government in a particular country, but is also influenced by the electoral and security institutions ability to identify the problem early in the strategic planning phase, and find a mutually satisfactory solution. Political constraints may also affect the assignment of security forces to particular tasks in the electoral period. If a security actor has been the subject of controversies relating to partisan bias, the use of these forces in some aspects of the electoral process may be counter-productive to gaining the trust of the participants. For example, in a post-conflict environment, the involvement of the State

security forces in the conflict may have created a level of distrust that can necessitate alternative arrangements.

In this post-conflict scenario in particular – especially if military and police forces are undergoing major reforms in parallel to the election process – the deployment of these forces can be detrimental not only to the election, but to the reforming institutions. Neither are security actors in an election process limited to formal security institutions. Political parties, civil society groups, non-governmental organisations (NGO's), the media and election observer groups can all have an influence on the security environment through various mechanisms.

Political parties may enter into a mutually agreed Code of Conduct that guides the behaviour of their supporters and candidates. Civil society and NGO's (national and international) may undertake information campaigns, public debates or use other strategies to assist in defusing political tensions. Media outlets may also follow a Code of Conduct that deters speculative reporting that could unnecessarily heighten political tensions. And, electoral observers may also mitigate intimidation and other threats to the process, by virtue of their presence and scrutiny of the process.

4.4   Electoral Special Security Measures

Several measures have evolved in different countries to enhance security during an election. The applicability of these measures varies given the unique circumstances. Listed below is a non-exhaustive list of special measures or arrangements that might be considered by election and security officials:

4.4.1 Joint Operations Centre (JOC)

The establishment of a Joint Operations Centre (JOC) has become a common feature of efforts to coordinate security and electoral operations. Normally established some months before an election, the JOC contains representatives from a range of institutions and acts as a nexus for information sharing, planning, briefing and monitoring of the electoral process.

4.4.2 Dedicated Training on Security

The development and delivery of a training package for security officials involved in an election. Normally this step is reinforced by the distribution of 'Election Cards' to security force personnel –

outlining key points about the process, their expected behaviour and lawful authorities. Similarly, the training delivered to electoral staff should include a component that outlines the role and integration of security personnel into their activities.

4.4.3 Weapon Exclusion Zones

During registration, campaigning, polling and counting exercises, special legal provisions may come into force that create a 'weapon exclusion zone' around these sites. Normally, the only persons legally bearing arms within these zones are appropriately authorised security personnel.

4.4.4 Coordination of Campaign Rallies

Under relevant Public Law and Order provisions, electoral and security officials may require political parties to register the date, time and place of campaign rallies. In these circumstances officials may impose schedules, to ensure opposing rallies do not occur in a proximity that could create conflict. Arguably, this may be deemed to be a restriction on the right of freedom of association in some circumstances; however, this constraint can be justified if public law and order issues are a valid risk.

4.4.5 Campaign 'Cooling-Off' Period

Several countries impose a "cooling off" period between the end of the campaigning period and polling day. This cooling off is intended to reduce the amount of political rhetoric and tension between opposing parties, as their respective supporters go to vote together at polling stations.

4.4.6 Security Media Component (Proactive and Reactive)

In the course of an election, security forces may become the subject of disinformation campaigns. Disinformation campaigns may seek to misinform voters about the role, behaviour or credibility of security forces. In the first instance, a proactive information campaign seeks to explain the role of security forces in the process, which can deter disinformation efforts. In reactive circumstances, security forces should have the capacity to respond quickly and effectively in the media to journalist enquiries or disinformation .

4.4.7 Enhanced Communications Network

An effective communications system is well recognised as a 'force multiplier' for operational activities. For an election, ensuring that both election and security officials have appropriate communications equipment and interoperability at key levels – significantly enhances responsiveness and efficiency, as well as avoiding misunderstandings.

4.4.8 Security Consultative Meetings and Liaison

In certain circumstances, it may be necessary for security officials to pursue liaison and consultation with local communities to explain their role in an election. Offering an opportunity to exchange expectations, these meetings can be highly productive in alleviating concerns. If follow-up is necessary, a reliable security focal point (or team) may be appointed as a dedicated channel for election related security issues. It is strongly recommended that if this type of engagement is initiated, representatives of the electoral authorities are directly involved to avoid inconsistent messages.

4.5   Rules of Engagement or Use of Force Policies

Security forces often outline a policy framework termed a 'Rules of Engagement' (RoE) or 'Use of Force Policy' (UoF) to guide the actions of their personnel in certain circumstances. Usually, these policies guide security forces on what action is considered to be a reasonable and proportionate response to certain types of threats. During an election these policies may need to be reviewed with an emphasis towards ensuring that security forces are not 'baited' into actions that may later be politicised. In the case that security providers are contracted by an electoral institution, a use of force model should be clearly outlined in the contracting arrangements.

4.5.1 Code of Conduct

As has been mentioned earlier, several different groups, such as political parties and the media may enter into a Code of Conduct to guide their behaviour during an election. Security forces may also enter into a Code of Conduct to administer the behaviour of their personnel during an election.

4.5.2 Investigation Taskforce

Irrespective of the forum to which an electoral dispute is brought, the ability to rapidly and competently investigate the asserted facts is essential to defusing uncertainty. The awareness that any allegation

will be thoroughly and competently investigated, can in itself, deter frivolous or malicious disputes from arising. Assembling a credible, impartial and competent investigation taskforce, solely for electoral matters may therefore pre-emptively defuse unnecessary disputes.

The measures outlined above offer a sample of the range of security solutions that might be considered during an election process. The desirability and suitability of certain measures, or their combination, should stem from the threat analysis and strategic planning stages. Elections are a potent tool to defuse conflict and create a means of finding negotiated resolutions. As these peaceful means seek to resolve inter alia social, political, ethnic, religious and economic divisions, an election is a period of heightened tensions.

Security is pervasive in this process and can affect both the actual, and perceived, legitimacy of the electoral outcomes. An equitably secure environment for electoral participants is fundamental to their engagement in the process, and by extension, the goal of an election itself. Whether or not an election lifts a conflict out of violence, or generates conflict, is strongly influenced by the integration of effective security policies and practices, into the electoral process.

4.6   Election Security Threats and Analysis

The nature of an election makes it vulnerable to a range of security threats against participants, infrastructure, information and materials. Effective election security analysis must draw on information and expertise from multiple arenas. A high-level of communication and coordination among the agencies responsible for the administration and security of an election is a significant advantage. Neither can security analysis and planning be effective when it occurs only in a period shortly before the electoral process starts, nor depend solely on reactive strategies. Anticipating and pre-empting security risks, mitigating their impact or probability of occurrence, is a strategic endeavour of both the electoral authorities and their security partners.

An electoral process is constituted from a complex series of interdependent sub-processes, generically including: boundary delimitation, civic education, voter education, voter registration, party registration, candidate nomination, the campaign period, polling operations, tallying and counting, dispute resolution and the official announcement of results. With the exception of boundary delimitation (which often occurs following a decennial census exercise) these sub-

processes occur in some form during each election cycle. Each of these sub-processes can be characterised by different types of threats, influenced by: the particular approach adopted, cross-influence between sub-processes and the individual circumstances of the election.

Further, the circumstantial conditions of an election can alter quickly, requiring the rapid reprioritisation or invalidation of initial security assumptions. Accordingly, the analysis of threats and risks is a continuous task throughout the electoral process, and is not simply event driven. The types of security threats likely to arise in a particular election are influenced by both structural and circumstantial aspects of the election process. The structural design of the electoral process such as the choice of electoral system may foster or deter certain threats. For instance, an electoral system that uses a single national district (the national borders form a single electoral constituency) and allows voters to cast their vote at any polling station, will offer no direct incentive to forcibly move voters within the territory – since irrespective of where the vote is cast, it will be counted in the final tally.

On the other hand, this arrangement may promote efforts to forcibly migrate eligible voters across national borders, so they cannot participate. In security terms, this scenario reflects a heightened structural risk for border control operations during the voter registration and polling phases of an election. Circumstances will dictate in each election, and at each stage of the electoral process, the level and priority of risk posed by different threats. For example, when an election is a presidential run-off (the final two candidates competing), the danger of political assassination represents a significantly higher risk than an election of several hundred parliamentarians to an assembly. Similarly, if an election is being conducted as part of a post-conflict peace agreement, it has a very different risk profile to an election held in a country with an unbroken history of democratic elections.

One methodology to map an election's risk profile is by the identification of mission critical assets (people, infrastructure, information and materials), without which, the election cannot reasonably proceed. In combination, the unique structural and circumstantial aspects of an election will dictate at what phase of the process an asset is critical, and notably, if this may change between sub-processes. Some electoral processes by their nature are better able to adapt to certain types of attack. For instance, the destruction of

ballot boxes at a polling station after polling has been completed may or may not cripple the ability of the electoral authorities to produce a result from the election.

The impact of such an attack will vary significantly depending on a range of both structural and circumstantial factors. Separating 'mission critical' from 'recoverable' threats is a key step in building the election risk profile and determining priorities. Against the backdrop of these regular security challenges, several new threat trends have emerged in the past few years. These include international terrorism and organised crime:
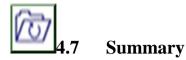
4.6.1 International terrorism

As a well-recognised ritual of democracy, elections can attract threats from diverse groups, whose motivations may have no connection to the national stakes of an election. As recent events have demonstrated, international terrorists have the capacity and motivation to conduct "spectacular attacks" geared towards fulfilling their own propaganda agendas. The intensity of media coverage during an election is a highly visible period, affording an attractive opportunity for such attacks to occur.

4.6.2 Organised Crime

The political tensions that arise during an election offer organised crime groups an appealing opportunity – at a time when the authorities' ability to differentiate between politically motivated violence and criminally motivated violence can be extremely difficult. Paradoxically, a group committing politically motivated offences may try to have their actions interpreted as purely criminal, whereas criminally motivated groups may wish to obscure their actions behind a political façade. Of further concern, these interests have become convergent in some post-conflict settings, where organised criminal groups have been known to kidnap individuals and sell the hostages to political groups for propaganda value.

It is necessary in any section on electoral threats and analysis to highlight a cautious approach in carrying out this function. As noted in the principles above, non-partisanship and impartiality as well as transparency and accountability are important guides for electoral security. The choice of methods and subjects of information collection, during an election period, must be sensitive to the possibility of interpretation as a political intent and possible backlash. As such,

extra emphasis on procedures that adopt checks and balances, are an important safeguard of the analytical process during elections.

4.7   Summary

This unit highlights election security actors and their differential responsibilities and duties across countries. Political Parties can enter into mutually agreed Code of Conduct that guides the behavior of their supporters and candidates to promote electoral security. Furthermore, there are certain challenges that can be encountered by various security services/ agencies, however, the approach to resolve these challenges is determined by governmental arrangements in the country.

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Self-Assessment Exercise (SAE)

i.   Highlight special electoral security measures

4.9   Possible Answers to SAE

i.   Election security measures include: Joint Operations Center, Dedicated training on security, weapon exclusion zones, coordination of campaign rallies, campaign cooling- off period, security media component (proactive and reactive), enhanced communication networks, and security consultative meetings and liaison.