

The Benefits of an Independent Election Management Body: A Case Study of the Central Elections Commission of Palestine

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Good morning. I'm very happy to be here representing the Central Elections Commission of Palestine. But let's get down to business—I'll scratch your back if you scratch mine!

Is that the best way for an electoral management body to function? Of course not. We're all well aware that free and fair elections are the cornerstone of a functioning democracy, and that the success of an election is largely dependent on the work of the EMB administering that election and the public's perception of that work. As we will see from the example of the Central Elections Commission of Palestine, the independent EMB model has many advantages over other models, particularly in emerging democracies.

Three common types of EMBs will be discussed in this presentation. These are the government model, the party-based model, and the independent expert model. All of us are well-acquainted with these models, but let's review them briefly for the sake of clarity. We know that a governmental EMB is one where elections are organized by the executive branch of a country's government, typically the Ministry of Interior or local authorities, and run primarily by Ministers or civil servants. The United States and much of western Europe utilize this model; past elections in Tunisia and Egypt were also administered by a governmental EMB.

As we're aware, party-based EMBs may be structurally independent from the government, but are composed of representatives of (all or some of) a country's political parties. Elections in many Latin American and African countries are run by party-based EMBs.¹

Finally, I'm sure we're all familiar with independent expert EMBs. These are institutionally autonomous and independent from the government, and made up of non-partisan members who have been appointed based on their professional skills and expertise. An independent EMBs also has and manages its own budget. The Central Elections Commission of Palestine follows this model.

You may or may not be familiar with Palestinian electoral history, so allow me to provide a brief review. The first Palestinian general elections in 1996 were administered by a temporary elections commission. In 2002, two parallel electoral bodies were created: the Higher Commission for Local Elections (HCLE) was tasked with the management of local elections, and the Central Elections Commission (CEC) was mandated to oversee general elections. The HCLE was a party-based EMB which suffered from corruption and the exchange of political favors ("back scratching"), and frequently had difficulty making decisions due to conflicting partisan interests. As a result, this body was ultimately dissolved and responsibility for local elections was transferred to the CEC.

The CEC, which was declared a permanent body in 2005, oversaw the 2005 presidential elections and the 2006 legislative elections, which were judged by international observation missions to have met international standards. The commission consists of nine members appointed by the President. The commission members are persons widely recognized as independent and impartial; six of the current commissioners are judges and the other three are prominent academics. The commissioners appoint a Chief Electoral Officer (CEO) and Deputy CEO, who oversees the executive and administrative bodies of the CEC. The CEC's members are politically unaffiliated experts who are responsible for organizing and administering all phases of local and national elections and ensuring that all steps of the electoral process are carried out in accordance with the law. The

commission also educates the Palestinian public about the electoral process, conducts voter registration, trains electoral employees and ratifies elections results.

Perhaps you've read (or even written!) some of the studies which suggest that voter participation and confidence in both the fairness of the electoral process and the validity of election results are impacted by the structure of the presiding EMB.ⁱⁱ We're surely all aware of the growing consensus that independent EMBs are the most preferable model;ⁱⁱⁱ even Australia and New Zealand, countries with long democratic histories, have reformed their electoral administration bodies in favor of the independent model.^{iv}

As the International Institute for Democracy and Electoral Assistance (IDEA) has written, successfully "administering democratic elections requires that EMBs be, and be seen to be, impartial and independent of government or other influence."^v It is particularly important in emerging democracies that may have histories of partisan influence or authoritarianism that the EMB function independently from the existing government and political parties, in order to increase voter confidence and dispel any fears of bias or interference. While we recognize that it is not categorically impossible for a government or partisan EMB to conduct fair and impartial elections, EMBs closely associated with political parties or government authorities do run a higher risk of perceived or real bias.^{vi}

We need look no further than Tunisia's electoral history to find an example of a governmental EMB acting with obvious bias. Elections in Tunisia during the reign of deposed President Zine el-Abidine Ben Ali were administered under the authority of the Ministry of Interior and Local Development (MOI) with assistance from other Ministries.^{vii} These elections were quite obviously and strongly biased in favor of the ruling party and were widely recognized as fraudulent.^{viii} The Egyptian electoral experience under former president Hosni Mubarak was, of course, very similar, with ballot-stuffing and box-swapping common occurrences. Given this history, it will be essential that future Tunisian and Egyptian elections are administered impartially and free of party or government interference, to ensure the credibility of the election process and results.

It is not only under authoritarian regimes that the structure of an EMB can cause controversy. The Mexican example may come to mind. The party-based Federal Electoral Institute of Mexico, a country which overcame single-party rule over a decade ago, had problems maintaining credibility after the opposition Party of the Democratic Revolution (PRD) was excluded from nomination by the National Action Party and the Institutional Revolutionary Party^{ix}, as well as allegations of elections fraud put forth by the PRD.^x You might also think of Nicaragua, a democracy since the mid 1990s, where elections are managed by a party-based body which is also a branch of government. Small parties have been excluded from the Supreme Electoral Council in favor of members of the Sandanista National Liberation Front and the Constitutional Liberal Party.^{xi} Problems such as these can negatively affect the perceived impartiality of the EMB and undermine support for the electoral process, possibly resulting in feelings of disenfranchisement, decreased political participation and even lack of support for government institutions.^{xii}

I'm sure you've read the IDEA Handbook on Electoral Management Design. It states that "EMBs that are independent from interference by other government institutions and political interests, impartial in their decision-making and professional in their make-up are...a crucial component for conducting a free and fair election in newly democratic states."^{xiii} While party-based EMBs may lack credibility, have difficulty making decisions or suffer conflicts due to divergent interests among the represented parties, independent EMBs are more likely to demonstrate professionalism, reject political pressure and enjoy credibility due to their neutrality.^{xiv} The Palestinian CEC provides us an example of the advantages of being a fully independent and non-partisan EMB.

The CEC successfully administered elections for the President of the Palestinian Authority in 2005 and for the Palestinian Legislative Council (PLC) in 2006, receiving high praise from international observers in both instances. The National Democratic Institute of the Carter Center wrote in their final observation report on the 2005 Presidential Elections that the CEC “is professional and technically proficient” and that the elections “met international standards.”^{xv} The observers also noted that the CEC “enjoyed a high degree of confidence among Palestinians” and “demonstrated its ability to withstand political pressure and to perform its duties impartially and effectively.”^{xvi} In 2006, the NDI again noted the independence, professionalism and impartiality of the CEC.^{xvii} The Election Observation Mission of the European Union (EU EOM) also reported that the 2006 PLC elections “were administered by the CEC and its Secretariat in an independent, professional and technically proficient manner” and that “the CEC has clearly established itself as a Palestinian institution that holds a high degree of public confidence.” The EU EOM further commended the CEC on maintaining its integrity despite being subjected to pressure, threats and intimidation.^{xviii} Both elections were widely recognized as being free and fair, and accurately reflecting the will of the Palestinian people.

In order to maintain the autonomous nature of an independent expert EMB, it is necessary to address several factors. The commissioners must not include members of the government or political parties. Commissioners should be chosen on the basis of their skills and expertise, by way of an open and transparent nomination and selection procedure. A fixed period of tenure for commissioners is advisable.^{xix} To be fully independent, an EMB needs to have and maintain appropriate, secure and transparent sources of funding and should develop its own budget. External auditing of EMB funds and accounts can verify an EMB’s continuing independence.^{xx} Equal distance must be maintained from political parties, the government and the security forces. Transparency in all actions is, of course, imperative. It is also important that the electoral commission be granted full power under the law to execute its duties without interference.^{xxi} Developing a code of conduct for the EMB commissioners would help in this regard; in some countries this initiative comes from civil society organizations.

I’m sure we all agree that the structure and composition of an EMB can greatly impact the success and legitimacy of the elections it administers. Independent expert EMBs are widely considered best suited to ensure the fairness and impartiality of elections. This is especially true in nascent democracies, where any allegations of favoritism or manipulation may undermine the credibility of elections and decrease support for new policies and institutions. EMBs which are closely associated with the government or aligned with political parties are less likely to be seen as impartial and autonomous. Party-based EMBs, in particular, may have difficulties with decision-making in the case of conflicting party interests. Independent expert EMBs are better suited to administer free and fair elections, and more likely to enjoy voter confidence, as evidenced by the Palestinian Central Elections Commission. People across the Middle East and North Africa have clearly indicated their desire for democratic transitions. Establishing fully independent, expert-based EMBs in the emerging democracies of our region will facilitate the holding of free and fair elections and the building of democratic institutions, thereby reflecting the will of the people.

Notes

ⁱ López-Pintor, Rafael. Pages 64-65.

ⁱⁱ Kerevel, Yann; also IDEA, “Guiding Principle of Electoral Management.”

ⁱⁱⁱ Goodwin-Gill, Guy S. as cited in Birch, Sarah.

^{iv} IDEA, “Reforming Electoral Processes.”

^v IDEA, “Electoral Management Bodies.”

^{vi} Elklit and Reynolds as cited in Kerevel, Yann.

^{vii} IFES.

^{viii} For examples, see IFES ; also

“Tunisia Prepares for Sham Elections,” Project on Middle East Democracy, at:

<http://pomed.org/blog/2009/10/tunisia-prepares-for-sham-elections.html/> ; also

“A sham vote in ben Ali's reserve,” Kamel Labidi, *Daily Star*, 23 October 2004, at:

<http://www.dailystar.com.lb/Opinion/Commentary/Oct/23/A-sham-vote-in-ben-Alis-reserve.ashx#axzz1LGt8PM6S> ; also

“Tunisian leader wins 'sham' election,” Al Jazeera English, 25 Oct 2004, at:

<http://english.aljazeera.net/archive/2004/10/200841012433354664.html>

^{ix} Kerevel, page 4.

^x Pacheco, Istra.

^{xi} Kerevel, page 4.

^{xii} Kerevel.

^{xiii} IDEA Handbook on Electoral Management Design as cited in Kerevel, Page 3.

^{xiv} IDEA, “What Can Be Expected of the Different EMB Models?”

^{xv} NDI (2005), page 15.

^{xvi} NDI (2005), page 31.

^{xvii} NDI (2006), page 26.

^{xviii} EU EOM, pages 10-12.

^{xix} Uprety

^{xx} Electoral Commissions Forum of SADC countries

^{xxi} Uprety

Works Cited

- Birch, Sarah. (2007). "Electoral Management Bodies and the Conduct of Elections: Evidence from Eastern Europe and the Former Soviet Union" *Paper presented at the annual meeting of the American Political Science Association, Hyatt Regency Chicago and the Sheraton Chicago Hotel and Towers, Chicago*. Retrieved from: http://www.allacademic.com/meta/p212031_index.html
- Electoral Commissions Forum of SADC countries. (2007) "Principles and Guidelines on the Independence of Elections Management Bodies in the SADC region" *Adopted by the Annual General Conference in Luanda, Angola*. Retrieved from: <http://aceproject.org/ero-en/regions/africa/BW/principles-and-guidelines-of-the-independence-of>
- Elklit, Jorgen and Reynolds, Andrew. (2002.) "The Impact of Election Administration on the Legitimacy of Emerging Democracies: A New Comparative Politics Research Agenda." *Commonwealth and Comparative Politics* 40(2): 86-119. Cited in Kerevel, Yann. (2009).
- EU Election Observation Mission, West Bank & Gaza (EU EOM). (2006). "Final Report on the Palestinian Legislative Council Elections." Retrieved from: <http://aceproject.org/ero-en/regions/mideast/PS/palestinian-final-report-legislative-and-council>
- Goodwin-Gill, Guy S. (1994). "Free and Fair Elections: International Law and Practice." Geneva: Inter-Parliamentary Union. Cited in Birch, Sarah. (2007).
- International Institute for Democracy and Electoral Assistance (IDEA). (no date). "Electoral Management Bodies." Online publication. Retrieved from: <http://www.idea.int/publications/ies/upload/6.%20Electoral%20Management%20Bodies.pdf>
- International Institute for Democracy and Electoral Assistance (IDEA). (2006). "Guiding Principles of Electoral Management" in *The International IDEA Handbook on Electoral Management Design*. Stockholm. Retrieved from: <http://aceproject.org/ace-en/topics/em/em20>
- International Institute for Democracy and Electoral Assistance (IDEA). (2006). "Reforming Electoral Processes" in *The International IDEA Handbook on Electoral Management Design*. Stockholm. Retrieved from: <http://aceproject.org/ace-en/topics/em/em1?toc>
- International Institute for Democracy and Electoral Assistance (IDEA). (2006). "What Can Be Expected of the Different EMB Models?" in *The International IDEA Handbook on Electoral Management Design*. Stockholm. Retrieved from: <http://aceproject.org/ace-en/topics/em/ema/ema05?toc>
- International Foundation for Electoral Systems (IFES). (2011). "Elections in Tunisia: Key Challenges for Credible and Competitive Elections." Online publication. Retrieved from: http://www.ifes.org/~media/Files/Publications/White%20PaperReport/2011/IFES_Tunisia_Briefing_Paper_Jan2011.pdf
- Kerevel, Yann. (2009). "Election Management Bodies and Public Confidence in Elections." IFES. Retrieved from: <http://ifes.org/Content/Publications/White-Papers/2009/Election-Management-Bodies-and-Public-Confidence-in-ElectionsLessons-from-Latin-America.aspx>
- López-Pintor, Rafael. (no date). "Electoral Management Bodies as Institutions of Governance. UNDP Bureau for Development Policy. Retrieved from: <http://www.pogar.org/publications/other/undp/elections/electoralmgmtbodies-e.pdf>
- National Democratic Institute (NDI). (2005). "Final Report on the Palestinian Presidential Election." Retrieved from: <http://www.cartercenter.org/documents/2123.pdf>
- National Democratic Institute (NDI). (2006). "Final Report on the Palestinian Legislative Council Elections." Retrieved from: http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/Palestine2006-NDI-final.pdf
- Pacheco, Istra. (2006, July 10). "Mexico Candidate Claiming Election Fraud." *The Washington Post*. Retrieved from : <http://www.washingtonpost.com/wp-dyn/content/article/2006/07/09/AR2006070900217.html>
- Uprety, Neel Kantha. (no date). "Ensuring Independence of Election Management Bodies: How has it been secured and how should it be secured?" Retrieved from: http://eci.gov.in/eci_main/dj/internationalconf/Nepal.pdf