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## Considerations for Creation, Organization and Implementation of an Election System

Apart from decisions about precisely what kind of governing authority will be elected in 1994 in the West Bank and Gaza, there is a distinct series of issues to be considered that relate to organizing and implementing free, fair, meaningful (*i.e.*, credible) elections.

Some of these issues should be addressed expressly in the election law. Others may be dealt with in the election law, in subsequent regulatory provisions or as a result of policy decisions by administrative bodies.

Attached is an outline of critical questions regarding preparations for transitional elections, based on NDI's experience of assisting and monitoring transition processes in more than 25 countries during the past decade. This outline may create a framework for discussion among the policy makers, participants and observers intending to engage in the West Bank and Gaza elections.

## I. What type of election system will be used?

In establishing a legal framework for the election process, an initial decision must involve the selection of an election system. This process involves not only choosing between proportional representation (PR) and majoritarian systems, but also specific variations.

### A. Majority System:

*Tends to produce a more stable, efficient government with a sense of a mandate and stronger accountability between representatives and their constituencies; tends to improve voters sense of identification with the resulting government and programs; campaign success is more directly related to individual candidates than to political party; "winner-take-all" seat allocation discourages smaller parties except when they are geographically concentrated.*

#### 1. Constituencies

- a. single member district
- b. multi-member districts (one vote per vacancy)

#### 2. System to allocate offices/seats

In a single-member district:

- a. absolute majority (50 percent plus one vote)  
- may require run-off elections
- b. simple majority, a.k.a. first past the post (single, highest vote-getter wins)

In a multi-member district:

- a. party-list vote (winning party takes all seats)
- b. majority vote (multiple, highest vote-getters win)

### B. Proportional Representation (PR) System:

*Promotes inclusion and favors legislative representation of smaller or dispersed interests; campaign success is based more on party strength than on personality or qualifications of individual candidates; less likely to provide a clear mandate for the government or strong accountability to regional constituents.*

#### 1. Constituencies

- a. Full PR -- based on a single, nation-wide constituency, elected representatives are essentially "at large"
- b. Limited PR -- employs multiple constituencies, usually drawn along administrative lines (provinces, states or regions); distribution of seats takes place within each one; fewer seats per district require a higher percentage of the total vote in order to win a seat

#### 2. Voters cast ballot for the party list, not for individual candidates

#### 3. System to allocate seats

- a. Seats are distributed on a *pro rata* basis within each constituency according to percentage of the total vote won by each party list (or slate) of candidates; individual candidates are ranked within the list by the party.

**b. Distribution methods**

- electoral quotient – used to determine how many seats each list (party) receives (e.g., Hare, Hagenbach-Bischoff, Droop, Double, etc.)
- remainders – determines the distribution of remaining seats using "leftover" votes (e.g., greatest remainder, highest average)
- single step equations (e.g., D'Hondt, Saint-Lague)
- thresholds – require that a party list achieve a regional or national minimum percentage of votes cast in order to be allocated seats

**C. Mixed Systems**

**1. Majority-based**

- a. Single non-transferable vote
- b. Limited voting
- c. Cumulative voting

**2. PR-based**

- a. Single transferable vote (STV) – in which voters may rank their preferences within or among party lists; Hare system

**3. Combinations**

- a. A certain portion of seats are determined by a majority-based system, the remainder are determined using a PR approach
- b. Use of "special constituencies" or guaranteed seats to assure representation of certain groups or geographic regions

**II. What are the various authorities (institutions) participating in the election, and what are their respective roles?**

**A. Central Election Commission (plus subcommittees and subordinate regional commissions)**

**1. Typical Responsibilities:**

- a. interpreting election law and adopting electoral regulations
- b. regulating election campaign and the access of candidates to public facilities, media coverage, campaign financing
- c. determining eligibility of candidates and voters
- d. drawing constituency boundaries, setting dates
- e. adjudicating complaints (presented directly to the central commission or on appeal from the subordinate bodies)
- f. preparation and distribution of necessary election materials (ballots, ballot boxes, ink, registers, etc.)
- g. recruiting and training of necessary election personnel
- h. producing and conducting voter education
- i. administering elections (balloting) and supervising security surrounding electoral activities
- j. tabulating and announcing election results

2. Types of election commissions
  - a. government agency
  - b. independent body
  - c. dual bodies -- one (executive) to administer, another (independent) to monitor and verify
  
3. Extent of authority
  - a. separation of power; checks and balances -- commission acts as agent of executive branch: (*i.e.*, commission may make regulatory rules and may hear and decide all issues within its jurisdiction, but primary legislation is outside its authority and appeals must go to an independent review body)
  - b. commission has extensive legislative powers and has absolute, final authority to hear and decide issues presented to it
  - c. security -- commission may have operational authority to direct security police and civil authorities in all matters relating to elections
  
4. Composition of commissions
  - a. impartial -- nonpartisan *bona fides* of members is respected by differing political parties. (technical expertise may be a criterion)
  - b. balanced -- various partisan interests are represented in a balanced composition
  - c. proportional -- various partisan interests are represented in proportion to pre-determined indicator (*e.g.*, previous election results, number of registered party members, demographics, sectors of society)
  
5. Methods of selecting commission membership
  - a. appointed by executive branch
    - unilateral decision
    - with advice (and consent) of legislature or political parties
  - b. appointed by independent body
  - c. directly elected by legislature or by other bodies
  - d. designated by parties or other groups to be represented on commission
  - e. consider also: methods used for selecting juries or arbitration panels (*e.g.*, peremptory challenges, selecting from among mutually agreed upon nominees)
  
6. Functional expertise needed to fulfill commission duties
  - a. systems management -- to ensure that the commission is functioning effectively and all responsibilities are being met
  - b. law -- to interpret election law, develop election regulations and process complaints
  - c. information and publicity -- to disseminate Commission decisions and implement civic education program
  - d. data processing and statistics -- to develop programs for registering voters and tabulating votes
  - e. communications, transportation and logistics -- to develop system ensuring that all materials are properly distributed before election and that results are reported following election
  - f. accounting -- to develop and oversee an election budget

7. General operational considerations
  - a. rules for making decisions (majority rule v. consensus)
  - b. status of commission (permanent, interim, periodic)
  - c. source of funding

## B. Subordinate election commissions

1. Possible responsibilities
  - a. acting as intermediary between central commissions and regional or district commissions
  - b. preparing and distributing election materials, conducting local voter education
  - c. choosing venue of polling sites
  - d. selecting officials to administer the registration, polling and counting processes
  - e. receiving and adjudicating complaints within their jurisdiction; appeals go to central election commission or judiciary
2. Types of subordinate commissions
  - a. regional and local election commissions
  - b. polling site commissions (officials)
  - c. functional subcommittees (see above, #6)
3. Composition and method for selecting
  - a. (see above, #4 and #5)
  - b. may be appointed or nominated by regional or local officials
  - c. may include, *de jure*, regional or local government officials, regional or local political party officials, etc.

## C. Judiciary (or other independent body)

1. Possible responsibilities
  - a. court of final review for election-related disputes or appeals
  - b. independent determiner of election commission members
  - c. final verification and announcement of election results

## D. Other actors relevant to the electoral environment:

1. Legislative branch and executive branch agencies
2. Political parties and candidates
3. Civic organizations (human rights, women's rights, civic education, academic, health-related, religious, cultural, etc.)
4. Military, police
5. Voters, unregistered citizens, ineligible persons
6. Media
7. Election monitors
  - a. international
    - official state delegations and intergovernmental organizations
    - NGOs
  - b. domestic
    - political party pollwatchers (partisan)
    - civic organizations (nonpartisan)

### **III. Laws regulating specific aspects of the pre-election period**

#### **A. Political party laws**

##### **1. Requirements for registration**

- a. minimalist approach – encourages maximum representation for varying interests, enables proliferation of parties:**
  - provide name, symbol, nominal indications of an existing organization (e.g., internal rules of procedure, accounting procedures, party platform, nominal fee) to registering authority
- b. maximalist approach – engages various means of limiting access to registration by requiring parties to meet reasonable criteria or thresholds, such as:**
  - substantial fees
  - threshold levels – of signatures from supporters, of membership, of votes from previous elections
  - proof of nationwide support – threshold levels of signatures or votes from previous elections throughout the country
  - detailed presentation of party platform, membership, etc.
  - restrictions against parties that advocate unacceptable policies (e.g., violence, the overthrow of the democratic order, hatred based on race, ethnicity, religion, etc.)

##### **2. Regulation of party activities regarding:**

- a. forming coalitions**
- b. inter-party organization and operation**
- c. nominating party candidates (see also, III.A.1., above, requirements for registration and III.B.1., below, regarding candidate eligibility)**
  - petition signature requirements, fees or deposits
  - nomination process (e.g., primaries, caucuses, conventions, party meetings)
  - candidate rankings (only in party list system)
- d. finance**
  - of political parties
  - funding sources (government, individual, corporate, foreign, etc.)
  - financial disclosure, accounting procedures
  - individual campaigns
  - illegal payments

#### **B. Eligibility and Registration**

##### **1. Candidates**

- a. age, citizenship, residence within jurisdiction, competence (mental, physical, penal), deposit, signatures and party affiliation**
- b. registration process**
- c. appeals process**

##### **2. Voters**

- a. age, citizenship, residence within jurisdiction, competence (mental, physical, penal), deposit, signatures and party affiliation**

- b. procedure
  - automatic registration – taken from pre-existing lists, (e.g., census lists)
  - pre-election registration – applicant goes to authorities to prove identity and qualifications or authorities go to citizens at their residences. (e.g., "mobile registration")
  - election-day registration – at polling sites. increases participation but adds time and confusion to the voting process
- c. notice – there should be reasonable notice to eligible citizens as to where, when, how and why they should register
- d. verification – there should be reasonable opportunity for citizens, political parties and election observers to verify the accuracy of the lists and to propose corrections or revisions
- e. identification – voter registration cards, electoral cards, identification numbers may be issued to registered voters

### C. Election Campaign and Media

#### 1. Relevant international human rights guarantees for free, fair, periodic and genuine elections:

*(see, e.g., Art. 21, Universal Declaration of Human Rights; Art. 25, International Covenant on Civil and Political Rights; Art. 5, International Convention on the Elimination of All Forms of Racial Discrimination; International Bill of Human Rights; Convention on the Elimination of All Forms of Discrimination against Women)*

- a. assembly
  - b. association
  - c. speech/expression
  - d. movement
  - e. to form and hold individual opinions
  - f. to be free from threats of violence or intimidation
  - g. to participate in government
2. Reasonable restrictions (on the above)
- a. concerns of security, public safety
  - b. public nuisance – need to register political rallies, publish advertisements in restricted areas/timeframes
  - c. limiting unreasonable activities, such as:
    - slander and libel
    - inciting violence
    - promoting ethnic or religious division
  - d. regulation of campaign financing
  - e. creating specific codes of conduct (for candidates, military, government officials)
  - f. miscellaneous
    - defining a campaign period outside of which campaigning is prohibited
    - imposing penalties for campaign law violations

### 3. Media

- a. oversight by government or independent authority
- b. rules governing equality and fairness of campaign coverage
  - equal access to paid media space/time
  - equal access to free media space/time
  - fair coverage by state-owned/run media
  - reasonable freedom to own and operate independent media
  - libel, slander and other speech regulating laws
- c. government financing of media access for parties
  - sponsoring and disseminating debates, public forums

### 4. Security

- a. provisions preventing intimidation of candidates and voters by security forces
- b. provisions and policies requiring equal protection of candidates and voters from intimidation by others

### 5. Campaign Finance

- a. sources
  - state funding – candidates/parties can only use money provided by state and state provides equal funding to all contestants OR provides funding based on achieving some threshold (e.g., percentage of vote won)
  - private funding – candidates/parties must raise all their own campaign funds
  - combined state and private funding
- b. restrictions on uses

## D. Voter and Civic Education

### 1. Issues

- a. importance, significance, benefits of multiparty democracy, participatory government
- b. role of various institutions in a democracy: political parties, administrative agencies, security forces, the media, the education system, the citizens, international institutions and nongovernmental organizations
- c. election related procedures: registration, choosing a candidate/political party, voting, influencing government

### 2. Sources

- a. the government or election commission
- b. political parties
- c. civic organizations
- d. the media
- e. international governmental and nongovernmental programs

### 3. Methods

- a. broadcast programs (radio, television, "sound trucks")
- b. printed materials (posters, leaflets, newspapers)
- c. conferences (large-scale)
- d. workshops (small scale, decentralized, training pyramid)
- e. school system



## **IV. Election Administration**

### **A. Election materials**

1. ballot boxes (metal, wood, cardboard, transparent)
2. ballots
  - a. multiple ballot system (separate ballot for each party, requires envelopes and trash bags)
  - b. single ballot system (universal ballot with multiple listings, needs pen, but no envelope)
3. registration lists
4. voting booths (to provide secrecy/privacy of vote)
5. indelible ink (as a means to prevent double voting)
6. registration (voter i.d.) cards
7. tally sheets
8. envelopes
9. tables and chairs
10. vehicles for transporting materials and personnel
11. communications network (for administration and computing results)

### **B. Personnel needed**

1. central and subordinate election commissioners
2. functional expertise needed within election commission, either as commissioners or as hired staff – (systems management, law, information and publicity, data processing and statistics, communications, transportation, logistics and accounting)
3. polling place and counting/tabulation officials
4. security

### **C. Format, network**

*There are variations on the two extremes, outlined below, that are used around the world. Issues of efficiency and maximizing the use of limited resources are used to advocate a more centralized system. Increased transparency and responsiveness to local events (e.g., quicker modification of registration lists or publication of election results), plus decreased reliance on developed infrastructure (computer and communications systems) are argued in favor of a decentralized format.*

1. decentralized
  - a. registration, voting and counting occur at polling sites
  - b. all records are reported to the regional level
  - c. regional level reports to central headquarters, where all records are verified and officially announced
2. centralized
  - a. registration is taken from existing census lists or is stored from local lists on a centralized computer system
  - b. voting occurs at polling sites
  - c. counting is conducted at district or regional centers
  - d. results are communicated to central headquarters, where they are verified and officially announced

**D. Opening and Closing of polls**

1. single day v. multiple day elections
2. allowing individuals on line at close of poll an opportunity to vote
3. in a decentralized system, counting is performed at the polling site. Provisional results may be published there; in a centralized system, ballot boxes are kept locked and transported to regional counting centers, where they are opened and the results are tabulated and communicated to the national headquarters. *The latter approach requires more security during transportation, is more difficult to monitor, and is prone to increased suspicion.*

**E. Ensuring ballot secrecy and integrity of vote**

1. prescribing how the voting booth should be prepared (to preserve secrecy/privacy)
2. rules regarding assistance for illiterate or disabled voters
3. prohibiting undue influence or intimidation of voters in the voting process (e.g., no campaigning on election day, no campaign posters/buttons allowed in polling place, impartial behavior of polling place officials, only one person in a voting booth at a time)

**F. Counting, transporting and tabulating results**

1. ensuring that there are no excess ballots in the box
2. establishing rules for counting ballots where there is a protest
3. developing tally forms/sheets for recording results and complaints
4. developing mechanisms for communicating results to the next administrative level
5. disposition of ballots following elections
  - a. stored for verification at the local level for a period of time
  - b. shipped to a central level
6. defining circumstances under which recount is conducted
  - a. in all instances where there are verified complaints
  - b. only if certain procedural or quantitative criteria are met

**G. Ensuring integrity of overall process**

1. training polling officials
2. enabling the presence of political party agents/pollwatchers
3. enabling the presence of accredited impartial observers
4. encouraging the formation and activities of civic groups
5. establishing credible complaint and appeals procedures
  - a. election commission v. judicial branch
  - b. defining circumstances under which an election is canceled (or certain disputed results) and new election is scheduled