

# Key Considerations and Challenges to Electoral Law Reform

## Considerations for Electoral Law Reform

### *Constitutional law*

- The electoral system elaborated in the Constitution should give voice to all groups and have broad public appeal.
- The Constitution should guarantee fundamental freedoms for speech, assembly and association.

### *Electoral system reform*<sup>1</sup>

- Any electoral system proposed should take into account whether the country is deeply divided along political, geographical, religious or ethnic lines. It should also ensure that minorities are fairly represented in the political system.
- The project may offer policy options that take into account how other countries have attempted to solve different inequalities. A number of countries have successfully experimented with quotas to boost women's representation in the legislative bodies. Others have instituted proportional representation systems but may not have taken into account various implications, such as a change in the level of interaction and direct accountability between representatives and their constituents.
- Efforts should be made to encourage the adoption of legal provisions that are cost efficient (choice of system, frequency of the elections, calendar, use of suitable and durable election materials, etc.).
- Discussions relating to electoral legal reform should involve consultations with all political groups, to the extent feasible, as well as civil society and EMB representatives.
- The technical, logistical and financial implications of any proposed electoral system reform should be taken into account. In some cases, certain systems are written into the law and need to be accommodated<sup>2</sup>.

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<sup>1</sup> For more information on electoral systems please see UNDP, Electoral System and Processes Practice Note, [www.undp.org/governance/docs/ElectionsPN\\_English.pdf](http://www.undp.org/governance/docs/ElectionsPN_English.pdf); ACE Project, [www.aceproject.org](http://www.aceproject.org); International IDEA, Electoral System Design: The New International IDEA Handbook, [www.idea.int/publications/esd/upload/ESD\\_full\\_with%20final%20changes%20inserted.pdf](http://www.idea.int/publications/esd/upload/ESD_full_with%20final%20changes%20inserted.pdf).

<sup>2</sup> For example, in DRC both the voter census and the electoral law prescribed the use of digital technology. The possible implications of such steps need to be carefully evaluated prior to the adoption of laws.

## **Challenges to Electoral Law Reform**

- It is important to take into account specific national needs and particularities — social, political, historical and geographical. Certain constitutional provisions or electoral systems may work well in certain settings, but not in others.
- Efforts must be made to ensure that any project support to a particular party or group is not perceived as being biased. A more inclusive and transparent consultative process may reduce this risk.
- Reforming an electoral system within the legal framework of a particular country takes time. Moreover, it is best done as a nationally led process in the less politicized, post-election phase of the Electoral Cycle when there is also enough time to draft laws and undergo the proper consultation processes.
- The electoral system — especially the design of electoral districts and the choice of voting systems (majority vs. proportional — has important implications for political actors. Therefore, discussions often divert from the appropriateness of the system towards political considerations.
- Timing for development and adoption of laws is often determined by the meeting calendar of national assemblies and might lead to major bottlenecks.