

Chapter 4

Challenges Facing Commonwealth Independent Election Management Bodies

The world is changing. People across the globe, and especially within the Commonwealth, have ever-higher expectations with regard to the quality of their democracy. They demand that elections should be run efficiently, openly and fairly. Such elections must be inclusive of all, including respecting the rights of women and of marginalised groups. They must also be orderly and peaceful. People need to feel free and be able – in practice as well as in theory – to participate fully in the democratic process.

One important change in recent decades has been the rapid spread of modern technology – including social media – which should in principle help to make all this possible. It puts at the service of election management bodies potentially powerful new tools, designed to strengthen management capacity and facilitate easy and rapid two-way communication with and among all stakeholders.

Such technical changes, however, are no panacea. If not handled prudently, they may also bring with them difficult new challenges. What matters, if such innovations are to fulfil their democratic potential, is that those responsible for managing elections should never lose focus on their primary responsibility: to protect and advance the political rights of all citizens.

This chapter explores some of the challenges facing election management bodies today. These reflections are based on the experience of the Commonwealth Secretariat and of Commonwealth election management bodies around the world.

The first section deals with problems relating to most countries' deficit in the area of gender equity.

The second looks closely at the choice of electoral system (including its impact on achieving gender equity). The electoral system normally appears as cast in concrete and unchangeable: it is a given, 'the way we have always done things'. The choice of electoral system falls outside the competence or responsibility of the election management body. However, if the electoral system produces election results that are grossly unfair, or is likely to create further injustice, it becomes a matter of concern. Such concerns, if they are serious, need to be shared with stakeholders and included in any review of or dialogue about the working of a country's democratic processes. This applies also to the demarcation of electoral boundaries.

The third section focuses on the temptation to gerrymander electoral boundaries, and the difficulties involved in providing a reliable and up-to-date voters' roll.

Other issues addressed in this chapter – identity politics, dirty money, election-related intimidation and violence, and the impact of social media – are all matters

that, if not addressed robustly by the election management body, have the potential to destabilise a country's democracy and to undermine the integrity of its elections. These concerns are often closely interrelated and have important links to the functioning of the electoral system.

The section on small and island states explores the implications of the Commonwealth's core values and principles for the management of elections in countries which are small in population, often remote and frequently have limited public service capacity.

Finally, there is a discussion of election observation and some of the euphemisms that observers employ to describe elections which, it is felt, fail to meet fully the highest democratic standards.

The various sections of this chapter are not exhaustive or designed to provide the last word on any of the issues under discussion. Their purpose is to bring to bear the core values and principles of the Commonwealth on some of the practical challenges facing election management bodies as they work to strengthen democracy and improve the quality of elections.

These issues may not be relevant to all Commonwealth countries and, even where they are, each country must work out its own strategy based on its own history and culture. There are no right answers. What matters is that the election management body must ensure that the values and principles that inspire the Commonwealth are truly reflected in the way in which it deals with such issues.

4.1 Achieving gender equity

According to the Commonwealth Charter, gender equality and women's empowerment are 'essential components of human development and basic human rights'.

In some areas, there remain clear tensions between Commonwealth core values like these and how, in practice, the electoral process is managed. This might include attitudes to the freedom of women to express political views, particularly when those views are at odds with those of their family or community or, more generally, their active participation in public life. If such tensions and constraints materially prejudice the political rights of individuals or communities, there is obviously a problem.

The lack of progress in achieving gender equity is evident from the continuing low number of women elected to parliament and the lack of women occupying senior positions in political parties or government (as well as in election management bodies). The challenge is to translate the Commonwealth's ideals into everyday practice. Too many election management bodies – even though they may boast attractive-sounding policies in this area – remain dominated by men.

A fundamental change in attitudes to gender will be required if the current situation is to change fundamentally. Election management bodies should include a commensurate number of women at all levels of leadership. Yet this will not happen without the adoption of clear strategies for women's advancement. Where necessary, tailored training programmes should be developed to make it easier for women to progress to positions of responsibility.

Ending discrimination against women, and making it possible for women to play their rightful role within the democratic process, demands not just good policies, but proactive leadership. Although most Commonwealth countries are signatories to the relevant international human rights instruments, many of the protections contained in these instruments are not in practice available to women. An important step in rectifying this situation would be for such instruments to be incorporated into national law and applied practically.

The approach to gender equity adopted by election management bodies around the Commonwealth differs considerably. Given their adherence to international human rights instruments, and their membership of the Commonwealth, all are committed in principle to improving the status of women. However, the forces resisting such reforms, whether they be cultural or linked to those seeking to consolidate current power structures, also remain strong.

Given that the make-up of the Commonwealth is diverse, it is hardly surprising that the specific forms of democratic accountability vary from country to country. It is evident, however, that the dynamic towards reform must be internally driven by, for instance, women's organisations or other movements within civil society, and must be based on respect for the country's culture and history.

Appeals to the sanctity of 'culture', however, which are often employed by those resisting reform, can be self-serving. Culture is not static and remains subject to change and adaptation. All societies, including the most traditional, have within them a deep commitment to fairness, the importance of consultation and the need for community solidarity. Such commitments can provide, from within the culture concerned, powerful resources which may be interrogated and mobilised in support of fundamental reforms.

Changing attitudes, and addressing people's real concerns about the impact of social change, is a long-term challenge. Such change is more likely to be achieved in the context of substantive institutional and legal reform, backed up by programmes of practical action.

Practical actions

It is important to keep in mind that even decisions that may appear gender-neutral, such as polling hours, the locations of polling stations and the design of ballots (since illiteracy may be more prevalent among women voters) could have a substantial influence on women's participation. It is advisable, therefore, that election management bodies obtain expert advice in order to review and advise on the gender implications of its decisions.

Among the issue which need to be addressed are:

- *Selection and training of election staff:* The explicit objective should be to secure gender equity at all levels of the administration. The criteria and educational requirements for election workers, from senior administrators to polling station staff, should not disadvantage women candidates. Where necessary, training

programmes should be developed to help prepare women to undertake such responsibilities.

- *Voter registration:* In practice, women are more likely to be registered under systems which provide for the automatic registration of all eligible citizens. Where individuals are required to register in person, the process should be well publicised, employing channels of communication most likely to reach women voters; registration stations should be easily accessible; and the procedures made quick and simple. Attention should be given to registering displaced persons.
- *Voter education:* Well-designed, gender-sensitive voter information and civic education programmes should be deployed, with the specific goal of increasing women's participation.
- *Nomination of candidates:* The arrangements for nomination, and the level at which deposits are set, should be designed to facilitate the participation of women candidates. The rules must be applied impartially.
- *Location of polling stations:* Women are more likely than men to be disadvantaged if polling stations are inconveniently located, if polling hours are too short, or if too few polling stations are opened and voters are required to wait in long lines. Where necessary, the election management body should consider providing separate polling stations, so that women can vote in an environment free of pressure or intimidation. In such cases, this can significantly increase the likelihood of participation.
- *Design and printing of ballots:* Women are more likely to be illiterate than men. In countries with high rates of illiteracy, therefore, election management bodies should design ballots to include party emblems or photographs of candidates. Ballots and voter education material should be provided in all commonly used languages.
- *Voting:* Care must be taken to ensure the secrecy of the ballot and to prevent family voting, so that women can cast confidential, independent ballots.
- *Campaigning:* Ensuring a level playing field requires equal treatment of women candidates. The election management body, for instance, should ensure that campaign spending limits do not in practice work against women, who are generally poorer than their male counterparts. Media regulations should ensure that women candidates get equal access to and equal treatment from the mass media.
- *Intimidation:* Intimidation of women candidates can be a serious problem, especially in post-conflict societies. It is important, therefore, to take measures to protect women under such threat and to provide adequate security at polling stations. This should be part of an election management body's efforts to ensure a peaceful campaign environment.
- *Counting ballots:* The approach to counting votes may also disadvantage illiterate or poorly educated voters, especially women, by overly strict rules for determining the validity of ballots – for example, requiring that a ballot with a tick or check mark rather than a cross next to the chosen candidate be disqualified.

The challenge of achieving gender equity can be especially difficult in post-conflict societies where democratic procedures are new, the political stakes high and the commitment to democracy among former combatants weak. It is especially important in such circumstances to ensure that women are well represented in the election management body and gender policies are advanced.

Implications for the election management body

Those responsible for managing the electoral process, the nation's custodians of the practice of good democracy, should provide leadership:

- First, in their own institutions, by ensuring that women are given positions of responsibility and that the policies and practices of the institution work to improve the status of women in society. This might involve creating incentives for women to become election administrators; training all members of staff to be sensitive to gender issues; collecting gender-disaggregated statistics in order to evaluate women's participation; and identifying aspects of the democratic process that can be improved.
- Secondly, in relations with parliament and government, by signalling support for changes in legislation – for instance, if appropriate, for the introduction of quotas in parliament. This might also involve leadership and support in legislating for electoral procedures that do not discriminate against women; ensuring that all agencies involved in elections – including, for example, police investigating electoral malpractice – are trained to respect the rights of women; and providing sufficient resources to election management bodies to enable them to implement gender-related programmes.
- Thirdly, by encouraging political parties to ensure that women are allowed to play a full role at all levels in the administration and policy structures of the party, and are enabled to offer themselves for nomination as candidates – with a realistic hope of being selected.
- Finally, in their dealings with civil society, by maintaining close contact with organisations working to improve the status of women.

4.2 Fair voting

Electoral systems, which vary widely across the Commonwealth, provide the mechanism whereby votes are translated into seats in national assemblies and parliaments, and executive heads of state are elected. They determine how many votes and what kind of votes are necessary to award seats to candidates and parties in an election. Different electoral systems produce different kinds of results, and give voters different kinds of choices.

Often, and not surprisingly, incumbent parties are comfortable with whatever system has secured them power, while new and excluded/opposition parties tend to be critical at least until they secure power. It is clear that the choice of an electoral system is important for the quality of a country's democracy.

These are matters that should also concern an election management body. In the first place, this is because electoral systems that are unable to address the real democratic needs of a country can be destabilising. Even if efficiently administered, elections that fail to meet the legitimate democratic aspiration of a significant section of the population are likely to lead to tensions and social conflict. Even where this is not the case, there may still be strong arguments for reform to improve the quality of a country's democracy.

Choice of electoral system

Clearly, the choice and design of electoral system has profound implications for the nature of political representation, for competition among parties and for accountability. The system needs to be fair to voters (including women, minorities and the disabled); to encourage voter participation; to provide effective representation of constituents; to be equitable to parties and candidates; and to produce stable government.

No voting system can fully meet the ideal standards set by the criteria. Nor are the criteria all of equal weight. Some of them, if carried to their full extent, are mutually incompatible. Others overlap and none is independent. If a system is designed to achieve one particular objective, the likelihood of meeting other objectives may thereby be lessened. The best voting system for any country will not be one which meets any of the criteria completely but will be one which provides the most satisfactory overall balance between them, taking account of that country's history and current circumstances.¹

Decisions about the electoral system, therefore, should be taken deliberately, in an informed manner and with the full participation of all relevant sections of society. The conduct and outcome of such deliberations will say a great deal about how a society understands its democratic vocation and future.

There are three main types of electoral systems in the world, with several variations among each one:

- *Plurality*: Candidates are elected with a plurality (i.e. not necessarily a majority) of votes cast. Main models include: single member plurality (otherwise known as 'first-past-the-post') and multi-member plurality (also called 'block vote').
- *Majority*: Candidates are elected with a majority (that is more than 50 per cent) of votes cast. The main models are the alternative vote and two-round voting systems.
- *Proportional representation*: Parliamentary representation reflects the total percentage of votes cast for each party. Main models include: the list system; mixed member proportional representation; parallel voting; and the single transferable (or non-transferable) vote.

Plurality

The plurality, or first-past-the-post, system is in many ways the simplest and least costly method of electing parliamentary and other representatives. Counting can

take place locally and the result declared promptly. It is the second-most widely used voting system in the world (after party lists) and is well known and understood.

The system is constituency based, meaning that there is a tangible link between the person elected and the local community. This close geographical connection helps to ensure accountability.

Each voter is permitted to vote only for one candidate and the person who receives the largest number of votes wins – even though, as is often the case, that person only secures the support of a minority of the electorate. People may be elected, and governments formed, which lack overall popular support. If a party's support is evenly spread over the country, even though this represents a significant proportion of the electorate, it might not secure a single member of parliament. In extreme cases, this can fundamentally undermine the legitimacy of the democratic system.

The first-past-the-post system, in effect, wastes huge numbers of votes, since the votes cast for a losing candidate count for nothing. Where there are relatively small constituencies, the way boundaries are drawn can have important effects on the election result, which encourages attempts at gerrymandering.

The plurality system tends to encourage tactical voting, with people voting not for the candidate they most prefer but against the person they most dislike. There is also often a proliferation of safe seats, where the same party is all but guaranteed success in each election. This can encourage the political party concerned to take its support for granted.

The system tends to reinforce rather than to challenge the power of the *status quo*. Elections conducted under the first-past-the-post system can therefore lead to voter apathy, since the result may be seen to be a foregone conclusion.

Finally, plurality systems have not tended to foster gender equity.

Majority

In the case of the majority system, candidates are elected if they secure a majority – that is, more than 50 per cent of votes cast. This mechanism shares some of the advantages of the plurality system: it is simple to explain, understand and administer. It can also be used to maintain the link with a specific geographical area.

There are various ways of managing a majoritarian system:

- *The two-round system:* If any candidate in the first round gains a majority of votes, then there is no second round; if not, the two highest-voted candidates of the first round compete in a second round. Whoever secures the most votes then wins.
- *The alternative vote system:* Each constituency has a single member, who is elected by a majority of votes using a preferential ballot. The voters rank their candidate choices. Initially, all the first choices of all voters are added up. If one candidate receives an overall majority of the first choice votes, he or she is declared elected. Otherwise, the candidate with the least number of votes is eliminated and their second choices are redistributed to the remaining candidates.

One problem with the two-round system is that it may well test the commitment of voters by requiring them to attend polling stations a second time at a later date. During this period of uncertainty, communal tensions can also increase. In addition, the losing party might use the opportunity to put political or other pressures on the election management body or simply reject the entire process.

Proportional representation

Proponents of proportional representation argue that each voter deserves to be effectively represented. The basis of a proportional system is that all significant political groupings (generally defined as those which attract more than a minimum share of the vote, often 5 per cent) should be represented in a way that reflects the level of their popular support. The proportional system, in one form or another, has been adopted by many emerging democracies and is the most popular electoral system globally.

The system invariably uses larger, multi-member districts, where, instead of electing a single person in each district, several people are elected. Seats are allocated according to the proportion of votes received by the various parties or groups with candidates. If a party, for instance, wins 40 per cent of the vote in a ten-member constituency, it receives four out of ten seats.

There are a number of distinct proportional representation systems: the party list ('open' or 'closed'), mixed member, transferable vote or parallel voting systems. The 'closed' party list system is much-beloved of party managers because it allows the party to fix the order in which the candidates are listed and elected. In this case, the voter simply casts a vote for the party as a whole: voters are not able to influence the order in which party candidates appear or to indicate their preference for any particular candidate on the list. The 'open' list system, on the other hand, permits electors to exercise such influence.

A major criticism of the proportional system relates to concerns that it may produce fragmented parliaments and weak governments. Often, instead of a government controlled by a strong ruling party, there is a tendency to produce coalition governments. Also, in some places, relatively small parties holding the balance of power can exercise disproportionate influence over government formation. Nonetheless, many countries have made this system work effectively.

A more telling criticism is that the system is complex and difficult to understand. The apportioning of seats can become complicated and time-consuming, opening up opportunities for challenges. The system, if it is to function effectively, requires rigorous training of electoral officials and intensive programmes of voter education.

Supporters believe that proportional representation is the best system because it provides fairer legislative representation, which can play an important role in healing divisions in society. By accommodating a wide range of political interests, it arguably helps reduce instability and conflict. The system can also promote confidence and participation by encouraging representation of women and minorities.

Implications for the election management body

Many Commonwealth countries, while in theory recognising the need to fashion democratic structures to fit local needs, have retained the Westminster model – the first-past-the-post voting system.

Governing parties are often understandably reluctant to open up a debate on changes to a system that has produced stable government and may well have been decisive in securing their own electoral success.

Sometimes, however, for the longer-term good of the country, it may be necessary for politicians to accept that the current system is not optimal. It may well contain the seeds of future instability or simply be unfair. In this case, the election management body should help encourage an honest public debate on the choice of electoral system.

4.3 Gerrymandering

Gerrymandering is designing electoral boundaries in such a manner as to give a particular party, parties or candidates an unfair advantage. It is one of the ways in which the unscrupulous seek to fix an election before a single vote has been cast.

Often the election management body is not directly responsible for drawing up electoral boundaries. However, since the boundaries can so profoundly influence the fairness of an election, it is advisable that the election management body be closely associated with these processes. It would be difficult to claim in good faith that an election was fair if the electoral boundaries turned out to have been grossly malapportioned.

Demarcation

In order to ensure fair and equal representation, electoral boundaries should be drawn in such a way as to, as far as possible, give equal weight to each vote. Such boundaries should not favour the ruling party or any other interest group.

Given the political sensitivity of this task, a country's legal framework needs to provide for an impartial, non-partisan, professional and independent body to manage the boundary delimitation process. There should be a broad consensus among the political parties, in particular, regarding the demarcation of electoral boundaries and how these are put in place.

Such legislation, which needs to make provision for an appeals procedure, must determine the frequency and the criteria for delimitation, as well as the degree of public participation required. It should also specify the role of the legislature, the judiciary and the executive in these processes.

This work can be undertaken by the election management body or by a separate authority. Either way, the body drawing up such boundaries must act – and be seen to be acting – in a totally impartial manner at all times.

A reliable and up-to-date national census may be a building block for the drawing-up of electoral boundaries, especially if constituencies are based on population rather

than just the number of registered voters. In some places, however, for historical and other reasons, governments are wary about holding a new census, since it might fundamentally change the balance of political forces in the country. This can be a difficult and highly contentious issue, but is one on which an election management body may need to take a view.

Boundaries should be drawn up in a way that allows constituents to have the opportunity to elect candidates they feel truly represent them, which means that boundaries should as far as possible coincide with communities of interest. Disparities among constituencies should not exceed a level agreed upon and established in legislation.

Depending on the legal requirements for delimitation, the factors which need to be taken into consideration in determining electoral boundaries might include: geographic and physical features; administrative boundaries; contiguity; compactness; population equity; simplicity; community of interest; equal protection; and serviceability. This work, which is always likely to prove controversial, should occur in a manner which respects the legitimate interests of all stakeholders.

The application of modern technology, in this instance the Geographic Information System (GIS), can greatly facilitate the process of drawing up electoral boundaries. It has become an indispensable tool for many election management bodies. The system (which is relatively cheap to purchase but requires a high degree of expensive in-house expertise to use effectively) makes it possible to build a compatible database for voter registration, boundary delimitation and polling station assignment. The maps generated can now be shared electronically, which can greatly enhance stakeholder participation in the process.

Registration

Another common method of influencing the outcome of an election in advance of polling is through manipulation of the voters' roll. It would be hard to claim that an election was acceptable in the event that, for whatever reason, many people were excluded from registering to vote or the voters' register contained many wrong or fictional entries.

The objective of voter registration, an essential element of almost all elections, is to ensure the equal and universal participation of eligible voters. The object must be to produce an up-to-date and reliable list of all potential voters.

Given the importance of the voters' roll in determining who can and who may not vote, this is often one of the most contested elements of any election. Such anxieties can be reduced by allowing people a reasonable opportunity, in advance of polling, to check that their entries on the roll are present and correct.

In most Commonwealth countries, voter registration falls under the direct control of the election management body. Even so, as is apparent from many election observation reports, the quality of the voters' roll is frequently poor. Often these criticisms of the voters' roll are carried over from one election to the next, without there being any significant improvement.

The cause of such weaknesses can appear to be administrative failure, arising from management weaknesses, but can also be rooted in an unwillingness to provide the election management body with the resources necessary to carry out this complex and expensive task. The work of the election management body can also be stymied by last-minute changes to legislation or by insisting on an unrealistic timeframe for holding elections.

An accurate electoral roll makes it possible to verify the eligibility of all voters, and so strengthens the authenticity and credibility of the electoral process. The roll may be maintained on a continuous basis, derived from the civil register or drawn up for each election – and in some cases is needed to allocate voters to a specific polling station.

The mechanics of registration require the capture of information, including (but not limited to) the name, address and date of birth of eligible voters. The procedure, in trying to include all eligible citizens while preventing the registration of ineligible persons, seeks to stop underage voting and deter illegal multiple registrations. This is a major task because people die or migrate, they relocate from one region of the country to another, or they get married and change their names. Young people who become eligible to vote must also be added to the database.

A reliable and up-to-date voters' roll provides the election management body with a crucial tool to facilitate logistical and administrative planning, and the design of voter education campaigns. The roll, once completed, should be made easily available, preferably also in a searchable electronic form (with appropriate protection of privacy) to all stakeholders, but particularly to the political parties and candidates. This is important to help calm any fears regarding the credibility of the roll. The voters' roll can also provide an important tool for campaigning by political parties or candidates.

Partly because of the difficulties experienced in the past, many election management bodies are moving to biometric registration. This has many potential benefits. It addresses numerous weaknesses inherent to paper-based systems, by providing easier identification of duplicate registrations, for example, and making the matching and verification process much simpler. However, if not planned and implemented efficiently, there is scope for serious problems – as has recently been evident in a number of Commonwealth countries.

Such technology can greatly facilitate registration and make the process much more secure. However, the basic components of these systems – data capture, materials etc. – are expensive and their operation and maintenance require specialised skills. Furthermore, they carry with them significant recurrent costs which must be built into the budget.

Before deploying such systems, it is essential that they be rigorously tested and piloted in order to demonstrate that they have the required throughput, speed and reliability in harsh environments. It also is critical that both the hardware and software are able to accommodate future upgrades.

There are many companies keen to sell equipment to election management bodies. It is always advisable to proceed with caution. Such purchases should be driven by

the election management body itself and not by donors or those with commercial interests.

Purchases of this type should always be independently assessed to determine whether they meet the customer's specific requirements. The election management body must also be confident in its own ability to recruit, train and retain a sufficient number of appropriately skilled staff to operate any new system and to manage issues when problems are encountered. A manual back-up system is always advisable.

Finally, criticism of the voters' roll is often only voiced on or shortly after election day or thereafter by those defeated in the polls. Too frequently, given that a future election appears to be some time distant, political parties and civil society bodies are not actively engaged when these processes to address voters' roll quality are actually underway.

Implications for the election management body

The election management body should be clear with both government and the political parties about the principles it is following in undertaking the important tasks of supporting boundary delimitation and maintaining an up-to-date voters' roll, the resources required and the timeframe within which this work can reasonably be completed.

It should recognise that there may be powerful political interests seeking to interfere unfairly in the compilation of the voters' roll and the demarcation of electoral boundaries. The election management body must be robust enough to resist such influences.

Election management bodies are sometimes accused of being evasive about making the voters' roll available in good time. It is important that every effort is made to facilitate such access and to encourage the political parties and observers to check its credibility carefully.

In regard to delimitation, there are strong arguments both of principle and practicality why this task should fall under the responsibility of the election management body.

4.4 Politics of identity

The choice of electoral system, and the manner in which the system operates, can have a profound impact on how different communities, with their distinct cultures and histories, relate to each other within the democratic system.

The Commonwealth Charter, among other things, commits member countries to work for the protection and promotion of cultural rights. It emphasises 'the need to promote tolerance, respect, understanding, moderation and religious freedom' and accepts 'that diversity, and understanding the richness of our multiple identities, are fundamental to the Commonwealth's principles and approach'.

It is important, therefore, that the election management body be sensitive to the positive contribution that a rich and diverse mosaic of ethnic and religious

communities can make to society, but also the dangers that any exclusive identity-based mobilisation may represent to national cohesion and stability.

Without the strength of well-functioning communities, particularly in poor countries, the vulnerable and disadvantaged (especially the young, the old and the disabled) would be left destitute. Such local communities are normally embedded in – and draw their strength from – a wider grouping defined by tribe, nation, religion or ethnicity.

The forms of collective identification, although important for human development, can give rise to distrust, discrimination, and even hatred or violence against groups and individuals – especially when under stress. This has profound implications also for the democratic process.

People often see the electoral process as the outcome of a large number of individual decisions made by voters. In reality, of course, such decisions can be influenced decisively by pressures, ranging from efforts to enforce community solidarity – for instance, by traditional leaders instructing people how to vote – to the more subtle influence of internalised perceptions of what is required of a person in the particular role they play in the society in which they find themselves – for instance, the perception that women or children should follow the political preferences of their husbands or parents.

The role of national, ethnic or religious (or secular) identification, therefore, can be central to determining political preferences. Such choices, when freely taken for parties that accept the pluralist nature of society, seem perfectly reasonable but can, even then, raise difficult problems for representative democracy. By definition, such political parties or movements exclude those who cannot thus identify. The problems are even more serious when such parties reject political diversity or pluralism.

In a representative democracy, founded on the idea of popular control and political equality, the people are considered sovereign. For the system to function effectively, therefore, it must be clear who constitutes ‘the people’. A democracy may include people who have differing ideas about their ethnic or even national identity but are, even so, accepted (both individuals and communities) as full and equal members of the polity. In the end, most experts suggest that such identities are essentially subjective: you are who you are because that is how you feel.

Identity politics is not on the wane; in fact it appears to be increasing in influence across developed as well as developing societies. This can be problematic because, in most countries, the polity is not coterminous with the national, ethnic or religious identities of the population as a whole. In order to accommodate such diversity, many (but not all) democracies define themselves in secular or ‘civic’ rather than in ethnic or religious terms. The so-called ‘civic’ democracies are founded on respect for a common citizenship available to all born within the state, and to others who meet the criteria for citizenship, whatever their parentage, ethnic identity or religious affiliation (or lack of it).

Political mobilisation based exclusively or mainly on such identities is likely to prove disruptive if not positively destructive of national cohesion. This is particularly

problematic when a significant minority, demonstrating a strong sense of identity and political cohesion, feels marginalised and is perpetually excluded from political or economic power. In these cases, unless ways are found to accommodate such communities within the political system, there is always a danger of social tensions and unrest – or sometimes even violent conflict or the break-up of the state.

The natural propensity to identify with a particular group (be it regional, ethnic, religious or secular, class, gender or political) can easily turn negative. At the political level, too often the ‘other’ becomes not just a competitor for power and influence, but an enemy. Healthy competition, resolved by negotiation, compromise and alliance building, is quickly replaced by a zero-sum or even winner-takes-all mentality. The appeal to populist policies, attractive to particular communities but ultimately destructive of the social fabric or economic progress, often proves difficult to resist. Identity politics, which ignores the plurality of most people’s identities, once established, is difficult to change.

Such social conditioning is problematic when it involves norms and practices that are destructive of community cohesion and human flourishing. All societies and cultures, however, have within them the resources necessary to reflect on and where necessary change such destructive tendencies. People are not condemned to endure the destructive elements of their social or individual inheritance.

Implications for the election management body

It is important that the election management body, in view of its vocation to build a truly democratic culture, should encourage reflection on the implications of identity politics for the democratic health of its society.

The values and principles of the Commonwealth, and its firm commitment to tolerance and diversity, need to be used as a cornerstone of civic education. It may be necessary to encourage stakeholders to look again at the role that constitution-making (or re-making) can play in guaranteeing the rights of minorities and moderating the claims of majorities. The electoral system may need to be reformed to mitigate the dangers of particular communities feeling aggrieved or marginalised.

Finally, the election management body must remain aware of how any failure to enforce rigorously incitement and ‘hate speech’ regulations of an electoral code might contribute to increasing community tensions.

4.5 Intimidation and violence

Incidents of violence or the systematic intimidation of voters, which can arise from deep-rooted, sometimes half-forgotten causes, may be sparked when least expected. Any such occurrence can disfigure if not fundamentally undermine an election. It is essential, therefore, that an election management body should have a well-thought-out strategy to deal with such situations – and, if possible, to stop them from happening.

Incitement and intimidation can undermine even the best-organised election. Electoral management bodies must remain constantly alert to such risks. Any

upsurge in political or communal tensions has the potential to escalate into electoral violence. Such tensions, therefore, need to be carefully monitored and held in check. If violence does break out, the credibility of the election management body may be seriously damaged.

The roots of political violence vary from country to country, but can often be traced to the legacy of colonialism, the adverse impact of global economic changes, corruption or simply the mismanagement of economic and social policy: entrenched poverty, social exclusion, ethnic tensions and criminality. Such strains on the body politic can be easily whipped up into electoral violence, especially when fanned and intensified by a biased and pliant media.

Political violence and intimidation must not be tolerated. It is important, at the same time, to identify the longer-term conditions that provide the ground for the kind of violence which disfigures the electoral process. Depending on the situation, these factors might include:

- human rights violations;
- a political party culture, which is undemocratic, exclusivist and authoritarian;
- perceived unfairness in the electoral system;
- poverty and disadvantage;
- social and political exclusion, sometimes based on ethnicity;
- a history of inter- and intra-party violence;
- gender-based discrimination and violence;
- the presence of non-state armed actors;
- grievances relating to genocide, crimes against humanity and war crimes;
- environmental hazards; and
- unethical media reporting.

An election management body can have only a marginal influence in addressing these deep-rooted societal problems. It is important, however, not to ignore concerns of this nature, and they may need to be brought to the attention of the relevant authorities.

Some of these concerns nevertheless fall more directly within the purview of any election management body. Effective strategies are needed to identify and counter any violent threat to the electoral process. This involves periodically and systematically reviewing all aspects of electoral preparations and processes in order to identify weaknesses and, where necessary, to propose constitutional, legal and administrative reforms. The fact that such dangers may appear dormant at any particular moment should not be reason for inaction.

The impact of violence, or the threat of violence, on the credibility of an election varies considerably. In some cases, it can be so extreme as to empty the electoral

process of any real substance or meaning; in others its impact might be much more limited both geographically and in intensity.

The most serious threats arise from situations in which the ruling party mobilises the security apparatus of the state, or party militias operating with effective impunity, to pressure people into voting for those already ensconced in power. At the other end of the spectrum, localised violence and intimidation might simply result from party supporters – sometimes fuelled by alcohol or drugs – behaving irresponsibly or illegally.

Between these two extremes, there are many examples where political parties – whether in power or in the opposition – stir up or ignore the systematic use of intimidation (including overt violence) by supporters to strengthen their electoral prospects. This might involve using implicit or overt threats in localities which traditionally provided the core of party support or simply by inhibiting opposition candidates from campaigning in these areas. Alternatively, it might involve threatening communities or individuals in places where the opposition is thought to be strong.

The bedrock of any strategy to avoid or to counter political violence is to ensure that the election management body, operating efficiently and transparently, is independent and empowered and is willing and capable of asserting its authority. Political parties (and, indeed, the government and the institutions of the state) need to feel convinced that actions which undermine the political rights of individuals or parties will not be tolerated.

Assessing risks

An election management body needs to develop a comprehensive strategy to identify such potential threats. This might involve assessing: the current electoral system; whether the framework for electoral dispute resolution, and the mechanisms to sanction perpetrators of electoral offences, is trusted and efficient; and the extent to which the political parties are internally democratic and, in particular, whether there exists a fair and efficient mechanism for the nomination of candidates.

Any effective strategy to deal with electoral violence will have two main elements: working with political parties to insist that they campaign peacefully and permit others to do the same; and establishing good working relations with the national security agencies. Clear regulations and guidelines are also required concerning the responsibilities of political parties.

In regard to enforcement, there is a need to ensure that explicit responsibilities are assigned to various security sector and other government agencies; that the rules of engagement for such security agencies are clear and well understood; and, that sanctions designed to counter electoral fraud and violence are likely to prove effective. Any security sector interventions must be in line with such rules of engagement and the use of force kept to a minimum.

It is essential to encourage full and informed public participation in all these processes. It is also important generally to promote the role of non-state actors in

ensuring peaceful elections, and to advocate for the integration of alternative conflict-resolution mechanisms into the electoral legal framework.

Planning and preparation

The election management body needs to develop institutional mechanisms designed to identify such risks during the various phases of the electoral cycle and across the country. On the basis of such an assessment, sufficient resources must be made available to cover the costs of conflict and violence-prevention activities.

Good planning requires up-to-date and reliable information. It may be important, therefore, to establish sophisticated data-collection and analysis capacities, so as to understand risk levels and help make informed and conflict-sensitive decisions. The application of modern information technology, introduced in a timely and manageable manner, can prove helpful in this regard. However, such innovations must always be undertaken in a way that recognises local political and cultural sensitivities.

Such a strategy should be designed to ensure the protection of electoral actors, events, facilities and materials throughout the electoral cycle. It should also involve security planning at the national and local levels. Where appropriate, traditional and religious leaders should be consulted in order to secure their understanding and to assess their potential in supporting prevention and mediation activities. Efforts should be made to identify organisations and individuals who have a capacity to promote peace and encourage conflict resolution. Co-ordination between state and non-state actors during elections may need to be formalised, with sufficient financial and human resources made available to support such joint actions.

Training and information

A large number of competent and committed election officials, alert to the danger that violence and intimidation pose, is necessary to deliver good elections. It is essential, therefore, to ensure good and timely training for both permanent and temporary election officials.

Special attention should be given to the training of members of the security sector agencies in order to enhance understanding of the electoral process, the roles and rights of electoral actors, and what constitutes an electoral offence. Longer term, it may be necessary to encourage the relevant authorities to take action to reinforce security sector agencies' professional standards. At the same time, electoral briefings or training may be necessary for political party representatives, the media, civil society organisations and electoral observers.

Civil society organisations often form an integral part of the national infrastructure for peace. It is important that efforts are made to provide such organisations with information on electoral processes, including timelines, procedures and operational details. Where appropriate, it may be desirable to provide training for conflict mediation personnel at the local level, particularly in high-risk areas.

Registration of voters, political parties and election observers

It is essential that voter registration is convenient and accessible to all eligible citizens. The same considerations apply in regard to the registration of political parties, party candidates and independent candidates. The practice of charging people to register, especially when such charges are high, can serve as an effective tax on citizens who are seeking to do their civic duty.

Difficulties in registering to vote are likely to cause tensions among communities and political parties about the fairness of the election. It is necessary, therefore, to ensure that citizens are not impeded from travelling to and accessing voter registration facilities. Likewise, a safe environment must be provided for all those seeking nomination. To this end, the election management body needs to work closely with relevant security sector agencies.

Citizen observers – as well as international observers, where present – can play an important role in suppressing intimidation and violence, and should be accredited in a timely and transparent manner.

Electoral campaigning

Campaigning is inherently adversarial. It is quite likely to inflame passions and may encourage irresponsible behaviour on the part of party activists. Wherever necessary, in order to contain such passions and ensure peaceful campaigning, the election management body should create forums to facilitate discussion and consensus-building on the implementation of the political party code of conduct and its enforcement.

Political party campaigning and campaign rallies should be carefully monitored, both to signal to the parties that any infringement of the regulations will not go unnoticed and to compile data on any use of inflammatory rhetoric. Such reports should be shared with the relevant authorities. Those responsible for any such violations, however well connected they may be, need to know that they too will be sanctioned.

Bias in the media often mars elections and can be directly responsible for inciting disturbances. In collaboration with other agencies, the election management body should ensure comprehensive media monitoring at the national and local levels.

Voting

Problems on voting day – polling stations opening late or not at all; voters having difficulties in accessing the stations either because they are far away or obstacles are placed to their gaining access; voters failing to find their names on the election register; delays in the processing of voters; and materials not available – are likely to heighten tensions. This is particularly the case when such problems have a disproportionate impact on specific groups or areas of the country.

The election management body must, therefore, ensure that polling and counting staff are people of integrity – professional, well trained and acquainted with the latest electoral rules, regulations and procedures. Electoral materials must be available in sufficient quantities, and delivered to the storage facilities and then to polling and

counting centres safely and in a timely fashion. Voting, counting and results tallying must be seen to have been implemented according to the rules and regulations, accurately and transparently. This applies equally to special voting operations.

While voting is taking place, the election management body must continue to maintain open communication channels with all electoral stakeholders, including political parties, observer organisations and citizens – especially if logistical or other problems are being experienced. It must ensure that these stakeholders are familiar with complaint procedures and that electoral dispute resolution bodies process complaints relating to voting and counting processes effectively and in good time. To this end, it should provide adequate voter information and education programmes.

It is particularly important to work confidently with citizen and international observers, and also with civil society mediation and peace-building groups, during the election period. The election management body should be in a position to compile, share and publicise information relating to electoral risks and violent incidents during the voting phase.

Election results announcement

Waiting for the results of an election can be a period of high risk of electoral tension and violence. It is the moment when parties and candidates, or their supporters, are most likely to behave in a provocative, irresponsible or irrational manner. Any lack of transparency, or any unforeseen delays in announcing results, may well fuel tensions and could spark disorder.

It is essential, therefore, to manage election results in a professional and transparent way, so that the credibility of the election is protected. It is important to provide reliable information to political party leaders, to observers and to the media in regard to the publication of preliminary and final results: they must be announced in a clear and concise way. It is also important to remain aware of the potential dangers inherent in fraudulent or partial results being disseminated via social or other media or by aggrieved politicians.

The security agencies, following the lead of the election management body, should remain on heightened alert. Working with the security agencies, and other stakeholders, the election management body should monitor indicators of any impending violence relating to the announcement of election results. Vulnerable individuals and groups, such as women and minorities, must be protected. Security sector interventions should not, however, be used to suppress political liberties and/or the free expression of opinion.

It is helpful, when assessing risks to the electoral process, to explore possible post-election scenarios, identifying potential trigger or flash points. Peace forums should remain active throughout the period of the announcement of election results.

Implications for the election management body

Once the election is over and a new administration is in place, time should be allotted for a careful evaluation of all aspects of the electoral process – especially those aspects

which may have had a bearing on any instances of political intimidation or violence. Lessons should be learnt and, where appropriate, legal and administrative reforms put in place. It is also important for the election management body to undertake an assessment of staff performance and identify needs for professional training and capacity building.

Particular attention should be paid to improving collaboration with security sector agencies and other state and non-state actors. As part of this process, the performance of such agencies during the election, and their capacity-building needs, should be carefully reviewed.

4.6 Dirty money: political party expenditure and campaign funding

Intimidation and violence often flow directly from the proceeds of corruption and unregulated political party financing. Even when this is not the case, unregulated party and campaign funding can severely undermine the fairness of an election. The election management body should seek to create a level playing field so that money – especially money arising from corruption – does not become a primary factor determining the outcome of an election.

This is difficult to achieve, in part because no country is without corruption and in many it is endemic. In regard to elections, such corruption covers the misuse of entrusted funds – either public or private – and power for private advantage or gain. A corrupt act is often – but not necessarily – illegal and frequently problematic to prove. In handling corruption, one often faces grey areas and difficult dilemmas. Those wishing to act corruptly can become extremely creative in finding ways to circumvent or defeat the obvious intention of the regulations.

Party and campaign funding

Multiparty democracy can only function effectively if there is a robust competition for political power. All political parties, therefore, need to mobilise significant resources in order to mount an election campaign and to cover their running expenses. Few, if any, will manage to achieve this solely through membership subscriptions. In the absence of state funding, or in order to augment publically available resources, parties are normally required to raise large amounts of money from individual or corporate donors.

Private donations, however, open parties to the danger of undue influence from those financing their operations and, therefore, such donations need to be regulated.

The purpose of party and campaign funding regulation should be to encourage a level playing field among the political parties contesting an election. Regulation must be designed to create an open political debate, where the contesting parties are able to disseminate information and opinion on issues of concern to the electorate.

Public accountability in regard to party funding helps to ensure that the electorate understands the influences under which politicians are likely to come when they

are in government. It makes it much more difficult for parties to be influenced significantly by external interests. Such accountability also reduces the likelihood of undue influence and lessens the dangers of patronage in public appointments.

Arguably, the most important element in regulating party and campaign funding relates to disclosure. The electorate needs to know how its political parties are financed and what commitments, if any, are being made, promised or suggested by accepting donations from wealthy supporters or companies. It is important, therefore, that there are strict rules requiring political parties and donors to acknowledge publicly and disclose donations above a certain monetary value.

International experience shows that, even in the most mature of democracies, laws to control the funding of political parties are often flouted. It is important in framing such regulations to try and ensure that they do not give the ruling party an unfair advantage. Such rules must be applied fairly, by providing an effective independent enforcement mechanism that is capable of ensuring compliance.

Organised crime

The challenge of how best to ensure honesty and transparency within the political system is one that confronts not just new democracies, but equally those which boast centuries of democratic practice.

Often the problems raised by the influence of ‘dirty money’ in politics is directly linked to the growth of organised crime, which is often transnational in character and frequently linked to the drug trade, to prostitution or to gambling:

Organised crime is a reality in all countries today whether developed or developing democracies or not, as is the manner in which organised crime and corruption interact. And there are sufficient examples of how the spoils of organised crime have been and can be, and are being used to advance political goals. Ignoring this reality . . . will only serve to cement relations between political actors and organised crime, or potentially legitimise the flow of illicit funds into politics.²

Notwithstanding the 2011 *World Development Report on Conflict, Security and Development* the implications of this reality for the health of the democratic system have not yet been fully acknowledged in many countries. This is particularly the case where decision-makers themselves appear to be complicit in benefiting from various forms of organised criminal activity and using illicit funds for political objectives.

Too often the problem is only acknowledged once illicit money entering the political system sparks violence or when existing levels of violence begin to have a bigger impact on political stability. However, an absence of violence can also prove problematic. In situations where organised crime is prevalent, it can be the absence of violence that should be of concern, as criminal groups and networks can constitute real threats to the state – not through open confrontation, but by penetrating state institutions through bribery and corruption and by subverting or undermining them from within. Governments that lack the capacity to counter organised crime run the risk of becoming criminalised or ‘captured states’ over time.

Addressing these problems requires, among other things, focussed work with political parties on the question of illicit money in politics.

Confronting the challenge of corruption in its various forms, and the impact of dirty money on politics, is complex and involves reforms across a wide range of institutions. In a number of Commonwealth countries, a sophisticated anti-corruption architecture has been put in place to clean up the political system, often in response to some scandal, or to minimise the likelihood of such crises happening in the future.

This is a continuous process because rules and regulations are never able to address all eventualities and because the standards that a society expects of politicians and political parties change over time. Rules and regulations do not absolve politicians from exercising good judgement.

For this reason, it is essential to achieve a high level of consensus about the fundamental principles on which any anti-corruption regime should be built. If these basic principles carry the general endorsement of society, politicians and other stakeholders will have a better yardstick on which to decide whether their actions are likely to be acceptable in the event of them coming to light. Such principles also provide the electorate with a way of measuring whether their politicians are behaving in a manner designed to secure the common good or their personal advantage.

Implications for the election management body

The fundamental reason why an election management body should concern itself with regulating campaign and party funding is because dirty money corrupts not just the electoral process, but democracy itself. Politicians and political parties, as servants of the public, should be – and should be seen by the electorate to be – serving the common good and not just their own narrow personal, sectional or even party interests.

Reducing the unfair influence of money over the political process helps to enhance fair competition. It is also likely to improve the quality of legislation and make the executive more responsive to scrutiny. Effective regulation is necessary so as to reduce or eliminate the sort of conflicts of interest that are likely to encourage abuse.

By encouraging political parties to secure more financial support from their rank and file membership, the election management body helps to strengthen democracy and reduce dependence on rich donors. By providing well-regulated state financing of political parties, if that is thought appropriate, it can also help reduce the unfair influence of vested interests.

Any system of regulation, if it is to be effective, must be supervised and compliance needs to be regularly and independently monitored.

Such regulations are only likely to be respected if the election management body, or whatever regulatory authority has this responsibility, is able and willing to impose sanctions on those who fail to comply. Such a system can be expensive and requires a relatively sophisticated bureaucratic capacity.

4.7 Meeting the challenge of social media

Impact on political campaigning and mobilisation

The ability to impart and receive information, without the unwarranted interference of the state or of other powerful institutions, is a fundamental characteristic of any free society. These are freedoms that all democrats recognise as being intrinsic to the realisation of our human dignity and because, without them, it is not possible for people to participate fully in the political life of a modern representative democracy.

The credibility of elections is undermined if the media is controlled by the state, or by monopolistic commercial interests, in a manner that excludes or marginalises alternative voices and narratives. Arguably, such controls may be weakening as more and more people have access to social media. This permits everyone (or at least very many people) to broadcast their views (not to mention their prejudices) and co-ordinate their political activities via the internet, without recourse to traditional outlets. Social media should provide political parties and movements with a significant and powerful new communication tool. On the other hand, these new media also bring their own problems and challenges.

Computers and smartphones afford a relatively inexpensive way to receive and impart information, as well as enjoy entertainment and access education that – until a generation ago – was far beyond the reach of all but the rich. However, the reliability and quality of such information, comment and analysis is often difficult to verify.

Social media represents a challenge both to the established media market, which may no longer be the only or even the main source of information or comment, and to authoritarian governments that find it ever-more difficult to set the political agenda unilaterally – or at least to do so in the manner to which they have become accustomed.

Efforts by government to ban access to new social media platforms are unlikely to succeed for technical reasons. Yet authoritarian governments are just as likely to use social media to entrench their control as civil society organisations or opposition forces are to use it to support liberalisation. Selective disruption of access, for instance, can easily hobble the activities of civil society activists. Governments and others with financial clout can also use social media systematically to spread misinformation and destabilise political opponents.

Furthermore, the interactivity of the new media, and the ability to comment online (including on the websites of the traditional press) can prove to be a double-edged sword: often, much of what is generated is anger and vitriol. This interactivity can provide a vehicle for extremism and intolerance of other people's views and beliefs. Similarly, those who express 'politically incorrect' or even unsavoury views can find themselves vilified on social media. 'Trolling' and 'Twitter storms', sometimes instigated or manipulated by powerful interest groups, can corrupt political and other debate.

Pressure on journalistic standards

The rise of social media is also challenging newspapers and established electronic outlets. As a result, traditional media are increasingly driven by ratings and by the

search for increased advertising revenue and, where these are not forthcoming, must engage in major programmes of cost cutting to remain viable. This has an impact not only on the commercial media, but also on public service broadcasters as these seek to justify their subsidies or regulatory protection.

The search for ratings inevitably means that the balance between entertainment and sport, on the one hand, and information and analysis, on the other, suffers. Many countries have experienced a general ‘dumbing down’ of the media environment.

Frequently, it is journalists who bear the brunt of cuts in the traditional media. This often means, in practice, that those with real knowledge and experience are not retained in employment. At the same time, pressures of 24/7 media coverage mean that journalists are expected to provide an endless flow of articles and online contributions. Often, this undermines their ability to engage in the kind of in-depth or investigative journalism that is likely to challenge or threaten vested interests. There is little time to think and reflect. In the popular press especially, there is a growing dearth of in-house expertise.

In addition, the traditional media, and particularly the electronic media, is becoming ever-more dependent on information provided by social media. Such information may not be adequately assessed for bias (or even truthfulness) before being broadcast. This can, for instance in conflict zones, fundamentally influence the accepted narrative on which the policies of intervention are based.

Crowdsourcing

‘Crowdsourcing’, which seems inherently democratic and can allow citizens to express their views on a wide variety of issues of public concern, provides a useful complement to traditional methods of political participation and mobilisation.

There are, however, dangers in automatically accepting the narrative that comes from crowdsourcing as a reliable reflection of the views of society as a whole. In the first place, participation is voluntary and, therefore, crowdsourcing is more likely to capture the opinions of those with strongly held views. It is quite possible that the views of others will be ignored by default. Additionally, those with easy access to the internet will be favoured over those without.

As crowdsourcing develops, and ‘one click politics’ takes off in earnest, the opposite danger is also likely to arise. It will be ever-easier to express a preference – possibly in response to a highly tendentious or manipulative campaign (perhaps sponsored by celebrities or populist politicians) – on issues about which one has not thought seriously, or seen debated rigorously, and about which one has little personal commitment. This, of course, is a recipe for cyber-populism at the expense of rational consideration of the issues.

Impact on electoral management

There are a number of important ways in which new media can be harnessed to benefit the work of those responsible for managing elections. It can help to improve contact with and build confidence among constituencies that are often difficult to

reach, especially the young and women's organisations, and help build confidence in the electoral process. Social media can be a powerful tool in efforts to counter voter apathy.

Importance of a good website

A well-functioning and easily accessible website of an election management body makes it possible to disseminate widely and at little cost a huge amount of information about the electoral process. Such information includes, for instance:

- the constitution of the country; the legal and regulatory framework; explanations of how the electoral system works;
- the make-up, powers and functions of the election management body; its membership and staffing; minutes of its meetings; press statements, news, speeches, general information; disclosure of procurement arrangements for the purchase of sensitive (notably ballots) and non-sensitive electoral materials; frequently asked questions;
- the electoral calendar; advice on qualifying for registration; the voters' register; consultation and objections to the demarcation of electoral boundaries; reports on boundary demarcation (including maps); the location of polling stations; arrangement for the nomination of candidates;
- the handbook for polling officers; training programmes and materials for registration and polling staff, party agents and observers;
- codes of conduct covering campaigning, the role of the media and observation; information on media monitoring;
- voter information and civic education materials;
- election results;
- minutes of the election management body's consultations with political parties and the government; information on candidate and party expenditure; and
- arrangements for citizen and international observation; election observation reports; the election management body's report on every electoral event.

The provision of such information will greatly increase public confidence in the electoral process.

Direct contact with voters

Social media can also facilitate much wider direct, two-way communication with the electorate. The reach of social media messages is amplified through the 'network effect', whereby someone who receives the message shares it with all their contacts. Thus information 'posted' can be forwarded or shared with connections in its original form. This not only prevents corruption of the original message, but also emphasises the election management body as the 'single source of truth' in electoral matters. The election management body's reach therefore increases exponentially, with each follower/friend/fan connected through social media.

This can be particularly important in conveying information to specific social and traditionally hard-to-reach groups – connecting with a small number of key influencers in a target group, who then have the ability to easily distribute the message throughout the target community. The tactic can greatly help in building relationships, for instance, with key women's, youth, community or faith-based groups. Building such relations, however, takes time and it is important to begin well in advance of an election.

Also, the exchanges held on social media platforms – either between the election management body and its followers or among the followers themselves – are visible to a wider audience. This is especially important in post-conflict situations, when building confidence and trust between voters and political actors is crucial.

Events and activities – such as telephone enquiry services, public enquiry desks, suggestion boxes in public places, interactive radio and television programming and 'town hall' meetings – can be advertised more widely via new media channels to encourage greater public participation. Live online seminars, which make it possible to reach geographically dispersed constituencies from a central location, provide a useful addition to an election management body's education and outreach programmes. Internet webcasting, which makes it possible to broadcast voting as it is taking place, and provided that appropriate safeguards are in place to guarantee the secrecy of the ballot, can furnish the election management body with a useful tool to monitor particularly sensitive polling stations.

Keeping in touch

Listening to the public, in a timeframe and through a channel of their own choosing, enables an election management body to gather valuable insights into the issues and concerns of the electorate.

Online polls; enabling the public to post or 'tweet' questions and comments that are publicly answered; and allowing users to create and comment on blog posts or articles can all be helpful in promoting engagement. Posting questions that encourage online debate; hosting information-sharing or question/answer sessions; allowing users to post videos; and using analysis software to identify key words being used have also proved to be beneficial to election management bodies who have already embraced this strategy.

Social media can play an important role in highlighting, in real time, what is happening on the ground during the campaign and while polling and the counting of votes is taking place. It can assist in monitoring trouble spots and thus alert the authorities about electoral malpractice or about potential or actual security breaches in or around polling stations.

Implications for an election management body

Social media, in the hands of not just civil society and political parties but also the state, represents a new and powerful influence on elections. It is playing an increasingly prominent role in the political process throughout the globe. Electoral management

bodies, therefore, need to understand the likely impact of these technologies on the electoral environment and, where appropriate, should seek to encourage people to use them in a constructive and responsible manner.

Election management bodies need to explore and to experiment with innovative ways of using the new technology to access difficult-to-reach sections of the community. The potential is enormous; however, there are also concerns. Mobile technology can be manipulated, or even shut down, by the authorities during periods of crisis. Mobile devices, and the information they carry, are not necessarily secure, while the effectiveness and pitfalls of advocacy strategies have yet to be fully evaluated. Some of the applications that enable the more advanced use of mobile technology are also challenging for the uninitiated to use and might require specialist support. Notwithstanding all these concerns, there is no doubt that new technologies can greatly strengthen the effectiveness not only of an election management body, but also of civil society organisations, political parties and the media.

Yet social media can also be responsible for spreading misinformation and instigating or fanning conflict: for instance, by allowing politicians and their supporters to engage – seemingly with impunity – in incitement and in the propagation of ‘hate speech’. Such activities can be extremely difficult to regulate. Where such problems exist, or are likely to arise, it is advisable that the election management body should carefully track the impact of social media on an election campaign. Where breaches of the electoral law are apparent, it is important to use whatever tools are available to identify and punish the culprits. Given the nature of social media, this is easier said than done.

It is important that election management bodies should develop a comprehensive media strategy, including in regard to social media, designed to mobilise responsible participation by citizens in all aspects of the electoral process and in the country’s democratic life more generally. This should include arrangements for media monitoring and for the most effective use of both traditional and new media outlets to communicate with the electorate. The strategy needs to indicate clearly the human and material resources necessary to implement a creative and effective media programme and how these resources are to be secured.

4.8 Democracy in small and island states

Many of the structures and administrative arrangements employed in modern representative democracies have been designed to meet the needs of larger and arguably more administratively complex states. The Commonwealth’s core democratic values and principles, however, apply equally in small and island states as they do in larger countries. It is important in all cases to take into account the specific geographic and other characteristics, and the vulnerabilities of each state in determining the best approach in building a democratic society.

Basic characteristics

Although they are each unique, small and island states share a number of characteristics, in addition to small population size, insularity and often remoteness, which may have

profound implications for democratic development. These countries can be ethnically or linguistically complex and their population growth rapid. The gap between rich and poor, between urban and rural, between employed and unemployed, is often marked. Even those with relatively high rates of economic growth have significant pockets of poverty. Additionally, the cost of living is high and the provision of infrastructure expensive. Often the capital city is overwhelmingly dominant in the country's political and social life, and may contain the bulk of the population.

Given their small size, there are high costs associated with running public institutions and delivering public services. Providing all the requirements of a modern state – ministries, regulations, taxation, education, health social services, foreign service, intelligence and defence – can be onerous for a small state.

These countries tend to have relatively large public sectors and the costs per capita of providing services are high. They cannot benefit from many of the economies of scale normally available to those providing such public goods. There is also often limited technical and professional capacity in both the public and the private sectors. The costs of tertiary education are high and, even for those with such education, the scope for high-level employment is limited. Skilled people often depart for 'greener pastures'.

There tends to be limited scope for economic diversification and dependence on a narrow resources base in these countries. The economies are open to global markets and some have serious problems with organised crime. In addition, small and island states tend to be particularly vulnerable to natural disasters, and climate change represents an existential threat.

In small and island states with small populations, there is a heightened risk of patronage politics and clientalism. In such circumstances, the neutrality of the public service is difficult to sustain. There is also a tendency for political parties, if they exist at all, to be vehicles for charismatic individuals or clan or family interests. Some small states have very traditional patriarchal cultures where, for instance, it is not expected or even permitted for women or young adults to stand for election. Similarly, 'gift-giving' is a strong tradition on some societies, which can easily corrupt relations between politicians and their constituents.

In theory small states – where personal relationships and trust, rather than bureaucratic rules, can be particularly influential – should be well placed to create a public service that is participatory, accountable and transparent. They can exhibit strong social cohesion and community solidarity, and may be flexible in responding to social and economic change. Politicians are likely to know all or most of their constituents personally, adding greater legitimacy. On the other hand, individuals or even communities that do not subscribe to the community consensus can find themselves in difficulty.

Commonality and difference

Whatever the commonalities, there are marked differences among small and island states from the various regions of the world. Attitudes differ, for instance, on the role of women in public life, on the level of consensus about the role of the state, and on

the likelihood and nature of any popular demands for good governance. There are differences among single island states and those with two or more islands, sometimes spread over a huge geographical area.

Pacific region

Although most Commonwealth countries now have multiparty democratic systems, this is not necessarily the case in the Pacific. A number of countries – for various reasons, often linked to the size of the country or the fact that the small, homogeneous, traditional population is thinly disbursed over widely spread islands – maintain a non-party system, whereby all candidates stand as independents.

In these systems, where election is often dependent strongly on kinship links and on the expenditure of money in gifts to voters, successful candidates seek to build alliances within parliament to further their political interests and those of their constituents. The formation and sustaining of a government, therefore, depends on alliances established among individuals. Given the lack of any party structure behind these individuals, there are obvious capacity constraints on the ability of such individuals to undertake serious policy formulation or to analyse government legislation or programmes.

Politics, and the possibility of securing political office, remains heavily dominated by men and it is extremely difficult for women or people without significant resources to secure election. The franchise is often restricted to people of 21 and over, and in some places there are significant restrictions on who may run for office.

Whether or not a country has a multiparty system or restricts election to a contest among individuals – provided that such a system commands the informed support of the population and is clearly established in the constitution and in legislation – the election management body has a responsibility to ensure a level playing field. The contest for political power needs to take place in a manner in which voters are free to support the candidates of their choice and to secure a change of the electoral system if that is desired.

It is particularly important that the corrupting influence of money on the political process should be controlled. The election management body needs to adopt a robust approach to ensure that the necessary regulations are in place, whether or not this involves state funding of political parties or candidates, and that these regulations are effectively monitored and abuses are punished.

Some countries have fully functioning and independent election management bodies. In others, such institutions do not – or not as yet – exist. Instead, elections are run by government bodies under the direct control of their ministers. Whichever is the case, those responsible for running elections should seek to act in a manner consistent with the core values of impartiality and transparency required by the Commonwealth principles on the independence of election management bodies.

Even where there is no permanent election management body and strong practical constraints on establishing such an institution exist, mechanisms should be put in place to enhance the independence of those responsible for running elections. This

might be achieved by ensuring an independent and effective element in the oversight and control of all election-related activities undertaken by the government. Such an arrangement might provide a stepping-stone towards the establishment of a fully functioning, permanent and independent election management body.

A coherent legal framework for the management of elections, requiring that those responsible act in a completely impartial manner and unambiguously outlawing malpractice (for instance bribery), needs to be enacted whatever institutional arrangements are in place. Such a legal framework should also insulate and protect those responsible for providing oversight and control of the electoral process.

Any appeals to culture in order to justify variance from the Commonwealth's fundamental political values must always be carefully evaluated and widely discussed. Societies change over time, and often those who wish to protect the fundamental values of their culture are best served by using the resources of that culture to adapt to such changed circumstances. A culture which lacks the dynamism necessary to address new challenges will inevitably prove vulnerable.

Caribbean region

Notwithstanding the serious development challenges confronting the region, the Caribbean has – since the 1980s at least – proved itself able to sustain and indeed deepen an open electoral environment. The Commonwealth countries of the region regularly hold competitive elections in compliance with their constitutions, not infrequently resulting in changes of government. This is not to suggest that these elections are held without blemish. Some have been subject to justifiable criticisms.

There is always, of course, room for improvement. There are persistent concerns, for instance, about the adverse impact of political party and campaign financing regulations on the fairness of the electoral process. Reform of campaign funding is a primary issue discussed by the Association of Caribbean Electoral Organisations (ACEO). This issue also needs to be seen within the broader context of the effectiveness of a country's overall anti-corruption architecture and, in particular, its arrangements to make sure that those holding elective office, and other senior public servants, avoid conflicts of interest.

In some countries in the region, in the past at least, the electoral process has been associated with serious outbreaks of politically motivated violence. Even today, in some areas, criminality and violence can feed into the political process unless effectively contained. In addition, in some societies, identity politics and ethnic rivalry are capable of destabilising the political system. It is important, therefore, to remain alert to such potential pitfalls. Issues of peace building and conflict management need to remain on the agenda.

More broadly, there are concerns about the impact of the electoral system, inherited from the former colonial power, on the fairness and sustainability of the democratic process. The first-past-the-post system, for all its other advantages in providing strong and stable government, has a tendency to result in landslide victories and the consolidation of dominance by a very small number of political parties.

The legal and constitutional framework of democracy needs to be kept under periodic review – for instance, to ensure a correct balance of power among the three branches of government: the legislature, the executive and the judiciary. Constitutional reform, where it is necessary, can be important in making the political system fairer, more inclusive and fully accountable. It is not surprising, therefore, that issues of constitutional reform continue to be actively canvassed in the Commonwealth Caribbean.

Implications for the election management body

The election management body, whether or not it is constitutionally independent, needs at all times to act as though it were. Where constitutional independence is not already the case, those responsible for managing elections should seek to establish a dialogue with all stakeholders, notably the incumbent government, on how best to introduce an effective independent element in their selection and oversight.

The administrative arrangements that determine how the election management body functions – whether it needs a permanent office, whether some or all of its staff are employed full time, how is it funded, and what oversight mechanisms should be in place to ensure openness, efficiency and transparency when the body is dormant – need to be carefully considered. Whatever arrangements are agreed upon, they should be consistent with Commonwealth core values and principles, and must command the full confidence of the population.

An important responsibility for the election management body should be to review periodically the workings of the democratic system to identify where reforms are needed. It is important that there should be wide-scale consultation on such proposals, including with traditional and community leaders, and civil society organisations, especially those representing the interests of women.

4.9 'Fair' or only 'Free'?

Relations between the election management body and citizen and international observers can be fraught. This may, in part at least, result from differences in the criteria adopted to judge the credibility or legitimacy of an election. Such problems are less likely to arise if both sides are agreed that, in the words of the Commonwealth Charter's values, an essential yardstick for assessment is that the election under scrutiny should be conducted 'fairly'.

Although observer groups and electoral experts now tend to avoid characterising elections as 'free and fair', the term is still widely used publicly. Additionally, in many countries it is included in the criteria established in legislation. Sometimes, however, commentators and even observers claim an election was 'free' but not 'fair'. What is meant by this is that even though the 'dice were unfairly weighted' against the opposition – for instance, by the state intervening in various ways on the part of the ruling party – the actual voting and counting processes were reasonably transparent.

The question, both for the election management body and for observers, remains: should such a blatantly unfair election still be considered acceptable?

Dispensing with the term 'free and fair' does not necessarily solve the problem. People, and especially the electorate concerned, want to know whether or not an election bestows legitimacy on the victors. Can those who have been elected undertake the burden of government knowing that, as required by the Universal Declaration of Human Rights, their authority is firmly grounded on 'the will of the people'? Must the losers, therefore, accept the outcome of the election and behave as a loyal opposition?

Claiming an election was 'free but not fair' muddies the waters. How can one be sure that an election that was not fairly conducted really does reflect the will of the people? It highlights the more fundamental concern, and one which does not disappear by avoiding these terms: how much weight should an election management body, and those observing an election, give to the fairness of the process in determining its legitimacy? Can an election that was not 'fair' ever be acceptable?

Judgements of this nature can be difficult. A blatantly stolen election – for instance, where the opposition is not permitted to stand or where the ballots have been flagrantly stuffed – may be obvious but, in most cases, the manipulation is subtler. Incumbents have become highly sophisticated in 'gaming' the system to ensure a pre-determined outcome, although this strategy sometimes fails. In the end, it is a matter of good judgement as to whether the election should be deemed truly legitimate.

Accusations of unfairness can relate to aspects of the electoral process itself, especially those beyond the view of observers, who may only be present during the voting: the demarcation of electoral boundaries or the registration of voters, for instance; or accusations may relate to constraints placed on the ability of people to organise and of parties to campaign freely.

However difficult it might be, observers cannot avoid making an assessment or judgement on the credibility of an election and of the election management body. Such judgements must cover the electoral process as a whole, but should be based only on what the observers themselves have observed. They should indicate the extent to which the constitutional and legal provisions governing the polls are consistent with international and regional standards and whether, in practice, they are respected in letter and spirit.

No election is ever perfectly fair. Yet substantial unfairness is relatively easy to identify. Where such lack of fairness raises serious doubt about the legitimacy of an election outcome, the onus should be on the election management body to intervene. The Declaration of Principles for International Election Observation and Code of Conduct for International Elections Observers, October 2005, to which the Commonwealth subscribes, now provides a solid basis for arriving at a sound judgement.

Sound judgements of this nature are only likely to be made by people who are clearly independent and of unimpeachable integrity. They must not have any selfish interest in the outcome of the election. However, it is not within the competence of observers, nor is it their job, to make judgements based on extraneous political considerations. These should be left to the competent authorities. In reality, however, too often concerns are expressed that pressure has been applied on regional or international

observers to temper their judgements so that they are in line with the interests of regional or global powers.

Circumlocutions – such as ‘free but not fair’ or ‘substantially reflecting the will of the people’ – are normally used to soften the blow when an election is clearly unsound. This leads, in practice, to understandable accusations of double standards because, while some elections are heavily criticised, others that display similar flaws are given a ‘clean bill of health’ on the basis of judgements which have little to do with the inherent fairness of the electoral process.

Giving a flawed election a clean or ambiguous bill of health is not only objectionable in principle, it is also self-defeating. If governments believe that it is possible to get away with conducting unfair elections, this will embolden them to keep trying. They will find ever-more sophisticated ways of cheating, and opposition politicians will feel they can behave in a similar fashion, if and when they ever manage to get into power.

Implications for the election management body

The job of the election management body is to ensure that an election is undertaken in a manner fully consistent with its legal and moral responsibilities. Election management bodies must completely internalise the fact that fairness, including in regard to full respect for freedom of speech, assembly and association, is essential for legitimate elections.

Observers should always ensure that their judgements on an election cover the election process as a whole, and give appropriate weight to whether or not the political rights of voters have in practice been adequately protected by the authorities under the guidance of the election management body.³

There are understandable reasons why concerns have been expressed about the presence of serving politicians or even ministers, who inevitably have an interest in the outcome of the election, on state-sponsored or regionally-sponsored observer groups. The election management body must make it clear that such groups should exclude any extraneous political judgements from their judgement on the election.

4.10 Conclusion: Focusing on what matters most

Clarity and consistency matter ...

Experience shows that people find it much easier to manipulate the electoral process if they can spread confusion and uncertainty about the legal framework, the regulations and practical arrangements for elections.

During the run-up to polling, it is therefore important to be wary of attempts on the part of the executive to change, for instance, the make-up of the election management body, to amend the legislative framework or regulations, or to manipulate funding. The involvement of a multiplicity of agencies, especially when they have unclear or overlapping mandates, can also be a recipe for confusion and manipulation.

In the words of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association: ‘... democracy, as reflected in the electoral process, generally involves the use of clear predictable processes with uncertain outcomes, while a non-democracy can be identified by the fact that the whole electoral process is characterised by unclear and uncertain processes but with predictable outcomes.’⁴

... but rules can never cover every eventuality

This is not to say, however, that clear and detailed regulations, established well in advance, guarantee a credible election. In fact, an excessively rules-based approach can carry its own dangers.

No matter how comprehensive and up-to-date the legislative framework and how good the established procedures, there are bound to be areas of ambiguity that require difficult decisions to be taken. This is because no set of laws or regulations is ever likely to be fully comprehensive.

There are often contingencies and unplanned-for events, which have not been foreseen in legislation and where the election management body is required to rule in situations of considerable uncertainty. It is simply impossible to foresee all eventualities.

Also, the standards that a society expects of politicians and political parties change over time and the rules and regulations often do not keep up. What might have been acceptable in the past is no longer acceptable to the current electorate.

... and may provide a cover for passivity

The development and promulgation of rules and regulations, and complicated procedures, can constrain action when it is urgently required. If any of those appointed to the election management body lack independence or are susceptible to political pressure or corruption, such rules, regulations and procedures can provide endless room for mischief or inaction.

There are, of course, many administrative mechanisms that can be used by officials who wish to stop an election management body from doing the right thing. They can insist on carrying out everything by the book and never permitting short cuts to be taken in order to speed up decisions. They can demand that decisions are postponed or referred back for consideration by a subcommittee. They tend to insist on time-wasting consultation while, at the same time, demanding excessive confidentiality for all decisions and processes. Such people raise doubts about the correctness of every decision, wasting time and distracting others from more substantive matters.

Sound judgement, good sense, and courage matter most

In the end, what matters most is that those responsible for running an election, and seeking to protect the political rights of individuals and communities, act at all times with integrity and in accordance with the rule of law. They must also be able to

identify clearly those challenges which, if not dealt with judiciously and quickly, will damage the democratic credibility of an election.

It is essential that those responsible for the election management body show courageous leadership and, in particular, uphold the Commonwealth's values and principles to which the people of the Commonwealth are enduringly committed.

Notes

- 1 Electoral Commission New Zealand *Report of the Royal Commission on the Electoral System* (1986), New Zealand.
- 2 Camino Kavanagh, Senior Fellow, NYU Center on International Cooperation speaking in London on 'Dirty Money in Politics', 11 December 2013.
- 3 The Declaration of Principles for International Election Observation and Code of Conduct for International Elections Observers, October 2015, provides a normative framework for arriving at such a judgement.
- 4 Maina Kiai para 4, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, submitted by the UN Secretary-General to the General Assembly in accordance with Human Rights Council resolution 21/16 on 7 August 2013 (A/68/299).