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**A Strategic Assessment of the Composition, Roles and Functioning of an Electoral  
Management Board (EMB)**

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**BY**

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**ABSTRACT**

*The study sought to strategically assess the composition, roles and functioning of an electoral management board (EMB). Regular EMB member meetings help develop agreed policy directions, review EMB performance and provide guidance on policies to EMB secretariat staff. The level of detail considered will depend on the extent to which the role of implementing policy is delegated to the secretariat or chief election officer. An EMB's activities generally require both the determination of policy and the implementation of major administrative and logistics operations. Where the Governmental Model of electoral management is used, both of these functions are undertaken by civil servants, who are employed by one or more bodies of the executive. While members of the executive branch of government, such as ministers may also take an active role in EMB policymaking under the Governmental Model, it is more common for the head of its secretariat, who may be termed director of elections or have a similar title, to be responsible for policy. It is not usual for governmental EMBs to have members; rather, they are composed entirely of secretariat (public service) staff. An exception is the Czech Republic, where EMB members are appointed from the executive branch. The study concluded that fixed and secure terms of office for EMB members allow for institutional confidence and renewal. Staggering EMB members' terms of office minimizes disruption and helps retain an EMB's institutional memory. One of the recommendations made was that EMB members need to have sufficient status to entitle them to respect from their counterparts in other sectors of society, and constitutional or legal guarantees of their conditions of service and security of tenure sufficient to enable them to act without fear or favour.*

**KEYWORDS: Composition, Roles, Functioning Electoral Management Board**

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**Introduction**

According to PewTrust (2013), in EMBs under the Independent Model, the policy function is undertaken by individual(s) (i.e. the EMB's 'members') from outside the executive branch who are specially appointed for this task. Their role is similar to that of the board of a corporation—to guide the direction of the EMB—although in many cases EMB members have a full-time and more 'hands on' role than would be usual for a corporate board. Similarly, under the Mixed Model, the component independent EMB is guided by a 'board' of members.

The use of the terms 'independent model' or 'independent members' should not be confused with the independence of the EMB, which depends on its actions. People appointed by political parties can act independently, and people appointed for their expertise can act partially.

## **EMB Membership**

EMB members need a very high level of management skills and commitment to maintaining integrity under pressure. Ideally, an EMB should include members with a wide range of the skills needed to ensure that it can function effectively, such as legal, communications, education, logistics, technology and corporate management skills. Public confidence in EMBs is enhanced where the electoral legislation contains (1) qualifications for appointment to EMBs that are clearly defined and appropriate for the complex task of managing electoral processes impartially and (2) selection and appointment mechanisms that are transparent and based on the candidates' merits. The mode of selection and appointment, and the tenure, of EMB members vary by country (Pierson, 2011).

There are various titles for EMB members; each has its own nuances that are related to the basis, role and powers of the policymaking members of the EMB. In Canada, the chief electoral officer is both the chief and sole policymaker and the head of the administration (secretariat), and is the sole EMB member. The frequently used term 'commissioner' is not applied consistently. In many countries that use the Independent or Mixed Model, EMB members are referred to as commissioners. In Australia, the electoral commissioner is both the head of the secretariat and a full voting member of the EMB (although not the head of the EMB), while the deputy and assistant commissioners are the staff of the secretariat. In India, the EMB has three members, the chief election commissioner and two election commissioners, and the most senior members of the secretariat are known as deputy election commissioners. Pierson also noted that in Francophone countries and Latin America, an EMB head may be termed 'president', and in Latin America the term 'councilor' is sometimes used to describe EMB members.

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

## **Status of EMB Members**

According to Putnam, (2000), for an EMB to operate effectively, its members need to have a status that entitles them to respect from and a relationship of equality with the government, the legislature and society. In India, the three EMB members—the chief election commissioner and the two election commissioners—have the status of judges of the Supreme Court. The head of an EMB especially needs a status that affords her or him access to the highest levels of government and ensures adherence to the EMB's decisions. The chair of the EMB in Pakistan (the chief electoral commissioner) has the same conditions of service as the chief justice, as do his counterparts in numerous other countries.

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

may be described as the ‘decision of the commission’ rather than ‘the decision of the commissioners’.

### **The EMB Chair: A Special Role?**

In some countries, the legal framework provides for a two-stream procedure for the appointment of EMB members: one for the chair and another for all other members. In Ghana, Guyana, Lithuania, Pakistan, Thailand and Uruguay, the EMB chair (sometimes called the EMB president) serves as a ‘first among equals’ and is appointed by the head of state/government at a level higher than the other members. The chair of the Ghanaian EMB is appointed at the level of a senior judge, while other members are at the level of judges of a lower court. In the Solomon Islands, the speaker of parliament becomes the chair of the EMB (Rallings, & Thrasher, 2009).

Renwick, A. (2010) opined that where the EMB chair is appointed on different terms than the other members and at a higher level, he or she tends to play a more prominent role, over and above that of presiding over the EMB’s meetings. He or she may have additional powers related to matters such as chairing various EMB internal subcommittees, actively supporting the secretariat in policy implementation and monitoring, and liaising with stakeholders. In Lithuania, for example, the EMB chair has specified powers to hire and fire staff; to keep and direct the use of the EMB seal; and to represent the EMB in state institutions, in court and in international organizations. In Liberia, the chair of the National Elections Commission is also by law the official spokesperson for the commission, although secretariat staffs carry out the day-to-day work of maintaining contact with the media.

In countries such as Bosnia and Herzegovina, Costa Rica, Guam, Moldova, Russia, South Korea, Ukraine and Uzbekistan, all EMB members are appointed on the same terms, and the chair (and in some cases the vice chair and secretary) is elected by his/her peers after the first meeting. In Mozambique, the chair is elected from among the civil society representatives. In Bosnia and Herzegovina and in Guam, the elected chair serves for only part of the commission’s term. When the chair is elected from within the EMB, the chair’s main responsibility is to preside over the meetings of the commission and/or its subcommittees if necessary apply where the chair is a full-time position and other members are part time. Where the EMB is a part-time body, it may be more appropriate for the chair to be elected by his or her peers and for him or her to have the same conditions of service as all other EMB members.

### **EMB Members: Respected Experts or Watchdogs for Each Other**

In countries where the Independent or Mixed Model is used, electoral legislation specifies the framework for EMB membership. There are myriad different legal provisions that govern this critical issue. According to Binder (2008), a basic difference is between a multiparty-based EMB and an expert-based EMB. Broadly, a multiparty-based model assumes that decisions are often political and allows each political party to choose some of the members, on the assumption that each will ensure that decisions do not unduly favour other parties. By contrast, an expert-based model assumes that decisions are primarily legal or technical and seeks people with the expertise to deal with these issues competently.

### **Multiparty-based EMBs**

Many countries, especially those that have experienced difficult transitions from authoritarian rule to multiparty democracy, have chosen multiparty-based EMBs. In such societies, public

servants are likely to have been largely discredited as electoral policymakers because of a history of being agents of the authoritarian former ruling party or military regime. The fight against authoritarianism may also have polarized society to the extent that it is difficult to find public figures who are widely accepted as impartial to serve on an EMB for a transitional election. Many Central and Eastern European countries adopted multiparty-based EMBs during their transitions.

According to Buchanan (1975) in Binder (2008), multiparty EMBs comprise a mixture of political party nominees. The legal framework may entitle all recognized or registered political parties contesting an election to be represented equally on the EMB (as in Guam), or a threshold may restrict representation—for example, to parties represented in the legislature or with more than a specified proportion of members in the legislature. Of the 20 members nominated by political parties in Guinea, half are nominated by the political party of the president and the others by the opposition parties. In Albania, the party-affiliated members represent the distribution of seats in the legislature. In Venezuela in the mid-1990s, the larger parties each had their own representative, while smaller parties of the left and right were represented collectively.

Political party-based appointment often implies that EMB members are serving on the EMB as political party representatives or agents and, as well as impartially managing electoral processes, serve to protect their nominating parties' interests. However, while each individual member is seen from the outside as partisan, each also ensures that the others do not take partisan advantage—so the EMB can nonetheless be credibly perceived as an impartial body. Political party based members often hold office for a fixed term and cannot be dismissed except for cause, such as a breach of their duties, or upon their withdrawal by their nominating authority. Frequent replacement by parties of their representatives, however, has the potential to disrupt the work of the EMB. Dahl, (1971) cited in Binder, (2008).

In Guinea and Mozambique, political party nominees to an EMB are eminent persons who are required to maintain high standards of impartiality and professionalism, and thus they do not serve as political party representatives. Many electoral analysts believe that having political party representatives on an EMB engenders consensus among actors in the electoral contest and enhances transparency, both of which improve confidence in the electoral process. Voters may feel more encouraged to participate in elections if the leaders of political parties play an active role in the electoral process, specifically through representation on the EMB. Yet a political party-based EMB can imperil or cripple decision-making, especially where political parties' critical interests are at stake. The presence of politicians on the EMB may undermine confidentiality in matters such as the security of ballot materials. Multiparty-based EMBs also tend to generate dissatisfaction, especially among minority parties that might be excluded from the EMB either because they are not represented in the legislature or because they did not participate in the negotiation that led to the initial appointments of EMB members.

### **Expert-based EMBs**

According to Donno, (2006), expert-based or non-party-based EMBs are those that the legal framework requires to be made up of individuals appointed on the basis of their professional standing. In some cases, members of an expert-based EMB may be nominated by political parties or civil society, but this does not imply that they will be directed by their nominating parties or act in a partisan manner. In Mexico, although the EMB is a permanent body with

11 expert voting members, each political group in the legislature and each national political party also provides one non-voting representative.

Qualifications to be a member of an expert-based EMB may include impartiality, a minimum age, professional qualifications and electoral knowledge. Expert-based EMB members are often eminent public figures renowned for political neutrality who have expertise in fields such as law, public administration, political science or the media. According to Diamond, Plattner, Andreas (1999), expert-based EMBs are found in countries such as Australia, Bangladesh, Canada, Costa Rica, India, Indonesia, Poland, Thailand and Ukraine. The law in many of these countries stipulates that EMB members must not have been active in party politics in the recent past, and must not be a political party member while serving as a member of the EMB. Nevertheless, in highly politicized situations, nominees may be seen as friendly to a particular party or faction, and there may be the perception that the parties have divided the positions between them rather than choose impartial members who are acceptable to all.

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

### **EMBs with both Expert and Multiparty Membership**

Some electoral legal frameworks specify that EMBs have a mixed membership of party representatives and politically non-aligned members, such as judges, academics, civil society representatives and career public servants. For example, in Côte d'Ivoire, EMB members are appointed by political parties, law and judicial societies, and government ministries. This may combine advantages from both models, producing even-handed bodies that have both political party buy-in and transparency in their operations (Dutzler, 2002).

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

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

### **Full-time or Part-time EMB Members**

According to Eisenstadt, (2002), whether it is more appropriate for EMB membership to be a full-time or part-time position depends on the electoral and administrative circumstances. In a permanent EMB, workloads may be high throughout the electoral cycle and require that EMB members are full time and thus readily available for speedy consultation and decisions. Full-time EMB members may be a good option where there are recurring activities, such as

regular partial or by-elections, ongoing voter education and information, continuous voter registration or continuing electoral law reforms. In a temporary EMB, the electoral period workload may be such that full-time members are preferable. Full-time EMB membership may also be appropriate where there are doubts about the impartiality and skill levels of the EMB's secretariat

***Advantages of Multiparty EMBs:*** May promote electoral participation by opposing political forces. May encourage voter participation. Enhances electoral transparency. Ensures political party input to the EMB's policy development. Ensures links with critical electoral stakeholders. Brings political experience to the management of electoral processes.

***Disadvantages:*** Members' actions may be motivated by political interest. May not have appropriate professional experience or qualifications. May be unwieldy if all parties are represented. May lack credibility if some parties are excluded or if political parties are not respected. May find consensus decision-making difficult. EMB unity may suffer due to public disputes between parties.

***Advantages of Expert EMBs:*** Impartial and neutral membership promotes the credibility of the EMB. Likely to reject political pressure. Professionalism of members. Makes a range of expert knowledge available on the EMB. Eminent public figure members raise the profile of the EMB. May have a broad range of professional networks on which the EMB can draw.

***Disadvantages:*** May not always be aware of relevant political factors. Political actors may have limited access to EMB activities. May not have good links with critical electoral stakeholders. Members may need to address conflict of loyalties between the work of the EMB and the views of the organizations they come from. The best 'experts' may not be willing to serve. It may be difficult to find 'non-partisan' members in transitional environments.

***Advantages of Combined EMBs:*** May achieve balance between political and technical considerations. May encourage participation, and expert members may counterbalance any attempt at partisan actions. The EMB is transparent to political participants and has some professional credibility. Both expert knowledge and political input are available to the EMB. Links with both critical electoral stakeholders and public figures. Has both political experience and professional networking capacities.

***Disadvantages:*** Political and expert elements may have different agendas. EMB may experience competitive leaking of information between its components. May be unwieldy if all political and expert elements are represented. May lack credibility if some parties are excluded. May find consensus decision-making difficult. High-caliber experts may not be willing to work with political elements.

Noted by Pastor (1999), the benefit of having full-time EMB members must always be weighed against the cost of their services, when it may be years before the next election. There is also the risk of a potential conflict between senior members of the secretariat and full-time EMB members, especially when the former begins to interpret the full-time presence of the EMB members as interfering in the implementation of policy. Some electoral legal frameworks, such as Indonesia's, require that EMB appointments are full time. Countries such as Gambia appoint full-time EMB members even though it is not a legal requirement.

In countries where election dates are fixed and EMBs have limited responsibility between elections, it may be advisable to have part-time EMB members. In Ghana and South Sudan, EMB members are part time, while the chair and deputy are full time. It is also possible for members to serve part time in non-electoral periods and full time during electoral periods.

### **How Many EMB Members?**

The electoral legal framework will generally specify the number of EMB members. However, when the membership of a multiparty EMB is determined by criteria such as party representation in the legislature, it is not possible to specify an exact number of members, as this number may vary over time. According to Przeworski, (1988), cited in Renwick (2010), the number of members of EMBs varies considerably worldwide, and need not be related to the size of the country. For example, in the small country of Lesotho, the EMB has three members, while Nigeria, a much bigger country, has a 13-member EMB. However, Canada, despite its sizeable land mass, and India, which has about 700 million voters, have one- and three-member EMBs, respectively. Having a larger number of EMB members may provide broader representation, whereas a smaller number can facilitate discussion and decision-making. Having an uneven number of members ensures that simple majority vote decisions can be made without having to resort to measures such as giving the EMB chair a casting vote. EMBs that include political party nominees tend to have more members than expert-based EMBs, in order to accommodate a credible range of political interests. Electoral law in countries such as Guatemala and Turkey allows for the appointment of alternate or deputy members to EMBs. Under certain circumstances, a deputy member can automatically take the place and exercise the powers of a member.

### **Term of Office of Members of Permanent EMBs**

In many permanent EMBs, members have a specified term of office. According to PewTrust (2013), as of the end of 2013, terms of office were three years in Malta and Rwanda; four years in the Dominican Republic, Honduras, Jamaica, Latvia and Palau; five years in Kiribati, Lesotho, and Trinidad and Tobago; six years in Nepal; seven years in the Philippines, South Africa, Uganda and Ukraine; eight years in Romania and ten years in Botswana. Some EMBs' terms of office are defined in relation to the legislature's term of office. In Botswana, the EMB has a permanent secretariat, but EMB members are operative only during elections and hold office for two successive terms of the legislature (equivalent to ten years). In Bhutan, India and Nepal, if a member turns 65 before the end of their appointed term, they must retire.

The EMBs in Cambodia, Canada, Ghana and Malaysia have an unspecified term of office; once appointed, members remain in office until they reach retirement age, unless they resign or are removed. In Canada and Malaysia, the chair remains in office until he or she reaches the age of 65. The advantage of limiting the term of office is that it promotes the constant generation of new ideas through new appointments. However, it may undermine institutional experience, especially if EMB members' terms coincide with a single electoral cycle. Many electoral laws that specify limited terms of office for EMB members allow for reappointment by mutual consent between the appointee and the appointing authority. South Africa and Zambia limit EMB members to two terms of office, while Pakistan and Russia do not limit EMB members' terms of office. Reappointment is prohibited by law in Mexico and the Philippines.

In South Africa, the terms of EMB members are staggered. Every new appointment is made for a period of seven years and not for the remainder of other members' terms. In Senegal,

one-third of EMB members are appointed every three years; Mexico similarly staggers appointments. In Guam, Guinea and Senegal, if a vacancy occurs then the replacement serves only until the end of the term of the person they are replacing (Putnam, 2000). Staggering EMB members' terms of office greatly helps retain institutional experience and provides for smooth leadership succession. If appointments are not staggered, the new EMB members should be appointed long enough after the last election to allow the former EMB members to complete and report on their election evaluation, and long enough before the next election for the new EMB members to master their responsibilities before the election period commences. This may often be around mid-way between elections.

### **Conclusion**

1. Fixed and secure terms of office for EMB members allow for institutional confidence and renewal. Staggering EMB members' terms of office minimizes disruption and helps retain an EMB's institutional memory.
2. Electoral law usually specifies the qualifications for EMB membership, which generally include citizenship, good repute, ability to act impartially, and professional qualifications or knowledge. They may include other factors such as age, health, holding or not holding specified positions, and residence.
3. EMB meetings can be either closed or open to the public. Open meetings may promote greater trust in the EMB and its activities, while closed meetings may allow more open discussion on sensitive matters.

### **Recommendations**

1. EMB members need to have sufficient status to entitle them to respect from their counterparts in other sectors of society, and constitutional or legal guarantees of their conditions of service and security of tenure sufficient to enable them to act without fear or favour.
2. A good working relationship between EMB members and its secretariat is critical for effective functioning of the EMB.

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