

Edward Shalala - Notes from presentation on “The impact of constitutional and electoral systems design” at the Forum on Minority Issues Geneva, 13 November 2009

Thank you Madame Chair.

I am Edward Shalala, Head of the Design of Democratic Institutions and Processes at International IDEA. I represent the International Institute for Democracy and Electoral Assistance. I will speak about the design of democratic institutions and processes. These are the foundations and architectures that determine what you can achieve with regard to the effective political participation of minorities.

The overarching principle is full inclusion and participation in democratic institutions and processes.

Making And Reviewing A Constitution

The starting point is the design and implementation of a fully inclusive and participatory process (incorporating all stakeholders) for the making/review of a constitution.

A constitution needs to incorporate fully enforceable provisions guaranteeing the effective political participation of all.

Key instruments and sources of comparative experience and best practice are:

- The Universal Declaration of Human Rights, and The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.
- The International and Regional human rights frameworks and core principles on the rights of minorities to effective political participation.
- The outputs of this forum.
- National practices and real experiences including best practice which should be referenced for designing mechanisms to provide for the political participation of minorities.

Bills of Rights

A Bill of Rights should be fully enforceable and best practice is tending towards a Constitutional Court that is the guardian of the constitution and all of its provisions.

A constitution can also contain independent public institutions to protect human rights.

The Implementation of the Constitution

The implementation of the constitution includes the drafting, adoption and implementation of legislation in terms of the constitution.

Electoral Systems and Minorities

The electoral systems influence:

- the numbers of minority candidates elected
- how majority parties seek to appeal to or marginalize minority voters
- how inclusive the candidates lists are
- how party leaders engage voters

Critical minority rights that should govern the design of electoral systems:

- the right to participate in public life and not be discriminated against
- the right of all minorities to be recognized as religious, ethnic or linguistic groups

- the right to choose to be or not to be associated with a minority group

Electoral systems and electoral districts

- Generally speaking, Electoral Systems that rely on single member districts (such as the First Past The Post System or the Alternative Vote System) can hardly guarantee proportional representation or guarantee minimal percentage of seats for minorities (unless there are special provisions in place or additional seats are elected by party lists). On the other hand, List Proportional Representation systems or mixed systems such as parallel and mixed member proportional (MMP) systems can ensure minority representation within the context of the party lists if there is a will to do so. Therefore, countries with issues relating to minorities usually opt for some form of proportional representation.

Examples:

- List Proportional Representation system (PR):
- Alternative Vote System
- Block Vote System:
- First Past The Post System (FPTP):

Several techniques designed to enhance the representation of minorities

- In PR systems: lowering the threshold
- Quotas for candidates/ candidate lists (mostly in PR systems)-
- Reserved seats
- Quotas for the pool of potential candidates
- Best loser system
- Manipulation of electoral boundaries

End