



# **European Commission United Nations Development Programme International IDEA**

***Joint Training on  
Effective Electoral Assistance***

**DAY 2**

**Brussels, 22-26 October 2007**



# Legal Frameworks and Electoral Systems

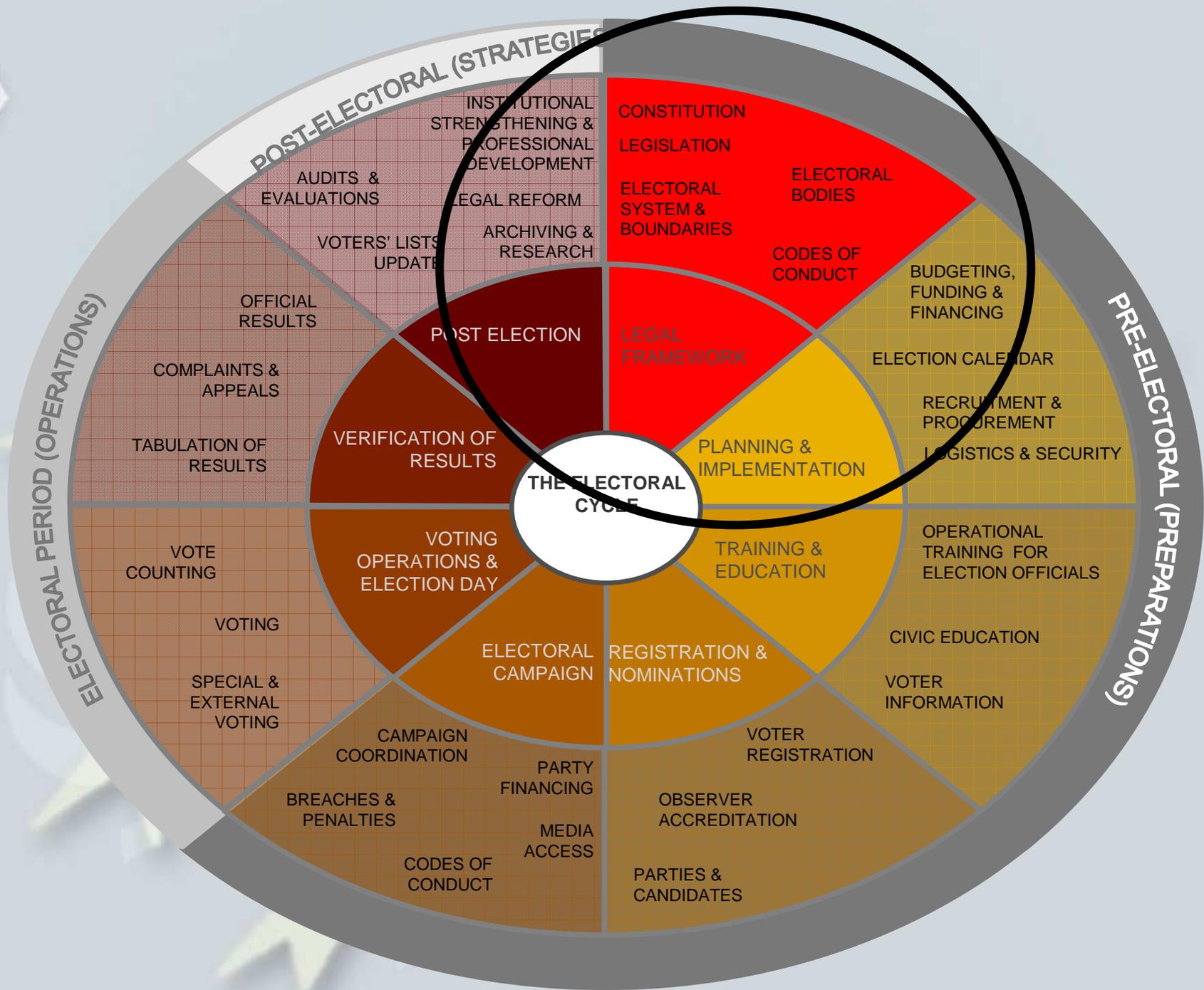
Andrew Ellis  
Director of Operations  
International IDEA

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# Legal Framework

- The foundation of every democracy is its constitution and the legal framework that governs its electoral institution
- Electoral assistance in this area is intricate, often perceived as intrusive and yet again fundamental





# Legal Framework

- Peace Agreements
- Constitutions
- Electoral Law and subsequent legislation
  - Law on Elected Assemblies
  - Political party law
  - Campaign finance law
  - Media laws
- Regulations
- Procedures



# Legal Framework

Main elements:

- System of representation / Electoral System
- Eligibility criteria
- EMBs and electoral management model
- Operational framework
- Electoral justice mechanisms
- Rule for stakeholders



# Legal Framework

Types of assistance provided:

- Overall design after peace agreements enforced by international community (Bosnia, Iraq)
- High-level expert advice (Nigeria, Indonesia,
- Research, studies and design
- Legal drafting (Sudan, Nepal)
- Facilitation of negotiation
- Public consultation, often through CSO (DRC, Kenya)



# Electoral System Design

- The most important and inevitable institutional decision for any democracy
- Conscious electoral design has become much more frequent recently
- Essentially, a political process, often a compromise of different interests
- No such a thing as the perfect system



# Electoral System Design





# **Electoral systems choice: a political process**

- The choice of electoral system is influenced by the parties
- The parties are influenced by the choice of electoral system



# There are different views of representation.....

- Geographical
- Ideological
- Party political
- Identity
- Descriptive - women and men, ethnic groups, young and old



# ....And different views of accountability

- To all of the people?
- To all voters?
- To party supporters?
- To party members?
- To party activists?
- To the party leader?
- To whoever's going to give elected members their next job?

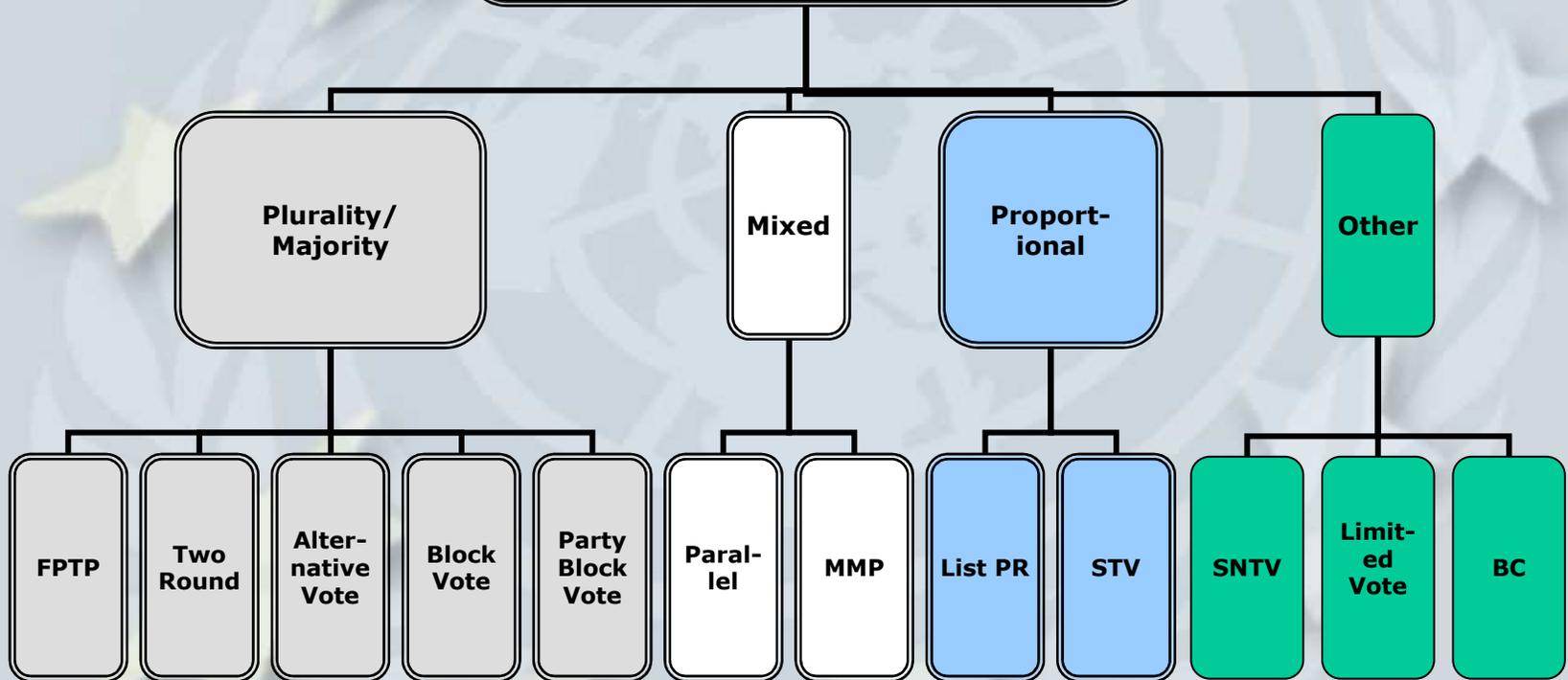


# The institutional framework matters

- **Parliamentary or Presidential System?**
- **Who nominates candidates?**
- **Term limits?**
- **How easy is it to change?**



# Electoral System Families





# FPTP – General Characteristics

- Assists stronger parties
- Assists parties with a base in one locality
- Disadvantages medium parties
- Excludes small parties
- Enables popular independents to win
- High number of 'wasted votes'
- Coalitions to avoid splitting the vote?
- Easy to vote
- Easy to count



# List PR – General Characteristics

- **Normally has a party based political system**
- **Lists can be closed - fixed by party... Or**
- **Lists can be open - voters can change the order**
- **Effects for smaller parties related to average number of members elected from districts**
- **Accurately translates votes won into seats gained**
- **Leads to few wasted votes, which can encourage voter turnout**
- **Allows parties to present diverse and balanced lists of candidates**

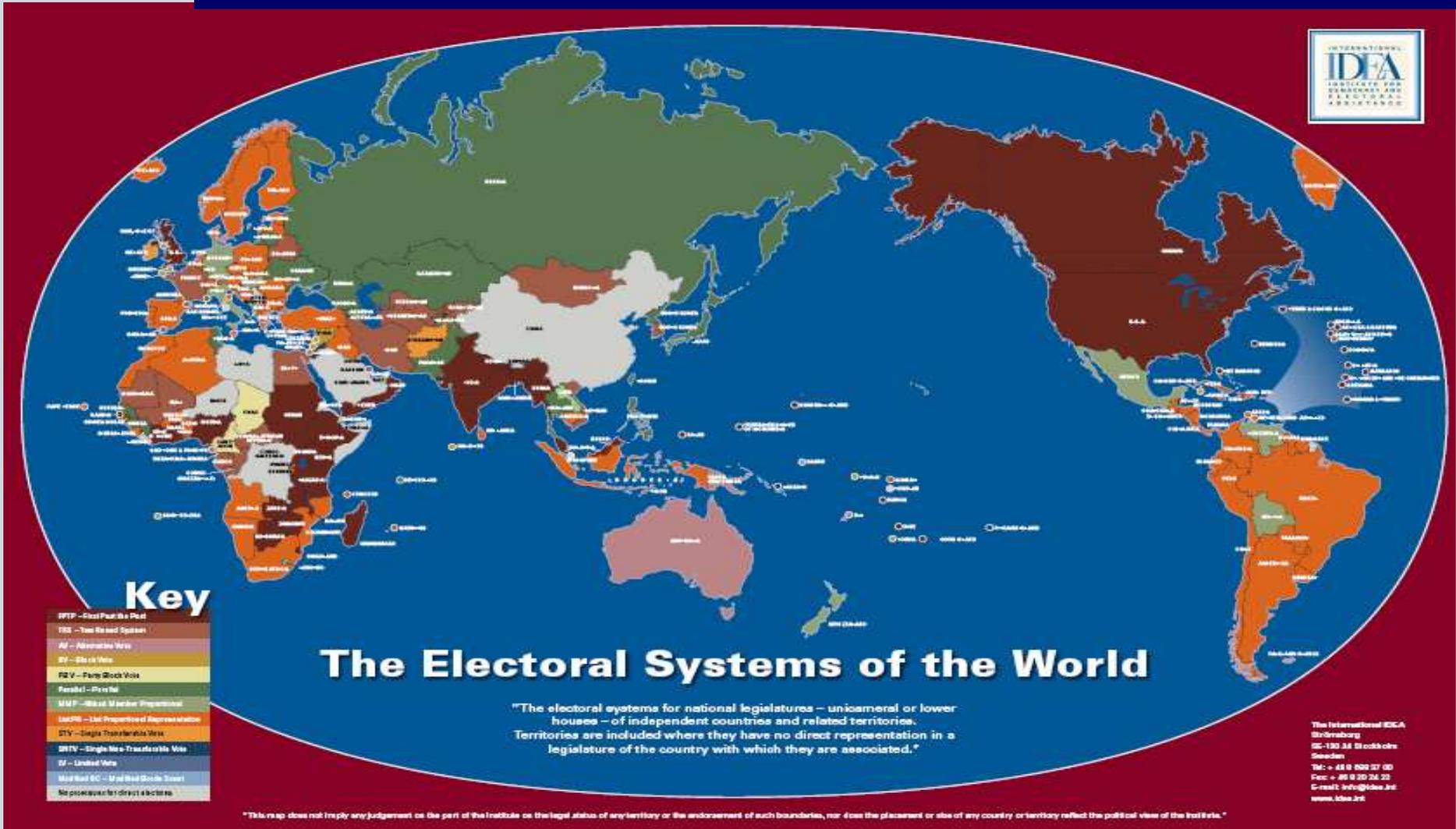


# Mixed Systems – General Characteristics

- Two different versions: Parallel and MMP
- Can combine advantages of FPTP and List PR
- Can help small parties to gain representation
- Can create 2 kinds of members, even from the same party. Party list members can be seen as having no mandate from the people
- Difficult to understand and requires a comprehensive public information campaign for voters
- Slightly more invalid votes likely



# Electoral systems around the world





# India Andhra Pradesh State Assembly 2004 election results

Party	Seats won	Net gain	Votes %	Change from 1999
TDP	47	-133	37.33	-6.54
BJP	2	-10	2.82	-0.85
Congress	185	94	38.25	-2.36
TRS	26	26	6.36	6.36
CPI(M)	9	7	1.38	-0.32
CPI	6	6	1.4	0.85
Total	275			

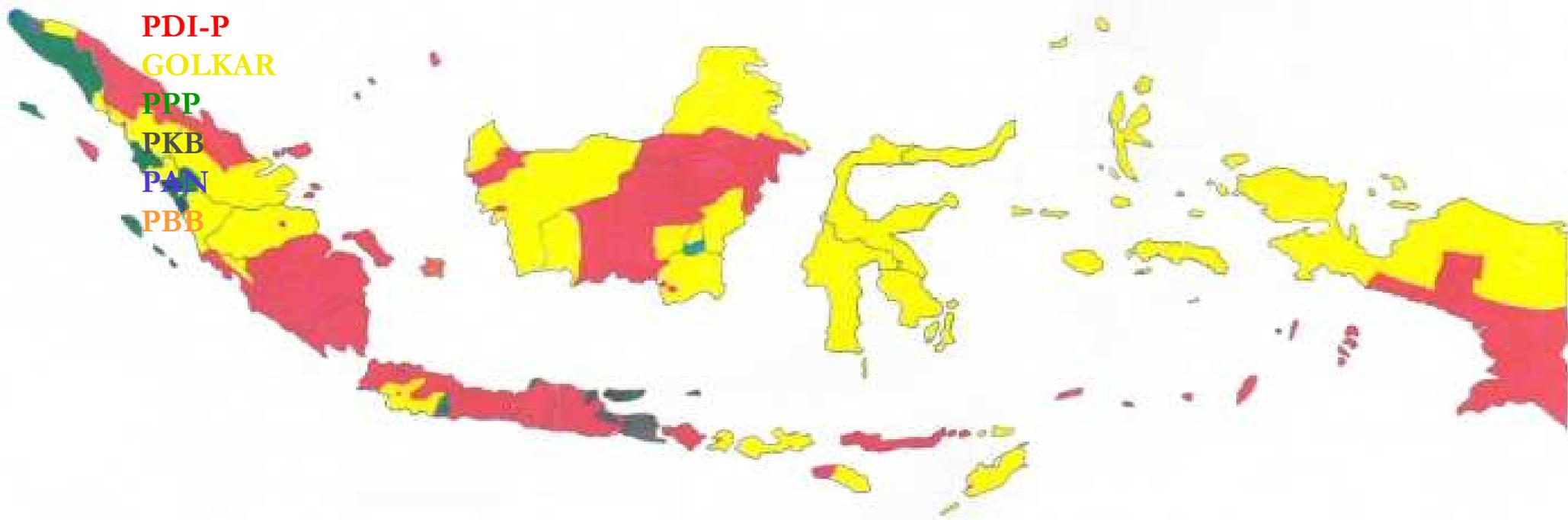


# Lesotho 1998 and 2002 Results

	Election 1998 FPTP		Election 2002 MMP	
	Votes %	Seats	Votes %	Seats
Lesotho Congress for Democracy (LCD)	60.7	79	54.9	77
Opposition	39.3	1	45.1	41
Total	100	80	100	118



# Indonesia 1999 Parties Gaining Plurality in 1999 Legislative Elections Second Tier District Level





# The Nepal Case

- Parallel system chosen after long drawn out negotiations as the “best of two worlds”
- A political faction pulled out from the process after realizing that the electoral system chosen would not be to their advantage
- Will other parties accept a move to full PR?
- Who pays the bill for the delay?



## Conventional wisdom that is not true

- Many claim FPTP is good because members are close to constituents
- Some claim PR is good because almost everyone votes for a winner
- BUT Global analysis shows most voters think it doesn't matter
- Exception: people who contact their elected members - who want to vote for candidates not parties



# Trends

- More use of proportional systems
- More use of MMP systems
- More action to promote the election of women
  - **Gender friendly electoral systems**
  - **Quotas**



## Gender Representation

- Electoral systems are NOT gender neutral
- More women stand - and more women win - in multi-member district systems
- 14 of the 20 legislatures with most women members use List PR
- Closed v open list: are the parties or the voters more woman friendly?



## Quotas

- Mandatory quotas in the election legislation
- Not only quotas but position on the list - Argentina
- Indonesia's 'maybe-quotas'
- Political parties adopt voluntary quotas - Scandinavia
- 'Contagion effect'
- Reserved seats - South Asia
- The effects of noncompliance - France and New Caledonia



# IDEA's Publications on Electoral System Design

