



LEGAL FRAMEWORK AND ELECTORAL SYSTEMS AND THEIR CONSEQUENCES

By

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Organized within:



In collaboration with:



CIDA
Canadian International Development Agency



IOM
International Organization for Migration



OAS
Organization of American States



Legal Framework

All legislation and all regulations related to the election

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Main elements of Electoral Legal Framework

- System of representation/Electoral System
- Eligibility criteria
- The electoral management model
- Operational framework
- Electoral justice mechanisms
- Rules for stakeholders



Some International Instruments on legal framework for elections

- Universal Declaration of Human Rights, 1948
- International Convention on Civil and Political Rights, 1966
- European Convention on Human Entrenchment of , 1950
- African Charter on Human and People's Rights, 1986
- OAS Democratic Charter, 2001
- SADC Principles Governing Democratic Elections, 2003
- ECOWAS Supplementary Protocol



UN on Free & Fair Elections

Universal Declaration of Human Rights (1948) *Article 21*

- Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- Everyone has the right of equal access to public service in his country.
- The will of the people shall be the basis of the authority of government, this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.



Legal Framework

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



QuickTime™ and a decompressor are needed to see this picture.



What is an Electoral System?

At the most basic level, electoral systems **translate** the votes cast in a general election into seats won by parties and candidates.

- The key variables are:
 - the **electoral formula** used (i.e. whether a plurality/majority, proportional, mixed or other system is used)
 - what **mathematical formula** is used to calculate the seat calculation
 - the **ballot structure** (i.e. whether the voter votes for a candidate or a party and whether the voter makes a single choice or expresses a series of preferences)
 - the **district magnitude** (not how many voters live in a district, but how many representatives to the legislature that districts elects)



United Kingdom Ballot

VOTE FOR ONE CANDIDATE ONLY

Counterfoil

Election for the
Fulwell Ward
of the City of Sunderland
on Thursday
16th day of September 1993

Polling District

No. on Register

1	BHATT Atul Kumar Bhatt, 52 Dovedale Road, Sunderland Independent	
2	DODDS Brian Dodds, 264 Leechmere Road, Sunderland The Labour Party Candidate	
3	FRYETT David Brian Fryett, 159 Sea Road, Fulwell, Sunderland Liberal Democrat	
4	STOREY Dorreen Storey, 82 Torver Crescent, Seaburn Dene, Sunderland Conservative	



South Africa 1994 Ballot

RSA		1994	
<p>Make your mark next to the party you choose. Etso leshwaqo pele mabqallo e-e o a kgahlang. Yenza lupheko eseleho kwelizandiso lobalenocho. Enzisa ukhumbano wakho ka vavisa lani u-m khawuleka. Baya leshwaqo ga letigama le lokucha le gaga. Yenza upheko lokho eduze nobandakano ayikhetheko.</p>		<p>Please mark next to the party you choose. Dine leshwaqo le gaga ga letigama le lokucha yoo o a kgahlang. Kha vha ka leshwaqo phantsi ka dzingama lina vha khetha. Nzisa upheko leshwaqo wakho kwelizandiso eke ukhetheko. Dwebha upheko esikhatheho eseleho kwelizandiso ayikhetheko.</p>	
PAN AFRICANIST CONGRESS OF AZANIA		PAC	
SPORTS ORGANISATION FOR COLLECTIVE CONTRIBUTIONS AND EQUAL RIGHTS		SOCCER	
THE KEEP IT STRAIGHT AND SIMPLE PARTY		KISS	
VRYHEIDFRONT - FREEDOM FRONT		VF-FF	
WOMEN'S RIGHTS PEACE PARTY		WRPP	
WORKERS' LIST PARTY		WLP	
XIMOKO PROGRESSIVE PARTY		XPP	
AFRICA MUSLIM PARTY		AMP	
AFRICAN CHRISTIAN DEMOCRATIC PARTY		ACDP	
AFRICAN DEMOCRATIC MOVEMENT		ADM	
AFRICAN MODERATES CONGRESS PARTY		AMCP	
AFRICAN NATIONAL CONGRESS		ANC	
DEMOCRATIC PARTY - DEMOKRATIESE PARTY		DP	
DIKWANKWETLA PARTY OF SOUTH AFRICA		DPSA	
FEDERAL PARTY		FP	
LUSO - SOUTH AFRICAN PARTY		LUSAP	
MINORITY FRONT		MF	
NATIONAL PARTY - NASIONALE PARTY		NP	
INKATHA FREEDOM PARTY - IQEMBU LENKATHA YENKULULEKO		IFP	



Germany Ballot



Sie haben 2 Stimmen

hier 1 Stimme
für die Wahl
eines/einer
Wahlkreisabgeordneten
Erststimme

hier 1 Stimme
für die Wahl
einer Landesliste (Partei)
- maßgebende Stimme für die Verteilung der
Sitze insgesamt auf die einzelnen Parteien -
Zweitstimme

1	Hauser, Otto Landtagsabgeordneter Esslingen am Neckar Entzingerstraße 32 CDU Christlich Demokratische Union Deutschlands	<input type="radio"/>	<input type="radio"/>	CDU Dr. Wolfgang Schulte, Mechthild Wisemann, Dr. Lutz Steverhagen, Anker Pleßer, Udo Ehrler	1
2	Mosdorf, Siegmар Landesgeschäftsführer Hochdorf Weinbergstraße 44 SPD Social- demokratische Partei Deutschlands	<input type="radio"/>	<input type="radio"/>	SPD Dr. Ineta Dübber-Grahn, Ingrid Schäfer, Hans Martin Burg, Wolfgang Roth, Dr. Liesel Harzenrat	2
3	Kehrer, Thomas Rechtsanwalt Esslingen am Neckar Eretbacherweg 13 FDP/ DVP Freie Demo- kratische Partei/ Demokratische Volkspartei	<input type="radio"/>	<input type="radio"/>	FDP/ DVP Freie Demokratische Partei/ Demokratische Volkspartei	3
4	Özdemir, Cem Student Bad Urach Lange Straße 10 GRÜNE DIE GRÜNEN	<input type="radio"/>	<input type="radio"/>	GRÜNE DIE GRÜNEN Christa Vornberger, Oswald Metzger, Ursula Eiß Bauer, Dr. Erik Walcott, Monika Kocoka	4
			<input type="radio"/>	LIGA Karl Siepferhöfer, Bettina Schrage, Ewald Jahsch, Wilhelm Schmitt, Marion Gochertz	5
			<input type="radio"/>	CM Anny Stink, Peter Bolla, Michael Pfaff, Ema Schürstain, Werner Kuller	6
			<input type="radio"/>	DIE GRAUEN DIE GRAUEN listiert vom Senioren- Schutz-Bund „Graue Panther“ e.V. (SSB-GP)	7
			<input type="radio"/>	DIE GRAUEN Wolfgang Röhner, Marita Elisabeth Fischer, Marga Tölgem, Walter Meyer, Dr. Ursula Köner	8
8	Donnerstag, Dietmar Rechtsanwalt Stuttgart Zaehnkauer Straße 14 REP Die REPUBLIKANER	<input type="radio"/>	<input type="radio"/>	REP Dr. Rolf Schärer, Leo Tharr, Michael Herbrich, Arnold Bräutigam, Guntmar Donnerstag	9
9	Brutzer, Ulrich Fertbar Karlruhe Lamprechtstraße 8 NPD National- demokratische Partei Deutschlands	<input type="radio"/>	<input type="radio"/>	NPD Jürgen Schützinger, Wilfried Mueggling, Dr. Michael Franck, Siegfried Harle, Erwin Müller	10
10	Daubner, Stefan Auszubildender in der Altenpflege Esslingen am Neckar Schwabenstraße 67 ÖDP Ökologisch- demokratische Partei	<input type="radio"/>	<input type="radio"/>	ÖDP Hella Heuer, Maria Ditzel, Bernd Richter, Hermann Bonitta, Herbert Alexander Göbhardt	11
			<input type="radio"/>	PDS/Linke Liste Partei des Demokratischen Sozialismus/Linke Liste Dr. Helga Bunkel genannt Königsdorff, Dr. Theodor Bogner, Dr. Heidi Kuske-Warner, Dr. Günter Köhner, Sas Wenzel-Dauer-Bülow	12
			<input type="radio"/>	Patrioten Patrioten für Deutschland	



Ireland Ballot



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TREORACHA

1. Feadh chur go dtí an mair olltuair ar an tballóid.
2. Maircál an tglór 1 sa bhoxa le haon ghrianghraf an chaidé tairthéa is rogha leat, maircál an tglór 2 sa bhoxa le haon ghrianghraf an tairthéa do dhá rogha, agus mar sin de.
3. Fill an páipéir zónas nach inféicear do vóta. Taispeáin cúl an pháipéir don gheach ceannais, agus cur sa bhoxa ballóid é.

INSTRUCTIONS

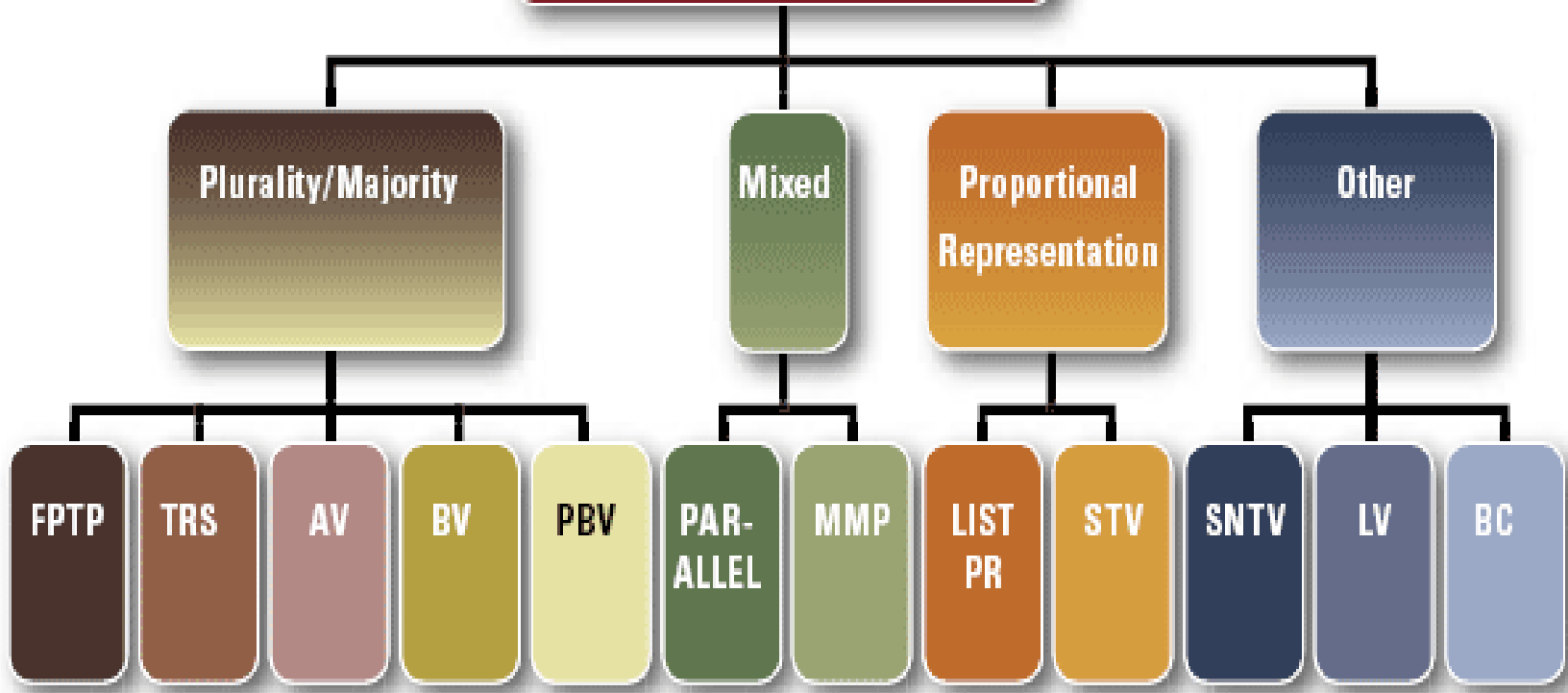
1. See that the official mark is on the paper.
2. Mark 1 in the box beside the photograph of the candidate of your first choice, mark 2 in the box beside the photograph of the candidate of your second choice, and so on.
3. Fold the paper to conceal your vote. Show the back of the paper to the presiding officer and put it in the ballot box.

Specimen

	AHERN — FIANNA FÁIL (BERTIE AHERN of 'St. Lukes', 161 Lower Drumcondra Road, Dublin 9; Taoiseach)		<input type="checkbox"/>
	COSTELLO — THE LABOUR PARTY (JOE COSTELLO of 66 Asghin Street, Dublin 7; Public Representative)		<input type="checkbox"/>
	FITZPATRICK — FIANNA FÁIL (DR. DERMOT FITZPATRICK of 80 Nevan Road, Dublin 7; Medical Doctor and Public Representative)		<input type="checkbox"/>
	GREGORY — NON PARTY (TONY GREGORY of 5 Sackville Gardens, Ballybough, Dublin 3; Full-Time Public Representative)		<input type="checkbox"/>
	KEHOE — SINN FÉIN (NICKY KEHOE of 30 Fintan Road, Cabra, Dublin 7; Bricklayer)		<input type="checkbox"/>
	MITCHELL — FINE GAEL (JIM MITCHELL of Leinster House, Dublin 2; Full-Time Public Representative)		<input type="checkbox"/>
	O'DONNELL — NON PARTY (PATRICK NOEL O'DONNELL of 14 Cliffoville Road, Glasnevin, Dublin 9; Businessman)		<input type="checkbox"/>
	O'LOUGHLIN — COMHAR CRÍOSTAI - CHRISTIAN SOLIDARITY PARTY (PAUL THOMAS O'LOUGHLIN of Flat 4, 255 North Circular Road, Phibsborough, Dublin 7; Shop Assistant)		<input type="checkbox"/>
	PRENDVILLE — NON PARTY (TOM PRENDVILLE of 52 Goldenish Street, Phibsborough, Dublin 7; News Reporter)		<input type="checkbox"/>
	SIMPSON — GREEN PARTY - COMHAONTAS GLAS (TOM SIMPSON of 3 Hampstead Avenue, Glasnevin, Dublin 9; FÁS Instructor)		<input type="checkbox"/>



The Electoral System Families



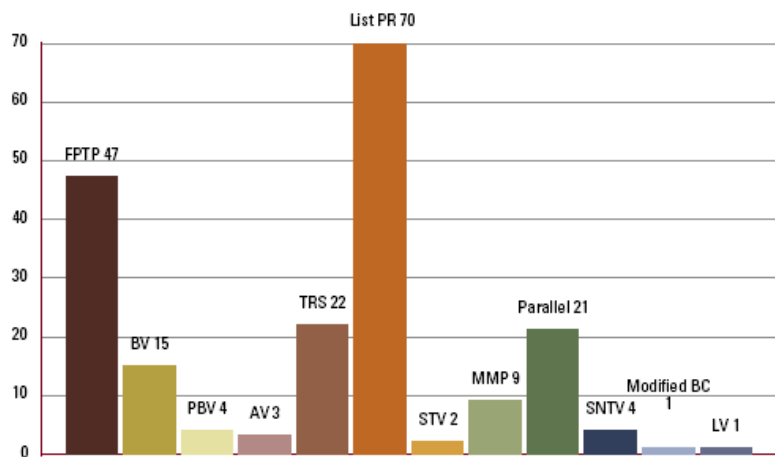


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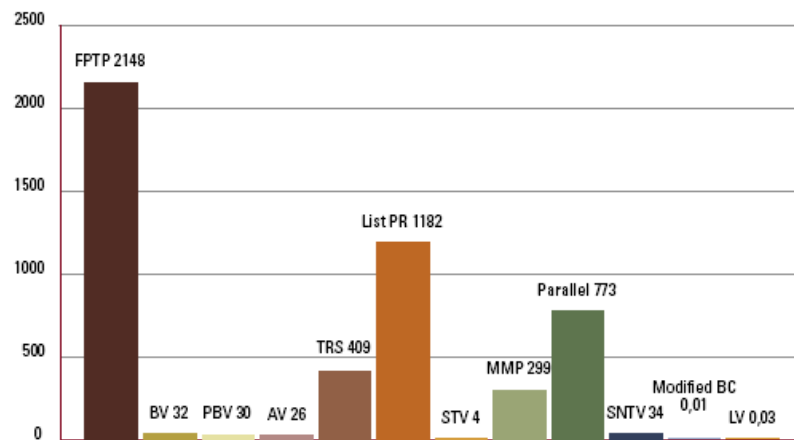


Distribution of Systems

2 - Electoral Systems:
Number of Countries and Territories



3 - Total population (in millions)





Same Election: Different Systems, Different RESULTS

Seats								
	1	2	3	4	5	6	Total (%)	
PARTIES	Votes							
Happiness	70	70	70	5	3	70	288 (30%)	
Love	15	15	15	123	15	15	198 (20.6%)	
Joy	15	7	25	30	100	7	184 (19.2%)	
Friendship	30	13	47	1	35	13	139 (14.5%)	
Health	30	55	3	1	7	55	151 (15.7)	
TOTAL VOTES	160	160	160	160	160	160	960 (100%)	



Same Election: Different Systems, Different WINNERS

PARTIES	% of votes	Seats under different electoral systems		
		FPTP	List PR	MMP
Happiness	288 (30%)	4	2	
Love	198 (20.6%)	1	1	
Joy	184 (19.2%)	1	1	
Friendship	139 (14.5%)	0	1	
Health	151 (15.7)	0	1	
Total	960 (100%)	6	6	6



FPTP

- Simple
- Leads to single party government
- Individual accountability
- Creates disproportional results
- Excludes Women, Minorities & Small parties
- Leads to wasted votes



List PR

- Proportional
- Few wasted votes
- Includes women, minority parties, etc
- Leads to coalition government
- Accountability Issues: Difficult to vote an individual out of office
- Entrenchment of power within party headquarters



MMP

- Best of both world?
- Less disproportionality than FPTP
- More inclusion of women & minorities than FPTP
- Worst of both world?
- Difficult to understand
- Creates two classes of representatives

Table 8: Potential Cost and Administrative Implications of 12 Electoral Systems

	Drawing Electoral Boundaries	Voter Registration	Ballot Paper Design and Production	Voter Education	Number of Polling Days	By-elections	The Count
FPTP	High	High	Low	Low	Low	High	Low
BV	Medium	Medium	Medium	Medium	Low	High	Medium
TRS	High	High	High	Medium	High	High	Medium
AV	High	High	Low	High	Low	High	Medium
PBV	Medium	Medium	Low	Low	Low	Low	Low
List PR	Low	High	Medium	Medium	Low	Low	Low
STV	Medium	Medium	Medium	High	Low	High	High
Parallel	Medium	High	Medium	Medium	Medium	Medium	High
MMP	Medium	High	Medium	High	Medium	Medium	High
BC	Medium	High	Medium	High	Low	High	Medium
SNTV	Medium	Medium	Medium	Low	Low	High	Low
LV	Medium	Medium	Medium	Medium	Low	High	Medium

Key: 😊 = Low cost and complexity; 😐 = Medium cost and complexity; 😞 = High cost and complexity.



Criteria for Good Electoral Systems

- Representative
- Accountability
- Support stable government
- Equal weight to each vote
- Resist tactical voting
- Simple for voters and administrators
- Accepted by parties and public
- Promote conciliation among different groups
- Promote cross-community parties
- Promote dialogue and compromise
- Robust against change
- Respond logically to changing support
- Be sustainable



Key decisions in electoral system choice

- **Ballot Structure**
- **Electoral Formula**
- **District Magnitude** – How many seats per district? How many districts? Boundaries?
- **Cost / Affordability**
- **Special provisions** – Quotas (Ethnicity, gender, religion, region)



What's a Fair Method of Sharing a Cake?





No electoral system is perfect

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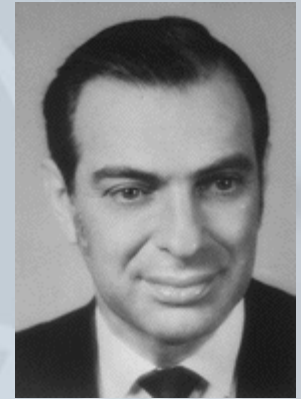


OAS
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Arrow's Impossibility Theorem

- Mathematical economist Kenneth Arrow (from Stanford University) proved (in 1951) that there is no consistent method of making a choice among three or more candidates that always satisfies certain simple criteria of “fairness”.
- He won a Nobel prize for this theorem (in 1972).
- This remarkable result assures us that there is no single election procedure that can always fairly decide the outcome of an election that involves more than two candidates or alternatives.





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Merci beaucoup

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