

IEAT working paper # 4: OPEN LIST OPTIONS

- 1. Introduction.** The Law on Provincial Powers adopted on 13 February 2008 requires an electoral law for the conduct of the provincial elections to be passed within 90 days. Following the 2005 elections, there have been increasing requests to change some features of the electoral system used. One of the features that has been strongly questioned is the use of a closed list, as it is argued that representatives are removed from the voters and that the choice of the voters is “restricted” because they do not vote for candidates. In this context, a number of parties and civil society organizations are advocating for the use of an “open list system”. It is, however, unclear what is really meant by an “open list system”, as in fact there are quite a number of variants. Further, the decision to switch from a closed to open list system is closely linked to decisions on other features of the electoral system, such as the unit of representation (provincial or district level constituencies), the district magnitude (number of seats per constituency) and the seat allocation formula (the mathematical formula used to decide how many seats each party gets). This paper will examine different options for “open list systems”, their operational and political implications, as well as the mechanisms to secure the representation of women and minorities. The paper also presents Fact sheet # 10: “Comparison of open list systems”.
- 2. Parameters for the Council of Representatives Decision.** At the time of deciding the electoral system, the Council of Representatives will have to take into account a number of criteria. Overall, the chosen system should:

 - be **practical and affordable**;
 - result in provincial councils that are **representative** of (or reflect accurately) the will of the voters;
 - be **easy to understand** by parties, voters and observers;
 - be **acceptable** to most political groups by being decided by broad agreement within the CoR;
 - be **inclusive** so that it enables the representation of women and minority groups and
 - encourage **participation** and minimize **the number of wasted votes**.
- 3. Definition.** Systems using the “open list” formula refer to elections in multiple member constituencies in which the voter can decide between candidates and generally decides marks one or more individuals from a list. Thus there are likely to be stronger links between the voter and the candidate and a stronger sense of accountability for the elected council members. However, there are different variations to this system: for example some countries allow for as many votes as there are seats, some countries allow for ranking the preferences, some countries allow for choosing candidates from different party lists, and in some countries the voter only chooses one candidate within a party list.

4. **Options for “open lists” systems.** The “open list” systems can be divided into three major groups, depending whether the voter chooses one candidate from within a list, chooses up to as many candidates as there are seats, or chooses a party and then may mark one candidate from that party’s list.

a) ***Single Vote Options*** - the voter marks ONLY one candidate from within a list.

The two basic systems are:

- **Limited Open List Proportional Representation** in which the number of votes for candidates from each list is added in order to determine the number of seats the party gets and then the seats are awarded to the candidates who won the most vote choices. This system is used in Finland, Brazil, and the Netherlands;

- **Single Non-Transferable Vote** in which the votes for the candidates are not added for each party and the most voted individuals are elected. However, this is a majoritarian system which can lead to highly disproportional results as a very popular party may get the same number of seats as one who has got very few votes. It is used only in Jordan, Afghanistan and Vanuatu.

b) ***Multiple Vote Options*** - the voter may mark as many candidates as there are seats in the constituency (for example, if Baghdad is a single constituency, each voter may be entitled to choose up to 58 candidates from several thousand contestants which will be confusing and have serious operational and security implications). The main options here are:

- **Block Vote**, in which the voter marks as many candidates from one party list as there are seats and the candidates with the most votes win the seats. The system used in Syria, Lebanon and Palestine, and formerly in Iraq;

- **Single Transferable Vote** in which the voter numbers the candidates in order of preference. The candidates who reach a quota ((number of valid votes/number of seats+1) plus one vote) are elected, and all their votes in excess of the quota are transferred to the other candidates according to the voters’ preferences. Then the lowest-polling candidates are excluded and their votes are transferred to other candidates according to voters’ preferences. These processes continue until the required number of candidates is elected. This is an extremely complex system, that although often regarded as highly representative, it rarely used because it is highly impractical for voters and very difficult to implement. This system is only used in Ireland, Malta, Australia, and Estonia.

- **Free Vote Proportional Representation** (used in Switzerland) allows voters to choose candidates in different party lists. The total number of votes cast for candidates of each party determines the number of seats the party gets, and those seats are allocated to the party’s highest-polling candidates.

c) ***Mixed Open List Proportional Representation***. This is a combination of closed and open lists. In this variation, the parties put forward their lists. The voter marks the party of his choice and MAY mark also one candidate within that list if he wishes to alter the order of candidate put forward by the party.

The party vote total decides the allocation of seats to parties, and the votes for candidates decide the order in which each party's candidates are awarded seats. This system combines the advantages of the closed lists formulae with giving voters the option to express support for one individual candidate. This system is used in Colombia. Another variant is the 'above the line/below the line' STV system used in Australia, where a voter can either mark a party box or a number of candidates from one or more parties in order of preference. This variation is significantly more complex and difficult to implement.

5. Operational Implications. If the electoral system in Iraq is modified to include an "open lists" feature, the conduct of the elections will have serious operational implications for the IHEC and the Iraqi security forces.

- a) **Voter Education** campaigns will have to be intensified to make voters, party agents and observers aware of the change in the system and of the voting procedures in order to minimize the number of invalid votes and the number of complaints.
- b) **The ballot paper will have to reflect all contestants.** In places like Baghdad there may be up to several thousand contestants. The ballot paper can be:
 - **one single paper with all names and party symbols;**
 - **a booklet** in which party has one page listing its candidates. The voter removes the page of one party and then marks the candidate(s) of choice;
 - **each candidate is given a unique number** which is used for campaign purposes. The voter writes candidate number/s on a ballot.
- c) **Security.** The political campaign is likely to get more personalized. Also as voters have more choices, their time in the polling centres is increased considerably, thus increasing their exposure to physical risk and intimidation on polling day.
- d) **Training of polling and counting staff will be more difficult,** as the conduct of polling and counting under new procedures will be significantly more complicated than in the previous elections. Before new training programs can be designed and implemented, however, IHEC will need to revise its regulations, procedures, manuals and forms.
- e) **Cost.** The cost of the elections will be increased as the cost of the ballots will be increased, there will be a need for more polling centres and there will be a need to provide more security.

6. Political Implications. Switching to an "open list" system will have three main political implications:

- a) **Accountability.** As the voters choose the candidates within a list there will probably be closer links between elected representatives and the voters, and a

stronger sense of accountability and response to the voters' needs, particularly in smaller electoral districts.

- b) **Legitimacy.** The “open list” systems can show all candidates the hard facts about the support they really have.
 - c) **Party solidarity.** As it is impossible to predict in advance which candidates will finally be elected, candidates will have to campaign not only for support for their parties but also for themselves individually which will lead to competition for votes between candidates from the same party.
7. **Women and Minorities.** “Open list” systems will also need additional specific guarantees in the electoral law to guarantee representation for women and minorities. As well as requiring parties to nominate women candidates, a quota for women's membership of councils will have to be fixed, and in case it is not reached, “best loser female candidates” will be elected in place of “less voted” male candidates until the quota is reached. For minority representation, in certain provinces there will either have to be “reserved seats” for which only specified minority groups can compete, or the threshold for representation will have to be waived for parties representing minorities.

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