

SUPPORT TO ELECTORAL
REFORM IN PAKISTAN

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ELECTORAL LAW REFORM PROCESSES: KEY ELEMENTS FOR SUCCESS

SUMMARY

A country's electoral laws affect the 'rules of the game' in a democracy. It is therefore vital that the process of developing election legislation receives careful and considered attention. Long-lasting and effective electoral law reform rests on five elements that are essential for success: timing, sequencing, consultation, transparency and technical considerations.

Electoral law reform is a challenge in any country because it can affect sensitive political interests. Elected representatives are likely to have strong opinions on any election reforms, which can potentially impact their chances of re-election. Election law reform that is poorly conducted—for example, if there is not enough consultation or changes are made too close to the date of an upcoming election—can result in disorganised elections, instability and even violence, especially if political parties or groups of voters feel deliberately disadvantaged by the reforms.

Widespread, systematic, transparent and genuine consultation, from start to finish of the process, is key to successful election law reform. Proposed changes must be discussed with political parties, opposition leaders, independent candidates, civil society organisations representing voters' interests, election management bodies, the media and the general public.

Full consultation improves the quality of the legislation, increases acceptance of the changes being made and enhances the accountability of the political system. Election law reform adopted by a large cross-party majority is preferable to reforms that divide a government majority from the opposition. Broad-based support also increases the chances of both election processes and outcomes being accepted.

In addition to consultation, timing is essential for success in two ways. First, election law reform must be given sufficient time to allow for focused deliberation of policy and the subsequent translation of policy into drafting new legislation or modifying existing laws. It is therefore crucial to sequence events from the beginning. Before any legislation is drafted, first a policy discussion should take place to identify which issues need to be addressed.

Second, experience indicates that any significant electoral reform should ideally be completed well before the next election. This allows election management bodies, political parties and candidates, as well as the electorate to become familiar with the scope and implications of reforms. Generally speaking, the earlier reforms are adopted before an election, the better.

Transparency includes providing information on how a consultation process will be undertaken, along with regular public updates on how the law reform process is progressing. Documentation and official record keeping is also an important aspect of transparency.

A number of technical requirements should be fulfilled to make the process effective and efficient. The timetable of events should be determined and publicised at the outset. At all stages of the reform process, it is important to check proposed legislation for compatibility with existing domestic law. It should also be verified against applicable international law and commitments. Finally, budgeting and resource issues must be considered for successful implementation of reforms.

While this briefing paper specifically applies to election law reform, many of the good practices and recommendations presented herein are applicable to legal reform in general. In the end, the quality of any reform depends on the process through which the reforms are formulated and adopted.

1. INTRODUCTION

Meaningful election law reform improves the framework for holding genuine elections and contributes to ‘guaranteeing the free expression of the will of the electors’, in line with article 25 of the International Covenant on Civil and Political Rights (ICCPR). To be successful, election law reform involves a democratic process. Election law reforms should build understanding and trust, not only amongst politicians and election administrators, but also amongst civil society organisations, public commentators and, above all, citizens. It is a political process requiring public debate and careful consensus building from beginning to end.

While elections are a technical process, they are also fundamentally a political event, deciding on access to positions of power. Elections are therefore of crucial importance to broader issues of governance. Their design cannot be considered in isolation from the wider constitutional and institutional context. In short, electoral arrangements are among the core ‘rules of the game’ in a democracy. Any changes to these rules likewise should be the result of democratic processes.

There are five key elements for a successful electoral reform process: timing, sequencing, consultation, transparency and technical considerations (including reference to international obligations). Given that the reform process itself should be a democratic undertaking, the need for broad-based discussion and genuine consultation cannot be over-emphasised.

2. TIMING

Timing of electoral law reform is crucial in two ways. First, there is a question about how much time is allotted for conducting a thorough reform process, including broad-based consultation at every stage, before adopting new legislation. Second, timing is relevant in relation to when a reform process is completed with respect to the next election.

Successful electoral reform requires adequate time for all of the main stakeholders who are involved and interested to participate in the reform process. The process of developing legislation is also important. Pressure to deliver reform should not be at the expense of the time allowed for the discussion, debate and preparation of legislative proposals.

While the duration of a law-drafting process depends on many factors, in normal circumstances at least one year is needed between the formulation of policy objectives and the adoption of changes to the law in parliament. As the Organisation for Economic Development and Cooperation (OECD) observes, ‘undue hurry driven by short-term political objectives is a significant factor contributing to defective laws’.¹

The second timing issue pertains to when an election law reform process is completed in relation to an upcoming election. As the Venice Commission asserts, for example, “The fundamental elements of electoral law, in particular the electoral system proper, membership of electoral commissions and the drawing of constituency boundaries, *should not be open to amendment less than one year before an election*, or should be written in the constitution or at a level higher than ordinary law” (emphasis added).²

The European Union (EU), which deploys election observation missions around the world, notes that, “Certainty and transparency in an electoral process is strengthened when the legal framework is established well ahead of an election date being announced. Late changes in legislation, or delays in adopting regulations on key issues, can undermine an electoral process.”³ Constitutions occasionally also contain provisions that prohibit the application of a new electoral law to the next election if it is to take place within the coming year or less than one year after its entry into force.⁴

These two timing requirements—sufficient time for the reform process to take place and recommendations that the adoption of reforms occur well in advance of elections—carry with them a central implication. That is, in normal circumstances, the process of electoral law reform generally should start by the middle of a parliament’s term.

In cases where an election has raised doubts about the electoral legislation or when there is a large-scale political upheaval as recently witnessed in Egypt and Tunisia, it may be best to initiate an electoral reform process immediately, when the importance of reform is still felt more urgently. In any event, the schedule for the reform process should be publicly announced in advance so that stakeholders know what to expect and when their engagement is anticipated.

¹ OECD, *Law Drafting and Regulatory Management in Central and Eastern Europe*, SIGMA Papers: No 18 OCDE/GD(97)176, Paragraph 3.1, page 24. See: http://www.oecd-ilibrary.org/governance/law-drafting-and-regulatory-management-in-central-and-eastern-europe_5kml618wrlg7-en.

² The Venice Commission’s *Code of Good Practice in Electoral Matters*, 2003, page 10. See: [http://www.venice.coe.int/docs/2002/CDL\(2002\)139-e.asp](http://www.venice.coe.int/docs/2002/CDL(2002)139-e.asp). The European Commission for Democracy through Law, better known as the Venice Commission, is the Council of Europe’s advisory body on constitutional matters.

³ *Handbook for EU Election Observation*, European Commission, Second edition 2008, page 30. See: http://ec.europa.eu/europeaid/what/human-rights/election_observation_missions/documents/eu_election_observation_handbook_en.pdf.

⁴ See Article 67.6 of the Turkish constitution: “Amendments made to electoral laws shall not be applied to elections to be held within one year from the amendments’ entry into force.” However, such provisions can be problematic, as was recently evidenced in Afghanistan in 2010. The Afghan constitution prevents parliament from amending election laws one year before parliamentary elections are scheduled to take place. This created problems in terms of reform efforts because of the dense electoral calendar. In the end, reforms that should have been implemented were not, with President Karzai instead issuing an executive decree that fell far short of much-needed changes.

3. SEQUENCING: FROM POLICY TO LEGISLATION

Substantive electoral law reform should proceed in two stages: policy debate and formation of new laws. Each stage in this sequence of events requires multiple levels of activity and engagement.

Encouraging Policy Debate

The process should begin with broad-based debate on policy issues to identify the objectives and priorities for reform; e.g., the type of election system, representation of minorities and composition and competencies of election management bodies. Too often the impetus for election law reform only comes from technical implementers, for example by the submission of a list of election law changes to parliament by the government or an election management body.

However, in such cases there is no discussion of the overall objectives and priorities for election reform at the policy level. Whilst proposed changes may just be aimed at solving technical problems, some of these may have far-reaching political implications. Hence failure to conduct an initial policy debate before changes are implemented can have serious consequences. Conversely, initiating a policy discussion early on in a reform process can make a useful contribution to the subsequent formulation of more effective legislation.

A policy debate should also consider the resource implications of electoral reform (see Section 6 below). There may be steps of election reform that are desirable, but ultimately not justified in a broad analysis of priorities and costs. Without an initial policy debate, such a weighing of priorities may not take place. Even if proposed changes are feasible, useful and affordable, these resources may still be better allocated to solve other, more crucial electoral challenges.

To encourage and inform the policy debate, it is valuable to conduct an in-depth study into such matters as the necessity for legislation, the reasons for adopting a new law and its objectives, the anticipated results or intended outcomes, and the costs and resources that would be required for reform. In an increasing number of countries, draft legislation must be accompanied by an explanatory memorandum outlining the policy considerations that have motivated the reform effort. Policy papers and other similar means are particularly useful in this context, as is reference to international obligations; e.g., article 25 of the ICCPR and related general comments.

Once the policy debate has taken place, the reform process should move to the next stage in the sequence: how can the priorities that have been identified best be addressed in changes to electoral law? It is at this point that draft legislation should be considered.

Formulating New Laws

The quality of legislation hinges as much on the input to the drafting process as on the scope and thoroughness of the public consultation through which it is developed. The process of drafting new legislation can be time consuming. Hence adequate time should be allotted for this process.

New legislation can originate from either the executive branch of government or parliament, although generally such initiatives most often are undertaken and conducted by the executive branch.⁵ Regardless, parliament should play a central role in the reform process because it is the representative body for the people, includes the range of political interests in a country and is the institution responsible for lawmaking. Changes to electoral law may also affect the way members of parliament are elected. Reforms likewise may directly or indirectly impact the balance of power between the various branches of government, which may affect parliamentary powers.

Once draft legislation is put before parliament, there should be a proper parliamentary process, including discussion and debate by a designated committee. Because it is mandated to make laws, a good practice is for parliament to take the initiative of holding consultations on draft legislation with stakeholders outside parliament or commissioning policy papers from independent experts. This means, for instance, that parliament should be encouraged to hold its own consultations, which may be in addition or complementary to the primary consultation process.⁶

Election laws often determine that election management bodies may issue regulations on matters that either have been explicitly left to their discretion by the law, or have proved to be unregulated and thus are in need of clarification. The scope of these delegated powers, as well as the effect of regulations or instructions passed by such bodies should be clear, unambiguous and predictable. The law itself should regulate how these powers are to be exercised and in which areas. Such regulations are often referred to as 'secondary legislation'.

Most countries carry out verification of draft legislation in the course of the drafting process. Those who draft new legislation are responsible for devising the formal arrangements and regulations for performing compliance checks and stipulating that specific investigations are to be made.

Draft legislation should be formally verified in relation to three distinct levels of compliance. First, it is essential to check draft legislation against the constitution. Second, draft laws require verification to ensure compliance in relation to national law.⁷ This is also a matter of consistency and, by extension, consolidation of the legislation.⁸ If there is a lack of harmony, the proposed or existing legislation should be amended. Third, draft

⁵ This tendency has much to do with the fact that the lawmaking power of parliaments often is narrowly understood as confined to adopting laws that are elaborated by governments. However, parliaments share the right of legislative initiative with the executive branch.

⁶ Public consultation (e.g., with civil society actors) should not be seen as a substitute for parliamentary debate.

⁷ Verifying new legislation in relation to national law is more challenging and time consuming because this is a larger body of law to review.

⁸ Consistency and consolidation can be problematic issues if the legislation is frequently amended.

legislation must be checked for its compliance with international commitments and obligations; e.g., international treaties or customary law.

GOOD ELECTION LEGISLATION BASIC PRINCIPLES

The basic principles of good election legislation are enshrined, for example, in the 1966 International Covenant on Civil and Political Rights (ICCPR), as well as in various other obligations and commitments about democratic elections.

These principles include periodic elections that guarantee universal adult suffrage, equality of the vote, secrecy of the ballot and freedom from coercion and threats.

In addition to these fundamental principles, good election legislation takes into account a range of concrete considerations.

It is crucial that voters and politicians alike can understand the law. As such, good legislation is **clear and comprehensible**. It uses appropriate and comprehensible language and terminology.

Good election legislation is **practical** and can be **realistically implemented**. Thus, it is often necessary to seek the opinion of election management bodies, which can offer information to this effect. Looking at practices in other countries can also be of value.

Good legislation is **consistent and harmonised** with existing domestic laws and international obligations.

Alongside these requirements, good election legislation allows for **predictability**, as well as **flexibility**. It also incorporates clear mechanisms to address and resolve election-related disputes.

4. BROAD-BASED AND GENUINE CONSULTATION

The manner in which a particular electoral framework is amended is vital to ensure its overall legitimacy. Good practice shows that an electoral reform process is most successful when it is genuine, inclusive, open and transparent.⁹ Such a process must also be built on and generate trust within society.

This necessitates that views from all stakeholders are fully taken into account and duly weighted in the process.¹⁰ It requires broad-based consultation with the general public, civil society organisations (especially those that represent marginalised groups), governing political parties, opposition parties, independent candidates, public

commentators, the media and state and/or independent bodies responsible for enforcing electoral law, including election management bodies and the judiciary.¹¹

Consultation should occur at all stages in the reform process, from the initial policy debate right through to the drafting of new legislation. Reports from election observation and monitoring missions can be a useful framework for addressing election reform issues, as can international commitments, which contain principles for genuine elections. Both the use of technology and the media can play key roles in widely disseminating relevant information on a prompt timetable.

Genuine consultation allows for meaningful discussion, debate and negotiation between proponents and opponents of competing proposals. As such, citizens must have an opportunity to provide written and oral comments and to make proposals at public meetings or by submission to the lawmakers. Genuine consultation also factors in the possibility of further change or revision to proposed legislation. Consultation that does not offer alternatives other than approving or rejecting a final draft undermines its very purpose.

Creating political consensus through confidence-building measures may help overcome deadlocks; e.g., setting up a working group, standing committee, an *ad-hoc* committee or any other cross-party body. Such efforts should come early in the process, when the legislation is still in the process of being made, and take an inclusive approach to party representation.

On a technical level, consultation procedures should be simple, cost-effective and broadly accessible. Lawmakers should use plain, accessible language. Information on impact assessments¹² of different proposals should be part of the consultation process.

In the case of a new electoral procedure, it can be useful to organise mock polling exercises with voters to examine their understanding of the system, as well as address practical questions, such as how much time voting actually takes. This helps avoid the problems of overcrowded polling stations and queues that keep voters waiting for a long time.¹³ Research can also be

⁹ "The process for adopting election-related laws is expected to have been undertaken in a manner that ensures broad support for the legal framework for elections. There should be no discrimination against any candidate or political party. Experience has shown that confidence in the election legislation is enhanced when it is drafted in an open and inclusive manner and there is consensus on important issues, such as the electoral system and the composition of the election administration." *Handbook for EU Election Observation*, European Commission, Second edition 2008, page 29-30. See: http://ec.europa.eu/europeaid/what/human-rights/election_observation_missions/documents/eu_election_observation_handbook_en.pdf.

¹⁰ Various forms of consultation are presented at the end of this briefing paper.

¹¹ The participation of women and minorities in such processes should be encouraged and facilitated. As they tend to have their interests inadequately represented in institutional legislative processes, it is crucial that they have opportunities to voice their opinion through the consultation process. Similarly, the principle of inclusiveness requires that geography is factored into the consultations. Targeted consultations in isolated administrative regions (e.g., rural areas or areas primarily inhabited by a minority group—a group which may actually account for the majority of the population in that particular area) enhance the inclusiveness of reform processes.

¹² An impact assessment or impact analysis is a document created before a new law or regulation is introduced. The role of impact assessment is to provide detailed and systematic appraisal of the potential consequences of the new legislation or regulation in order to assess whether it is likely to achieve the desired objectives.

commissioned on suggestions, alternatives and comparative assessments related to practices elsewhere, and so on.

The Benefits of Consultation

A process involving widespread consultation has a range of potential benefits. First and foremost, it is likely to help build legitimacy and result in significantly more acceptance of the electoral reforms than a decision perceived as being motivated by partisan interests alone.¹⁴ Although partisan considerations are unavoidable when discussing election reform, broad cross-party and public support for reforms is crucial for them to be accepted and respected. The sense of legitimacy and shared ownership that can develop through a consultation process also encourages stakeholder buy-in and compliance with the new electoral law.

In practical terms, consultation allows time for affected parties to become familiar with possible changes, make informed suggestions and adjust to agreed reforms. In particular, proper discussion of proposed changes should offer politicians, political parties and voters a clear sense of the implications of the eventual amendments. A lack of discussion and understanding can even be self-defeating. Government majorities have occasionally lost elections because they adopted changes to the electoral system that they considered to be beneficial, but which turned out to have adverse effects.

Broad-based and genuine consultation helps improve the quality of legislation. It makes more information available to lawmakers and thus enhances their capacity to measure expectations and possible impacts, identify policy alternatives and minimise enforcement costs. A widespread consultation process can bring the expertise, perspectives and ideas for alternative proposals of those directly affected into the discussion. As such, it can assist lawmakers to better understand and reconcile opposing concerns and interests.

Genuine consultation therefore can contribute to political stability. Public confidence is considerably strengthened when all segments of society are included. Moreover, the result of a well-conducted election reform process is that those who lose in elections are less likely to blame the electoral framework or the political system more generally for their failure to win. Importantly, then, broad-based consultation may prevent or reduce election-related violence because all stakeholders perceive the electoral framework as being legitimate.

¹³ A case in point is the 2010 elections in southern Sudan. Trying to accommodate a wide range of interests, combining proportional representation with constituency-based elections and electing representatives at different levels (federal and provincial, as well as for autonomous bodies in southern Sudan), the result was that voters were required to fill in 12 different ballot papers. This was impractical: southern Sudan is one of the least developed areas in the world and has high illiteracy rates. Consequently, the elections were slow and cumbersome. When drafting electoral law, the practical implications of different electoral systems clearly had not been considered.

¹⁴ Occasionally, changes to the electoral system are made the subject of referenda in order to give them full democratic legitimacy; e.g., the New Zealand referendum.

5. TRANSPARENCY

When reforming an electoral framework, the challenge faced by state authorities is to ensure that the process is in fact and is perceived as genuine, transparent, non-discriminatory and all-inclusive. Public consultation is closely linked to ensuring that this is the case. To this end, information about how the consultation process will be undertaken should be made available, along with regular public updates about how the process is progressing. There should be public assurances that the input of those who are consulted will be given serious consideration and that the outcome of the consultations will be published in some form. Otherwise, the element of trust may be jeopardized. The use of technology can greatly improve the transparency of the process.

A process to monitor and evaluate the quality of the consultations should be implemented, and consultation results should be included in impact assessments. In this regard, those drafting new legislation should keep an official record of who they have consulted and for what purposes. They should record any findings.

Most importantly, there should be documentation on the extent to which information from consultations has been used, and explanation as to why some views have been rejected. Such information should be incorporated into the explanatory memorandum attached to a draft law. This will serve to provide some reassurance to those parties that were consulted.

6. TECHNICAL CONSIDERATIONS

Obviously political will is essential for achieving credible electoral reform. But even if there is political will, the quality of election reform can greatly differ depending on whether technical aspects of the process are respected.¹⁵ These elements of a reform process ensure efficiency and effectiveness. Primary technical aspects include: planning, budgeting and resources, and monitoring.¹⁶

Planning

Any election reform process requires considerable planning that takes a variety of different levels of activities and detail into account, as well as allows enough time for events to take place. For greatest efficiency, planning should be centrally determined.

An essential aspect of planning a reform process is time-tabling. This includes:

- Preliminary assessment of the steps that need to be followed; e.g., the extent to which consultation will be used
- Realistic and careful estimations of the time that will be needed for completing those steps

¹⁵ Parliamentary research, discussions with and assistance from international organisations, as well as international data sources can be helpful in this regard.

¹⁶ This segment of discussion focuses on the successful management of a reform process. Although there are technical aspects to the formulation of new legislation, this is outside the scope of this report. See Section 3 above.

- Periodic review of timetables (e.g., in light of difficulties encountered) and a procedure for altering them

Ideally, the timetables for primary legislation should relate to the preparation of secondary legislation (administrative directives), which is essential for its implementation and enforcement. All timetables should be published for the benefit of legislators and the public alike, especially those pertaining to consultation processes.

Budgeting and Resources

There should be formal procedures for assessing the budgetary impact and needs of electoral reform processes. This is essential to ensure that the effect of the legislation can be clearly anticipated. It is also crucial for making the necessary resources and infrastructure available so that reforms can be properly implemented.

Planning and preparation in view of the entry into force of the new law involves a range of expenditures. For example, budgeting must account for procuring relevant equipment, hiring election workers, training law enforcement personnel, education and awareness raising among the electorate, and the adjudication of election disputes.¹⁷ Budgeting must also include allocations for the prompt publication of legislation, as well as manuals, handbooks and guides designed for different audiences. It is important to have procedures in place to enable relevant government authorities to find out by *ex-post* evaluation whether projected costs were realistic.

Monitoring

There is a need for monitoring the implementation of the legislation and having oversight mechanisms in place, preferably within parliament. More specifically, this involves post-legislative review of the effectiveness of the legislation in question. This may be combined with formal procedures for amendment based on regular and systematic evaluations.

These review mechanisms are particularly crucial in the case of election laws because they can help avoid a hurried and uninformed process of revision to legislation too close to the next election. Implementing authorities, namely election management bodies, should be required to report regularly to parliament on electoral preparations, implementation and the effects of new legislation.

¹⁷ The resources and infrastructure required for the proper adjudication of election disputes are often underestimated and not budgeted in the funds appropriated for the organisation of the election. In countries where election disputes fall under the remit of both the courts and election management bodies, the cost incurred can be much higher than anticipated.

7. CONCLUSION

The electoral framework has a profound effect on the political life of a country, especially with respect to electoral systems. Once electoral systems have been determined, they tend to remain fairly constant because political interests solidify around them and respond to the incentives presented by them.

Election law reform is politically sensitive because it affects core 'rules of the game' of a democracy. When election laws are amended in the interest of only one party, confidence in the entire democratic process suffers. This is the case even if such partisan interest in election reform is no more than a public perception.

Lack of confidence in election law reform can result in the withdrawal of political parties from election processes, in contested election results and ultimately in violence. Thus, election law reform must be carefully managed, putting a premium on transparency and inclusive, broad-based consultation in the process.

The international community often takes an interest in election law reform; e.g., international election observers usually issue recommendations for the reform of electoral laws to bring them in line with international obligations. Yet there tends to be little focus on the process of reform *per se*. In the end, the quality of the outcome of a reform process depends on the process through which reforms are formulated and adopted.

ABOUT DEMOCRACY REPORTING INTERNATIONAL

Democracy Reporting International (DRI) is a non-partisan, independent, not-for-profit organisation registered in Berlin, Germany. DRI promotes political participation of citizens, accountability of state bodies and the development of democratic institutions world-wide. DRI helps find local ways of promoting the universal right of citizens to participate in the political life of their country, as enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Amongst other projects, DRI has an 18-month grant from the European Union to work with Pakistani legislatures (federal and provincial) on promoting electoral reform as a follow-up to the 2008 EU Election Observation Mission. The grant also includes work with the media to improve coverage of election-related issues, as well as assessments of the local elections.

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FORMS OF CONSULTATION

There are at least five different models for conducting public consultation, depending on who is consulted, how formal the process is, and which means of communication are used. None of these is per se better than the others.

The form of consultation used in one country will not necessarily work in another. Although there are some common experiences in different regions of the world, the outcomes of a particular type of consultation depend to a great extent on the socio-political context in which they are conducted. Often a combination of these forms of consultation is used.

Informal consultation

Informal consultation includes all forms of discretionary, *ad hoc* and non-standardised contacts between lawmakers and interested parties. Informal consultations take many forms, from phone calls and letters to informal meetings. Informal contact occurs at all stages of the reform process. The purpose is to collect information from interested or affected parties.

This approach is less cumbersome and more flexible than more standardised forms of consultation. It also facilitates the inclusion of a wider range of interests. The disadvantage of informal procedures is their limited transparency and accountability.

Circulation of legislative proposals for public comment

This form of public consultation is a cost-effective and popular way to solicit views from the public and it is likely to induce affected parties to provide information. It is fairly flexible in terms of timing, scope and the form of responses it can accommodate.

This procedure differs from informal consultation in that the circulation process is generally more systematic, structured, and routine, and can be based on law, policy statements, instructions or rules of procedure. It can be used at all stages of the legislative process, but is most often used to present concrete reform proposals for consultation. Responses are usually in written form, but lawmakers may also accept oral statements. They may supplement those by inviting interested groups and parties to hearings.

The downside of this procedure is the discretion of lawmakers to decide who will be included in the consultation. Well-organised interest groups have more leverage at the expenses of less organised groups.

Public notice-and-comment

Public notice-and-comment is more open and inclusive than the circulation-for-comment process, and it is normally more structured and formal. The public notice element provides for all interested parties to become aware of the legislative proposal and thus be able to comment.

This procedure usually entails the provision of a standard set of background information, including a discussion of the problem being addressed and the policy objectives, a draft of the legislative proposal and, often, an impact assessment of both the proposal and alternative solutions. This information, particularly the impact assessment elements, can greatly increase the ability of the general public to participate effectively in the reform process.

Public hearings

A hearing is a public meeting on a particular legislative proposal at which interested parties and groups can comment in person or through written statements. A hearing usually complements other consultation procedures. Hearings tend to be discretionary and *ad hoc* unless connected to more formal consultations, such as public notice-and-comment. They are, in principle, open to the general public, but effective access depends on how widely invitations are circulated, the location and time of the hearing, and the size of the room in which they are held.

Hearings that are one-off events can be problematic because not every interested or affected party may be able to participate. Hearings need to be well moderated to make sure they generate empirical information.

Advisory bodies

Besides informal consultation and circulation-for-comment, the use of advisory bodies is the most widespread approach to public consultation. There are a range of different types of advisory bodies, having a variety of titles; e.g., councils, committees, commissions and working parties.

Common features are that they have a defined mandate or task within the reform process and include members from outside the government administration. They are generally used to improve the quality of reforms through expert advice and information. They are also important for increasing the perceived legitimacy of laws and contributing to building consensus.