

**United Nations Development Programme**

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Regional Centre in Bangkok  
*Serving Asia and the Pacific*



# **Local Democracy in Asia: Representation in Decentralized Governance**

## **Concepts and Issues**

**Final Draft  
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## ACRONYMS AND ABBREVIATIONS

ABC	Association of Barangay Captains
CEO	Chief Executive Officer
CHT	Chittagong Hill Tract
CP	Customary Panchayat
CPP	Cambodia People's Party
D&D	Deconcentration and Decentralisation
DAG	Disadvantaged Group
DDC	District Development Committee
DPR	Dewan Perwakilan Rakyat, House of Representatives
DPRD	Dewan Pertimbangan Otonomi Daerah (Regional House of Representatives)
DYT	Dzongkhag Yargay Tshogdu
FPTP	First Past The Post
GYT	Geog Yargay Tshogchung
IC	Independent Candidate
KPUD	Regional General Election Commission
LG	Local Government
LGC	Local Government Code
LGED	Local Government Engineering Department
MoHA	Ministry of Home Affairs
MLA	Member of the Legislative Assembly
MLC	Member of the Legislative Council
MP	Member of Parliament
MPR	Majelis Permusyawaratan Rakyat, Consultative People's Assembly
MSS	Minimum Service Standards
NEC	National Election Commission
NWFP	North West Frontier Province
OBC	Other Backward Caste
OEC	Omnibus Election Code
PESA	Panchayats (Extension to the Scheduled Area) Act 1996
PR	Proportional Representation
SC	Scheduled Caste
ST	Scheduled Tribes
STAE	Technical Support Secretariat for Electoral Administration
UC	Union Council
UDCC	Upazila District Co-ordination Committee
UNDP	United Nations Development Programme
UNO	Upazila Nirbahi Officer
UP	Union Parishad
VDC	Village Development Committee
ZP	Zila Parishad or Zilla Panchayat

# 1. INTRODUCTION

The framework for representation and the electoral processes are among the most important mechanisms that shape local democracy. Decisions on the modalities for representative participation<sup>1</sup> and the choice of electoral system – the rules and procedures through which votes cast in an election are translated into representation – determine the extent to which local decision-making bodies are genuinely democratic, inclusive and gender-sensitive. They can influence other aspects of the political system, including the development of political parties, and are important to other issues such as linking citizens and their leaders for more political accountability, representation and responsiveness. In addition to the direct impact on empowerment, they influence the social and economic outcomes of decentralised governance. As such, electoral representation and the different forms it can take have a direct bearing on the Millennium Development Goals (MDGs) and their attainment. In themselves, local electoral systems are of great importance in the overall governance agenda, but because they can strongly influence the nature of representation and accountability, they also impact upon wider public outcomes.

In the Asia and the Pacific region, local representative institutions constitute for many citizens one of the most important avenues for participation in governance and for influencing decision-making of direct relevance to their livelihoods. However, the question of fair representation has often received insufficient attention. Whether political parties formally constitute the basis for local politics or not, local-level “democracy” is often an arena where political parties and powerful individuals have ample opportunities to use their money and influence to marginalize their competitors.

Across Asia and the Pacific it has often proven easy for the strong candidates in local politics to win, leaving behind candidates who represent minorities/ethnic groups or who have less muscle and money power. In societies that are deeply divided on ethnic, religious, caste and class bases, it is essential to devise a system that is fair and representative, and contributes to the future of a stable democracy. To date, the collective evidence from the design of systems for representation and elections in divided societies suggests that an appropriately crafted framework can help to nurture the accountability and commitment of political parties, whilst an inappropriate system can severely harm the process of democratisation.

This Background Paper is part of a wider UNDP regional initiative that focuses on a number of core issues related to representative systems and local elections. Most UNDP interventions have traditionally focussed on direct participation<sup>2</sup> in local governance, notably the involvement of citizens and community-based organisations in planning and implementation, the empowerment of citizens and strengthening of civil society to participate directly in governance and to hold their local governments (LGs) accountable. In contrast, remarkably little attention has been paid to the ways in which formal electoral processes at the local level lead to appropriate (or inappropriate) outcomes in terms of representation and accountability. The aim of this practice initiative, then, is to strengthen UNDP’s ability to provide policy advice and support for capacity development related to the ‘first layer’ of participation.

The first step of the practice development initiative (launched in 2004) was to analyse the various approaches applied in the countries in the region and develop an overview of the issues and principles. The first draft of this Background Paper was the end result of this – and provided the documentary basis for a two day workshop (June 22-23, 2005) on

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<sup>1</sup> A distinction is made between three elements of participation: (1) representative (usually but not necessarily elective) government; (2) direct participation either at community or project level; and (3) the mobilisational form of participation (see e.g. Richard Crook and Alan Sturla Sverrisson (2001): *Decentralisation and poverty-alleviation in developing countries: a comparative analysis or, is West Bengal unique?*, IDS Working Paper).

<sup>2</sup> See distinction above.

Representation in Decentralised Local Governance held at Hua Hin, Thailand (see [Workshop Report](#)). At the workshop the country evidence that laid the basis for the Background Paper was taken up and discussed in greater detail.

The current draft has been revised and refined in the light of workshop discussions, as well as expanded to cover additional countries and updated in the light of recent developments in a number of countries.

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The revised Background Paper includes a detailed review of the systems in place in eight countries in South/West Asia (Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka), five countries in Southeast Asia (Cambodia, Indonesia, the Philippines, Timor-Leste, and Vietnam), and three Pacific region countries (Fiji, Papua New Guinea (PNG) and the Solomon Islands). The paper has three basic objectives:

- (i) to summarise findings to date about LG electoral processes and representation arrangements in a range of countries in South/West Asia, South East Asia, and the Pacific region.
- (ii) to highlight, on a thematic basis, some of the key issues related to representation and electoral processes at the local level, in terms of trade-offs, incentives and implications.
- (iii) to put forward some hypotheses on possible ways forward in further developing practitioner-relevant knowledge about electoral representation at sub-national levels.

In addition to the Background Paper, the first phase of the practice development initiative has also provided the basis for a number of other UNDP knowledge products (DLGUDNet Digest No. 18, summer 2005, and two Human Development Viewpoints: "[Presidentialism in Decentralised Governance: More Local Leadership but at What Cost?](#)" and "[Inclusive Local Governance – Representation and Affirmative Action](#)"). Some of the practitioner knowledge accumulated through the first phase of the initiative has also been applied, most notably in recent policy support provided by UNDP to the Government of Maldives aimed at strengthening decentralised governance<sup>3</sup>.

In line with discussions at the Hua Hin workshop, the next phase of the practice development initiative will focus on the important role that improved representation can have on the accountability of LG bodies to those traditionally denied influence on the one hand, and the ways that accountability might facilitate and secure improved influence over representatives on the other. For example, the presence of a set of different types of accountability mechanisms, designed to support the objective of securing more inclusive and representative local governance, was seen to be a necessary condition for more effective, responsive and equitable LG.

The Hua Hin workshop pointed to the need for a more systematic collection and appraisal of the evidence in order to study the links between representation and accountability,

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<sup>3</sup> See "Strengthening Decentralized Governance in the Maldives", Joint Government and UNDP Mission, November 2005.

both the ways that electoral modalities can improve representation and the types of accountability mechanisms that can secure adequate representation. Building on the work undertaken for the Background Paper, this will require studying the ways in which representation has been made more accountable through electoral reforms and affirmative actions in the different countries and an analysis of the types of accountability mechanisms in place and asking what works to secure better representation where, when and how.

Accordingly, the next step in the practice development initiative will include an important research component. The objective of the research is to explore the different types of mechanisms that can affect the degree of accountability present in local governance and with respect to LG in particular. The analysis of these mechanisms in the different country contexts will contribute significantly to policies that aim to develop inclusive system of representation.

The over-arching objective of the research component will be to seek answers to the following question: in what ways can representation be made more accountable in decentralised local governance?

The research will seek to achieve its objective initially through a set of country studies conducted by the country offices of UNDP and their partners in the Asia region and coordinated by the Regional Centre in Bangkok. Guiding questions for these country studies will be:

- Which actors can hold LG to account?
- What mechanisms can they draw upon?
- Under which conditions do these mechanisms work best and when are they un/under-utilised?
- Which mechanisms have lead to a greater responsiveness on the part of LG to citizens?
- What other actors, mechanisms and measures could increase LG's accountability and responsiveness in the future?

The country studies will provide the basis for a comparative analysis of the ways in which different systems of representation in LG affect its accountability and as to how accountability instruments might be used to achieve a more effective and equitable system of decentralised local governance.

## **2. ELECTORAL SYSTEMS**

The LG electoral systems summarily presented and described at the end of this paper show how bewilderingly variable representational procedures can be. This section of the paper tries to undertake a cursory synthesis and analysis of different representational arrangements by examining them in terms of:

- whether they are direct or indirect;
- whether they include appointed positions;
- the basic electoral procedures that underlie both direct and indirect methods of representation.

In this section, reference is made both to the specific country case studies and to other sources of information.

## **2.1. Direct/indirect elections and appointments**

Table 1 below summarises the country case studies in terms of direct/indirect and appointed representation.

### **(1) Direct and indirect elections for councils**

Whether or not direct elections are held for all levels of LG varies from country to country. In South Asia, this is the case in India and Sri Lanka but not in the other four countries (Bangladesh, Bhutan, Maldives, Nepal, Pakistan) where there are higher levels of local administration but with no directly elected bodies. In Bangladesh, this is simply because the Constitutional provisions have not been implemented (aside from the brief Upazila Parishad experiment in the 1980s) and in the Maldives because there are no elected members at Atoll level; for the other three countries, indirect elections take the form of either (i) lower level leaders (who have usually been directly elected by their constituencies) automatically becoming members of higher level units, or (ii) of a combination of (i) alongside an electoral college system, with lower level council members constituting the electoral college, as in the cases of Pakistan and Nepal.

In South East Asia, and where they exist, upper level LG councils are generally made up of directly elected members: this is the case for both Indonesia and Vietnam. In the Philippines, however, upper level LG councils are composed of both directly and indirectly elected members, the latter usually being the representatives of lower level councils. In the cases of Cambodia and Timor-Leste, there are, as yet, no upper LG levels.

A number of issues arise here. Firstly, are directly elected officials more accountable to their constituents than indirectly elected officials? For example, in India, where all councillors, at all levels, are directly elected, can it be said that they are more accountable than their Nepali counterparts on the District Councils, who are largely drawn from Village Councils? There is no hard and fast evidence on this – but common sense would tend to indicate that directly elected officials in upper level LGs would be more accountable to their constituents for overseeing activities/functions specific to that level. Where councillors are indirectly elected from lower level LGs, they clearly also owe some allegiance to their “base” constituency, rather than to the larger constituency. Clearly, more research is needed on this.

Table 1: Direct/indirect and appointed methods of representation

Country	Lowest level elected bodies	Upper level elected bodies		LG Heads		Appointments
		Direct elections	Indirect elections	Direct elections	Indirect elections	
Afghanistan	District Council members – directly elected	Provincial Council members – directly elected	N/A	N/A	District and Provincial Councils indirectly elect their Chairmen	N/A
Bangladesh	Union Parishads, Pourashavas and City Corporations – directly elected	N/A	N/A	UP Chair, Pourashava Chair and Mayors – directly elected	N/A	None
Bhutan	GYTs – directly elected	N/A	DYTs composed of members from GYTs and Municipalities	GYT gup is directly elected	DYT Chair is elected by DYT members	DYT level – National Assembly members (ex-officio) + Government staff (non-voting members)
India	Gram and Nagar (urban) Panchayat members – directly elected	(i) Samiti and Zilla Panchayat members – directly elected (ii) Municipal and Municipal Corporation council members – directly elected	N/A	(i) Gram Panchayat Chairs are elected according to individual State Legislatures – can be direct or indirect (ii) Nagar Panchayat, Municipal and Municipal Corporation Chairs are elected according to individual State Legislatures – can be direct or indirect	Samiti and Zilla Chairs are elected by their respective Panchayats	The Legislature of a State may, by law, provide for the representation of certain individuals in the different levels of the Panchayats as well as in the different levels of municipal government
Maldives	Island Development Committees – appointed and directly elected members	N/A	Atoll Development Committees – all members appointed	N/A	N/A	Atoll Chiefs appointed by President Island Chiefs appointed by Atoll Chiefs
Nepal	Village and Municipal Councils members – directly elected	N/A	District Council members – indirectly elected by members of Village and Municipal Councils; leaders of lower level LGs are members	VDC and Municipal Chairs and Vice-Chairs are directly elected by their constituents	DDC Chairs, Vice-Chairs and Area or Ilaka reps are indirectly elected by Village and Municipal Council members	(i) District Council: Local members of National Assembly and House of Representatives [ex-officio members], and 6 members nominated by the District Council from the general public [including at least 1 woman and DAG representatives] (ii) DDC: local members of the National Assembly and the House of Representatives [ex-officio members], and 2 members nominated by DDC from District Council [including at least 1 woman];
Pakistan	Union council members – directly elected	N/A	(i) District/City District Councils – composed of UC	Union nazim and naib nazim are directly elected	Elected union councillors are not permitted to stand	None



Country	Lowest level elected bodies	Upper level elected bodies		LG Heads		Appointments
		Direct elections	Indirect elections	Direct elections	Indirect elections	
			nazims and others (district nazim and district naib nazim + others – women, peasant/worker, minority rep) elected by all UC councillors in the district/city. (ii) Tehsil/Town Councils – composed of UC naib nazims and other members (tehsil nazim and tehsil naib nazim, and others - women, peasant/worker, minority rep) elected by all UC councillors in the tehsil/town.	on a joint ticket	for election as nazim of any tehsil/town or district/city. Tehsil/district nazims are elected by all the UC members in their respective jurisdictions. Naib nazims at tehsil and district levels are chosen by their respective councils from amongst their own membership.	
Sri Lanka	Pradeshiya Sabha, Urban and Municipal Council members – directly elected	Provincial councils members directly elected from District constituencies.	N/A	N/A	(i) Provincial Council has a chairman and a vice-chairman elected from among its members by majority vote. (ii) Pradeshiya Sabha, Urban and Municipal Council led by a full-time chairperson, nominated by the majority party or group, who holds office for a four-year term	Provincial executive: governor appointed by the president responsible for executing the policies of the Provincial Council through a board of ministers headed by a chief minister and no more than four other ministers. The governor appoints the chief minister, and the other ministers on the advice of the chief minister.
Cambodia	Commune and Sangkhat Council members – directly elected	N/A	N/A	N/A	Commune/Sangkhat chief is the top candidate of winning party; 1 <sup>st</sup> and 2 <sup>nd</sup> deputy chiefs are leaders of second and third parties	None
Indonesia	Regency and Kota DPRD members – directly elected from electoral districts	Provincial DPRD members – directly elected from electoral districts	N/A	Heads and Deputy Heads of Regencies, Kotas and Provinces are elected through direct and general elections and on the basis of a joint ticket	N/A	Provincial, Regency and Kota Secretariats: (i) Regional Secretaries appointed by the President on the recommendation of the Regional Head from amongst the civil servants; (ii) the DPRD Secretariat – headed by the DPRD Secretary (appointed by the Regional Heads with the approval of the DPRD)

Country	Lowest level elected bodies	Upper level elected bodies		LG Heads		Appointments
		Direct elections	Indirect elections	Direct elections	Indirect elections	
Philippines	Barangay Council members – directly elected except for Youth Council representative	(i) Municipal and City Councils composed of both directly elected members and President of the Municipal/City Chapter of Barangay Captains (ii) Provincial Board composed of both directly elected members and indirectly elected members (President of the provincial Chapter of Barangay Captains, etc.)		Barangay Captain – directly elected Municipal Mayor and Vice-Mayor – directly elected Provincial Governor and Vice-Governor – directly elected	N/A	(i) Barangay Council: Barangay Youth Council Chair is a member. Elected by 15-21 year old Barangay electorate (ii) Municipal and Provincial Councils – appoint sectional representatives (women, workers and disadvantaged groups) (iii) Municipal and Provincial Councils – constituent Youth Councils are represented
Timor-Leste	Suco Council members – directly elected	N/A	N/A	Suco chief – directly elected	N/A	None
Vietnam	Commune People's Council members – directly elected (following screening process)	District and Provincial People's Council members – directly elected (following screening process)	N/A	N/A	(i) Chair, Vice Chair and other members of the People's Councils' Standing Committees – indirectly elected by People's Councils (ii) Chairs of all People's Committees (Commune, District and Provincial) are elected by People's Councils	N/A
Fiji	Town Council members – directly elected	City Council members – directly elected	N/A	N/A	City and Town mayors indirectly elected by Councils	Advisers to City and Town Councils can be appointed by the Minister of LG
PNG	LLG Council members – directly elected except for TUC, Employers' Federation and Women representatives		Provincial Assembly members – indirectly elected (LLG representatives, MPs) except for woman representative and traditional chiefs	LLG heads can be directly elected	LLG heads can be indirectly elected by their Councils Provincial assembly head is the provincial MP	N/A
Solomon Islands	Provincial, City and Town Council members – all directly elected	N/A	N/A	N/A	Provincial premiers and City/Town mayors – indirectly elected by their respective Councils	N/A

However, direct elections for all levels of the LG system may have a downside in the greater likelihood of potential conflicts between different levels. Where upper tier LG Councils are not drawn from members of lower level LG Councils but are instead directly elected, political differences between levels may emerge. How far this can be problematic depends, of course, on what the organic linkages between upper and lower tiers are. In Indonesia, for example, each level of regional government is legally autonomous – thus, any political “differences” between the directly elected DPRD’s and regional heads of provinces and regencies/cities should not, in principle, be a problem given their functional autonomy and differing responsibilities. However, where there are organic links between different levels of LG, as in India (where upper levels of the Panchayat system play a “coordination” role with regard to lower tiers) or in Sri Lanka, then political differences between directly elected bodies at different levels may be more of a problem. In addition, much depends on the nature of fiscal relations between LG levels, on how far upper levels (rather than central government) are responsible for transfers to lower levels – but this is clearly beyond the scope of this paper.

On the other hand, in an LG system where elections to upper tiers are indirect, and most of the members of higher level councils are drawn from the ranks of lower tier councils, there may – for obvious reasons – be less potential for conflict. But this may be problematic in other ways, especially if upper tiers are expected to play some kind of “supervisory” role with respect to lower level LGs. In Nepal, for example, it is the District’s Internal Audit section that is expected to audit the accounts of constituent VDCs – but given that VDCs are represented at the District level by their Chair- and Vice-Chairpersons, how effective can one expect such internal audits to be?

A final issue related to direct or indirect elections concerns costs. One of the potential virtues of indirect electoral systems for upper tier councils may well be that they cost less than direct elections for all levels of LG, and that they may also be less complex (for voters). This is by no means unimportant given that countries like Nepal are fiscally strapped and may not be able to afford the luxury of direct elections for all levels of LG. Needless to say, the trade-off for greater economy may well be weaker electoral accountability in higher level LG councils.

## **(2) *Direct and indirect elections for Council Chairpersons***

How Chairpersons/Mayors and Vice Chairpersons/Deputy Mayors are elected also varies from country to country but in many cases also between the different levels of LG within each country. In the particular case of India, the mode of election of Panchayat and Municipal leaders can also vary from State to State, depending on State Legislatures.

In most (but not all) countries the heads of the lowest level of LG are directly elected in one way or another. In the majority of cases, council heads are elected as such – a VDC Chairman in Nepal, for example, stands for that position in direct elections. In Sri Lanka and Cambodia, however, where elections are carried out on the basis of proportional representation (see Section 2.2), councils are headed by the leaders of the parties with the most votes/seats – they are not, in that sense, directly chosen by the electorate. In the case of the three Pacific region countries (Fiji, PNG and the Solomon Islands), however, lower tier council heads are indirectly elected by their fellow councillors.

In the cases of Pakistan and Indonesia, the heads and deputy heads of lower level LG Councils are directly elected, but on the basis of a joint ticket – in Pakistan (at UC level) on a non-party basis and in Indonesia on a party basis.

At higher levels of LG, council heads are often elected by the members of that LG from amongst themselves or by the members of the subsidiary levels. In Bhutan, for example, the DYT Chair is selected by DYT members from amongst themselves. In Nepal, on the

other hand, DDC Chairs and Vice-Chairs are elected by the members of the Village and Municipal Councils that make up the district as a whole.

Pakistan is (since 2005) somewhat different in that the nazim and of any tehsil/town or district/city is elected indirectly by an electoral college consisting of all the union councillors in their respective constituencies. They are thus indirectly elected by all union councillors (including the Union Council leaders – Union nazims and naib nazims) in their respective jurisdictions – but cannot themselves be union councillors. Naib nazims at the tehsil/district levels, however, are indirectly elected by their respective councils (from amongst themselves) – and not by a wider electoral college. Pakistan is clearly a hybrid case of indirect elections for local council leadership.

In other cases (Indonesia, Philippines, Vietnam), higher level council heads are directly elected by ordinary voters. This would appear to be the case only where upper level councils are themselves directly elected by voters (and not by electoral colleges) – where upper level councils are indirectly elected, council chairpersons are generally also indirectly elected.

There are a range of issues linked to the ways in which council leaders are elected:

- a system whereby council chairpersons are indirectly elected by their councils does, in principle, offer the singular advantage of a more collegial and consensual form of local governance. Under such systems, mayors/chairs need to ensure regular support from their councils – and this may imply a tendency towards broad-based decision-making. Where councillors represent wards, this – in turn – implies that decision-making may be more likely to take into account the interests of many constituents.
- however, indirectly elected mayors or council chairpersons – unless they can ensure the allegiance of their councils and councillors – may become “lame ducks” as they fall victim to party politics or to internal disputes within their councils.
- increasingly, indirect elections for council leaders are seen as being problematic in terms of accountability. Indirectly elected council chairpersons may see themselves as more accountable to their immediate constituency (i.e. the individual electoral college that has selected them) than to local citizens at large. The following inset hints at some of the accountability issues (and their consequences) related to Pakistan’s indirect electoral system for nazims.

### Indirectly elected district nazims in Pakistan – accountable to whom?

The indirect election of the district nazim in Pakistan complicates the accountability linkage with voters because the re-election of an incumbent nazim is not decided directly by the voters, but rather by a few hundred union councillors. Indirect elections such as these raise the potential for abuse. Nazims are very conscious of the need to keep their "electoral college" (i.e. the Union councillors) on board. Thus, they have sometimes decided to use funds by parcelling out small sums to councils in order to try to secure support. However, as a result, all Union administrations may have sums that are inadequate to carry out the sorts of schemes that their constituents are demanding, particularly for rural areas in water and sanitation. Conversely, where nazims have used other criteria to allocate development funds between union councils, those who have received no funds have accused the nazim of being partisan.

Source: Manning et al. 2003

- conversely, there is an increasing extent to which direct elections of council leaders are seen as being more appropriate than indirect elections. A number of advantages are cited in favour of direct elections for mayors or council leaders<sup>4</sup>, *inter alia*:
  - greater legitimacy for LG as a whole – a mayor who is directly elected is more clearly the preferred individual choice of local citizens than one who has been indirectly elected by a limited number of councillors. S/he more manifestly expresses local preferences, which in turn contributes to strengthening and legitimating local democratic practice;
  - clearer separation of powers and functions between the executive and the legislative branches at the local level – enabling mayors or leaders to operate more independently of the partisan interests of their councils and enabling the latter to more clearly and unequivocally provide oversight of the directly elected mayor or council leader;
  - greater accountability – in the sense that a directly elected council chairperson or mayor is more clearly seen as being individually responsible for delivering public goods and services as well as for honouring electoral commitments;
  - more effective LG– in that directly elected mayors can “get on with their jobs” more effectively than indirectly elected leaders. A “good” directly elected mayor is likely to be more effective than a “good” indirectly elected mayor, all other things being equal.
- that said, the direct election of council chairpersons or mayors (as with all such “presidential” figures) may also have its downsides, *inter alia*:
  - excessive power being wielded by the directly elected mayor – in that directly elected leaders may see themselves (and be seen) as much more than a *primus inter pares*. Council chairpersons who are directly elected may overshadow fellow Council members by virtue of their much stronger electoral mandate, and may thus stifle democratic debate in Council. This is reportedly a problem in Bangladesh, where directly elected Union Parishad Chairs exert a powerful

<sup>4</sup> See e.g. Council of Europe Recommendation 151 (2004) on advantages and disadvantages of directly elected local executive in the light of the principles of the European Charter of Local Self-Government ([http://www.coe.int/T/E/CLrae/5\\_Texts/2\\_Adopted\\_texts/1\\_Recommendations\\_2004/REC\\_151\\_2004\\_E.asp#TopOfPage](http://www.coe.int/T/E/CLrae/5_Texts/2_Adopted_texts/1_Recommendations_2004/REC_151_2004_E.asp#TopOfPage)) and Chapter 4 of To Serve and Preserve: Improving Public Administration in a Competitive World (ADB).

influence over local affairs, leading to apathy amongst other members. A “bad” directly elected chairperson or mayor is likely to be much “worse” than a “bad” indirectly elected leader. It is also a problem in Gram Panchayats in India, as the following inset shows.

**India – Direct Election of *Sarpanches* Marginalizes Other Members of the Gram Panchayats (GPs).**

Most GPs have directly elected, ward-based, councillors (*panches*) and also directly elected GP Presidents – *Sarpanchs*. In most cases, the Upa *Sarpanch* or Vice President of the GP is indirectly elected from among the *panches*. Direct election of *Sarpanches* has placed them above the *panches* rather than in a coordinating role. In Andhra Pradesh, Madhya Pradesh, and many other states, *Sarpanches* are accused of acting arbitrarily, and not consulting the rest of the GP systematically. The common view of *Sarpanches*, apparently reconciled to by the *panches*, is that *Sarpanches* were above *panches*, because they had been elected by the entire GP constituency rather than only by a subset – the ward – as in the case of the *panches*. The freedom to act arbitrarily appears to have increased the avenues for corruption among *Sarpanches*, and for other forms of unilateral action. This has contributed to a breakdown in the accountability mechanisms and quality of decision-making in many GPs.

Elected by a larger constituency, the *Sarpanch* assumes a role larger than those of the other members. The process that ensues from this has led some to compare it with the ‘Presidential system’. Revealingly, the Chief Minister of Madhya Pradesh has lamented that ‘*Panchayat Raj* had become a *Sarpanch Raj*’.

Source: adapted from World Bank (2000) and Debiprasad Mishra (n.d.)

- the risk of political stalemate – when a directly elected mayor and the council fall out politically, the resulting stalemate can have debilitating consequences for decision-making and thus local service delivery. The following inset gives an illustration of the kind of problem that can emerge.

### **India – Internal Panchayat conflict**

Indian States that have legislated for the combination of a directly elected GP Sarpanch and indirectly elected vice-president, along with the provision for no-confidence motions against the Sarpanch, face a curious situation. The person elected as the vice-president has the majority support in the village Panchayat. The no-confidence motion makes the position of the Sarpanch president vulnerable within the village Panchayat. This, among others, is one of the factors that has encouraged the Sarpanches to keep the village Panchayat at abeyance, if not for anything else, at least, to keep their positions secure. Interestingly, but perhaps not surprisingly, the no-confidence provision has, in most instances, been used against Sarpanches who have been elected from 'reserved' positions i.e., women, members of scheduled castes/tribes.

Source: adapted from Debrprasad Mishra (n.d.)

### **(3) *Appointments to councils***

In some cases, provisions are made for the representation or appointment of "non-elected" members in LG. For the purposes of this paper, this category of member does not include lower level LG representatives who are either automatic members at higher levels or selected through electoral colleges made up of lower level LG councillors.

In the Asia-Pacific region, such "appointed" members are often deemed to be the representatives of special interest groups. Representatives from special interest groups (such as women, disadvantaged groups, and the youth) are either appointed by their respective Councils in Nepal and in the Philippines or (in the unique case of the Youth Councils in the Philippines) are automatically considered to be council members by virtue of being the elected representatives of their special interest groups. In the case of PNG, councils include representatives nominated by the Trades Union Congress and the Employers' Federation. In the case of India the government can provide for the representation of persons with special skills or knowledge relevant to LG, particularly in the case of municipal governments. The extent to which all such categories of non-elected council members enjoy full voting powers varies from country to country.

In some cases, members of national assemblies are ex-officio members of the LGs of their constituencies (e.g. in District Councils and DDCs in Nepal, LSGA 1999, article 172). This is most evident in PNG's provincial assemblies, which are led by provincial MPs and include all National Parliamentarians from the province. In other cases officials from the local administrations are also represented on councils, although they then often act as observers without voting rights. This is the case in Bhutan, and in Nepal, where the interim local bodies in place since 2002 have been chaired by the Local Development Officer (the previous secretary to the District Development Committees appointed by the Ministry of Local Development). Also, representatives of sectoral ministries at the level of LG are in some cases represented – Nepal is probably the best example with the line agency representatives constituting all members in the interim local bodies (district as well as village level).

Several issues concerning such appointments merit attention here:

- who does the appointing? Where appointments to councils are or can be made by institutions or other local councils, the legitimacy of the appointment may be

questioned. The power of State Governments in India to appoint council members as “resource persons” is a case in point.

- parliamentarians as ex-officio members of local councils – evidence shows that the ex-officio involvement of national-level MPs in LG bodies is almost always a distorting influence, tending to cater to local elite and factional interests, or national party concerns, much more than do LG councillors. And they also tend to overwhelm locally elected councillors, as the following inset shows

**The presence of MLAs and MPs as members of Zilla Panchayats (ZPs) and Panchayat Samitis (PSs) overwhelms *panchayats*.**

Domination of local political bodies by higher level politicians has emerged as a threat to local decision-making. As provided for by the 73rd Amendment, and in all of the 7 states included in a recent World Bank study, except Kerala and Maharashtra, MLAs (Members of the Legislative Assembly), MLCs (Members of the Legislative Council) and MPs (Members of Parliament) whose constituencies fall within the various blocks and districts are members of *ZPs* and *PSs*. In most of the states studied they are permanent invitees or ex-officio members without voting powers, and are authorized to send representatives on their behalf. Only in Kerala were MLAs, MLCs, and MPs totally excluded from PRIs in an amendment to the Kerala *Panchayat Act* of 1994. In Uttar Pradesh, MLAs and MPs have voting rights, except for the election of office-bearers and no-confidence motions. States justify the inclusion of MLAs, MLCs, and MPs in *ZPs*, *PSs*, and District Planning Committees as important, since these legislators are representatives of local jurisdictions at higher levels and so need to be a part of the local decision-making processes in order to effectively represent local interests in the state and union assemblies. However they seem to overwhelm local decision-making.

Source: adapted from World Bank (2000)

The case of PNG’s provincial assemblies is even more revealing of the problems associated with national politicians being included in LG councils, as the following inset demonstrates.



### **Provincial Assemblies in PNG and the representation of Parliamentarians**

The reformed political structures outlined in the 1995 Organic Law on Provincial Governments and Local-Level Governments of PNG were designed to ensure that Parliament plays a strong role in sub-national governance. For example, members of Parliament who represent district electorates in a province are members of the provincial assembly. These members also serve as provincial governors and chairs of provincial executive councils. In addition, joint district planning and budget priorities committees are chaired by the members of Parliament representing each district electorate, and provincial administrators are nominated by members of Parliament in the provincial executive councils. Because provincial administrators also chair the joint provincial planning and budget priorities committees, members of Parliament essentially control all planning and budgeting at the provincial and district levels. Furthermore, to the extent that a joint district planning and budget priorities committee is responsible for LG planning and budgets, members of Parliament control local planning and budgeting as well.

Such high parliamentary involvement in the affairs of sub-national governments presents several problems. First, members of Parliament have too many responsibilities and so cannot fulfill all their roles adequately. For example, a number of joint district and joint provincial planning and budget committees have not been established—largely because of the absence of the members of Parliament involved in those committees. Provincial governors have also been absent from provincial headquarters. The general feeling in the provinces is that provincial governors are spending too much time in Port Moresby and are neglecting their provincial responsibilities.

Second, the pervasive involvement of Parliament in the affairs of sub-national governments reduces political accountability and responsiveness to local concerns. When national, provincial, and local priorities conflict, local officials are likely to respond to local concerns, while members of Parliament are likely to side with national interests.

Source: adapted from Edmison (2000)

- non-elective appointment of interest group representatives – although this is often for laudable reasons (such as affirmative action), it does raise the issue of how and on what basis such representatives are selected – and how representative they really are. In Nepal, where Village and District councils (as well as their corresponding committees) are expected to choose representatives of women, of the poor, and of other disadvantaged groups, it is frequently thought that, more often than not, they are elite members, selected for less than laudable reasons. The same comments apply to the pre-1997 LG representational arrangements in Bangladesh, under which women members of Union Parishads were selected by UP Chairmen. How far such appointees “represent” their interest groups is a moot point.
- appointments that are not intended to be “representative” of a particular group – this is uniquely the case in India where members of the Municipal bodies may be appointed because they have special knowledge or experience of municipal management. State legislatures may appoint members in accordance with law (Indian Constitution, Article 243R). Whilst the need to co-opt “resource persons” onto

municipal councils is not disputed, questions need to be raised about the democratic legitimacy of such appointments.

- Council voting issues – one discussion surrounding appointed councillors is the extent to which they are voting or non-voting. In this respect countries have opted for different solutions.

## **2.2. Underlying electoral systems**

### **(1) Key contrasts**

No electoral system is perfect – certain systems address better some policy goals, other systems better serve other goals. But clearly the electoral system has important implications for the way in which local councils will conduct their political affairs, and the roles and functions which they can perform. This is particularly true for decisions with respect to plurality-majoritarian versus proportional representation, which can produce very different outcomes with respect to representation. The type of electoral system design can have a significant impact on a range of issues.

One of the most important issues to consider is the balance between representation and accountability. Representation ensures that those who are elected reflect the choice of the electorate in terms of who will speak for it and the extent to which they actually do so. Concerns for representation focus on proportionality – that is, ensuring that political, gender, minority, regional, population and other concentrations are equitably represented. Accountability, on the other hand, ensures that voters can call their representatives to account for decisions made in their name. In a democratic society, representation would normally be inclusive and accountability vertical and horizontal – however, the type of electoral system in place usually means some kind of trade-off between these (and other) considerations. It is generally thought that proportional representation electoral systems favour representation because they tend to produce electoral results that are more reflective of actual voting patterns, whereas plurality-majority systems are thought to enhance accountability because they give voters a representative with which to identify. This may not always be true; however, as proportional systems can concentrate power in parties rather than voters' hands, and having an identifiable representative in a plurality-majority system may not necessarily translate into greater accountability from this person to the electorate.

As shown in table 2 (below), there are three major “families” of electoral systems: Plurality-Majority; Proportional Representation; and Mixed.

Plurality-Majority systems focus on the person or persons who win the most votes – if the margin of victory is 50 + 1%, it is an absolute majority and if the victory is simply based on the most votes but not a majority, it is a plurality (for example, if candidate A wins 30% of the vote, candidate B 30% and candidate C 40%, candidate C wins despite not securing an absolute majority of the votes). Plurality-majority systems tend to be candidate-focused and often geographically specific – which perhaps explains their apparent dominance in LG systems.

Table 2: Electoral Systems in Local Governance

Majoritarian	Proportional Representation/-Semi-PR Systems	Mixed Systems
<p><i>Key features</i></p> <ul style="list-style-type: none"> <li>usually one candidate elected per constituency *</li> <li>"small" constituencies/wards</li> <li>FPTP system, i.e. winner in each constituency/ward is the candidate with most votes.</li> </ul> <p><i>Advantages</i></p> <ul style="list-style-type: none"> <li>identifies candidate with most support</li> <li>identifies candidate with geographical base (clear lines of accountability)</li> <li>Easy to vote, easy to count</li> </ul> <p><i>Disadvantages</i></p> <ul style="list-style-type: none"> <li>"excludes all losers", i.e. ignores all other parties/candidates, even with high number of votes</li> <li>disadvantages women ( in some countries)</li> <li>needs clearly defined ward boundaries (technically complex in some countries)</li> <li>needs voters lists to fall exactly within ward boundaries (can be complex if wards follow after voter registration)</li> </ul> <p><i>Other considerations</i></p> <ul style="list-style-type: none"> <li>Assists stronger parties</li> <li>Assists parties with a base in one locality</li> <li>Disadvantages medium parties</li> <li>Excludes small parties</li> <li>Enables popular independents to win</li> </ul> <p><i>Examples:</i> Bangladesh, Bhutan, Fiji, India, Nepal, Pakistan, Philippines, PNG, Solomon Islands, Timor-Leste (Sucos), Vietnam</p>	<p><i>Key features</i></p> <ul style="list-style-type: none"> <li>generally larger constituencies (province/district)</li> <li>many candidates elected according to formula deciding highest percentage vote</li> <li>usually based on party lists of candidates but individuals can stand on list of one name</li> <li>usually name of party (not each candidate) on ballot paper</li> <li>parties receive seats in proportion to their share of the votes (but formula can give distortions).</li> <li>usually a minimum number of votes is needed to get a seat (quota formula related to the ratio of total votes cast to total seats) but the quota formula can be made smaller/larger to favour smaller/larger parties.</li> </ul> <p><i>Advantages</i></p> <ul style="list-style-type: none"> <li>usually translates votes into seats, i.e. leads to fewer votes being 'lost'.</li> <li>improves election opportunities for women</li> <li>can be inclusive for minorities</li> </ul> <p><i>Disadvantages</i></p> <ul style="list-style-type: none"> <li>does not identify any candidate with special local geographic base (accountability)</li> <li>re-enforces influence of party over candidates and councillors</li> </ul> <p><i>Examples:</i> Sri Lanka, Cambodia, Indonesia</p>	<p><i>Key features</i></p> <ul style="list-style-type: none"> <li>variants used to combine parts of Majoritarian and Proportional Representation (e.g. 60 percent of seats allocated through PR system and 40 percent as majority ward seats)</li> </ul> <p><i>Advantages</i></p> <ul style="list-style-type: none"> <li>combines some advantages from both systems</li> </ul> <p><i>Disadvantages</i></p> <ul style="list-style-type: none"> <li>relatively complex to implement and communicate</li> <li>can create two "classes" of elected councillors</li> </ul> <p><i>Examples:</i> Afghanistan</p>

\*Single member constituencies are usually applied to local electoral systems (although Pakistan and Vietnam are glaring exceptions).

Source: adapted from Larsen, Roome and Shotton (2004) and Ellis (2004).

Proportional representation systems tend to be more party focused and normally establish a threshold of some kind under which parties or candidates cannot be elected. They are designed to reflect in the composition of elected institutions, to the extent possible, the percentages in which the electorate voted.

Mixed systems are a combination of plurality-majority with proportional representation, usually with the intention of correcting some of the disproportionality that can result from plurality-majority systems.

The two most popular electoral systems used for local level elections in the Asia-Pacific region are First-Past-the-Post (FPTP), which is in the plurality-majority family and based on single-member constituencies, where the person with the most votes wins (used in India and other countries – see table); and Proportional Representation (PR) List, where parties put forward lists of candidates that are then voted into office based on their “vote share”.

Block vote systems, which are part of the plurality-majoritarian family of electoral systems, are also used for local elections in the Asia-Pacific region – in the case of barangays in the Philippines and IDCs in the Maldives. Under the block vote system, electoral districts are multi-member and voters are given as many votes as there are open seats in a legislative chamber or local body; voters can cast the full number of votes or as few votes as they like; and the candidates with the most votes overall win election.

It should be noted that different models of electoral representation can be used for different types of election in the same LG system. In Indonesia, for example, current electoral arrangements for LG use:

- a proportional representation system as the basis for the election of provincial, regional and city DPRD (or councils);
- a “two-round or run-off”, majoritarian system for the election of the heads of LGs. These types of election, provided for under new laws enacted in 2004, were scheduled to take place in mid-2005.

In Sri Lanka and Cambodia, on the other hand, where councils are also elected on a PR basis, council leaders are selected from parties that dominate local councils.

The following table provides a summary of the underlying principles in local electoral systems in the countries covered by this paper.

Table 3: summary of local electoral systems for councils in the Asia-Pacific region

Country	Electoral system	
	Directly elected lower tier LG Councils	Directly elected upper tier LG Councils
Afghanistan	District Councils: Mixed – SNTV	Mixed – SNTV
Bangladesh	UPs: P-M, FPTP, single-member ward constituencies	N/A
Bhutan	GYTs: P-M, FPTP	N/A
India	All LG Councils (rural and urban, all tiers): P-M, FPTP, single-member ward constituencies	
Maldives	IDCs: P-M, Block Vote	N/A
Nepal	Village Councils: P-M, FPTP, multi-member ward constituencies	N/A
Pakistan	UCs: P-M, FPTP, using the entire UC as a multi-member constituency	N/A
Sri Lanka	Pradeshi Sabhas, Urban and Municipal Councils: PR List	N/A
Cambodia	Commune Councils: PR List	N/A
Indonesia	All DPRDs (provincial, regency and city): PR Open List	
Philippines	Barangay Councils: P-M, Block Vote	Municipal and City Councils, Provincial Boards: P-M, FPTP, single member district constituencies
Timor-Leste	Suco Councils: P-M, FPTP, single member aldeia (ward) constituencies for aldeia representatives and multi-member Suco constituency for other members	
Vietnam	All People's Councils (commune, district and province): P-M, FPTP using multi-member electoral units	
Fiji	All Municipal and City Councils: P-M, FPTP, multi-member ward constituencies	
PNG	LLG Councils: P-M, FPTP, single member ward constituencies	N/A
Solomon Islands	All Councils (provincial, city, town): P-M, FPTP, single member ward constituencies	

Notes:

P-M = Plurality-Majoritarian; FPTP = First-Past-The-Post; SNTV = Single Non-Transferable Vote; PR = Proportional Representation

**(2) Ward-based plurality-majoritarian systems**

People identify closely with the area in which they live, and they feel common interests with others sharing their part of the LG jurisdiction (village, neighbourhood, etc.). For this reason, many local electoral systems feature a “ward” (small district), neighbourhood, or sub-municipal system of electoral boundary delimitation – with a specific councillor or set of councillors representing the ward. For the most part, such ward-based systems are associated with majoritarian electoral processes, such as FPTP.

A number of issues – both “positive” and “negative” – need to be considered when looking at LG electoral systems that are based on ward-based, majoritarian, principles.

The ward-based system is usually seen as a powerful way of ensuring clear lines of accountability to constituents – each ward has its representative(s) and voters know to whom they can turn to on local governance issues. In the countries covered by this paper, ward-based representation in LG is used in Bangladesh, Bhutan, Fiji, India, Nepal, Timor-Leste, PNG, the Solomon Islands and Vietnam. It is also used in Pakistan, but for relatively large wards (unions) that are multi-member jurisdictions.

Ward-based, plurality-majority systems such as FPTP, or single-member district races, where the person with the most votes wins, also have the virtue of being relatively simple. They usually involve quite simple ballots and choices by the voters and lend themselves to the quick and easy tabulation of results. In that respect, such local electoral systems are relatively well-suited to countries where literacy amongst voters is limited and where the administrative resources for electoral management are scarce.

Whilst ward-based electoral systems can be beneficial in terms of ensuring accountability and being relatively simple, they can also be problematic when minorities or politically weak groups within ward or sub-municipal boundaries are not fully represented. Clearly, the extent to which this can be problematic depends largely on the definition of electoral districts – where they correspond closely to geographical concentrations of otherwise minority or disadvantaged groups, then the ward system does allow for their representation. However, this is not always the case and it is perhaps not surprising, then, that many of ward-based systems (Bangladesh, India, Nepal, Pakistan, Timor-Leste, and Vietnam) also include some form of affirmative action policies to ensure representation of minorities or disadvantaged.

On the other hand, there is some evidence that local elections that are based on ward representation may improve women's chances of being elected, as women candidates are more likely to be known to voters in their local communities than in an at-large election across a much larger electoral district. Wards can also enable more women to stand for election as campaigning costs are not as high as in a district- or city-wide election.

One of the main disadvantages of ward-based, plurality-majoritarian, electoral systems is the likelihood of wasted votes. This is perhaps somewhat less marked in majoritarian systems, where winners must garner at least 50% of the vote – the maximum proportion of "wasted" votes is 50% or less under such systems. Indonesia's two-round electoral system for DPRD heads is a case in point, ensuring that elected heads have received a majority of the votes – but such majoritarian methods can be costly, time-consuming, and sometimes create instability or uncertainty between rounds. However, where plurality dominates (as it tends to), the potential for wasted votes can be high – ward councillors can be elected who have garnered considerably less than half the vote. This has been especially marked in PNG, where councillors (and MPs) – through the FPTP system - have been elected with as little as 5-10% of the vote, thus encouraging them to cater uniquely to very small core constituencies. A high number of wasted votes matters not only because it means that elected representatives may actually represent very few voters, but also because it can discourage voters who may feel their vote does not count and thus reduce popular participation and confidence in the local electoral process. This has obvious implications for the perceived legitimacy of the system.

Another key issue in ward-based systems is the definition of electoral jurisdictions. This can be a lengthy and complex process that can be highly political and open to charges of "gerrymandering", wherein electoral wards or districts are drawn to include or exclude or otherwise split the voting power of certain groups such as ethnic minorities.

Finally, plurality-majoritarian systems are often thought to favour fewer and larger political parties, which are able to deploy more resources to mobilise votes for their candidates.

Whether this is a “good” or a “bad” outcome depends on one’s perspective. At the same time, because P-M systems (especially FPTP) tend to be candidate-focused, they are also thought to favour independent (or non-partisan) candidates – again, how far this is desirable depends on circumstances and somewhat ideological considerations.

### **(3) PR systems**

PR systems, in contrast, offer the chance of greater plurality in representation – by assigning council seats to parties on the basis of the proportion of the vote they obtain. In many respects, PR systems seem intrinsically more “democratic”. They are also better able to handle the issue of minority and politically weaker groups than are FPTP systems – women and other disadvantaged groups can, however modestly, usually ensure some degree of representation through PR. Not surprisingly, then, PR systems (such as Indonesia, Cambodia and Sri Lanka) tend towards few or weak affirmative action provisions that are intended to safeguard the interests of such groups.

PR systems, significantly, lead to many fewer wasted votes. Beyond a certain threshold, all parties that contest an election will end up being represented on local councils. This – in theory – means that almost every vote really does “count” and thus increases the likelihood of popular participation and confidence in the local electoral process.

However, PR-type systems (such as those used in Sri Lanka, Cambodia, and Indonesia) tend to have several drawbacks:

- a limitation on the ability of councillors to represent the specific interests and needs of their constituent geographic communities to government at higher levels, and to communicate planning outcomes and other information to the community level, in a balanced and consistent fashion;
- a somewhat diluted accountability on the part of individual councillors, since each councillor will not represent a specific village or cluster of villages, and since individual citizens do not and can not know who “their” representative is;
- this is compounded by the need for PR constituencies to be relatively large (in order for proportionality to have any meaning), which further reduces the links between those who are elected and their constituents;
- in party list systems, individual councillors may feel greater loyalty to their central party organization (to whom they are beholden for their place on the list) than to the locality that they supposedly represent;
- a tendency not to accommodate independent candidates, given the need to submit electoral lists rather than stand as individual candidates;
- a potential for gridlock in decision-making, especially when large numbers of parties are able to ensure only limited representation.

These drawbacks of PR-based systems can be partly remedied in a number of ways:

- there can be stipulations that all listed candidates must be (longstanding) local residents, and be locally vetted; and that Council members be replaced or sanctioned if there are citizen complaints regarding failure to fulfil their representational duties, etc;

- lists can be made open (as in Indonesia), thus allowing local voters to express particular preference for specific candidates on party lists. The inset below provides a summary illustration of the key differences between closed and open lists in PR systems.

<b>Closed vs. Open PR Lists</b>	
<b>Closed Lists</b>	<b>Open Lists</b>
<ul style="list-style-type: none"> <li>• Order of candidates elected is fixed by the party</li> <li>• Voters are not able to express a preference for a particular candidate</li> <li>• Voters vote only for the party</li> <li>• Voters have no choice between candidates, and therefore no say in who will represent their party</li> <li>• Easy to count</li> </ul>	<ul style="list-style-type: none"> <li>• Voters can indicate not just their party, but their favoured candidate within that party</li> <li>• The number of candidates elected from a party is determined by the total vote for the party</li> <li>• The order in which candidates are elected depends on their individual vote total</li> <li>• Voters have more influence over who will represent them</li> <li>• Candidates can build a following outside their party identification</li> <li>• More difficult to count</li> </ul>
<p>Source: adapted from Ellis (2004)</p>	

As can be seen from the inset, open list PR electoral systems make the relationship between voters and candidates considerably more direct than is the case under closed list systems – and allow voters to indicate much more clearly who their preferred candidates are. The principal drawback of open list PR systems, however, is their relative complexity, both for voters and for vote-counting purposes.

- “compensating arrangements” can be introduced whereby councils are obliged by law or regulations to undertake a wider set of consultative activities and interact with area committees, community groups, NGOs, traditional community leaders, village representatives etc., as part of normal business, in order to ensure more effective representation of local views and interests. This is illustrated for Cambodia in the inset below.



### **Taking into account the local dimension in Cambodia**

One feature of the Commune-level governance system in Cambodia is the emergence of complementary forms of “territorial representation” and their articulation with the formal political/party-based, representation system embodied by the Commune Councils. Each Commune consists of a number of villages, but the local electoral system does not ensure that every village in a Commune will have a representative in the Commune Council. This highlights the risk that the attention and resources of the Council may be biased in favour of only those villages where the elected Councillors live, or from which they originate.

Village-based representative structures, playing both an extension and advisory role vis-à-vis the formal Councils, are essential to address the above risk and improve local governance overall. One such structure, whose establishment is mandated by the Commune planning regulations, is the Commune Planning and Budgeting Committee (PBC). This is an advisory body, which has a critical function in local public expenditures management and in which each village is represented by two persons (one man and one woman). These representatives may be able to voice the concerns of their villages, learn about, and assess, higher-order, commune-level priorities and both influence Commune-level resources allocations and play a political education role back in their own communities.

Overall however, the articulation of village-based structures with elected Commune Councils remains a critical and somehow controversial point in the effort to foster community representation and participation in local-level governance. Such articulation should be clarified and strengthened, once the selection – hopefully the election – of village chiefs and village chief assistants has been regulated by the Ministry of Interior. This is one of the important outstanding regulations of the Law on Commune/Sangkhat Administrative Management (the “Commune Law”).

Source: Romeo & Spyckerelle (2003)

### 3. ROLE OF POLITICAL PARTIES

Political parties are among the main actors in governance, influencing the nature of democratic polity in a country, and the coherence of their programmes, their ideologies and leadership has a major impact on local democratic development. Political parties play an important role in enabling and limiting representation at the local level and have important implications for centre-local relations. This section of the Background Paper will try to synthesise what little is known about the dynamics of political parties at the local level.

#### (1) *The logic of political parties*

The growth in political parties over the last century or so has coincided with the increase in elections. The prevailing theory is that with elections there arise a number of needs beyond what traditional executive and legislature structures can provide but which must be met to make elective democracy work. The functions that political parties typically serve in a democratic system, albeit to varying degrees at the national versus local level, are:

- **The aggregation of interests:** a fundamental goal of political parties is to win power and to do so, they must persuade voters to support them on a variety of issues. This is one way in which political parties differ from both civil society organizations that do not compete for power and lobbying groups that represent a single issue.
- **Structuring the vote:** this entails giving coherence to voter choices beyond the selection of individual candidates per se.
- **Integration and mobilization of the mass public:** this includes the organization of election campaigns but also spills over into fostering non-election-related civic engagement and participation.
- **Fostering future political leaders:** political parties serve as a training ground for future political leaders—both within the party and in future governments.
- **Organization of government:** this refers to when a party wins executive power and its expectation that the party representatives in the legislature will support its policies.
- **Influence or formation of public policy:** akin to civil society organizations, parties can serve as a significant source of new policy ideas that then become or influence government policy.

As noted above, these are functions that political parties in a democratic system typically serve. The roles and functions of a political party in a non-democratic system (or of a group acting like a political party in a non-party or one-party system), might touch on some of the above functions but will not cover all. The fundamental distinction of parties in a non-democratic system is that these groups do not compete for power in free and fair elections, and they are far closer to the state in terms of their policies, messages and dependence. At a local level, parties are far more likely to aggregate interests, foster future political leaders, mobilize voters and public opinion, and influence the formation of local policy, than they are to impact on the national agenda or influence the formation of a government.

#### (2) *Where there are no parties*

Political parties also raise distinct issues at the local level vis-à-vis the national level. First there is the question of whether political parties are needed or add value to local governance at all, or whether other forms of aggregating and expressing political interests – such as direct democracy or town hall style meetings – would serve small communities

just as well if not better. This is certainly an issue that has emerged in one-party or no-party states where local governance is perhaps more dynamic than at the national level (e.g., Vietnam). This embodies somehow the idea that contestability can take many forms (e.g., local contestability in China or Vietnam can exist without national contestability). At the same time, if one accepts the premise outlined above that political parties do more than aggregate society's interests and are also in the business of seeking and exercising power on the people's behalf, then they should also play a crucial role in the formation and running of LGs.

In one-party States, such as Vietnam, local elections do indeed take place – and do provide a framework for political competition. However, they do so in mitigated ways, and thus provide the local electorate with a necessarily limited choice. As can be seen from the Vietnamese case study, independent, non-party, candidates can stand for local (and, indeed, national) elections. But all candidates (whether Party or non-Party) must initially be screened by a range of institutions, such as the Fatherland Front, that are closely linked to the Communist Party of Vietnam. This effectively ensures that all candidates “speak” more or less the same “political language” (that of the Party) and thus implies a limitation on any variation in the political programmes of candidates.

### **(3) *Party politics and local elections – tensions?***

At the same time, in several multi-party democracies there have been explicit attempts to “depoliticise” LG, by formally proscribing party candidacies at the local level. This is the case in the Philippines, Pakistan, Bangladesh, and Bhutan. Table 4 below provides baseline information on whether political parties are (or are not) allowed to contest local elections, for each of the country case studies covered in this Background Paper. How far this formal exclusion of partisan candidacies actually “disconnects” local politics from national political parties is a moot point – and it is also debatable whether such disconnection is anyway healthy or not. Of course, in countries such as Bhutan, the current absence of any political parties whatsoever does make for any and all elections being non-partisan.

In some countries, there is an understandable concern that parties can over-ride local accountabilities and thus break the link between citizens and their representatives at the local level – although this is much more pronounced in countries with electoral systems based on PR principles. This was apparently one of the reasons for the recent changes in the Indonesian electoral system (at both national and local levels) – from a closed to an open list form of PR, thus providing voters with the opportunity to make their preferences for individual candidates clearer. Moving towards an open list PR system in 2004 in Indonesia was very much about trying to reduce the power of party executives to select candidates and providing local citizens with rather more say in which individuals (as opposed to which parties) represent them in DPRD's at national, provincial, regency and city levels. As such, the new system represents a “victory” for those who wished to partly “depoliticise” the local electoral process.

In other cases, it can be argued that depoliticising LG elections reduces the potential for tensions between different LG tiers – however, in the case of upper tier LG Councils being largely elected indirectly by lower tier Councils (e.g. Pakistan, partly in the Philippines), this should not be as much of an issue as in situations where upper tiers are directly elected (e.g. Indonesia).

Table 4: Provisions for political parties

Country	Political parties allowed/not allowed	When political parties are allowed – independent candidates allowed/not allowed	Special provisions
Afghanistan	Political parties are allowed		
Bangladesh	Political Parties are not allowed.		
Bhutan	Political parties are not allowed.		
Cambodia	Political parties are allowed.	Candidates must be included on the electoral list of a political partying order to stand for election.	
India	Regulations on political parties provided under State legislation.		
Indonesia	Political parties are allowed.	Independent candidates are not allowed.	Parties standing for election are required to be established in at least half of the provinces.
Maldives	Political parties are allowed		
Nepal	Political parties are allowed		
Pakistan	Political parties are not allowed.		
The Philippines	Political parties are not allowed in Barangay elections but are allowed at all other levels of LG.	Independent candidates may stand for election.	
Sri Lanka	Political parties are allowed.	Independent groups may stand for election provided that they submit a list of candidates.	
Timor-Leste	Political parties are allowed.	Legislation does not specify whether or not independent candidates may stand for election.	
Vietnam	Candidates for political organizations may stand for election.	Independent candidates may stand for election.	Candidates are in effect subject to a selection/election process prior to the actual election.
Fiji	Political parties are allowed.		
Papua New Guinea	Political parties are allowed.		
Solomon Islands	Political parties are allowed.		

In countries where national political contests are open to parties, the “de-politicisation” of LG elections can be particularly controversial. In Pakistan, for example, the Local Government Ordinance does not allow political parties to contest local elections – even though political parties are a vibrant component of national political life. In practice, however, local elections in Pakistan have clearly been contested by the parties. In the 2005 local elections, for example, the Commonwealth Expert Team noted that although the local bodies’ elections were, by law, held on a non-party basis, in reality the political parties were at the heart of the process – candidates were openly supported by political parties and the media reported extensive party involvement. The issue in Pakistan, moreover, is one of the extent to which certain parties (i.e. those dominant at the national level) are able to exploit this situation, by tacitly providing substantial support to “their candidates”,

through the machinery of government, whilst at the same time decrying any involvement/support by other parties. This does not amount to a level playing field – and certainly does little to foster independent candidacies. In the case of Pakistan, there are reasonable grounds for recommending (as did the Commonwealth Expert Team) that the law be amended to permit the involvement of political parties in local elections, whilst at the same time taking measures to ensure full protection of the rights of independent candidates to stand unhindered (see Commonwealth Expert Team 2005).

In general, the overall consensus seems to be that in countries where there are political parties, they should be allowed to contest local elections – excluding them from LG loses more than it gains, and is usually unrealistic anyway. Perhaps more important, then, is the need to ensure political space for independent local candidates, thus avoiding a complete politicisation of the local electoral process.

#### **(4) National-local linkages**

The second question that arises is what expression political parties take at the local level—their dynamism, their variation, their ability to perform their role—and how this impacts on local governance. Given that an increase in elections can help catalyze the development of political parties, local party structures of national parties or parties with local appeal might not have benefited from the opportunities provided by LG elections to solidify their bases, develop their ideologies and learn how to govern. Local elections are typically the last priority of transitioning countries and this is particularly true in post-conflict societies, where local elections took place many years after the general elections (e.g., Cambodia) or have still not taken place at all (e.g., Timor-Leste and Afghanistan) in the interests of consolidating politics at the national level. Still, in other contexts, political parties are allowed to contest national elections but not local elections (e.g., Pakistan).

#### **(5) National, regional, local and “special interest” parties?**

In more developed democracies, such as India, some parties may be particularly strong at the regional and local levels and may not be represented well or even at all at the national level. This is a situation that is more likely to prevail in democracies that are further developed or in a highly decentralised state where local governance is well rooted. The spectrum of regionally significant but not nationally represented (or weakly represented) parties can be much richer in these contexts and this will impact on the range of policies and ideologies that are brought to bear in local governance.

In some countries, however, the legislative framework more or less proscribes the emergence of regional or local parties. This is, for example, the case in Indonesia, where political parties must (in order to be able to contest elections) be registered in at least half the country’s provinces. This legal provision, clearly motivated by the perceived need to counter regionalism, effectively means that local parties cannot develop in Indonesia.

By the same token, in countries where the legal framework does not allow for official party involvement in local elections (see above), the emergence of local parties is effectively forestalled.

On the other hand, the legal framework in other countries offers few obstacles to the development of local or regional parties. This is certainly the case in India and in Sri Lanka. It is also, *de facto*, the case in those countries that allow for independent candidates to stand in local elections on the same basis as parties.

A final issue worth noting here concerns the ability of special interest groups (such as farmers, or other occupational groups) to contest local elections. In theory, this is not precluded by any electoral system. In practice, however, there appears to be little evidence

of this kind of “party” contesting local elections in the Asia-Pacific country case studies included in this paper.

**(6) *Strong national parties***

On the flip side of the above, parties that are very dominant at the national level—particularly those in new democracies where the party in power benefits from state resources and machinery – also typically have strong local cells. It is not uncommon in such contexts to see, for example, that the one or two big national parties have local offices in the regions while the other “national” parties, even if they are represented in the national legislature, are unable to do the same either because of genuine lack of support or familiarity among potential constituents or because of lack of resources. This phenomenon can result in a replication, in miniature, of national policies and ideologies at the local level. This would certainly appear to be the case in Cambodia, where the three major national parties thoroughly dominated the 2002 Commune elections – with the party in power, the Cambodia People’s Party (CPP) winning 61.2% of the votes and 68.4% of all Commune Council seats, thus extending its dominance in national politics to the local level as well.

**(7) *Electoral systems and political parties at the local level***

The extent to which party machines can translate their dominance at the national level into hegemony at local levels, seems however to be influenced by the type of electoral system that is in place. In PR systems, political parties would appear to exercise greater local influence than is the case in majoritarian systems – the latter, in principle, provide greater opportunities for smaller, more local, parties to successfully contest elections, especially in contexts where multi-party political systems that have only recently emerged.

Assuming that there are competitive, multi-partisan elections, the type of electoral system used will directly impact on the relative importance afforded to the party. For example, in FPTP systems, regulations will tend to involve individual candidates for office rather than political parties per se. This is because elections take the form of a set of contests in single-member electoral districts. FPTP systems thus tend to attach greater importance to the candidate, his/her interaction with and responsibility to constituents, and his/her competition with the other candidates.

Nonetheless, FPTP does tend to influence the nature of contesting political parties, which usually need to have a fairly wide appeal in order to get elected. In general, then, FPTP tends to favour fewer parties, and often gives rise to a limited number of strong parties, rather than a larger number of small parties.

Under proportional representation, on the other hand, elections are primarily a contest between parties. Hence, parties will need to be registered, and their central and regional organizations will tend to have a greater influence over the selection of candidates (see discussion above on ‘open’ vs. ‘closed’ lists), while proportional representation systems focus more on party coherence and positioning vis-à-vis other parties.

PR is generally thought to be – par excellence – the electoral system for encouraging the formation of political parties, particularly in societies where political parties are a new phenomenon. In its List variety, PR encourages parties to think through their ideology and strategy in contesting elections, because it is the party rather than individuals on the list that the voter is passing judgment on (unless the lists are entirely open or free). At the same time, PR can minimize the ‘penalty’ that parties would otherwise need to take for poor performance, in that poorly performing parties can be returned to office time and again because they achieve the threshold of representation. PR can therefore artificially sustain poorly performing or otherwise fringe ethnic or regionally based parties that would

disappear under a more ruthless electoral system – and lead to a plethora of small parties. To try to ensure that parties are “national” or “wider” in nature, some countries place a requirement on parties in order to contest elections. For example, in Indonesia parties must have offices in at least nine provinces in order to contest local and national elections.

Beyond FPTP and proportional representation, there are also other models of representation such as collective committee-based systems and systems where LGs or their leaders are selected by a higher level of government, rather than systems of directly elected executives at the local level.

**(8) *Beyond party politics and electoral systems***

Finally, partly in response to the poor performance and perception of political parties and their failure in many countries to play a constructive role in democracy, there has been a rise in the popularity of alternative measures that can also spill over to the local level. These include allowing independent candidates for office, forming special interest parties and anti-party movements, or focusing more and more on direct democracy—by use of referenda, citizen initiatives and recall options.

## **4. SYSTEMS AND PROCEDURES FOR INCREASING REPRESENTATION OF WOMEN, YOUTH, MINORITIES AND THE MOST DISADVANTAGED**

### **4.1. Outcomes of Electoral Systems**

Underlying the main types of electoral system discussed in section 3 of this paper is the fundamental democratic principle of ensuring fair and adequate representation – for all social groups. Different systems try to do this in different ways – majoritarian systems generally try to do so on the basis of relatively small, ward-based, constituencies, whilst PR systems seek to ensure representation of as many parties (or the interest groups that they represent) as possible, but on the basis of larger constituencies. How far they succeed in providing for fair representation for all categories of citizens varies, depending on a range of circumstances.

However, it is generally assumed that PR (as opposed to majoritarian) systems yield outcomes that allow for more equitable representation, especially for women (at least 50% of the electorate). However, the evidence for this is equivocal – and a great deal depends on political parties and how they establish their electoral lists, as well as on the ways in which society at large views women. In Indonesia, under the old (pre-2004) electoral system, closed list PR did remarkably little to ensure adequate or equitable representation for women, as the following inset shows.

#### **Pre-2004 Indonesia, PR and women's representation**

Despite Indonesia having a PR-based electoral system, the percentage of women members of the then DPR (Dewan Perwakilan Rakyat, House of Representatives), MPR (Majelis Permusyawaratan Rakyat, Consultative People's Assembly) or Regional Councils (DPRDs) was extremely low. Approximately nine per cent of members of the DPR were, and an even lower percentage in the DPRD I (province) and DPRD II (district or regency) were women. There were no women members in some DPRD II in several provinces. No woman held the position of provincial governor, and only 1.5 per cent of regents/mayors, or six individuals, were women.

Source: IDEA International (2002)

Clearly, PR – as an electoral system – is no guarantee of adequate representation for “minorities”, let alone women in societies where the position of minorities or women is such that political parties remain elite-dominated or patriarchal.

Direct and indirect electoral systems for LG councils also strive, in different ways, to ensure adequate representation for all. Here, however, it seems reasonable to argue that whilst indirect systems may provide for better “geographical” representation, direct systems are probably better equipped to ensure a more equitable “socio-political” representation. As one goes “up” the LG system, indirect elections seem to inevitably favour greater elite representation. This is clearly brought out in the case of Pakistan's LG system (based, as has been seen, on indirect elections), where “[e]stablished families dominate a greater proportion of elected offices as one moves up the tiers of local government.” (Manning et al. 2003: 27); the tendency becomes yet more marked with regard to indirectly elected nazims at tehsil and district levels, where “[t]he majority of nazims are experienced politicians from established political families. According to one media survey, 30% of



district nazims in Punjab were former MNAs or MPs, and approximately 90% belonged to established political families.” (ibid.)

Direct elections for higher level councils (whether based on majoritarian or PR principles), on the other hand, are probably more likely to yield somewhat less elite-biased results – although the inevitably higher costs of political campaigning in larger constituencies probably inhibit the successful involvement of poorer candidates. However, direct (as opposed to indirect) elections would certainly, *a priori* and all else being equal increase the chances of non-elite representation.

In sum, although elections to LG are intended to lead to a fair representation of the constituents in the respective localities, this may not be the case. In many cases minorities, indigenous people and disadvantaged groups are not given adequate representation or are unable to translate their demographic “voice” into electoral representation. Local elites, of one kind or another, can project their power and resources into disproportionate levels of political representation. In order to address this issue, countries may introduce specific mechanisms to ensure the representation of these groups in the various LG bodies.

The two most common methods for ensuring the representation of these groups are (i) through putting in place electoral systems that ensure better representation or (ii) through the introduction of quota systems and reserved seats.

## **4.2. Adapting electoral systems**

In the Lund Recommendations<sup>5</sup> four types of electoral systems or provisions are considered which should facilitate minority representation and influence. These are:

- Single-member electoral districts where minorities are territorially concentrated, thereby increasing the chances that those minorities will be represented. This requires careful “districting” which, in itself, assumes a sound knowledge about where minorities are (or are not) concentrated. This is only likely to be a successful strategy if socio-political inequalities translate into parallel spatial differences – which is often (but not inevitably) the case for ethnic minorities or poorer urban classes. However, it is not the case for women and may often not be the case for other disenfranchised or marginal groups (such as some low caste groups in multi-caste villages in India and Nepal).
- Proportional representation systems where political parties’ shares of the votes of the constituency are directly reflected in the number of seats won. This assumes that minorities or disadvantaged groups will be able to vote for “their” parties and thus become represented. For this to be a successful strategy for ensuring “minority” representation, political parties must either be specifically “minority-based” or clearly committed to upholding “minority” interests.
- Some form of preference voting, such that voters can express their preferences with regards to individuals on party lists, and thus – in the case of minority or disadvantaged voters – select candidates who they deem to be representative (above and beyond party allegiance). The one drawback with this system is that it generally requires literacy on the part of voters (to be able to read and distinguish between the names of candidates) and is a relatively costly mode of election (especially if photos of candidates are used instead of names). In Asia-Pacific

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<sup>5</sup> The Lund Recommendations on the Effective Participation of National Minorities in Public Life & Explanatory Note, 1999, Foundation for Inter-Ethnic Relations, [http://www.osce.org/documents/hcnm/1999/09/2698\\_en.pdf](http://www.osce.org/documents/hcnm/1999/09/2698_en.pdf)

countries, minority or disadvantaged groups may be disproportionately illiterate, thus making preferential voting problematic for them as a way of selecting candidates; in addition, the costs of implementing preferential voting systems may be too high for poorer countries, particularly for local elections where millions of candidates may be standing.

- Lower numerical thresholds for representation in the elected body, which would imply that minorities or disadvantaged groups face fewer hurdles in being represented. Again, the success of this as a measure to ensure representation on locally elected bodies is predicated on the existence of parties that uphold their interests or are clearly identified with them.

These measures – despite the caveats – do nonetheless increase the likelihood of minority or disadvantaged groups being represented.

### **4.3. *Affirmative action through quotas and other mechanisms***

However, of the countries which have been covered in this paper, most have put in place some provision for affirmative action of one kind or another – the exceptions being Bhutan, Cambodia, Indonesia, Fiji and the Solomon Islands. In the countries where provisions have been made for the inclusion of minorities, indigenous peoples and disadvantaged groups, quotas and reserved seats appear to be the preferred method. Of the countries which have been detailed in this report the majority do have provisions for affirmative action – although which groups are targeted by these provisions vary from country to country. The provisions for ensuring the representation of minorities, indigenous peoples and disadvantaged groups may also vary between the different tiers and types of LG in a country.

In general the systems for filling reserved seats fall into a number of categories – direct or indirect elections of different types (with quotas or reservations in one form or another), appointments, etc. Some systems focus on candidates, others on seats. The following sections explore some of these different ways of handling direct affirmative action in local electoral systems.

Table 5 below provides a summary of the affirmative action measures that are provided for in the various LG representational arrangements in the sixteen countries covered by this paper.

Table 5: Provisions for affirmative action (Terminology used is that of respective countries legislation)

Country	Measures focusing on candidates	Measures focusing on the institutions (i.e. reserved seats)	
		Directly elected	Indirectly elected/appointed
Afghanistan	N/A	The Electoral Law includes a provision for the allocation of seats to the two most voted women candidates in the district and provincial councils (articles 31 and 36). However, the law is not very specific with respect to the procedures/requirements for nominating women.	N/A
Bangladesh	N/A	For the Union Parishad three (3) seats are reserved for <b>women</b> .	
Bhutan	N/A	N/A	N/A
Cambodia	N/A	N/A	N/A
Fiji	N/A	N/A	N/A
India		<b>Scheduled Castes (SC) and Scheduled Tribes (ST)</b> reserved seats in the same proportion as the population of SC and ST bears to the total population. Of these not less than one third shall be women. Not less than one-third (including seats reserved for SC and ST <b>women</b> ) of seats and chairs reserved for women.  Seats are allotted by rotation to the different constituencies in a Panchayat.	
Indonesia	N/A	N/A	N/A
Maldives	N/A	N/A	For Island Development Committees (IDCs), the president of the local Women's Development Committee is expected to be a member.  For Atoll Development Committees, 25% of the members are expected to be women.
Nepal	N/A	N/A	For the Village Council (VC) and District Council (DC) six (6) persons including one (1) woman are nominated by the VC and the DC respectively from amongst workers, socially and economically backward tribes and ethnic communities, downtrodden and indigenous people belonging to the class who are not represented in the VC and DC respectively.  For the Village Development Committee (VDC) District

Country	Measures focusing on candidates	Measures focusing on the institutions (i.e. reserved seats)	
		Directly elected	Indirectly elected/appointed
			<p>Development Committee (DDC) two (2) persons including one (1) woman are nominated by the VDC and DDC respectively from amongst the nominated members of the VC and DC respectively.</p> <p>For the Municipal Council (MC) no less than six (6) and no more than twenty (20) persons including women from the same groups as above are nominated by the MC.</p> <p>For the Municipality the municipality nominates two (2) persons including one (1) woman from amongst the nominated members of the MC.</p>
Pakistan	N/A	<p>For Village/Neighbourhood Councils one (1) seat is reserved for <b>women</b> and one (1) seat reserved for <b>peasants and workers</b>.</p> <p>For the Union Councils four (4) seats are reserved for <b>Muslim women</b>; six (6) seats (of which two (2) for <b>women</b>) for <b>workers and peasants</b>; and one (1) seat for <b>minority communities</b>.</p>	<p>For the Zilla, Tehsil and Town Council such number of <b>women</b> to represent thirty-three (33) percent; <b>peasants and workers</b> to represent five (5) percent; and <b>minorities</b> to represent (5) percent from minority communities of the unions in the respective LGU. The electoral college for filling these seats are the members of the Union Councils in each LGU.</p>
Papua New Guinea	N/A	N/A	<p>Two women are appointed to be members of LLG Councils in rural areas, and one woman is appointed to be a member of LLG Councils in urban areas.</p> <p>One woman representative is appointed to be a member of each provincial assembly.</p>
The Philippines		<p>For each LGU there shall be three (3) sectoral representatives i.e. one (1) woman, one (1) agricultural or industrial worker; and one (1) representative for the urban poor, indigenous cultural communities, disabled persons, or any other sector as may be determined by the Sanggunian concerned. The Commission on Elections promulgate the rules and regulations for effectively providing for the election of such sectoral representatives. Presidents of the <b>Youth</b> Councils also ex-officio members.</p>	
Solomon Islands	N/A	N/A	N/A
Sri Lanka <sup>6</sup>	N/A	N/A	N/A
Timor-Leste		<p>For the Suco Council two (2) seats are reserved for <b>women</b>; two (2) seats (of which one is to be filled by a</p>	

<sup>6</sup> Although no direct measures are made for affirmative action the Sri Lankan Constitution states that provisions are to be made for the representation of women, persons under thirty-five (35) and major communities ordinarily resident within the respective LGU.

Country	Measures focusing on candidates	Measures focusing on the institutions (i.e. reserved seats)	
		Directly elected	Indirectly elected/appointed
		<b>woman) for persons aged between seventeen (17) and thirty-five (35); and one elder, i.e. a person over fifty (50).</b>	
Vietnam	<p>The standing bodies of provincial and district level People’s Councils (PC), after consulting with the Standing Board of the Vietnam Fatherland Front Central Committee and the People’s Committees of the same level shall make a proposition on the proportion, number and composition of PC deputies to be elected – ensuring that an appropriate number of <b>women</b> and in localities with many ethnic minority groups, <b>ethnic minority people</b> are elected to the PC.</p> <p>The same applies for commune-level PC but not consultation with the Vietnam Fatherland Front or People’s Committees are required.</p>	N/A	N/A

**(1) Party list quotas**

One particular type of quota, most frequently associated with PR systems, is to legally insist upon political parties ensuring that a given percentage of their candidates are representative of minority or disadvantaged groups. In the Asia-Pacific region, amongst the 16 countries included in this study, there are currently no clear-cut examples of this, although Indonesian women have (for some time) been lobbying for party-based quotas for all levels of government. Although not a clear cut case, the legislation on local elections in Vietnam provides that when selecting candidates to stand for election it should be ensured that an appropriate number of women and in localities with many ethnic minority groups, ethnic minority people, are elected to the People's Councils. Nonetheless, outside the region, there are several examples of this kind of quota operating at the local level, most notably in Namibia.

**Party-based quotas for women in Namibian local government elections**

On the basis of constitutional provisions, Namibia's parliament adopted an affirmative action provision in the Local Authorities Act of 1992, which stipulated that the first local authority elections were to be conducted using a party list system and that party lists had to include at least two women in respect of local authority councils with ten or fewer members, and at least three women in respect of councils with 11 or more members. This contributed to the fact that 37 percent of the local councillors elected in 1992 were women.

In 1997, the Local Authorities Act was amended to allow for a second round of local authority elections to take place in 1998 using the party list system instead of changing to a ward-based system as stipulated by the Act. At this time, the affirmative action measures were further strengthened, specifying that party lists had to include a minimum of three women on councils with ten or less members, and at least five women on larger councils. This resulted in an increase of women's representation in LG up to 41 percent. More women have since entered office through by-elections, such that Namibia currently has 45 percent women at the local authority level, while 40 percent of mayors are women. The current president of the Association of Local Authorities in Namibia is a woman – two other female presidents preceded her.

Source: IDEA International (2004)

Another example from outside the region comes from France, where a law passed in 2000 requires that each party have at least 50 percent women candidates on its list in certain races, like municipal elections, otherwise they will not be registered. In other cases, incentives rather than regulations are applied: in France, in the case of parliamentary elections, the law does not enforce non-registration for failing to comply, but instead reduces state subsidies to parties with fewer than 50 percent women candidates (obviously, some parties prefer to "take the penalty" rather than meet the 50% threshold in these elections).

## **(2) Reserved seats**

Although there are no documented cases of quotas being applied to candidate/party lists in the countries studied in the Asia-Pacific region, several countries have used reserved seats as the basis for quotas in LG elections.

India is one country where far-reaching provisions for affirmative action have been made – which are also enshrined in the constitution. Seats in LG bodies at all levels are reserved for Scheduled Castes and Tribes according to their proportion of the population and at least one third of the seats are reserved for women. In addition, similar quotas apply to local council leadership positions.

In some countries the number or composition of reserved seats are not predetermined. In the case of the Philippines a decision has to be made (prior to the holding of the elections) on which segments of society are to fill the three reserved seats at each level, one of which is always reserved for a woman.

A further example is Timor-Leste where two women, two young people of each gender and one elder are to be elected – by direct elections – to the Suco Council. Sri Lanka is also a country where provisions are made for seats to be reserved for the young, in addition to rather vague (and weak) constitutional provisions for promoting women's representation.

Nepal is an example where varying systems are applied at the different levels of LG. At the lowest level (the Ward) one out of five, directly elected, seats is reserved for women.

A similar system is in place in Pakistan although the number of reserved seats is considerably higher, in particular with regard to women. In contrast to the Nepali case, however, in Pakistan women are either directly elected (to Union Councils) or indirectly elected by the entire electoral college (all the councillors of constituent Unions) of the upper level LG unit in question (tehsil, town, district). Pakistan's local electoral system also ensures that minority religious groups are represented. Prior to 2005, this was done by having a separate electoral roll for such groups, who then elected their representatives. Since 2005, however, minority and majority electoral rolls have been unified, but reserved seats have been maintained.

Vietnam also presents an interesting case in that no provisions are made for reservation of seats. However, when establishing the composition of the People's Councils and the list of candidates to stand for election, consideration is given to ensuring that an appropriate number of women are represented, and that when part of the population is made up of ethnic minorities an appropriate number of ethnic people are represented. This reflects strong ideological concerns in Vietnam.

Finally the Hill Tract Parishads in Bangladesh are designed specifically to ensure the representation of the indigenous peoples. Seats are reserved for the Hill Tribes in relation to their proportion of the population in the Hill Tracts. Non-indigenous people are however also elected to the Parishads.

### **(3) Appointments**

Another way of ensuring some degree of representation on the part of minorities or socially disadvantaged groups is through appointment, rather than election. Several examples of this can be cited.

In Nepal, at higher levels of the LG system (Villages, Municipalities and Districts), seats are reserved for the poor, tribes, ethnic communities and indigenous peoples, of which a certain number must be women. These seats, however, are not filled by direct election. Instead the ordinary members of the respective LG body (most of whom are indirectly elected by lower level electoral colleges) are the ones who elect the representatives to fill these seats.

In PNG, women representatives are appointed to both the provincial assemblies and to Local-Level Government (LLG) Councils. Interestingly, two women are appointed to rural LLG Councils, but only one to urban LLG Councils. This would appear to be in recognition of the reduced likelihood of women being directly elected to Councils in rural (as opposed to urban) areas.

In the Philippines, steps have been taken beyond merely reserving seats for the young in that a separate LG body (the Youth Council) has been established for which only those over 15, but under 21 years of age may stand for election as well as vote. A member of these bodies also serves in the other LG units. In addition, municipal and provincial councils in the Philippines are required to appoint three "sectoral" members, representing women, workers and other disadvantaged groups as necessary.

Whilst such appointments do serve the purpose of ensuring some kind of representation for marginal or socially disadvantaged groups, it remains the case that they are probably a less satisfactory way of doing so than through direct elections with quotas. The legitimacy of appointees is likely to be considerably less than that enjoyed by elected members. In addition, the representativity of appointees may also be an issue, as well as the manner of their appointment.

### **(4) Outcomes**

How far do such affirmative action procedures lead to the intended outcomes? In this section, this issue is briefly looked at, firstly with regard to women's representation (for which there is considerable documentation) and secondly with regard to other marginalized groups (for which there is less documented evidence).

#### *(a) Women and affirmative action*

Firstly, it should be pointed out that Sri Lanka provides a striking example of representational outcomes in the absence of strong affirmative action measures. In 2000, less than 2% of LG seats in Sri Lanka were occupied by women – in marked contrast to other South Asian countries (especially given the relatively high rates of schooling enjoyed by women in Sri Lanka). This low level of women's representation appears to be a direct function of the electoral system and of there being no reserved seats for women. In addition, the electoral system for LG in Sri Lanka is not ward-based, but is "at large". In Sri Lanka, it is interesting to note that while quotas for women have so far been rejected, wards have been recommended instead – to help more women get elected (source: "Women in Local Government in Asia and the Pacific – A comparative analysis of thirteen countries", Jean Drage, Paper presented to the Asia – Pacific Summit of Women Mayors and Councillors Phitsanulok, Thailand 18-22 June 2001).



The same can be said of Cambodia (where no formal provisions for ensuring women's representation in Commune councils exist). While 16.2% of the candidates in the 2002 Commune elections were women, the share of elected female councillors is just 4.5%. In the end, 448 women were elected on CPP party lists, 35 on FUNCINPEC lists, and 30 on SRP lists. Broken down by parties, this represents 5.8%, 1.6%, and 2.2% of elected councillors from the respective parties. Very clearly, Cambodian women are under-represented in relation to their electoral or demographic importance.

Where affirmative action measures are in place, the outcomes in terms of women's representation in elected LG units are generally much better. In Nepal, where legal provisions ensure women's representation, some 24% of all elected members were women in the previously elected local bodies. In Bangladesh and Pakistan, roughly a third of all seats in LG are occupied by women.

The case of India is perhaps the most striking in terms of the absolute outcomes of affirmative action in favour of women's representation in LG – with over 1,000,000 women serving as councillors in LG. The table below provides data on elected women councillors and council leaders.

Table 6: women in Panchayati Raj institutions, India (2003)

Rural LGs (total population = > 700 million)	Elected officials			Urban LGs (total population = > 300 million)	Elected officials		
	Total	Women	% Women		Total	Women	% Women
Councillors:				Councillors:			
District Panchayats (594)	15,815	5,272	33.3	City Corporations (101)	N/a	N/a	N/a
Block Panchayats* (5,912)	145,412	48,471	33.3	Town municipalities (1,430)	N/a	N/a	N/a
Village Panchayats (231,630)	2,971,446	990,482	33.3	Nagar Panchayats (2,009)	N/a	N/a	N/a
Totals	3,132,673	1,044,425	33.3	Totals	N/a	68,554	N/a
Council leaders:				Council leaders:			
District Panchayats	594	198	33.3	City Corporations	101	34	33.6
Block Panchayats	5,912	1,970	33.3	Town municipalities	1,430	476	33.3
Village Panchayats	231,630	77,210	33.3	Nagar Panchayats	2,009	670	33.3
Totals	238,136	79,378	33.3		3,540	1,180	33.3

Source: Mathew (2003)

However, such aggregate outcomes should not be allowed to disguise the limits to affirmative action. To begin with, reserved seats for women may not actually be filled, through a lack of candidates or voter antipathy to affirmative action. The case of local elections in the North West Frontier Province of Pakistan is a good example of this. Elections were held for all union councils from December 2000 to July 2001, and over 36,000 women were elected to fill mainly the reserved seats. This represented almost 29% of the total 126,462 seats available. In NWFP, women were elected to 3,963 union council

seats representing only 69% of the 5,742 seats reserved for them. Approximately 1,779 seats were left vacant, most of which were in four districts (Upper and Lower Dir, Batagram and Kohistan) where anti-woman campaigning made it difficult to fill them. In the tehsil councils, 175 women were elected to the 201 seats reserved for them (87%) and 26 were left vacant. In the town councils, women were elected to all 30 seats reserved for them. At the district level, 278 women (88%) were elected to 315 reserved seats; 37 were left vacant.

In addition, provisions for the representation of women in councils do not necessarily translate into adequate representation in upper levels of the LG system (see previous chapter) or in executive or leadership positions. In Nepal in 1997, for example, more than 100,000 women participated in the VDC elections, and 36,000 were elected. However, in other branches of LG, women were only marginally represented. For example, only 289 women were elected ward chairs out of a total of approximately 36,000 wards. Of the 26 women who ran for membership in the District Development Committees, only 8 were elected, and only 1 woman was elected vice-chair.

The same pattern emerges in Pakistan. As a result of the reservation system, about 36,000 women are now members of LG institutions – approximately 32,000 in union councils, 1,800 in tehsil councils, and 2,000 in district councils. However, such relatively high levels of women's representation on LG councils are not replicated when one looks at locally elected leadership: a total of only 11 women were elected as nazims (two district council nazims, one tehsil council nazim, and eight union council nazims), out of a total of over 6,400 nazims (at all levels).

Thus, while affirmative action procedures in local electoral systems go a long way towards ensuring representation, still more needs to be done to ensure representation at high levels, and to translate representation into influence and political voice.

Finally, it is perhaps also worth looking very briefly at how affirmative action procedures can have sometimes unhelpful consequences. The special electoral arrangements that are often needed to ensure women's representation may sometimes create particular problems for women, as is made clear from Bangladesh. In Union Parishads (made up of nine wards in all), the 1997 legislation provided for affirmative action for women representatives. Under these affirmative action arrangements, three wards are reserved for one female member, but each of those wards is also the constituency of the General ward member (almost inevitably male). This means that elected women have three, elected, usually male counterparts. This situation has created a problem on the Councils as the males often do not want to recognize the women as legitimate representatives of their wards. The fact that women have much larger constituencies than their male counterparts also poses particular problems, for example, the difficulty of meeting the expectations of such a large group. It is also harder for them to visit their wards and to meet the transportation costs to make such visits. They must face these constraints in addition to all the other difficulties women face in a predominantly male preserve. Yet, all that said, the elected women members have much greater legitimacy and acceptance than the earlier (pre-1997) nominated women members, beholden to the Chairman for his patronage. And there are signs that these women members are being given more specific responsibilities as Chairpersons of specific Parishad standing committees. Also, through training, they are gradually assuming a greater role in UP affairs in general.

Another case in point is in India, where Article 243D of the Constitution clearly directs that the reserved seats, both for women, as well as for scheduled castes (SC) and scheduled tribes (ST), shall be allotted by rotation to different constituencies in a panchayat. This has generally been interpreted to mean that such a rotation should take place at the end of every five years. If this interpretation is given effect to, then no woman, SC or ST member is ever likely to get the opportunity of occupying the same seat for a second term, as it is improbable that these persons would be allowed to contest from the same constituency

when the reservation is removed. Given that most of the women members in the panchayats do not have any prior experience and will therefore find it difficult to occupy positions of power in the initial period, it seems somewhat “unfair” that they should not be allowed to continue in such positions, beyond one term. Since this provision of rotation applies to the SC/ST/woman chairpersons also, it is possible that the local bureaucrats may take an upper hand in some places, as they can be fairly certain that the chairperson has no chance of getting re-elected.

Finally, affirmative action in the form of reserved seats may have perverse consequences for minority or socially disadvantaged candidates for non-reserved seats. The recent 2005 elections for Bougainville’s Autonomous Government (a more autonomous form of the usual Papuan Provincial Assembly) are a case in point. In Bougainville, while 3 of the 39 seats in the Assembly were reserved for women and were contested by 25 women candidates, there were apparently no women candidates for the 33 regular constituency seats, for which they were also entitled to stand. Commonwealth observers of the Bougainville elections were given the impression that because of the reserved seats for women, many women did not feel that they were “supposed” to contest the regular constituency seats. Reserved seats, then, may actually discourage minority or socially disadvantaged candidates from contesting open seats.

(b) *Marginal groups: scheduled castes and tribal groups in India*

Under the Indian constitution, seats and the offices of chairpersons in all the three tiers of panchayats are reserved for the SC and ST members in proportion to their population. In addition to this, provisions are in place for the state legislatures to make reservations for any other backward caste (OBC) people. In accordance with this provision, at least 10 states have made reservation provisions for the OBCs.

However, in spite of the statutory and administrative efforts to provide political space to such communities, it cannot be said that the panchayats have been able to take effective measures for entirely compensating for the economic and social deprivation of the marginalized people. In places where the grip of the dominant caste over the social system is very strong, many of the elected officials from the weaker communities apparently feel powerless. One low caste person summed up the position succinctly: “Even if a low-caste *pradhan* (chairperson) is elected, he will be able to function as per the dictates of the *jats*. If he works differently, it will be difficult for him to stay in the village”. The position of women belonging to the SC/ST communities is even worse. For example, a tribal woman, elected as sarpanch in Thikiri village of Dausa district of Rajasthan, was manhandled and prevented from hoisting the national flag on Independence Day, because the upper caste male villagers were unwilling to tolerate the idea of the flag being hoisted by a tribal woman. Such anecdotal evidence indicates the extent to which reserved seats and the like; whilst they may translate into impressive quantitative outcomes, they cannot be a “quick fix” solution to the problematic of deeply engrained hierarchy in much of Indian society.

Notwithstanding such disquieting anecdotes, reservation provisions have clearly made a major contribution towards the inclusion of marginalized communities in the power structure of LG institutions. However, before perceptible changes can take place in terms of their effective involvement in the local decision making process, much needs to be done to enhance their capabilities.

(c) *Youth*

Ensuring representation of the youth – an often neglected group of the potentially disempowered – is also a feature of some electoral systems in the Asia-Pacific region. One of the key concerns here, of course, is the prescribed minimum age of both voters and candidates: where the age of candidates is relatively high, the youth are unlikely to be

represented. In Afghanistan, the relatively high minimum age for councillors (who should be 35 or older) effectively eliminates the likelihood of the youth being represented.

The Philippines has arguably the most outwardly “pro-youth” local representational system in the world. There, the Local Government Code provides for the organisation of Youth Councils in every village and barangay, whose members are elected by those between 15 and 21 years old. At every level of the Philippines’ LG system, these Youth Councils and their federations are represented, thus ensuring that LG decision-making is at least partly attuned to the needs of the younger part of the electorate.

#### **4.4. *Special electoral and representational arrangements***

In a number of Asia-Pacific countries, special arrangements have been made to deal with highly specific local issues – demands for greater autonomy (often linked to conflict or post-conflict issues), problems of social and cultural identity for indigenous peoples, and the like. Such arrangements are generally exceptional to the wider representational systems within which they have been developed – and have usually combined enhanced devolution (more widespread powers at the local level) with special arrangements for political representation. Here, a few examples will be explored.

The examples illustrate the principle that one size does not necessarily fit all, and that LG systems and their accompanying representational arrangements do not have to be uniform across the board. They can be, so to speak, “asymmetric” and thus able to deal with very particular circumstances in a sensitive way.

### **(1) Tribal Panchayats in India**

In addition to the quotas reserved for the scheduled tribes in proportion to their population in all the tiers of regular Panchayati Raj Institutions, certain special provisions were considered necessary for the Panchayats of certain tribal enclaves within nine states, in addition to the north-eastern states of India. These are known as the Schedule V areas. The 73rd amendment to the Indian Constitution specifically stated that its provisions would not be directly applicable to these areas.

The Panchayats in tribal areas of these nine states have been given a special legal dispensation. This special law is called The Panchayats (Extension to the Scheduled Area) Act 1996 (commonly referred to as the PESA Act), enacted in accordance with an enabling provision in the Constitution. The PESA Act recognizes the specific rights of tribal communities over natural resources, respects their traditional institutions and gives substantial powers of self-governance to the tribal communities. The PESA Act is also the first law to empower people to redefine their own administrative boundaries. The powers that are vested in the village assembly – the Gram Sabha – authorize it to approve all development plans, control all functionaries and institutions in social sectors as well as manage water bodies and other natural resources, have ownership of minor forest produce, prevent alienation of land, manage village markets and resolve disputes. The village assembly and Panchayat are required to be consulted prior to any move to acquire land or grant any mineral concessions.

In electoral terms, the PESA Act provides that at least 50% of the members in these Schedule V Panchayats are tribals and that the Chairperson is always a tribal. As such, PESA gives the scheduled tribes the necessary level of political representation to ensure that any and all decisions taken in the Panchayats are not indifferent to their traditions and customs.

The PESA Act should be seen as an important legislative measure that tries to introduce local self-government in the tribally dominated Schedule V areas, without disturbing the tradition, culture and lifestyle of the local people. However, because the Act requires further legislation on the part of the nine states involved, its implementation has not always been entirely consistent.

### **(2) The Chittagong Hills Tract in Bangladesh**

The Chittagong Hill Tracts (CHT), a 13,295 km<sup>2</sup> area of south eastern Bangladesh, bordering India and Burma, is the traditional homeland of 11 indigenous peoples of Sino-Tibetan origin, collectively known as the Jumma peoples. The Jumma are different from Bangladesh's Bengali majority with respect to language, religion, social system and economic practices. Starting in the 1950s and 1960s, the CHT became increasingly tense as Bengali migrants poured in; communal violence increased dramatically. By the 1990s, the Jumma were a minority in the CHT. Armed conflict escalated.

A settlement was reached in December 1997, which sought to accommodate local Jumma complaints and to bring an end to armed conflict. Two of the key provisions of that settlement included:

- Granting self-government to the CHT through the establishment of district and regional councils;
- Recognition of the socio-cultural identity of the indigenous people and their laws and customs.

The centrepiece of the accord is the establishment of the Chittagong Hill Tracts Regional Council (the only one of its kind in Bangladesh) as an apex body. It has 22 elected members and its tenure is five years. The Chairman is to be an indigenous person with the status of a state minister. Fourteen other members are to be tribal, including two women, thus ensuring Jumma control over a range of local public affairs. The objective of having such a Regional Council is to make the CHT a single political and administrative unit. It has powers of supervision and coordination on subjects such as law and order, general administration, development, traditional laws and social justice.

Although the Regional Council Act has been enacted, there have been delays in the formulation of its rules and regulations and in the holding of elections. Currently there is an interim appointed Regional Council in place.

### **(3) Special autonomy for Aceh in Indonesia**

Aceh, the northernmost area of Sumatra, has been in conflict with Indonesia's central government since the 1950s over its demands for greater autonomy. These demands are founded on Aceh's strong Islamic traditions (in a constitutionally secular Indonesia) and on a sense of being discriminated against in terms of its share of natural resource revenues. Violent conflict and unrest has been the norm in Aceh for almost five decades.

In an effort to bring an end to secessionist conflict, Aceh was granted "special autonomy" in 2002. This special autonomy is much broader than the "regional autonomy" enjoyed by most other Indonesian provinces and includes the local implementation of Shariah law and the retention of a greater share of royalties from the exploitation of its natural resources. The law maintains central government authority over Aceh's foreign political relations, external defence and monetary affairs, while all other responsibilities fall within the sphere of competence of the provincial government<sup>7</sup>. The law allows Aceh to retain over 70 % of the royalties derived from local oil and gas exploitation and to over 60 % of the royalties levied on the exploitation of other natural resources; these proportions are significantly larger than the respective 20 and 15 % that other provinces retain. Special autonomy also provides Aceh with more freedom to run its internal affairs, to re-design LG in line with local traditions, and to base the legal system of the province on Shariah law. The law also provides for local electoral reform, giving the people greater control over their own affairs. The governor, regents and mayors are to be elected directly by the people, rather than by their local legislators.<sup>8</sup>

### **(4) Special autonomy for Bougainville in Papua New Guinea**

From 1988 until 1997-98, the island (or province) of Bougainville in PNG experienced serious armed conflict between separatists and government forces, during which an estimated 20,000 people died. At the heart of the conflict were issues linked to traditional land tenure arrangements, the environment and control over the use of natural resources (most notably, the Panguna mine).

A cease-fire between the PNG government and the rebels was signed in April 1998, and a full peace agreement in August 2001. Under the eyes of a regional peace-monitoring force and a UN observer mission, the government and provincial leaders established an interim administration and made significant progress toward complete surrender/destruction of weapons. The agreement provided for greater legal autonomy for Bougainville (as an autonomous region within PNG), with a locally-elected administration having the power to

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<sup>7</sup> The special autonomy for Aceh is close to the "comprehensive autonomy" offered by Jakarta to East Timor, which the East Timorese rejected in their August 30, United Nations-supervised ballot.

<sup>8</sup> See e.g. *Decentralized Governance in Conflict and Post Conflict Situations: Is Decentralization a Workable Solution to Manage Diversity within a Country?* By Dessislava Raykova, Research Assistant, UNDP Bratislava Regional Centre.

establish a police force, judiciary, taxation system, commercial bank and courts. Port Moresby retains control over defense and foreign affairs, although the PNG military will be largely excluded from the island. A referendum on full independence is due to be held within 10 to 15 years.

A constitution was drafted in 2004 and provincial government elections were held in May 2005. The elections were deemed to be free and fair by international observers, and Joseph Kabui was elected to serve as the first president of the Autonomous Government of Bougainville.

Direct FPTP elections were held for the President of the Autonomous Government and the 39 members of the House of Representatives in May 2005. The Bougainville House of Representatives consists of 39 elected members:

- 33 of whom are elected from individual constituencies;
- 3 of whom are women representatives, elected from 3 regional constituencies;
- 3 of whom are ex-combatants, elected from the same 3 regional constituencies as the women representatives.

Bougainville is the only province of PNG for which direct elections are held for the House of Representatives (the equivalent of the 19 other provincial assemblies).

## **5. ORGANISATIONAL STRUCTURE AND LINKAGES TO THE LOCAL ADMINISTRATIONS**

This section of the paper briefly explores a range of issues linked to the organisational structure and the administrative context within which LGs in the Asia-Pacific region operate. It touches upon them insofar as they have implications for representational and accountability issues.

### **5.1. Population, representation and related issues**

The size of LG units in the Asia-Pacific region varies enormously. When considered in conjunction with electoral arrangements (direct/indirect elections, majoritarian/PR systems, etc.) and the size of representational bodies, the size of a jurisdiction's population may have considerable implications in terms of "proximity" and accountability. Table 7 below summarises the information available about the populations and other key features of LGs in the 16 countries which this paper has tried to focus on.

Tier 1 LG units vary considerably in size from country to country – with those in Bhutan, the Maldives, Nepal and Timor-Leste generally being the smallest (with average populations of 2,500-3,500). By far the largest Tier 1 LGs are those in Sri Lanka – although if one classifies Indonesian regencies as being Tier 1, then they are considerably larger. Tier 1 LGs in India, Cambodia and Vietnam occupy the "middle ground", whilst Bangladeshi Ups, Pakistani Unions and PNG's Local-Level Governments tend to be relatively large. Afghanistan's districts, assuming that they can be classified as Tier 1 LGs, are also (on average) relatively large.

Tier 2 LG units, where they exist, are also highly variable in size – the largest (on average) being Indonesian regencies and Afghan provinces, and the smallest (on average) being Bhutanese Dzongkhags. Nepali districts, although relatively small on average, vary enormously among themselves in terms of population. Vietnamese districts, with an average population of 125,000, occupy the "middle ground".

Tier 3 LG units, where they exist, also vary greatly in demographic size. Indonesian provinces are, on average, bigger than some Asian countries (e.g. Bhutan, Timor-Leste). The smallest Tier 3 LGs are, somewhat surprisingly, Indian Zilla Panchayats. Once again, Vietnam's provinces occupy the "middle ground".

Of the three countries that operate PR systems for local elections, Cambodia is exceptional in that its LG units are relatively small. In Sri Lanka and especially Indonesia, jurisdictions/constituencies tend to be large. In contrast, where majoritarian systems are in place (i.e. in most countries), the size of commensurate LG units tends to be smaller (with, of course, the exception of Cambodia).

Levels of representation vary from country to country (see Table 6). Among Tier 1 LGs, Nepali Village Councils appear to be the most highly representative in this respect – on average, each member of the Village Council represents 70 people (and even fewer voters). In contrast, UP members in Bangladesh and Union councillors in Pakistan (on average) represent some 2,000 people.



Table 7: size and other features of non-urban LG jurisdictions

Country	Local government levels											
	Tier 1				Tier 2				Tier 3			
	Name	Population*	# of council members	Electoral system	Name	Population*	# of council members	Electoral system	Name	Population*	# of council members	Electoral system
Afghanistan	District	60,000	5-15	D Mixed	Province	630,000	9-29	D Mixed				
Bangladesh	Union Parishad	27,000	13	D Maj								
Bhutan	Geog	3,000	Variable Min. 3	D Maj	Dzongkhag	30,000	Variable	I				
India	Gram Panchayat	L = 20,000 S = 670	Variable Avge = 13	D Maj	Panchayat Samiti	L = 330,000 S = 3,000	Variable Avge = 25	M Maj	Zilla Panchayat	L = 800,000 S = 100,000	Variable Avge = 27	M Maj
Maldives	Island	1,000	7-15	Maj	Atoll	L = 87,000 S = 1,700	10-20	Maj				
Nepal	Village	3,500	53	D Maj	District	30,000 L = 700,000 S = 16,000	Variable	I				
Pakistan	Union	25,000	13	D Maj	Tehsil	N/a	Variable	I Maj	District	N/a	Variable	I Maj
Sri Lanka	Pradeshiya Sabha	L = 265,000 S = 14,000	Variable	D PR					Provinces	2,000,000	Variable	D PR
Cambodia	Commune	7,000	5-11	D PR								
Indonesia					Regency	500,000	20-45	D PR	Province	7,000,000 L = 35,000,000 S = < 1,000,000	35-100	D PR
Philippines	Barangay	N/a	9	M Maj	Municipality	N/a	Minimum 12	M Maj	Province	L = 3,300,000 S = 16,000	Min. 9-13	M Maj
Timor-Leste	Suco	2,500	Variable Min. 7									
Vietnam	Commune	8,000	19-35	D Maj	District	125,000	30-40	D Maj	Province	1,250,000	50-95	D Maj
Fiji	Town	L = 80,000 S = 1,100	8-21	D Maj	City	50,000	16-20	D Maj				
Papua New Guinea	LLG	16,000	7-43	D Maj	Province	270,000	Variable	I				
Solomon Islands	Provinces	51,000	9-30	D Maj								

Notes: \* wherever possible indicates average; D = direct; I = indirect; M = mixed I/D; Maj = majoritarian; PR = PR; L = largest; S = smallest; Min = minimum

Not surprisingly, and as can also be seen from Table 6, levels of representation decline as one goes up the tiers – in India, by far the easiest case to interpret, there are approximately 1,000 people for every councillor at the Gram Panchayat (Tier 1) level, but roughly 25,000 people per councillor at the Zilla Panchayat (Tier 3) level. The pattern is repeated for all countries with multi-tier systems, but to different degrees. In that sense, then, the “higher” up the LG, the less its council is “representative” of its citizens. This reflects the inevitable trade-off between “representation” and efficiency – a Zilla Panchayat that had, for example, one councillor for every 1,000 people in the district would, in most cases, constitute an entirely unwieldy and over-sized body.

It is perhaps worth noting here that in order for LGs to be significant and efficient providers of services, they generally need to be of a certain size. The range of services that can realistically be provided by small, Tier 1 LGs is necessarily limited. And yet, it is precisely at these levels that “representational density” tends to be highest – and that upper tiers (which can provide a wider range of services) tend to be rather less “representative”.

Electoral mandates for councillors are relatively uniform across the region, varying from three years (in the case of Bhutan) to five years (in most cases).

## **5.2. Remuneration and frequency of meetings**

In most countries, council members tend to be elected and seen as “voluntary” representatives of the public. As such, they are usually not paid regular salaries. Nonetheless, being a council member is not without its costs – council members must dedicate time, travel to meetings, arrange meetings with their constituents and the like.

The following examples shows how some countries help meet these costs:

- in many cases (e.g. Nepal), council members are provided with sitting fees for the days that they are in council;
- in the Philippines, Barangay Council members receive allowances (defined by ordinance) as well as a number of other benefits, such as insurance, free medical care and exemptions from tuition fees. Members of Municipal Councils and Provincial boards are provided with monthly allowances;
- for the more “executive” arms of councils, special provisions are often made for members’ remuneration. Thus, in Vietnam, members of the People’s Councils’ Standing Committees are actually considered to have full-time jobs and are remunerated accordingly. In Timor-Leste, Suco Chiefs are paid a regular monthly allowance of US\$ 50 by central government, intended to cover transport and other costs.

The payment of sitting fees and the like has implications for representation – where no remuneration whatsoever is provided, poorer citizens may either be deterred from standing for election (in the knowledge that they will be ill-placed to participate in council deliberations) or, in the event that they do become elected, may find it difficult to afford the costs of being a representative. Wealthier citizens do not face the same constraints under such circumstances.

The frequency of council meetings varies both between countries and between tiers. The following table summarises the legislated schedule of meetings for Nepali LG councils and committees.

Table 8: minimum frequency of meetings for Nepali Local Bodies

Tier	Local body	
	Council	Committee
Ward (rural and urban)	N/a	Once/month
Village	Twice/year	Once/month
Municipality	Twice/year	Once/month
District	Once/year	Once/month

The Nepali case is, in all likelihood, mirrored elsewhere – lower tier councils can “afford” to meet on a relatively frequent basis, whilst upper tier councils meet less frequently, largely because of the higher organisational and transaction costs involved in bringing together members from a larger political catchment.

This, again, evokes the frequent trade-off between representation and service delivery functions – Village Councils in Nepal can “afford” to meet more regularly than District Councils, although the latter exercise oversight authority over a much wider range of services and considerably bigger budgets.

However, in all cases, committees need to meet on a more regular basis in order to oversee the implementation of the policies and budgets endorsed and approved by their respective councils. In Nepal, this is clearly recognised in legal provisions. Given that such committees do meet more frequently and effectively manage day-to-day LG business, it is obviously important to carefully craft the ways in which they are constituted (membership) and the extent to which their members are remunerated.

### **5.3. Councils and Local Administrations**

#### **(1) Appointed administrative executives and local government staffing**

LG councils are usually unable by their nature to manage the day-to-day affairs of their jurisdictions. Even when elected mayors or council leaders assume more executive powers, there is generally a need to establish some kind of a “dedicated” local administration.

In somewhat extreme cases, appointed executives can be heads or members of the councils. Thus, in the Maldives, the Island Development Committees and Atoll Development Committees are chaired by centrally appointed Island/Atoll Chiefs. In Nepal at the moment, although admittedly under rather specific circumstances, VDCs and DDCs are chaired by officials who are appointed by central government – respectively, the VDC Secretary and the Local Development Officer.

In some cases, LGs include appointed executives, with varying degrees of power with regard to elected councils. Sri Lankan provinces, for example, have governors who are appointed by the President of the Republic: they are responsible for executing the policies of their respective Provincial Councils through a board of ministers headed by a chief minister and no more than four other ministers. The governor appoints the chief minister, and the other ministers on the advice of the chief minister. In India, the Chief Executives of upper tier LGs are usually senior civil servants of their respective states (see also the previous section on appointment in local councils).

In such cases, where local executives are appointed by institutions other than the LG that they are expected to serve, the issue is almost always one of accountability and the relative power of elected representatives. The following inset provides some insight into the overall problematic in Indian rural LG.

### **India – are local bureaucrats accountable to elected representatives?**

The Government of Madhya Pradesh characterised the relationship between the Zilla Panchayat (ZP) CEO (Chief Executive Officer, appointed by the State Government) and the elected ZP President as similar to the relationship between the Chief Minister and the Chief Secretary of the State. However this was not the relationship observed in the field. The ZP CEO is accountable to the Collector, not to the ZP Chairperson. The situation was similar in Andhra Pradesh, Uttar Pradesh, Rajasthan, Maharashtra and Karnataka. Only in Kerala was the situation different – there, due to specific legislation, the ZP President was fully in charge – but, as a result, the government of Kerala had a lot of difficulty keeping the slots filled with Indian Administrative Service (IAS) officers.

Source: adapted from World Bank (2000)

The practice of central or state governments appointing the chief executives for LGs often creates divided loyalties among LG personnel and potentially dilutes local political control. In many formerly colonised countries, the practice appears to have been inherited from the deep-rooted colonial mistrust of local native administrations and the resulting wish to install a colonial functionary to guard against the possible misuse of power and wasteful expenditure. Accordingly, most locally elected officials in Asian countries see the practice as undermining the principle of local democracy and empowered local bodies.

In Indonesia, on the other hand, LG executive branches are nominated locally: the Regional Secretary is nominated by the (elected) Regional Head (at provincial, regency or city levels) and appointed by the President, whilst the Regional Secretariat is appointed by the Regional head with approval from the DPRD (or Regional Council). The Indonesian model, although it clearly runs risks of “political” appointments, does allow for a much greater degree of control over executives by locally elected representatives.

The issue of LG council control over staffing is often a thorny one – and, in many countries, mirrors many of the tensions inherent in systems where central government appoints local executives. Three basic options exist for LG staffing arrangements:

- separate, meaning that each LG body appoints and controls its own staff. This is, in theory, the case for a large proportion of civil servants in Indonesia since reforms in 2000 and onwards – in the period immediately after January 2001, it is estimated that some 2.3 million Indonesian civil servants were administratively transferred to the regions. In practice, given the recentness of reforms, regional authority over civil service management remains somewhat blurred.
- unified, in the sense that the senior management posts are filled from a central cadre of service for local authorities. This has historically been the case in Nepal, where VDC and DDC secretaries are appointed by the Ministry of Local Development, working alongside more junior, locally recruited and locally paid Village/District employees. In addition, line agency staff in Nepal continue to be largely accountable to their parent ministries, rather than to local bodies. This is also the case in India.
- integrated, meaning that the staff of central and LG agencies form a common cadre, and are exchanged freely between levels of government and localities according to central posting policies. This would appear to be the case in Bangladesh, where virtually all service delivery staff at local levels are directly employed by central government ministries.

How far local councils are effectively the employers of locally posted staff is an important determinant of their ability to shape service delivery – and thus of their ability to translate popular representation into accountable LG.

## **(2) Supervision of councils**

Whilst local councils enjoy varying degrees of autonomy, they are generally subject to some kind of upward accountability – to higher tier councils/LGs or to central government. In some LG traditions, notably the francophone one in Africa, this control can be fairly proximate, as well as being ex-ante.

The degree to which LG councils are subject to supervision is important in two fundamental respects. Firstly, too much external control or supervision effectively disenfranchises locally elected bodies, turning their “representative” role into one that can be denuded of accountability – simply because they have little authority to make binding decisions. Secondly, too little external control/supervision means that locally elected bodies are not held upwardly accountable for a range of public sector responsibilities (such as service delivery standards or the management of financial resources transferred from central or upper tier LGs. Finding the right balance is challenging.

In the case of Asia, the situation varies from country to country. In Vietnam, where the “Russian Doll” fabric of LG means that lower tiers are generally subordinate to substantial ex-ante and ex-post controls by upper tiers, supervision over lower levels is very much the norm. The decisions and actions of Commune People’s Councils and Committees are thus closely supervised by District People’s Councils/Committees, whilst the latter are – in turn – very much beholden to the authority of Provincial People’s Councils/Committees.

In Indonesia, by contrast, regional governments – by law – enjoy considerable autonomy from upper tiers; indeed, elected regency and city authorities have argued that they are in no way subject to the authority of provincial authorities. However, they (as well as the provinces) are subject to national supervision, in two ways:

- “repressive” supervision, which amounts to supervision over regional regulations and decrees, promulgated by DPRDs. This is the responsibility of the Ministry of Home Affairs (MoHA). MoHA has the responsibility to review regional regulations and declare void those that are contrary to “public interest, higher regulations, and/or other regulations”. The Minister of Home Affairs has formed several teams to review regional regulations: different review teams for financial regulations and organizational regulations, and for the election of heads of region. The national government review teams have, to date, found numerous irregularities in those regulations examined – generally concerned with regional finances or organization. As a result, the Government has refused to confirm the election of several heads of region, or postponed confirmation, and has issued many written requests to the regions to amend regulations on taxation, charges, and organizational structure to comply with national legislation.
- “functional” supervision: according to Government Regulation 20/2001, functional supervision is carried out by line ministries and by BPKP (the Financial Comptroller). However, detailed regulation of functional supervision awaits the development of minimum service standards (MSS) for each of the eleven obligatory service sectors that are managed by regional governments. In theory, the national Government is responsible for preparing guidelines for the standards, provincial governments set the actual standards to be applied in each locality, and the national Government then supervises the district governments’ performance.

## **6. TRADITIONAL SYSTEMS OF LOCAL GOVERNANCE AND THE PROCESS OF CHANGE**

### **6.1. *Traditional governance***

It is probably self-evident that “modern” LG systems did not emerge in a vacuum, and that in many countries “modern” systems continue to function alongside – and have even emerged from – “traditional” local governance arrangements. How do the two systems interact? What do we know about how their interaction shapes representational issues and the like?

#### **(1) *Building on traditional structures***

Many LG systems in South and South East Asia have been built quite explicitly on the basis of traditional governance structures, usually at their lowest levels.

In the Philippines, for example, the smallest unit of LG is the Barangay, which has its origins in the pre-colonial era – the term actually traces its origins to “balangay”, a type of Malay boat used by sea-faring settlers. The Barangay, then, refers to a historical community, to which local citizens are attached and with which they identify. The legitimacy of the Barangay as a traditional community structure thus serves to complement the more “modern” legitimacy of electoral representation.

In Timor-Leste, it seems clear that any LG system will be based on the foundation provided by the Sucos. The Suco, a traditional community, is the only institution that has remained more or less intact during the history of the territory. The Suco and its legitimacy provide an opportunity for a base unit of local governance and representation that reflects local identity. The Suco constitutes the only level of “Local Power” as provided for in the constitution. Recent laws have clearly signalled a “modernisation” of the Suco, through the holding of direct elections for the position of Suco Chief and for the members of the Suco Council, as well as through legal provisions ensuring that women, the youth and the elders are represented. However, the Suco remains a recognisably traditional structure, upon which have been grafted more modern democratic principles.

Building on traditional structures, then, can provide the basis for units of local representation with which citizens readily identify themselves. This implies that modern LG systems are not based on entirely imagined political communities.

#### **(2) *Returning to traditional structures***

Indonesia provides one interesting, if unique, example of re-constructing a system of LG that is based on traditional structures, of bringing “modern” administrative units into line with more “traditional” ones, and thus perhaps contributing to a more legitimate basis (in the eyes of local citizens) for representation.

In the province of West Sumatra the process of decentralisation has been particularly dynamic and idiosyncratic. Along with the general decentralisation of central political authority and economic resources to the regencies, a fundamental restructuring of local village government has been initiated. The policy of regional autonomy has been taken up “to return to the nagari”. Nagari is the name of the traditional, pre-colonial political units of Minangkabau political organisation. Despite all changes and transformations during the colonial period and since Independence, the nagari and nagari government have remained firmly associated with Minangkabau political identity. This changed rather dramatically, when the Law on Local Government of 1979 introduced the uniform model

of the desa as the lowest level of LG. The former nagari were split into several desa, administered by desa-heads embedded in the strictly hierarchical administrative system.

When decentralisation became a major issue in Indonesia under the "orde reformasi", this was taken up in West Sumatra to abolish the desa system and "go back to the nagari". Draft legislation has been prepared to re-establish the nagari as the lowest level of LG, with nagari councils made up of desa representatives as well as representatives of traditional Minangkabau institutions (the elders of matrilineages, clerics, and the like).

### **(3) Co-habitation, Co-option or Competition?**

In many countries, both developed and developing, traditional governance institutions manage to co-exist alongside their more "modern" counterparts. At the national level, the remaining monarchies in Europe are good examples of this.

At the local level, some of the most poignant examples of co-habitation between traditional and modern systems of governance are to be found in sub-Saharan Africa. There, traditional chiefs (and sometimes monarchs) retain considerable powers over, for example, customary land tenure regimes and often continue to play an important role in dispute resolution as well as in the organisation of ritual activities. For that reason, they have often needed to be brought into local governance – as the institutions that "represent" important functions at the local level.

Several examples of this type of co-habitation between tradition and "modernity" can be briefly cited:

- in post-apartheid South Africa, customary chiefs have continued to play an important role in a variety of areas, most importantly in dispute settlement. In recognition of the importance of traditional chiefs, the Government of South Africa passed a piece of landmark legislation in 2003 – the Traditional Leadership and Governance Framework Bill (Ministry of Provincial and Local Government, Pretoria) – recognising and codifying the functions of traditional chiefs, "modernising" them (women can now become chiefs), and formally defining their relations with LGs through traditional councils which the LG must consult on a range of issues.
- during the late 1990s, as Mali undertook major decentralisation reforms, it was early on recognised that new Communes would need to take into account traditional village and "fraction" (nomadic) chiefs. Such chiefs not only exercised considerable political authority over their communities, but were also key players in land tenure arrangements. As a result, the Local Government Code that was eventually enacted stipulated that Commune Councils had to consult all traditional village chiefs prior to voting on development plans, annual budgets and other LG actions.
- in Ghana, traditional chiefs enjoy considerable political and juridical authority and play a vital role in the management of customary land tenure arrangements. Ever since the colonial period, traditional Ghanaian chiefs have been organised into regional and national Houses of Chiefs. These institutions are necessarily consulted by Ghanaian LGs about a range of issues.

In such African cases, traditional chiefs "represent" custom – and custom is considered to be of importance. Hence the need for elected LGs to co-habit with them in a constructive way.

In the Pacific region, there is clearly a degree of co-habitation between traditional chiefs and LG systems. As in the African cases, this reflects the continued socio-political significance of traditional leadership. This co-habitation takes several forms:

- in PNG, the Organic Law on Provincial Governments and Local-Level Governments makes explicit provision for customary chiefs to be represented in provincial assemblies. According to the Law (Section 10), provincial assemblies include “where the chieftaincy system is in existence and is accepted in a province, paramount chiefs from the province not exceeding three in number or their duly appointed nominees, who shall be appointed by the Minister responsible for provincial government and local-level government matters on the recommendation of the Provincial Executive Council”. Chiefly representatives in PNG’s provincial assemblies enjoy full voting rights.
- in Fiji, customary institutions continue to play a significant role in local administration. Outside of the municipal system of government, most rural areas are administered through a combination of “modern” and “traditional” arrangements. Rotuma Island, which enjoys a special constitutional status in Fiji, is administered by its own council, made up of 14 voting members – seven of whom are the traditional chiefs of the island’s seven districts, chosen according to customary principles.

For South and South East Asia, there are fewer cases of this kind of officially and legally sanctioned co-habitation between traditional authorities and modern LGs. There are, however, a few examples (although they are not necessarily “local”):

- in Bhutan, of the 150 members of the National Assembly (*Tshogdu*), 10 are representatives of the monastic body, nominated by the Central Monastic Body in Thimphu and the 8 district monastic bodies. This representation of the Buddhist clergy reflects the importance of religion in Bhutan.
- in Malaysia, 9 of the 13 constituent states of the federation, are headed by hereditary monarchs or sultans – one of whom, on a rotating five-year basis acts as Head of the Federation. Although these are clearly constitutional monarchies, they do demonstrate how the traditional and “modern” can co-habit.

Customary Panchayats (CPs) continue to thrive in many parts of rural India. CPs have a number of important local functions, *inter alia*:

- CPs are expected to maintain law and order in the villages and to act as custodians of ‘traditional’ norms and rules defining the social order.
- the most important function of CPs is arbitrating disputes in the village.
- in addition, CPs also act as support structures in specific situations.
- CPs play a significant role in informal resource mobilization, which may be utilized for village development activities.

CPs are village-based, male-dominated, and are usually led by the leaders of the different castes that make up the village. The CP is an extension of caste, albeit one of the more inclusive forms.



CPs are not recognized in any legislation on LG and are thus entirely informal – despite their obvious importance in local governance. Moreover, recent research in Karnataka<sup>9</sup> indicates that CPs exert a powerful influence over Gram Panchayats, formal LG institutions. This influence manifests itself in a number of ways:

- deciding the choice of candidates: CPs decide on who should contest elections or influence the type of members that are represented in the Gram Panchayat.
- unanimous elections: At times CPs may exercise influence to the extent of ensuring that the candidates of their choice are elected unopposed, in other words cause ‘unanimous’ elections.
- overlap of leadership: Often CP leaders and/or members themselves contest GP elections. This leads to an overlap of leadership between the customary and statutory institutions.

There is, then, a high degree to which a traditional structure of governance, dominated by very “customary” interests, interfaces with its modern, “democratic” counterpart – and clearly exerts a powerful influence over the latter. In such circumstance, “representation” must be qualified given that CPs play such a big role in determining who are to be the representatives.

## **6.2. Evolutions**

In many new or emerging countries, particularly those that have experienced serious conflict (e.g. Cambodia, Timor-Leste, Afghanistan), LG and local elections may well be low on the list of national political priorities. But if and when those countries do begin to establish locally-elected councils and LG systems, can we see any pattern to that process? How far do newly implanted systems of local electoral representation build on tradition, if at all?

### **(1) Top or bottom?**

In Cambodia and Timor-Leste, elected representation has begun at the lowest level in the LG system – communes in Cambodia (in 2002) and Sucos in Timor-Leste (ongoing). In both cases, there are plans to gradually establish higher level LG bodies – although Cambodia is probably further ahead than Timor-Leste in this respect.

In Timor-Leste’s case, as has been seen (above), it seems clear that the process will be anchored in the Sucos, as traditional institutions – but themselves “modernised” through the introduction of competitive elections for Suco chiefs and Council members. In the case of Cambodia, on the other hand, it would seem that the Communes have been created *ex-nihilo*, although it may well be that they do have antecedents in colonial administrative constructs.

In Afghanistan, however, there would appear to be a preference for beginning with the establishment of elected councils in the 32 provinces (at the apex of the LG hierarchy), and then perhaps move on to district level elections. By all accounts, village councils as envisaged in the Constitution appear to have been “forgotten” in Afghanistan.

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<sup>9</sup> see “Interfaces in Local Governance - A Study in Karnataka”, Kripa AnanthPur, May 2004, Working Paper No. 187 Madras Institute of Development Studies, Chennai

## **(2) *Big bangs or incremental reforms?***

Two of the countries covered by this paper – Indonesia and Pakistan – have recently undertaken major overhauls of their LG systems. In both cases, the reforms have included major changes to electoral processes and representational arrangements, as well as a significant devolution of powers and responsibilities to LGs (especially in the case of Indonesia). These have been bold reforms – but it is still too early to know how far their “representational” ambitions have succeeded.

Other countries, notably Bangladesh, appear to have taken a much more incremental approach to reforms. The lowest tier, the Union Parishad, is still the only level at which elected bodies operate – although it is conceivable, depending on political considerations, that the system will “grow” upwards to encompass Upazilas.

Nepal has actually taken significant steps backwards as a result of military conflict and political crisis: in 2002, elected local bodies were dissolved and have yet to be replaced through elections.

## 7. CONCLUSIONS AND NEXT STEPS

This Background Paper makes no pretence at being exhaustive. In addition, and given the rapidly evolving nature of arrangements for electoral representation at the local level in the Asia-Pacific region, it is inevitable that the paper includes inaccuracies. Further practitioner input and dialogue will help to improve the paper and our understanding of representational issues at the local level.

That said, it can only be hoped that this paper does provide practitioners in the local governance field with food for thought by:

- bringing into the foreground (in section 2) some of the basic electoral principles that underlie the diversity of electoral systems and how they may affect representational outcomes. The paper has also tried to look at the fundamental options available, and to hint at some of the trade-offs inherent to each. No electoral system is perfect, and each has its advantages and disadvantages – but it is important to try to understand how they “work” and to then “match them to specific socio-political realities. What may “work” in one context may not yield the same outcomes in another context.
- looking (in section 3), however fleetingly, at some of the issues that arise in the context of political parties and at some of the implications of political parties for local electoral systems (and vice versa);
- exploring (in section 4) some of the ways that different countries have tried to tackle the difficult issue of safeguarding and promoting local level representation for those citizens (women, socially disadvantaged groups, indigenous peoples, minorities, and the like) whose political “voice” often goes unheard. In addition, the paper briefly looked at some of the ways that different countries have tried to deal with sensitive socio-cultural situations and sub-national strife by making special local arrangements;
- putting (in section 5), albeit briefly, local representational systems into their broader demographic and administrative context and seeking to point to how these non-electoral issues impinge upon representational outcomes;
- examining (in section 6) some of the ways that traditional modes of local governance interact and articulate with their “modern” counterparts.
- describing (in section 8) the considerable diversity in current local electoral and representational arrangements that have been put into place in a variety of Asian and Pacific countries;

Food for thought, however, does not put a meal on the table. A great deal about local representational systems in the Asia-Pacific region remains undocumented, uncharted and not very well understood. In particular, a number of issues require more empirical research and an improved conceptual understanding, *inter alia*:

- the concrete outcomes of different electoral systems, in terms of who gets elected and how, how different systems are subject to manipulation, how they affect the machinery of day-to-day LG, and so on;
- the ways in which political parties interface with local electoral systems, and what the representational outcomes of that encounter are;

- the options that are available in the context of different electoral and representational systems for implementing measures that genuinely result in the weak being able to wield power that is proportionate to their numbers. Perhaps most importantly here is to find ways of “mainstreaming” affirmative action such that it becomes less contentious;
- the wider bottlenecks and constraints that limit the extent to which local representation translates into local actions of benefit to voters;
- the ways in which the legitimacy conferred by local custom and tradition can be harnessed to improve and strengthen local representational arrangements without diluting fundamental democratic principles and rights.

A more complete knowledge and better analysis of such issues will help improve our understanding of the “plumbing” electoral and representational arrangements – and would help us become better “plumbers”. However, and perhaps more importantly, much more work needs to be done to understand how electoral and representational arrangements at the local level pan out in terms of livelihood outcomes – what comes out of the plumbing system.

Here, future work and thinking could focus on a number of issues:

- the kinds of representational systems that enable the poor and other politically weak groups to translate their local political power into appropriate policies and services;
- the limits to local electoral representation as a way of tackling important, poverty-related and social inclusion issues and the other changes that need to be made in order for this to happen;
- the circumstances under which genuinely representative LGs are able to deliver pro-poor services.

## 8. ELECTORAL REPRESENTATION IN DECENTRALISED GOVERNANCE IN ASIA-PACIFIC REGION: COUNTRY CASE STUDIES

This section of the background paper summarises the information available on local electoral processes in a range of South West and South East Asian and Pacific region countries.

### 8.1. South and West Asia

#### 8.1.1. Afghanistan

Currently there is no fully-fledged system of LG in Afghanistan. However, the 2004 Constitution does provide for the establishment of provincial, district and village councils, as well as municipal bodies, although the roles of such representative bodies would appear to be largely of a consultative – rather than deliberative – nature. The 2004 Law on Provincial Councils clearly assigns an advisory role to the Provincial Councils; as yet, no specific legislation has been enacted defining the precise roles of district and village councils.

The following table provides a summary of the Afghanistan system of local representative bodies as envisaged in the Constitution.

Table 9: summary structure and features of LG system in Afghanistan

Rural areas		Urban areas	
Levels	Representative bodies	Levels	Representative bodies
34 Provinces Avge. popn. = 630,000	9-29 directly elected councillors. Chairman selected by council.	34 Provincial Municipalities	Elected municipal councils exist in a limited number of cities only. New draft election law foresees elected councils with at least 9 members and a directly elected mayor.
361 Districts Avge. Pop. = 60,000	5-15 directly elected councillors.		
Villages – demarcation not completed	<i>No elected councillor</i>		

#### Provincial Councils

Provincial councils are composed entirely of directly elected members, elected in proportion to the population through free, direct, secret ballot, and general elections by the residents of the province for a period of four years in accordance with the law.

The councillors elect a Chairman of the provincial council from among themselves.

Each provincial council elects one of its members to become a member of the Afghani Senate (Meshrano Jirga, or House of Elders) for a period of four years.

### District Councils

District councils are also composed entirely of directly elected members, elected in proportion to the population through free, direct, secret ballot, and general elections by the residents of the district for a period of three years in accordance with the law.

The district councils in each province elect one of their members to sit in the Afghani Senate (Meshrano Jirga, or House of Elders) for a period of three years.

### Village Councils

Village councils are also composed entirely of directly elected members, elected in proportion to the population through free, direct, secret ballot, and general elections by the residents of the village for a period of three years in accordance with the law.

### Municipal Councils

The mayor and members of the municipal councils are elected by free, general, secret, and direct elections. It is worth noting here that mayors are the only local council leaders in Afghanistan who are to be directly elected.

The draft law on municipal elections provides for municipal councils made up of at least 9 members:

- at least 7 of whom are representatives of nahias (wards), where nahias are officially recognised, with nahia representatives to be elected on the basis of FPTP. In municipalities with less than 7 or no officially recognised nahias, non-nahia councillors are to be elected from a single municipal constituency (which will not include any nahias), with the candidates receiving the most votes being elected to the municipal council;
- 2 reserved seats for women councillors, to be elected by a municipal constituency, with the candidates receiving the most votes being selected.

According to the same draft law, mayors are to be directly elected by municipal constituencies on the basis of receiving either more than half the votes in the first electoral round, or the majority of votes in a runoff between the two candidates having obtained the most votes in the first round.

As stated above, these provisions are at their draft stage at the time of writing (early 2006).

### Electoral issues

The Electoral Law (2004) sets out a Single Non-Transferable Vote (SNTV) system for elections of all local councils in Afghanistan. No ward system is foreseen (or needed) and elections are direct.

The Electoral Law includes a provision for the allocation of seats to the two most voted women candidates in the district and provincial councils (articles 31 and 36). However, the law is not very specific with respect to the procedures/requirements for nominating women, and does not contain any additional elements aimed at ensuring gender balance in the councils.

The existing Electoral Law includes a minimum age for candidates for the Wolesi Jirga (House of Representatives) and for the candidates to be appointed for the Meshrano Jirga (25 and 35 years, respectively).

The electoral system for the national level is classified by IDEA International as being SNTV (Single Non-Transferable Voting).

Political parties are allowed to contest local elections, although the SNTV electoral system – as compared to PR-List – would appear to dilute their importance and influence.

### 8.1.2. Bangladesh

The structure and basic features of LG in Bangladesh are summarised in Table 10:

Rural areas		Urban areas	
Levels	Representative bodies	Levels	Representative bodies
64 Districts or Zilas Avge population: 1.9 million (includes 3 special Hill Districts)	No direct political representation. A Zila Parishad consists of a ZP Secretary, Accountant and in some districts an LGED Engineer. District Development Co-ordination Committee consists of DC and line dept heads	6 City Corporations	Direct political representation Directly elected Mayor and commissioners
469 Sub Districts or Upazilas Avge population: 250,000	No direct political representation. Upazila District Co-ordination Committee (UDCC) comprising: UP Chairmen, UNO (secretary), MP (special adviser), Line dept officers (non voting)		
c. 4,500 Union Parishads (UPs) Avge population: 27,000	13 elected members (1 Chair, and one member for each of nine villages/wards and 3 women members each representing 3 villages/wards).	278 Pourashavas or Municipalities	Direct political representation Directly elected Chairman and commissioners
c. 68,000 Villages/Wards or Gram Sarkar Avge population: 1,500 – 1,750	No direct political representation. 15 person council chaired by the UP member. UP woman member serves as adviser in her three wards.	Urban Wards	

Notes: DC = Deputy Commissioner (appointed); UNO = Upazila Nirbahi Officer (appointed)

The electoral system at both national and local levels is based on a term basis. Each term or tenure is for five years. Any person over 18 is eligible to vote and any person 25 years or older is eligible to contest for Chairman, member, commissioner or MP.

Theoretically, no political party can nominate any candidate for local level elections, but in practice all candidates – commissioner/mayor/chairman – are individually supported by political parties.

CHAPTER III, Article 59 (1) of the Constitution of Bangladesh states that LG in every administrative unit of the Republic shall be entrusted to local bodies, composed of persons elected in accordance with the law.

A variety of local bodies are provided for by law:

- The Union Parishads (Union Councils);
- The Upazila Parishads;
- The City Corporations;
- The Pourashavas (Municipal Committees); and
- The Hill District Councils.

In reality, there is considerable deviation from statutory provisions in terms of elected local bodies at different levels.

#### Village level

There is no directly elected representative body at the village/ward level in rural areas. The current Government, however, enacted legislation in July 2003 for the establishment of Gram Sarkar to be constituted at Ward level. These bodies will comprise a 15 member council, chaired by the elected UP member, with the Women's UP member serving as adviser to each of the three wards representing their constituency. The membership of the Gram Sarkar will comprise a range of "selected" leaders and community representatives. The guidelines for the selection of Gram Sarkar suggest the following composition: three women representatives including a trained Ansar/VDP member; one farmer; two landless farmers; one male Ansar/VDP member; one teacher; one physician or professional; one businessman; one member of cooperatives; one ex-freedom fighter; and one distinguished individual. Selection of the membership is the responsibility of the UNO and ideally should be based on the consensus of at least ten per cent of the population of the ward. It should be noted that the establishment of these bodies has been very controversial, with some seeing it as undermining the Union Parishads themselves.

#### Union Parishad level

Since the passage of the Local Government (Union Parishad) Ordinance in 1983 and subsequent changes (the most recent being 1997 Act Number 20) each Union Parishad (UP) is now composed of 13 elected representatives including a chair, nine members (one from each ward) and three women elected to reserved seats based on one female representative for every three wards. Standing committees undertake and execute the various functions of each Union Parishad. There are 13 committees in all. Women are to head one third of them and are further mandated to head the committee on women's and children's welfare, culture, and sports.

#### Upazila (sub-district) Parishad level

Since 1991, after the short-lived experiment pioneered by General Ershad in the 1980s, there has been no directly elected representation at the Upazila level, despite pledges by both parties to reinstate these councils in their election manifestos, and despite widespread calls by civil society for elected councils to hold the very substantial Upazila administrations to better account. The representation of government departments and agencies at this level continues, but their officers remain under the full authority of central government and operate with upward accountability. There is a recognition that planning and co-ordination of development activity is required at the Upazila level, and this is provided by both the Upazila Nirbahi Officer (UNO), the central government appointed



officer with responsibilities for administrative co-ordination, and by the Upazila Development Coordination Committee (UDCC). The UDCC comprises the chairmen of the respective UPs within the Upazila and is chaired on a rotating basis by a Union Chairman. The Members of Parliament act as Special Advisers to the UDCCs and the UNOs serve as Member Secretaries. Upazila level officers of government line agencies are non-voting members. The UDCC is not a corporate body but is rather an administrative body that aims to coordinate, monitor, and contribute to the planning of development activities in the Upazila.

#### Zila (district) Parishad level

According to existing constitutional provisions there should be a council for each Zila (district). A Zila Parishad should consist of a chairman, 15 members and five members of reserved seats for women. The chairman and the members are supposed to be elected by an electoral college. However, elections to this level have never been held, due both to legal complications and to the fact that many in Bangladesh feel that this is not an appropriate level for such bodies.

#### Chittagong Hill Tracts (CHT) district parishads

In addition to the LG levels mentioned above there are also the three CHT District Parishads provided for under separate acts for each Hill District. Assuming that the basic principles of one act apply to the other and the fact that only one act was available the information below is drawn from the Rangamati Hill District Local Government Parishad Act, 1989. The Hill District Parishads have been established to give representation to the tribes living in the Hill District Areas. Each Parishad has a designated number of tribal members as well as a Chairperson and non-tribal members. The tribal seats are further divided according to the number and proportion of tribes in the Hill District. The members are elected by the population of the Hill Districts. The Chairperson is elected from amongst the tribal members. The electoral procedures for the Hill District Parishads are determined by the government.

#### Urban local government

This consists of Pourashavas for smaller municipalities and City Corporations for the 6 largest cities. The heads of city corporations are called mayors and for pourashavas they are called chairmen. Members are called commissioners. Mayors and chairmen are directly elected every five years; and all commissioners (representing their respective urban wards) are directly elected every five years. There are particular numbers of reserved seats for women who are elected directly.

#### Organisation of elections

Existing laws and rules governing the conduct of elections to different local bodies empower the Bangladesh Election Commission, established under Chapter VII, Article 118 of the Constitution to conduct local level elections.

The electoral system at the national level in Bangladesh is classified by International IDEA as FPTP.

### **8.1.3. Bhutan**

The highest level of LG in Bhutan is the Dzongkhag Yargay Tshogdu (DYT) (District Development Committee), which is regulated by the Dzongkhag Yargay Tshogdu Chatrim, 2002. Under the Dzongkhag level is the Geog Yargay Tshogchung (GYT) (Block

Development Committee), which is regulated by the Geog Yargay Tshogchung Chatrim, 2002. There are also two Municipal Corporations (Thimphu and Phuntsholing) constituted under the Bhutan Municipal Act, 1999.

In the absence of political parties in Bhutan, any LG elections are effectively conducted on a non-partisan basis.

Table 11: summary structure and features of LG system in Bhutan

Rural areas		Urban areas	
Levels	Representative bodies	Levels	Representative bodies
20 DYT (Dzongkhag Yargay Tshogdu) – district  (also called District Development Committees)  Avge population = 30,000	Committee composed of: - Chairperson (elected by DYT members) - Nat'l Assembly member (chimi) - gups and mangmis (elected heads and deputy heads of constituent GYTs) - representative of constituent municipality (this is only the case for Thimphu and Phuntsholing as the only municipalities) - non-voting members		
199 GYTs (Geog Yargay Tshogdu) – block  Avge pop = 3,000	Committee composed of: - gup (head, elected) - mangmi (deputy head, elected) - tshogpas (representative of village, elected)	2 Municipalities	Municipal Committee composed of: - Chairperson and Mayor appointed by Government - 9 members (either elected or appointed) - 15 members (9 elected and 6 appointed) in the case of Thimphu

### Dzongkhags

Article 3 of the DYT Chatrim prescribes that the DYT consists of a Chairperson; local chimis (the people's representatives to the National Assembly); gups (elected heads of constituent GYTs) and the mangmis (deputy heads of the constituent GYTs) as ex-officio voting members; and one representative of any municipalities (of which there are only two, Thimphu and Phuntsholing) as a voting member, as well as a number of other members acting as observers, without voting rights. The Chairperson is elected through secret ballot by the voting members of the DYT. The election of ex-officio members is governed by the Chatrim regulating the election to the positions giving them ex-officio membership, i.e. the GYT Chatrim for gups and mangmis and the Chatrim for Election of National Assembly Members for chimis. The representatives from the municipalities and towns are elected through secret ballot amongst all eligible voters of the municipalities and towns in the district.

### Geogs

As per Article 3 of the GYT Chatrim, the GYT is made up of the gup, the mangmi and the tshogpas (representatives of villages or clusters of villages). Chimis, Geog clerks and

representatives of the various sectors within the Geogs attend as observers. The gup may invite representatives of the various sectors and any other observers as needed. The GYT members are to be elected in accordance with an Election Act which has yet to be adopted by the National Assembly. Elections are currently regulated by the GYT Chatrim, which states that all members are to be elected by secret ballot. In the event that more than one candidate is standing for election, it is the candidate securing the highest number of votes that is declared to be elected. If there is only one candidate, votes of 'yes' and 'no' are to be cast. Only if the candidate receives more than 50 percent 'yes' votes out of the total ballots cast can s/he be elected. Otherwise the Geog must nominate another candidate. For the election of the gup, a minimum of two officers appointed by the Dzongkhag oversee the election (Article 5).

### Municipalities

As provided by Sub-part 2 of the Municipal Act, for Municipal Corporations the Municipal Committee is the highest decision making body, consisting of a Chairperson who is appointed by the government; the Thrompen (Mayor) – who is the executive head of the Municipal Corporation – appointed by the government; and not more than nine other committee members elected or appointed in accordance with this Act. Whether or not the committee members are to be elected or appointed is to be decided in the corporation charter. A municipality may be divided into several geographical areas depending on its size and when members are appointed through elections, the elections are held for each geographical area. Elections are to be by consensus. If, however, no consensus can be reached a secret ballot is to be held with the candidate with the largest number of votes being the first committee member elected, the candidate with the second highest number of votes elected as the second committee member, and so on, until the required number of committee members are elected. The Thompen is responsible for conducting the elections to the Municipal Committee (Subpart 3).

The electoral system at the national level in Bhutan is classified by International IDEA as FPTP.

### **8.1.4. India**

Table 12: summary structure and features of LG system in India

<b>Rural areas</b>		<b>Urban areas</b>	
<b>Levels</b>	<b>Representative bodies</b>	<b>Levels (single-tiered)</b>	<b>Representative bodies</b>
459 Zilla Panchayats Largest = 800,000 Smallest = 100,000	Council/Panchayat	Municipal Corporations Avge pop = 1,000,000 Largest = 14,000,000 Smallest = 200,000	Council
5,930 Panchayat Samitis Largest = 330,000 Smallest = 3,000	Council/Panchayat	Municipal Councils Avge pop = 350,000 Largest = 500,000 Smallest = 50,000	Council
240,000 Gram Panchayats Largest = 20,000 Smallest = 670	Council/Panchayat	Nagar panchayats Avge pop = 25,000 Largest = 50,000 Smallest = 5,000	Council
		In total, 3,694 urban LG units	

Section 243B of the Constitution provides for the constitution of Panchayats in every State, at the village, intermediate and district levels. It is the responsibility of the Legislature of a State, and not the federal government, to make legal provisions with respect to the

composition of Panchayats provided that the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State.

Each of India's 28 states thus has its own LG legislation, although laws are very similar in each state. Amendments are infrequent and currently the legislative environment is stable. In principle and practice, the involvement of political parties in LG elections varies from state to state.

### Panchayats

The Panchayats are situated in the rural areas of India. In 22 states there are three tiers in the Panchayati system, in one (Goa) there are two tiers, and in five (Jammu and Kashmir, Manipur, Meghalaya, Mizoram and Nagaland) there is one. States with populations of less than two million are not required to adopt the three-tiered system. They are not strictly hierarchically organised, rather there is a division of duties between them. There is a limited coordination role for higher levels of the Panchayati authorities. Rural councillors are elected for five-year terms. The elections for council leader can be direct or indirect, depending on state law.

All councillors are directly elected by a FPTP system. All the seats in a Panchayat are to be filled by persons chosen by direct election from territorial constituencies in the Panchayat area. For this purpose, each Panchayat area is divided into territorial constituencies in such a manner that the ratio between the population of each constituency and the number of seats allotted to it shall, to the extent possible, be the same throughout the Panchayat area. The Legislature of a State may, by law, provide for the representation of certain individuals to the different levels of the Panchayats. All members of the Panchayat, whether chosen through elections or not, have the right to vote in Panchayat meetings. The Chairperson of a Panchayat at the village level is to be elected in the way prescribed by each Legislature of a State whereas a Panchayat at the intermediate level or district level is elected by, and from amongst, the elected members thereof (Article 243C). One-third of all seats are reserved for women. There are also reserved places for Scheduled Castes and Scheduled Tribes, determined by their proportion of the local population. One third of the places reserved for scheduled castes and tribes must be allocated to women. Provisions are also made for the offices of the Chairperson to be reserved for these groups (Article 243D).

In both rural and urban areas, the women members elected under the reserved places represent a ward like any other member. Six months prior to local elections, one-third of the wards are earmarked for women representatives. At the following election these wards lose their women-only status, and a further third of the municipality's or panchayat's wards are designated for women candidates only.

The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of all elections to the Panchayats are the responsibility of the State Election Commissions. Subject to the provisions of the Federal Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Panchayats (Article 243K).

### Municipalities

Article 243Q of the Constitution provides for the establishment of Municipalities in every State. The various types of municipality are: (i) a Nagar Panchayat (by whatever name it is called locally) for a transitional area, that is to say, an area in transition from a rural area to an urban area; (ii) a Municipal Council for a smaller urban area; and (iii) a Municipal Corporation for a larger urban area.

All seats in a Municipality are filled by persons directly elected from territorial constituencies, with the exception of such members as the Legislature of State may provide for representation by law, such as persons having special knowledge or experience of Municipal administration. It is the Legislature of the State that decides how the Chairperson of the Municipality is to be elected (Article 243R). Within the territorial area of a Municipality which has a population of 300,000 or more, Ward Committees, consisting of one or more wards, are constituted. It is the Legislature of a State that by law makes provisions for the composition and the territorial area of a Ward Committee and the manner in which the seats in a Ward Committee shall be filled. It is the person who represents the Ward in the Municipality who shall act as its Chairperson (Article 243S). Article 243T lays down the same principle for the reservation of seats in the Municipalities as in the Panchayats.

In two states, West Bengal and Madhya Pradesh, a mayor-in-council system has been introduced in urban areas. These mayors are directly elected for five years with executive powers. In other municipal bodies mayors are elected for one year at a time. In some they are elected for two years – half the full term of the council. Where there is a mayor-in-council system, a cabinet-style executive committee is appointed by the mayor.

As in the case of the Panchayats, the responsibility for municipal elections rests with the State Election Commission and (subject to the provisions of the Federal Constitution) the Legislature of a State, by law, makes provision with respect to all matters relating to, or in connection with, elections to the Municipalities (Article 243ZA).

The electoral system at the national level in India is classified by International IDEA as FPTP.

### **8.1.5. Nepal**

At the local level, both independent candidates and political parties can contest elections.

#### Villages

Section 4 of the Local Self-Governance Act (LSGA), 2055 (1999) provides that the national territory shall be divided into Village Development Areas, each of which is further divided into nine Wards (Section 5). Each Ward Committee is to consist of one Ward Chairperson, one Women Ward Member and three Ward Members elected by the eligible voters within each ward (Section 7). The Village Council which is constituted in each Village Development Area consists of the Village Development Committee Chairperson and Vice-chairperson, the members of the Ward Committees within the Village Development Area and six persons, including one woman, nominated by the Village Council from amongst the poor and tribes, ethnic communities and indigenous peoples (Section 8).<sup>10</sup> There is also to be a Village Development Committee, which acts as an executive of the Village Council. The Committee is headed by a Chairperson and Vice-chairperson directly elected by eligible voters within the village development area, the Chairpersons of the Ward Committees, and two members, including one woman nominated by the Village Development Committee, on the same principles as in the case of the Village Council (Section 12).

#### Municipalities

Section 72 of LSGA provides that any area having a population of at least twenty thousand and with electricity, roads, drinking water and communications facilities may be designated as a Municipal Area. Each Municipal Area should be further divided into no less

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<sup>10</sup> This is the terminology used in the legislation.

than 9 Wards (Section 73). Each Ward is to have a Ward Committee constituted of one Ward Chairperson, one Woman Ward Member, and three Ward Members elected by eligible voters within each district (Section 75). Each Municipal Area is to have a Municipal Council consisting of the Mayor and Deputy Mayor of the Municipality; the Ward Chairperson, Woman Ward Member and Ward Members of each Ward Committee; and no less than 6 persons and no more than 20 persons including women nominated by the Municipal Council from amongst the poor and tribes, ethnic communities and indigenous peoples. At least 40 percent of those selected in this way must be women (Section 76). Section 80 provides that a Municipality is to be constituted as an executive of the Municipal Council in a Municipal Area. The Municipality is to consist of the Mayor and Deputy Mayor directly elected by eligible voters within the Municipal Area; the Chairpersons of the Ward Committees; and two Members including one woman nominated by the Municipality on the same principles as in the case of the Municipal Council.

Table 14: summary structure and features of LG system in Nepal

Rural areas		Urban areas	
Levels	Representative bodies	Levels	Representative bodies
75 Districts Avge population = 300,000	<ul style="list-style-type: none"> <li>- District Council - varying number of members (Chairpersons and Vice-Chairpersons of all constituent VDCs, Mayors and Vice-Mayors of all Municipalities, DDC members, local members of National Assembly and House of Representatives [ex-officio members], and 6 members nominated by the District Council from the general public [including at least 1 woman and DAG representatives]);</li> <li>- District Development Committee (DDC) - varying number of members (Chair and Vice-Chair [both of whom are elected by and from constituent Village and Municipal Councils], Ilaka/area members [elected by and from constituent Village and Municipal Councils]), local members of the National Assembly and the House of Representatives [ex-officio members], and 2 members nominated by DDC from District Council [including at least 1 woman])</li> </ul>		
c. 6,000 Villages Avge population = 3,500	<ul style="list-style-type: none"> <li>- Villages made up of 9 wards, represented by Ward Committees (5 members = Chair, 1 woman, 3 others, all directly elected for 5 years by ward population);</li> <li>- Village Council, made up of 53 members (VDC Chairperson and VDC Vice-Chairperson [directly elected for 5 years by Village population], all Ward Committee members, and 6 persons nominated by Village Council [including at least 1 woman and representatives of Disadvantaged Groups (DAGs)]);</li> <li>- Village Development Committee (VDC) - 13 members (Chairperson, Vice-Chairperson, 9 Ward Chairs, 2 Village members [selected by Village Council and including at least 1 woman]).</li> </ul>	Municipal areas	<ul style="list-style-type: none"> <li>- Municipalities made up of at least 9 wards, represented by Ward Committees (5 members = Chair, 1 woman, 3 others, all directly elected for 5 years by ward population);</li> <li>- Municipal Council – made up of Mayor and Deputy Mayor (directly elected), Ward Committee members, and 6-20 persons nominated by the Council from women and DAGs;</li> <li>- Municipality – varying number of members (Mayor, Deputy Mayor, Ward Chairs, 2 other members [selected by Municipal Council and including at least 1 woman]).</li> </ul>

## Districts

The highest level of LG is the District Council which, in accordance with Section 172 of LSGA, consists of the Chairperson and Vice-chairperson of each Village Development Committee in the District, the Mayor and Deputy Mayor of each Municipality in the District, the Members of the District Development Committee, the Members of the House of Representatives and the National Assembly within the District as ex-officio Members, and six persons, including one woman nominated by the District Council from amongst the poor and tribes, ethnic communities, and indigenous peoples. The District Development Committee is constituted as an executive body of the District Council and in accordance with Section 176 is made up of Members elected by the elected Members of the Village Council and Municipal Council in each area (known as an Ilaka) of the district from amongst themselves at the rate of one Member from each area; a President and Vice president elected by the elected Members of each Village Council and Municipal Council in the district from amongst themselves; Members of the House of Representatives and the National Assembly within the District as ex-officio Members; and two Members, including one woman nominated by the District Development Committee on the same principles as in the case of the District Council.

## Organisation of elections

The Constitution empowers the Election Commission to conduct, supervise, direct and control the election to the local bodies at the village, town and district levels. The electoral rolls of voters for the above purposes are also to be prepared by the Election Commission.

The electoral system at the national level in Nepal is classified by International IDEA as FPTP.

### **8.1.6. Pakistan**

The LG of Pakistan is divided into several levels with District/City District as the highest level together with Tehsil and Town Administration. Below this level come the Unions. There are also Village and Neighbourhood Councils.

LG elections are held on a non-party basis. The electorate for the union councils is made up of all registered voters who are Pakistan citizens and who are over the age of 18. For the 2001 local elections, the voting age was lowered from 21 to 18.

## Union Councils

The foundation of the electoral structure for the three tiers of LG is the Union Council. The Union is a multi-member ward for the election of members of the union council (i.e. each constituency is on average 25,000, which is large), and each Union Council is composed of 13 directly elected members<sup>11</sup> - prior to the 2005 amendment of the Local Government Ordinance (LGO), there were 21 directly elected members in each Union Council. The nazim and naib nazim (mayor and deputy mayor) are elected on a joint ticket. The remaining 11 seats on the union council are allocated as follows:

- 6 Muslim members elected to general seats (including two reserved for women);
- 4 members elected from peasant and worker classes (including two seats reserved for women);

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<sup>11</sup> Councilors must be at least age 25, be a Pakistani citizen residing in the relevant ward, of good Muslim character (except for non-Muslims), and must not have been convicted of various crimes, nor be an employee of federal, provincial or LGs. Nazims and naib Nazims must have a matriculation or secondary school certificate.

- 1 member elected to a seat reserved for minority communities<sup>12</sup>

Table 14: summary structure and features of LG system in Pakistan

Rural areas		Urban areas	
Levels	Representative bodies	Levels	Representative bodies
102 Districts	District Councils – composed of UC nazims and others (district nazim and district naib nazim + others) elected by all UC councillors in the district	8 City Districts Largest = > 9,000,000 Smallest = 565,000	City District Councils – composed of UC nazims and others (district nazim and district naib nazim + others) elected by all UC councillors in the City District
331 Tehsils	Tehsil Councils – composed of UC naib nazims and other members (tehsil nazim and tehsil naib nazim, and others) elected by all UC councillors in the tehsil	62 City Towns	City Town Councils – composed of UC naib nazims and other members (tehsil nazim and tehsil naib nazim, and others) elected by all UC councillors in the City Town
6,127 Unions Avge population = 25,000	Union Councils – 13 elected members, headed by nazim and naib nazim	Unions	Union Councils – 13 elected members, headed by nazim and naib nazim

### Tehsil and District Councils

The nazim of the Union Council then becomes ex-officio a member of the District Council. The naib nazim of the Union Council becomes ex-officio a member of the Tehsil Council

The union councillors constitute the Electoral College for the District/Tehsil councillors at large and for the district and tehsil nazim (who cannot be a union councillor).

District councils include all the Union Council nazims and Tehsil Councils include all the Union Council naib nazims. Elected union councillors are not permitted to stand for election as nazim of any Tehsil or District. Tehsil/District nazims are elected by all the union councillors in their respective jurisdictions. They stand as a joint ticket once all the union councillors in their District have been elected. Naib nazims of Tehsils and Districts, on the other hand, are indirectly elected by Tehsil/District councillors from amongst themselves – and thus do not share the same electoral college as the nazim.

Each tier of LG has a term of office of four years<sup>13</sup>, with a two-term limit for nazims and naib nazims at all levels of government.

The number of reserved seats in either District or Tehsil Councils is calculated as a percentage of the number of UCs in the District/Tehsil. One third of seats are reserved seats for women – directly elected at UC level and elected by the electoral college of Union councillors at Tehsil and District levels. This emphasis on women's participation in politics is a dramatic break from the past. In addition, 5% of District and Tehsil seats have been reserved for peasants (in rural constituencies) or workers (in urban areas), and 5% for minorities. Thus, overall, District Councils and Tehsil Councils are made up of about two thirds directly elected members and one third indirectly elected, including the nazim and naib nazim.

<sup>12</sup> Where the population of minorities exceeds 10% of the Union's population, there is provision for the number of minority community seats to be increased by reallocating Muslim general or peasant/worker seats.

<sup>13</sup> The term of office was changed from three years through an amendment in 2002.



Box 1 illustrates how the electoral system operates.

### Box 1: The arithmetic of Local Government Elections

Assume a District with 60 Union Councils (UCs), grouped in three Tehsils of the same size (20 UCs per tehsil)

#### **Direct elections:**

##### *Union Councils*

- There are direct elections for all 13 UC councillors. 11 are elected individually, but the UC nazim and naib nazim are elected on a joint ticket. In this example, there are therefore 780 UC councillors overall.

#### **Indirect elections:**

##### *Tehsil Councils*

- Each UC naib nazim is automatically a member of the Tehsil Council;
- In addition to the 20 UC naib nazim, each of the three Tehsil Councils has a tehsil nazim and naib nazim, plus 9 additional members: 7 women councillors, 1 peasant/worker councillor and 1 minority councillor;
- The Tehsil nazim and the additional 9 councillors are elected by the 260 UC councillors (20 UCs in the Tehsil x 13 UC councillors per UC);
- The Tehsil naib nazim is elected from amongst themselves by Tehsil council members at their first meeting.

##### *District Councils*

- Each UC nazim is automatically a member of the District Council;
- In addition to the 60 UC nazim, the District Council has a District nazim and naib nazim, and 26 additional members: 20 women councillors, 3 peasant/workers and 3 minority councillors;
- The District nazim, the District and the additional 26 councillors are elected by the 780 UC councillors;
- The District naib nazim is elected from amongst themselves by District council members at their first meeting.

### Municipal arrangements

As provided by Section 93 the Tehsil Municipal Administration or Town Municipal Administration respectively may provide for the creation of a Neighbourhood or Village Council consisting of five to eleven members each provided that for each Council one seat is reserved for women and one seat for peasants and workers. A Council is headed by a Chairperson who shall be the person securing the highest number of votes in the election of the Council. Section 9 provides that the Tehsil Municipal Administration and Town Municipal Administration shall conduct the elections of Councils.

### Organisation of elections

In accordance with the Local Government Elections Order (2000) LG elections held under the Local Government Ordinance are conducted by the Chief Election Commissioner (Section 150). It is also the Chief Election Commissioner who prepares the electoral rolls for

local elections (Subsection 157[2]). As prescribed by Section 153 LG elections are to be held on non-party basis.

The electoral system at the national level in Pakistan is classified by International IDEA as FPTP.

### **8.1.7. Sri Lanka**

Section 226 of the Sri Lankan Constitution provides that there is to be a system of LG consisting of regularly elected local authorities. The political subdivisions below the central government are provincial councils, municipal councils, urban councils and Pradeshiya Sabhas (division/rural councils). The provincial councils act to supervise the local councils.

Subsection 226 (4) of the Constitution provides that every Statute enacted by a Regional Council of a Region relating to elections to local authorities in that Region, should as far as practicable, provide for the adequate representation of women, persons under thirty five years of age and the major communities ordinarily resident in the local authority area for which a local authority is established.

The present electoral system is regulated by the Local Authorities Election Act of 1989 and successive amendments. The Act changed dramatically the pre-existing arrangements by abolishing the ward system and establishing the Local Authority area as a single electorate, so that each elected councillor represents the entire population of the Local Authority, not that of a specific ward.

Table 15: summary structure and features of LG system in Sri Lanka

Rural areas		Urban areas	
Levels	Representative bodies	Levels	Representative bodies
9 Provinces (only 7 are functional as LGs) Avge population = 2,000,000	Provincial councils: number of members determined by the President of the Republic. Members elected on PR-basis from District constituencies. Each provincial council has a chairman and a vice-chairman elected from among its members by majority vote. Provincial executive: a governor appointed by the president for a five-year term, responsible for executing the policies of the council through a board of ministers headed by a chief minister and no more than four other ministers. The governor also appoints a chief minister, and the other ministers on the advice of the chief minister.		
25 Districts Avge population = 760,000	None		
256 Pradeshiya Sabhas Largest = 265,000 Smallest = 14,000	Councils: - no of members decided by Government - election on basis of PR lists - led by a full-time chairperson, nominated by the majority party or group, who holds office for a four-year term	18 Municipal Councils Largest = 640,000 Smallest = 25,000	Councils: - no of members decided by Government - election on basis of PR lists - led by a full-time chairperson, nominated by the majority party or group, who holds office for a four-year term
		37 Urban Councils Largest = 180,000 Smallest = 1,200	Councils: - no of members decided by Government - election on basis of PR lists - led by a full-time chairperson, nominated by the majority party or group, who holds office for a four-year term

Political Parties and Independent Candidates (IC) as Groups (a provision which somehow restricts the democratic rights of individuals wishing to run without affiliation) submit lists of candidates, each including as many candidates as the total number of councillors to be elected, plus three more. Nomination lists are submitted under the signature of the Political Parties' secretaries or the IC Groups leaders. Such lists must include 40% of candidates below 35 years of age in compliance with the constitutional mandate to promote the youth. Since the local elections of 1997 each voter has been able to give all three preference votes to the same candidate under the provisions of the Local Authorities (Amendment) Act 1990.

The number of councillors elected from each Party or IC Group is determined by the proportion of votes received by that Party or Group. The Party or IC Group that gets the highest share of votes also gets a "bonus" of two additional seats. Any Party or IC Group that gets less than one eighth (12.5%) of the total number of votes, will not be represented in the Council.

The Parties and IC Groups which receive the highest number of votes nominate council members elected in their lists for the positions of Mayor/Deputy Mayor or Chairman/Vice-Chairman. These are then appointed by the National Commissioner of Elections, who also ratifies the elections' results and the number of seats accruing to each political party or IC Group.

The term of office of the Councils is of 4 years. The Minister in charge has the power to extend this term for an additional year.

### Municipalities

As provided for by Part I of the Municipal Councils Ordinance, areas may be declared as Municipalities by the Minister. For each Municipality a Municipal Council is constituted consisting of a Mayor and Deputy Mayor and such number of Councillors as prescribed by Order of the Minister. As provided for by Sections 8 and 14, Councillors and the Mayor and Deputy Mayor, who are also Councillors, are to be elected in general elections in accordance with the Local Authorities Elections Ordinance.

As provided for by Part I of the Urban Councils Ordinance in areas of an urban character, the Minister may define the jurisdiction for which an Urban Council is constituted consisting of a Chairperson and Vice Chairperson and such other number of members as prescribed by Order of the Minister. All members of the Urban Councils are to be elected by general election (Section 7).

### Pradeshiya Sabhas

Part I of the Pradeshiya Sabhas Act, No. 15 of 1987 provides that the Minister may provide for the delimitation and establishment of a Pradeshiya Sabha consisting of a Chairperson and Vice Chairperson and such number of members as prescribed by Order of the Minister, to be elected by general election.

### Organisation of elections

Elections are organized under the overall responsibility of the National Commission of Elections. District Secretaries, the Central Government Agents in the Districts, act as Election Officers and are responsible for Voter Registration and the conduct of the polls.

The electoral system at the national level in Sri Lanka is classified by International IDEA as List PR.

## 8.2 South East Asia

### 8.2.1. Cambodia

Table 16: summary structure and features of LG system in Cambodia

Rural areas		Urban areas	
Levels	Representative bodies	Levels	Representative bodies
20 Provinces Avg population = 570,000	None (but foreseen by national D&D strategy)	4 Municipalities	None (but foreseen by national D&D strategy)
171 Rural Districts ( <i>Srok</i> ) Avg population = 90,000	None (but foreseen by national D&D strategy)	14 Urban Districts ( <i>Khan</i> )	None (but foreseen by national D&D strategy)
1,510 Rural Communes ( <i>Khum</i> ) Avg population = 7,000	Commune Councils have 5, 7, 9 or 11 members, depending on the population of the Commune. Commune chief is the top candidate of winning party; 1 <sup>st</sup> and 2 <sup>nd</sup> deputy chiefs are leaders of second and third parties	111 Sangkhats	Sangkhat Councils have 5, 7, 9 or 11 members, depending on the population of the Commune. Sangkhat chief is the top candidate of winning party; 1 <sup>st</sup> and 2 <sup>nd</sup> deputy chiefs are leaders of second and third parties

According to the Constitution of 1993, Cambodia is a unitary state administratively divided in Provinces and Municipalities, Districts and khans, and Communes and Sangkhats.

Currently, therefore, the sub-national governance system of Cambodia is organized at three levels. At the level of Commune/Sangkhats, democratically elected Local Authorities have been established. At the Srok/Khan and Provinces/Municipalities levels, de-concentrated units of the central administration, coordinated by the representative of the RGC in the territory (Provincial and District Governors) are operating.

Chapter XIII, Article 146, of the Constitution stipulates that "*Provinces, municipalities, districts, khan, khum and sangkhat shall be governed in accordance with an Organic Law*". An Organic Law, that should reflect a recently unveiled national strategy for decentralisation and de-concentration, is currently under preparation. While the national strategy has not yet been officially adopted, its first draft (made public by the Royal Government in April 2005) calls for the creation of two additional levels of elected authorities at District and Provincial levels.

However, direct elections would continue to apply only to the Commune/Sanghat level. Districts and Provinces would be established as second and third-tiers local authorities, with Councils indirectly elected from amongst members of lower level Councils. The composition of the District and Provincial Councils would then reproduce the overall balance of seats obtained by different parties in the Commune/Sangkhat elections in the concerned District or Province.

#### Communes

The number of members of each Commune Council is determined by Sub-decree nine months prior to the election date (Article 6, Law No. ChS/0301/04) and depends on the population of the jurisdiction.

The electoral system for allocating seats in the Commune Councils is the same as at the national level, i.e. List-PR.

In accordance with Article 19 of Law No. ChS/R-Krm/0301/04 only those who are registered on the list of voters for the Commune Council elections and have a voter registration card are eligible to vote. In order to register they must be Khmer nationals, be at least eighteen (18) years of age on the date of the election, and should be resident in the Commune where s/he intends to register. Those who are convicts or are “insane or under guardianship” may not register as voters (Article 20, Law No. ChS/R-Krm/0301/04).

Article 94 of Law No. Chs/R-Krm/0301/04 provides that in order to be eligible to stand for election a candidate must be a Khmer national by birth, able to read and write Khmer script, be a registered voter in the Commune where s/he intends to stand for election, and be at least twenty-five (25) years of age on the day of the election. Article 95 further provides that the holding of various offices or positions – such as being a member of an election commission, being a civil servant or being a monk of priest – prohibit an individual from standing for election. The holder of several of the positions listed in Article 95 may however apply for permission to stand for election and should they be successful they shall submit an application to the body concerned to take up office (Article 96).

A person who intends to stand as a candidate for election should have his/her name included in the list of candidates of a political party (Article 98, Law No. ChS/R-Krm/0301/04). A candidate may only have his name on the list of one party (Article 99, Law No. ChS/R-Krm/0301/04). In order to participate in the election for the Commune Council each political party is required to file an application for registration of the list of candidates with the Commune Election Commission (CEC) ninety (90) days before the election is to be held (Article 100, Law No. ChS/R-Krm/0301/04). Each party list must contain at least twice as many candidates as there are seats in the Commune Council (Article 101, Law No. ChS/R-Krm/0301/04).

Seats are allocated to the various party lists in accordance with the proportion of votes which they receive in accordance with the procedures outlined in Article 23 of Law No. ChS/R-Krm/0301/04. Candidates are selected in accordance with their numerical placement on the party list going from top to bottom until all the seats in the Commune Council have been filled (Article 24). In cases where there is only one party list contending in a Commune, elections can still be held and also in this case seats are allocated to candidates in accordance with their numerical placement on the party list (Article 26).

According to the electoral rules, the Commune Chief position goes automatically to the top candidate of the winning party, and the positions of First and Second Deputy Commune Chief are given to the top candidates of the party lists that obtained the second and third highest number of votes, even if, individually, these candidates had obtained less votes than other councillors from the winning party<sup>14</sup>. The intention of such rules was to promote sharing of responsibilities and cooperative behaviour between opposing political parties. While, in practice, this is not without its problems, anecdotal evidence suggests that in most Communes, differences in political affiliation have not precluded effective collaboration between Councillors.

### Organisation of elections

Elections at the Commune level are administered and supervised by the National Election Commission (NEC) which is also responsible for establishing and maintaining the list of voters Article 7 and Chapter X, Law No. ChS/R-Krm/0301/04). The NEC is also responsible

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<sup>14</sup> If only two parties obtain votes in a Commune, then the winning party obtains the Commune Chief and First Deputy Commune Chief positions, and the second party fills the Second Deputy Commune Chief position.

for establishing Provincial-Municipal Election Committees (PEC) and CECs (Article 7, Law No. ChS/R-Krm/0301/04).

In accordance with Article 5 of the 2003 Law on Elections the electoral system at the national level in Cambodia is List PR which is also the classification given to it by International IDEA.

### **8.2.2. Indonesia**

Law No. 32/2004 (replacing Law No. 22/1999) provides for the system of LG in Indonesia. Article 19(2) of Law No. 32/2004 provides that it is the regional administration together with the Regional House of Representatives which are responsible for governing the regions.

The LG units are provinces, which – in turn – are made up of districts (or regencies) and cities. Each of these units has a legislative body – the Regional House of Representatives (DPRD), and an executive body in the form of a regional government (Article 3[1], Law No. 32/2004). Additionally the Districts and Cities are further divided into Sub-districts, which in turn are made of Village Units (Article 120, Law No. 32/2004).

All Indonesians citizens who are seventeen on the day of election or are married have the right to vote. They must, however, register to vote and must be mentally and spiritually healthy and may not have had their voting rights annulled by a court decision with permanent legal effect (Articles 68 and 69, Law No. 32/2004).

Table 17: summary structure and features of LG system in Indonesia

Rural areas		Urban areas	
Levels	Representative bodies	Levels	Representative bodies
33 Provinces Avge population = 7,000,000 Largest = 35,000,000 Smallest = < 1,000,000  + 1 capital city district (Jakarta)	DPRD ( <i>Dewan Pertimbangan Otonomi Daerah</i> ) – council of 35-100 elected members. LG headed by Governor and Vice-Governor, both of whom are directly elected		
c. 340 Districts or Regencies ( <i>kabupaten</i> ) Avge population = 500,000 Largest = > 4,000,000 Smallest = 20,000	DPRD ( <i>Dewan Pertimbangan Otonomi Daerah</i> ) – councils of 20-45 elected members. LG headed by Regent ( <i>bupati</i> ) and Vice-Regent, both of whom are directly elected	c.100 Cities ( <i>kota</i> )	DPRD ( <i>Dewan Pertimbangan Otonomi Daerah</i> ) – councils of elected members. LG headed by Mayor ( <i>walikota</i> ) and Vice-Mayor, both of whom are directly elected
c. 5,000 Sub-Districts ( <i>kecamatan</i> )	None Headed by <i>camat</i> , appointed by District.		
c. 70,000 Villages ( <i>desa</i> )	Elected Boards and Heads		

#### DPRDs – provincial, district (regency) and city levels

In accordance with Article 46 of Law No. 32/2004, the DPRD is to consist of a Speaker, Commissions and Committees. The Law however does not provide for how the members of the DPRD are elected. This is prescribed in the DPRD Regulations (Article 46[2], Law No. 32/2004).

DPRD members at the provincial, regency and city levels are elected through a form of Open List Proportional Representation. Open List Proportional Representation systems give voters control over both the number of seats each party wins in the representative body, and the candidates from those parties that will represent the voters by filling these seats. However, the detail of the system as adopted in Indonesia has placed relatively strong restrictions on how much influence the voters have on which candidates, from the party of their choice, will be elected to represent them. For provinces, regencies and cities, there are electoral districts – usually made up of sub-districts (*kecamatan*) or combinations of them.

The heads of the regional governments are referred to as the regional Heads. Each regional head is also supported by a deputy regional head. For the provinces these are the Governor and Deputy Governor; for the districts, the District Head (*Bupati*) and Deputy District Head (*Wakil Bupati*); and for the cities, the Mayor (*Walikota*) and Deputy Mayor (*Wakil Walikota*) (Article 24, Law No. 32/2004).

Heads and Deputy Heads are elected through direct and general elections (Article 56[1], Law No. 32/2004). Previous to the enactment of Law No. 32/2004, Regional heads were appointed by the DPRD (Part Four, Law No. 22/1999). Heads and Deputy Heads are nominated and elected as a pair. They are nominated by the political parties or a coalition of political parties which have received at least 15% of the seats in the DPRD or 15% of the total number of votes cast in the election to DPRD. Each political party or coalition of parties may only nominate one pair of candidates (Article 59, Law No. 32/2004). Article 58 of Law No. 32/2004 provides for the prerequisites for standing for election as Head or Deputy Head. These include that the candidate must at least have graduated from senior high school (or equivalent); be at least thirty years of age; submit a declaration of wealth



and agree to make this declaration public; and believe in God. The elections of Heads and Deputy Heads are administered by the Regional General Election Commission (KPUD) (Article 57[1], Law No. 32/2004).

In accordance with Article 107 of Law No. 32/2004 the pair of candidates which receive more than 50% of the votes are declared winners. However should no candidates receive more than 50%, the pair of candidates that has the most votes – if the total more than 25% of the total amount of votes cast – are declared the winners. Should no pair of candidates receive more than 25% of the votes a second round election is called with the first and second pair of candidates standing for election – the winners being the pair of candidates which receive the highest number of votes. The system used is thus a Majority Run-off Two Round System (TRS).

It should however be noted that the current system for LG in Indonesia is regulated by Law No. 22/1999 which is replaced by Law No. 32/2004. The first elections for Regional Heads under the new law were to be carried out in June 2005. Those Regional Heads whose terms are to be completed in 2009 will be replaced by elections under the new law to be held in December 2008 (Chapter XV, Law No. 32/2004).

In addition to the Head and Deputy Head the government structure in the regions is to consist of the Regional Secretariat – headed by the Regional Secretary (appointed and terminated by the President on the recommendation of the Governor from amongst the civil servants) (Article 122, Law No. 32/2004); the DPRD Secretariat – headed by the DPRD Secretary (appointed and terminated by the Regional Heads with the approval of the DPRD (Article 123, Law No. 32/2004); the Regional Services which are the executing agencies – each of which is headed by the Head of Services (appointed by the regional heads upon the recommendation of the Regional Secretary) (Article 124, Law No. 32/2004); and the Technical Institutions – the heads of which are appointed by the Regional Heads upon the recommendation of the Regional Secretary from amongst the civil servants (Article 125, Law No. 32/2004).

#### Sub-districts and villages

In the districts and cities it is also provided that there should be sub-districts and village units (Article 120, Law No. 32/2004). The sub-districts are led by the Sub-District Head who is appointed by the District Head or Mayor upon the recommendation of the Regional Secretary of the respective district or city. The Sub-district Head is to be appointed from amongst existing civil servants based technical knowledge of government affairs as well as meeting requirements as prescribed by law (Article 126, Law No. 32/2004). Village units are headed by Village Chiefs who are appointed by the District Head or Mayor upon the recommendation of the Sub-District Head. The same criteria for appointing the Sub-district Head apply to the Village Chief.

At the village level, a village administration may be established consisting of the village administration and the Village Consultative Council (Article 200, Law No. 32/2004). The village administration is headed by the Village Unit Chief who is directly elected. Eligible voters are Indonesian citizens residing in the village. The Village Unit Chief who receives the highest number of votes is declared the winner (Article 203, Law No. 32/2004). The system for electing Village Unit Chiefs is FPTP. The members of the Village Consultative Council are to be selected in accordance with the relevant Regional Regulations. The Chairperson of the Council is to be elected from amongst its members (Article 210, Law No. 32/2004).

#### Papua and Aceh

Separate arrangements are made for LG as well as LG elections in the Special Autonomy Regions of Papua and Aceh.

### Organisation of elections

The General Elections Commission (KPU) is responsible for conducting national, province and regency/city elections.

The electoral system at the national level in Indonesia is classified by International IDEA as List-PR.

### **8.2.3. The Philippines**

Article X of the Constitution provides for the territorial and political subdivisions of the Philippines (Section 1). The Constitution further provides that the Congress is to enact a LG code providing for, amongst other things, the qualification, election, appointment and removal, term, salaries, powers, and functions and duties of local officials (Section 3). Congress has duly enacted the *Local Government Code of 1991* (LGC).

As provided by Book III of the LGC the Local Government Units (LGU) of the Philippines are:

- Barangay (the basic political unit);
- Municipalities;
- Cities;
- Provinces.

Cities can be either Component or Highly Urbanized with the distinction that Highly Urbanized Cities as opposed to Component Cities do not belong to a Province (and consequently those who are entitled to vote in the elections for the government of the Highly Urbanized Cities may not vote in the provincial elections [Omnibus Election Code (OEC), Article IV, Section 30]).

Table 18: summary structure and features of LG system in the Philippines

"Rural" areas		Urban areas	
Levels	Representative bodies	Levels	Representative bodies
79 Provinces Largest = 3,300,000 Smallest = 16,000	Provincial Governor Provincial Board ( <i>Sangguniang Panlalawigan</i> ) – 9-13 elected members (including the Vice-Governor) and a range of ex-officio members largely drawn from provincial level associations of constituent LG units and 3 sectional representatives		
1,495 municipalities	Elected municipal mayor as executive <i>Sangguniang Bayan</i> or Municipal Council – composed of municipal vice-mayor, 8 elected members, ex-officio members drawn from municipal level associations of constituent LG units, and 3 sectional representatives	117 Cities (including 67 chartered cities – not included in the provinces) Largest = > 2,000,000	Elected City Mayor as executive. <i>Sangguniang Panlungsod</i> or City Council – composed of Vice-Mayor, elected members and ex-officio members largely drawn from City level associations of constituent LG units and 3 sectional representatives
41,943 Barangays	<i>Sangguniang Barangay</i> or Barangay Council, headed by Barangay Captain and composed of 7 elected members and Youth Council Chairperson	Barangays	<i>Sangguniang Barangay</i> or Barangay Council, headed by Barangay Captain and composed of 7 elected members and Youth Council Chairperson

### Barangay

The Chief Executive of the Barangay government is the Punong Barangay or Barangay Captain (LGC, Section 389). The Barangay Captain is elected by all qualified voters in the Barangay, voting as one constituency (LGC, Section 41[a]), applying the First Past the Post system (FPTP).

The legislative body of the Barangay, the basic political unit in the Philippines, is the Sangguniang Barangay or Barangay Council. The Barangay Council is composed of:

- the Barangay Captain;
- 7 regular members. The same principle is applied when electing the regular members of the Barangay Council as when electing the Barangay Captain (LGC, Section 41[b] with the difference that each voter casts the same number of votes as there are seats to be filled, i.e. what International IDEA classifies as a candidate-centered *Block Vote* system;
- and the Sangguniang Kabataan (Youth Council) chairperson (LGC, Section 390).

In addition to the elected members of the Barangay Council there is also a Barangay Secretary and a Barangay Treasurer both of whom are appointed by the Barangay Captain with the concurrence of all the Sangguniang Barangay members (LGC, Sections 394 and 395).

In accordance with Section 393 of the LGC, the members of the Barangay Council (including the Secretary and the Treasurer) receive honoraria and allowances in accordance with the relevant law or local ordinance (the LGC provides for a minimum level of monthly remuneration) as well as a number of other benefits such as insurance and free medical care.

As provided for in Article VI, Section 38 of the OEC, Barangay elections should be non-partisan meaning that:

“No person who files a certificate of candidacy shall represent or allow himself to be represented as a candidate of any political party or any other organization; and no political party, political group, political committee, civic, religious, professional, or other organization or organized group of whatever nature shall intervene in his nomination or in the filing of his certificate of candidacy or give aid or support, directly or indirectly, material or otherwise favourable to or against his campaign for election [...].”

In practice candidates are however typically affiliated with, as well as supported and funded by, political parties.

In addition to the Barangay Council there is also a Sangguniang Kabataan or Youth Council in each Barangay composed of a Chairperson, seven (7) members, a secretary and a treasurer. The Chairperson and the members of the Youth Council are elected by the members of the Katipunang Kabataan – which consists of all the citizens of the Philippines residing in the Barangay for at least 6 months and who are fifteen to twenty-one years of age (LGC, Sections 41[a] and 424). The secretary and treasurer of the Youth Council are appointed by the Chairperson from amongst and with the concurrence of the members of the Youth Council (LGC, Section 430[d]). As noted above, the Chairperson of the Youth Council also acts as ex-officio member of the Barangay Council and as such also enjoys the same privileges as the other members of the Barangay Council. All members of the Barangay Council are exempt from payment of tuition fees (LGC, Section 434). Candidates for the Youth Council must be at least fifteen (15) but no more than twenty-one years of age (LGC, Section 39[f]).

### Municipalities

The Chief Executive of the municipal government is the Municipal Mayor (LGC, Section, 446[a]). There is also a municipal vice-mayor (LGC, Section 445). Both are elected by all qualified voters in the municipality, voting as one constituency (LGC, Section 41[a]), applying the FPTP system.

The legislative body in the municipalities is the Sangguniang Bayan or Municipal Council. The Municipal Council is composed of:

- the municipal vice-mayor as the presiding officer;
- the 8 regular members or councillors elected by district as may be provided for by law (LGC, Section 41[b]);
- the president of the municipal chapter of the liga ng mga Barangay, the Association of Barangay Captains (ABC), elected from amongst and by the Barangay Captains in the municipality;

- the president of the pambayang pederasyon ng mga Sangguniang Kabataan or Municipal Youth Council (elected from amongst and by the Chairpersons of the Youth Councils in the municipality);
- and the sectoral representatives (LGC, Section 446[a]). There are three sectoral representatives – one woman; and as shall be determined by the Municipal Council concerned within ninety (90) days of the holding of local elections, one (1) from the agricultural or industrial workers; and one (1) from the other sectors including the urban poor, indigenous cultural communities, or disabled persons (LGC, Section 446[b]).

The Municipal Mayor is mandated to appoint all officials and employees whose salaries and wages are wholly or mainly paid out of municipal funds and whose appointments are not otherwise provided for in the LGC (LGC, Section 444[1v]).

The members of the Municipal Council are provided with a monthly compensation (LGC, Section 447[b]).

### Provinces

The Provincial Governor is the Chief Executive of the provincial government (LGC, Section 465). There is also a Provincial Vice-Governor (LGC, Section 466). Both are elected by all qualified voters in the Province, voting as one constituency (LGC, Section 41[a]), applying the FPTP system.

The legislative body in the provinces is the Sangguniang Panlalawigan or Provincial Board. The vice-governor (*bise-gobernador*) presides over the Provincial Board, which is composed of:

- board members from each district in the province. Depending on the income class of the province, it may either have eight or ten board members. First and second class provinces have ten board members while third and fourth class provinces have eight. Negros Occidental and Cebu are exceptions, having 12 board members each. The regular members of the Sangguniang Panlalawigan are elected by district as may be provided for by law (LGC, Section 41[b]).
- as ex-officio members:
  - the president of the provincial chapter of the Association of Barangay Captains (ABC), or liga ng mga Barangay, elected from amongst and by the presidents of the municipal and city chapters of the ABCs in the province;
  - the president of the Provincial Federation of Youth Councils, or panlalawigang pederasyon ng mga Sangguniang Kabataan (elected from amongst and by the presidents of the Municipal and City Federations of Youth Councils in the province);
  - the president of the provincial federation of Sangguniang members of municipalities and component cities and the sectoral representatives of municipalities and component cities (LGC, Section 467[a]);
  - and three sectoral representatives representing the same groups as is the case for the municipalities.

The Provincial Governor is mandated to appoint all officials and employees whose salaries and wages are wholly or mainly paid out of provincial funds and whose appointments are not otherwise provided for in the LGC (LGC, Section 465[1v]).

The members of the Provincial Board are provided with a monthly compensation (LGC, Section 467[b]).

### Cities

The City Mayor is the Chief Executive of the city government (LGC, 455[1]). There is also a City Vice-Mayor (LGC, Section 456). Both are elected by all qualified voters in the city, voting as one constituency (LGC, Section 41[a]), applying the FPTP system.

The legislative body in the cities is the Sangguniang Panlungsod or City Council. The City Council is composed of;

- the city Vice-Mayor as presiding officer;
- the regular members (number not specified). The regular members of the City Council are elected by district as may be provided for by law (LGC, Section 41[b]);
- the president of the city chapter of the ABC (elected on the same basis as for the municipalities);
- the president of the City Federation of Youth Councils (panlungsod na pederasyon ng mga Sangguniang Kabataan), elected on the same basis as for the municipalities;
- and the sectoral representatives (LGC, Section 457[a]. There are three sectoral representatives representing the same groups as is the case for the municipalities and provinces. The City Mayor is mandated to appoint all officials and employees whose salaries and wages are wholly or mainly paid out of provincial funds and whose appointments are not otherwise provided for in the LGC (LGC, Section 455[1v]).

The members of the City Council are provided with a monthly compensation (LGC, Section 458[b]).

### Sectional representation and appointments

As provided by Article X, Section 9 of the Constitution, legislative bodies of LGs should include sectoral representation as may be prescribed by law. The different provisions relating to the various LGUs are given above under each separate heading. It is the responsibility of the Commission of Elections to promulgate the rules and regulations to effectively provide for the election of the sectoral representatives.

Title Five of the LGC covers appointive (both obligatory and optional) local officials common to all municipalities, cities and provinces. As is the case of the Barangay Councils there are Secretaries and Treasurers with all the higher level Councils. The Secretaries are appointed by the Chief Executive within the respective LGU, whereas the Treasurer is appointed by the Secretary of Finance. The remaining appointive local officials hold various specialized positions such as engineer or Health Officer. Most are appointed by the Chief Executive of the respective LGUs.

### Eligibility of candidates

In order stand for election a candidate must be a registered voter in the LGU where s/he intends to stand for election. Candidates for the provincial, city or municipal legislatures

must have been a resident for at least one (1) year in the district in which s/he intends to stand for election. Varying age requirements apply for the different legislatures ranging from 18 at the Barangay level (except in the case of the Youth Council representatives, see above) and up to 23 at the provincial level (LGC, Section 39). Section 40 provides for which individuals are disqualified from standing for election. This includes those who have been sentenced for an offence involving moral turpitude or for an offence punishable by one 1 year or more of imprisonment (the individual may stand for election two 2 years after the sentence has been served); those removed from office as a result of an administrative case; those with dual citizenship; and the insane and feeble-minded.

#### Organisation of elections

Elections at the Barangay level are conducted by the Board of Election Tellers, which is constituted by the Commission on Elections no later than 10 days before the election (OEC, Article VI, Section 40). The Commission on Elections has field offices in the Provinces – headed by the Provincial Election Supervisor – as well as in the Cities and Municipalities headed by the City and Municipal Registrar respectively (OUC, Article VII, Section 53).

The electoral system at the national level in the Philippines is classified by International IDEA as Parallel.

### **8.2.4. Timor-Leste**

Table 19: summary structure and features of LG system in Timor-Leste

<b>Rural areas</b>		<b>Urban areas</b>	
<b>Levels</b>	<b>Representative bodies</b>	<b>Levels</b>	<b>Representative bodies</b>
Districts	None		
Sub-districts	None		
443 Sucos Avge population = 2,500	Suco Council – composed of a varying number of elected members (suco chief, aldeia [hamlet] chiefs, 2 women, 2 youth and 1 elder)		

Section 5 of the Constitution provides that the territorial organisation of the country will be based on the principle of decentralisation of the public administration. Section 65 of the Constitution further prescribes that LG shall be chosen through election. No permanent system for administrative divisions and LG has yet been established in Timor-Leste. Pending a final decision Timor-Leste has adopted legislation – *Law 2/2004* and *Decree-Law 5/2004* – in order to recognise existing organisations at the Suco level and allowing for their legitimisation through the holding of local elections. Suco councils are however seen more as formalised community bodies than LGs *per se*, and the purpose of electing councils primarily to re-establish the legitimacy of the Suco leadership which had been eroded in many areas during the conflict and also the UNTAET period.

Timor-Leste is divided into Districts, Sub-districts, Sucos (villages) and Aldeias (sub-villages/hamlets). There are no elections for the two higher levels. The National Government has appointed District Coordinators and District offices of the main Ministries, and Sub-district Coordinators at the Sub-District level which are the lowest level of government administration.

## Sucos

At the Suco level there is a Suco Council, which is composed of the Suco Chief, who is the head of the Suco Council; the Chiefs of the Aldeias which make up the Suco; 2 women; 2 young persons of each gender; and 1 village elder. A young person is an individual who is aged between seventeen 17 and thirty-five 35 and an elder is a person who over fifty 50 years of age (Article 3, Law 2/2004).

In accordance with Article 2 of Law 2/2004, the Suco Chief as well as the other members of the Suco Council are to be elected by direct ballot. Timorese citizens are eligible to vote in local elections if they are aged over seventeen (17), have resided in the Suco during the previous six months and be registered in the Suco's electoral role. To be eligible to vote for the village heads a voter must also reside in the respective village (Article 7, Law 2/2004). A person is disqualified from voting if s/he is barred by an irrevocable sentence or "clearly and publicly known to be insane" (Article 8, Law 2/2004).

All those who are eligible to vote are also eligible to stand for election provided that the candidate has resided in the Suco or village in which the candidate intends to stand for election for at least one year without interruption prior to the polling day (Article 9, Law 2/2004). Article 10 of Law 2/2004 provides for different groups which are prohibited from standing for election, including members of Parliament of Government as well as Public Servants (with the exception health workers and teachers).

Candidates may submit their candidature on their own behalf or may be nominated by a political party or a coalition of political parties. Nominations are presented during a village meeting determined by STAE. Should it be deemed that too large a number of candidates has been nominated only the nominations of those candidates who obtain support from more than 10% of the voters present during the gathering will be accepted (Article 12, Law 2/2004).

The Suco Chief candidate as well as the Aldeia Chief candidates who receive the highest number of votes in their respective communities are elected. Thus the system used is FPTP. For the young persons the winning candidate is the candidate who receives the highest number of votes in each gender group. (Article 25, Law 2/2004).<sup>15</sup>

## Organisation of elections

It is the National Electoral Commission which supervises the elections (Article 14[2], Law 2/2004). The elections are administered by the Technical Support Secretariat for Electoral Administration (STAE), within the Ministry of State Administration.

In accordance with Section 65 of the Constitution, the electoral system at the national level in Timor-Leste is Proportional Representation. As classified by International IDEA the system is Parallel.

### **8.2.5. Vietnam**

In accordance with Article 118 of the 1992 Constitution there are three levels of LG units in Vietnam, namely Province, District and Commune. At the Provincial level Vietnam the administrative units are Provinces and Cities under direct central rule. At the District level Provinces are further divided into Districts, Provincial Cities and Towns and Cities under direct central rule are divided into Urban Districts, Rural Districts and Towns. At the Commune level Urban Districts and Provincial Cities are further subdivided into Wards, Towns into Townships and Districts and Rural Districts into Communes.

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<sup>15</sup> Law 2/2004 does not explicitly prescribe how women and village elders are elected to the Suco Council.



In each administrative unit there is a People’s Council, the deputies of which are elected by “universal suffrage, equality, directness and secret ballot” (Article 1, Order No. 22/2003/L-CTN), and a People’s Committee – the LG executive body – elected by the People’s Council (Article 123 of the Constitution). At the Provincial level the People’s Committees have nine (9) to (11) members – except in the case of Hanoi and Ho Chi Minh City where they have thirteen (13) members; at the District level seven (7) to nine (9) members; and at the Commune level three (3) to five (5) members. The People’s Committees are headed by a Chairperson who is nominated by the Chairperson of the corresponding People’s Council as well as a Vice-Chairperson – both of which are elected by the People’s Council.

Table 20: summary structure and features of LG system in Vietnam

Rural areas		Urban areas	
Levels	Representative bodies	Levels	Representative bodies
64 Provinces Avge population = 1,250,000	Provincial People’s Council	Cities are identical to provinces and are made up of similar types of constituent LG units	
611 Districts Avge population = 125,000	District People’s Council		
10,602 Communes Avge population = 8,000	Commune People’s Council		

Each People’s Council has a Standing Committee consisting of the Chairperson and Vice-Chairperson of the People’s Council. At the Provincial and District level the Standing Committee also has an additional permanent member. The members of the Standing Committees are elected by and from the deputies of the respective People’s Council.

### People’s Councils

The number of deputies in the People’s Councils depends on the number of inhabitants of the respective administrative units. At the Commune level the People’s Councils are to consist of 25 up to 35 deputies – the exception being mountainous and island communes and townships with between one thousand and two thousand for which there are 19 deputies and those with less than one thousand inhabitants for which there are 15 deputies. At the District level the People’s Councils consist of 30 up to 40 deputies – the exception being People’s Councils in Districts that have more than 30 dependent administrative units for which there shall be more than 40 deputies as decided by the Standing Committee of the National Assembly. At the Provincial level the People’s Councils are to consist of 50 up to 85 deputies – the exception being the capital of Hanoi and Cities under direct central rule with more than three million inhabitants shall have no more than 95 deputies (Article 9, Order No. 22/2003/L-CTN).

All citizens of Vietnam who are at least 18 years of age are eligible to vote (Article 2, Order No. 22/2003/L-CTN). In order to vote a voter must be registered in the voter list. Those who are deprived of their voting right under legally effective judgments or decisions of courts, serve prison terms, temporarily detained or have lost their civil act capacity may not be included in the voter list (Article 25[1], Order No. 22/2003/L-CTN).

In order to stand for election a person must be at least 21 years old as well as be loyal to the “socialist Vietnamese fatherland”; possess good moral qualities; be qualified for and capable of performing the tasks of the a People’s Council deputy; be close to and interact with the voters and have the ability to part in the work of the People’s Councils (Article 3, Order No. 22/2003/L-CTN). Candidates must reside and work in the administrative unit in which they intend to stand for election (Article 30, Order No. 22/2003/L-CTN). Article 31

further provides that those who may not be registered as voters as well as those who have criminal records or are serving decisions on administrative handling (e.g. in medical establishments) may not stand for election. Candidates may stand for election and be elected to People's Councils at two levels except those who are deputies of the National Assembly who may only stand for election at one level (Article 4, Order No. 22/2003/L-CTN).

Nominated and independent candidates must submit their application for candidacy with the Election Council (Article 29, Order No. 22/2003/L-CTN). The decision on which candidates which will be allowed to stand for election goes through a series of consultations. Initially the standing board of the Vietnam Fatherland Front Committee, in consultation with representatives of the Election Council, standing body of the People's Council and the People's Committee, at each administrative level meets to decide on the proportion, composition and number of independent candidates and nominees of political, social or economic organizations, the armed forces, State agencies in the same level. At the Province and District levels nominees from the lower administrative units are also considered. At the Commune level candidates nominated by village and population groups are also considered (Article 32, Order No. 22/2003/L-CTN). Based on the agreed upon proportions decided those organisations and units mentioned above shall nominate candidates after first seeking the comments of voters' conferences held for each respective organisation or unit.

A second consultation, with the same participants as in the first is then held to make a preliminary list of nominees to stand for election (Article 35, Order No. 22/2003/L-CTN). For nominated candidates comments are sought from voters' conferences in the various organisations and units on their suitability as candidates (Article 36, Order No. 22/2003/L-CTN). The exception is at the Commune level where conferences of voters are to be held. At these conferences voters shall use secret ballot or a show of hands to express their confidence in the nominated, as well as independent candidates (Article 37, Order No. 22/2003/L-CTN).

Based on the result of these consultations a third consultative conference is held with the same composition as the previous to in order select the candidates and subsequently complete the official list of candidates (Article 40, Order No. 22/2003/L-CTN). Each list must contain at least two more candidates than the total number of deputies to be elected in the election unit (Article 41, Order No. 22/2003/L-CTN).<sup>16</sup> It should be noted that this three-stage process of consultations over the selection of candidates effectively amounts to a pre-election or selection, which precedes any direct elections.

It should also be noted that, in consultation with People's Councils, the Standing Board of the Vietnam Fatherland Front and the People's Committees, at all levels, when considering the proportion, composition and number of candidates, shall make recommendations in order to ensure that an appropriate number of deputies will be women and in for administrative units with many ethnic units to ensure that an appropriate number of ethnic minority people are elected as deputies (Article 14, Order No. 22/2003/L-CTN).

Deputies are elected in election units. For each election unit no more than 5 deputies may be elected (Article 10, Order No. 22/2003/L-CTN). In accordance with Article 7 of Decree No. 19/2004/ND-CP election units are typically the immediate lower level administrative units. At the commune level the election units are made up of villages or population groups.

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<sup>16</sup> Exceptions are made in cases of inadequacy of candidates due to force majeure reasons under the guidance of the government.

As provided by Article 61 of Order No. 22/2003/L-CTN those candidates who win more than half of the valid votes or win more votes than the other candidates are elected as deputies to the People's Councils. Should candidates have an equal number of votes the candidates that are older shall be elected.<sup>17</sup>

### Organisation of elections

The election of deputies to the People's Councils is supervised by the Standing Committee of the National Assembly. The Government directs the People's Committees at all levels to perform the election work according to the provision of laws (Article 6, Order No. 22/2003/L-CTN). The direct responsibility for managing the election of deputies to the People's Councils rests with the Election Commissions which are to be established at all levels by the People's Committees after having consultation with numerous other bodies as outlined in Article 16 of Order No. 22/2003/L-CTN).

The electoral system at the national level in Vietnam is classified by International IDEA as Two-Round System (TRS).

## **8.3. Pacific region**

### **8.3.1. Fiji**

Fiji has a highly individual system of LG and administration:

- an orthodox urban LG system composed of twelve municipal councils in two cities and ten towns. The system of representation for municipal government is described in more detail below;
- an administrative system of four divisions (central, northern, eastern and western), each headed by a centrally appointed Commissioner and made up of fourteen provinces (with provincial councils at their head, and composed of villages and districts), responsible for indigenous Fijian affairs. The Fijian Affairs Board, constituted under the Fijian Affairs Act (Cap. 120) governs all matters concerning the administration of native Fijian affairs, including Fijian custom services. The Board refers certain matters to the Great Council of Chiefs, constituted by the President under the same Act. The fourteen provinces are administrative units each governed by a Provincial Council with an executive head (Roko Tui). The functions of the Provincial Councils are: "to promote the health, welfare and good government of Fijians resident in the province and to carry out such other duties and functions which the Minister or the Fijian Affairs Board may see fit to delegate to such council". The councils have similar powers as are vested in municipal councils, including making of by-laws, levying of rates and control of building construction in Fijian villages. The Fijian Affairs Board approves the appointment of these executive heads and approves all rates and by-laws applied by the Provincial Councils. The basic unit in the system of Fijian Administration is the village (Koro) headed by a Turaga-ni-Koro elected or appointed by the villagers. Several Koros form an administrative sub-unit of a province (Tikina). A province consists of a number of Tikinas.
- the Council of Rotuma Island, which enjoys a special dependency status within Fiji. Owing to the unique status of Rotuma, the powers of this council are greater than those of other municipal bodies in Fiji and in some ways it approximates a

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<sup>17</sup> The election law does not provide sufficient information to determine the typology of the electoral system at the local level.

legislative body. The Council consists of fourteen full members and three advisory members. Each of Rotuma's seven districts elects one representative to the Council; the traditional Chief of each district is also a Council member ex officio. The advisory members, who have speaking but not voting rights, are the District Officer, the most senior Medical Officer, and the most senior Agricultural Officer, all of whom serve ex officio. The seven chiefs are chosen according to traditional custom. The election is usually for life, although the Fijian cabinet minister responsible for Rotuma may, at his or her own discretion, dismiss a chief and order the election of a new one. The seven elected representatives are elected for three year terms by resident Rotuman Islanders aged 21 and over. Candidacy is restricted to persons who are eligible to vote. The full members of the Council elect a Chairman from among themselves.

### Municipalities

The Local Government Act 1985 (Cap 125), which was amended in 1997, is the principal statute governing municipalities in Fiji. The Minister for Local Government in the Ministry of Local Government, Housing, Squatter Settlement and the Environment is responsible for its administration.

Municipal councils are single-tier authorities in the urban areas. Councils may be designated as city or town councils. All councils have the same responsibilities. There are currently two city and ten town councils.

Table 21: municipal government in Fiji – main features

<b>Levels</b>	<b>Representative bodies</b>
2 Cities Suva – pop. = 77,000 Lautoka – pop. = 36,000	City Council – made up of 16 to 20 councilors, elected on basis of FPTP from multi-member wards (3-5 councilors per ward)
10 Towns Largest (Nasinu) – pop. = 80,000 Smallest (Levuka) – pop. = 1,100	Town Council – made up of 8 to 21 councilors, elected on basis of FPTP from multi-member wards (3-5 councilors per ward)

Local elections are conducted under the system of first past the post. Unlike national elections, voting is not compulsory. Councilors serve a term of three years and are eligible for re-election.

The system is based on wards, with between three and five councilors per ward. The Electoral Commission determines the number of councilors that constitute a council, and the number of councilors per ward. The national Electoral Commission divides each city and town into wards such that each ward has the same number of adult inhabitants, but this criterion may be varied to take into account geographical features, means of communication and density and mobility of the population. The Electoral Commission also conducts municipal elections.

Every person of or over the age of twenty-one years who is a citizen of Fiji and who is the occupier or owner of land or house within the municipality is eligible to be enrolled as an elector of that municipality.

Electors in a municipality are eligible to stand for election as councilors on condition that they are literate in one or more of Fiji's official languages (Fijian, English, Hindustani). A number of legal clauses bar certain electors from being able to stand in municipal elections (e.g. those of unsound mind, those who occupy public office, etc.).

A part-time mayor, who is the leader of the council, is elected annually by the councilors and may be re-elected for further one-year terms. The council recommends a mayoral allowance which must be approved by the minister. The mayor's primary functions are to chair meetings of the Council and to represent the council at civic functions. In meetings of the Council, the Mayor does not have the power of veto but has a casting vote. He is not involved in the day-to-day administration of the council's operations.

The one-year term of the Mayor is not considered to be a drawback since the council's overall policy and its development programme is formulated by the whole council and the executive staff abolishment is usually of a permanent nature.

In addition to the elected councilors, the Minister may nominate advisers to assist the municipal Council. Such advisers are entitled to attend meetings of the council but they do not have a right to vote.

The national level electoral system is classified by IDEA International as Alternative Vote.

### **8.3.2. Papua New Guinea (PNG)**

The National Parliament is a unicameral House of Assembly with 109 members: 20 from provincial constituencies (19 provinces and the National Capital District of Port Moresby) and 89 from open constituencies (or electoral districts).

The main legislation relating to LG in PNG is:

- The Organic Law on Provincial Governments and Local-Level Governments 1995; this law was intended to lead to fundamental reforms in PNG's LG system, with a significant emphasis on LLGs as the basic units of LG.
- The Local-Level Governments Administration Act 1997.

Some minor amendments were made to the Organic Law in 1995 to improve implementation but the Local-Level Governments Administration Act has remained unchanged.

There are three levels of government in PNG – national, provincial and local. The sub-provincial level of government is referred to as Local-Level Government (LLG). The table below provides a summary of the structure of LG in PNG.

#### Provincial Assemblies

The Organic Law on Provincial Governments and Local-Level Governments (OLPGLLG) provides for provincial assemblies comprising the following membership:

- all members of the National Parliament from the province;
- heads of rural local-level governments;
- one representative of the heads of urban authorities and urban councils;
- up to three 'paramount chiefs or their appointed nominees representing local areas where the chieftaincy system is in existence and is accepted';
- one nominated woman representative;
- up to three other members appointed from time to time by the provincial assembly.

Provincial assemblies are thus made up of members who are either indirectly elected or appointed/nominated – in no case are they directly elected to provincial assemblies.

All members, including nominated members, have voting powers.

The Organic Law on Provincial Governments and Local-Level Governments provides for members of the chieftaincy system to be represented in provincial assemblies: “where the chieftaincy system is in existence and is accepted in a province, paramount chiefs from the province not exceeding three in number or their duly appointed nominees, who shall be appointed by the Minister responsible for provincial government and local-level government matters on the recommendation of the Provincial Executive Council.” (OLPGLLG S.10 (3) (d)).

Table 22: summary structure and features of LG system in PNG

<b>Provincial Government</b>			
<b>Levels</b>		<b>Representative bodies</b>	
19 Provinces + 1 National Capital District (Port Moresby) Avge pop. = 270,000		Provincial Assembly made up of: <ul style="list-style-type: none"> <li>- members of the (National) House of Assembly from that province</li> <li>- the heads of rural LGs</li> <li>- a representative of the urban LGs</li> <li>- one woman representative</li> <li>- three chieftaincy representatives (in those provinces where it is appropriate)</li> <li>- and up to three further nominees</li> </ul>	
<b>Local-level Government</b>			
<b>Rural</b>		<b>Urban</b>	
<b>Levels</b>	<b>Representative bodies</b>	<b>Levels</b>	<b>Representative bodies</b>
273 LLGs Avge pop. = 16,000	Local Councils made up of elected (single member) ward representatives and up to three additional members appointed to represent various interest groups as follows: <ul style="list-style-type: none"> <li>- one nominated by the PNG Trade Union Congress</li> <li>- one nominated by the Employers' Federation</li> <li>- one to represent women's organizations.</li> </ul> In the rural sector two women are nominated.	26 LLGs Avge pop. = 16,000	Local Councils made up of elected (single member) ward representatives and up to three additional members appointed to represent various interest groups as follows: <ul style="list-style-type: none"> <li>• One nominated by the PNG Trade Union Congress</li> <li>• One nominated by the Employers' Federation</li> <li>• One to represent women's organizations.</li> </ul> In the rural sector two women are nominated

The chairman of the provincial assembly and head of the provincial government, who is known as the provincial 'governor', is normally the member of the National Parliament representing the provincial electorate. As noted earlier, twenty Members of PNG's National Parliament are elected from the 19 provinces and the national capital district of Port Moresby. These regional (at-large) Members of Parliament become provincial governors, while retaining their national seats in Parliament. The provincial governor may be dismissed, however, by a two-thirds majority of the provincial assembly, in which case another person must be elected from amongst the other national MPs in the provincial assembly. The governor may not be in an executive position in government, or speaker or deputy speaker of the house, or leader or deputy leader of the opposition. If the provincial MP accepts such a position (which thus disqualifies him/her from being provincial governor), or is otherwise removed, s/he is to be replaced by another MP from the

province. The governor is constitutionally responsible to the minister for provincial and local-level governments.

The deputy governor is elected from amongst and by the representatives of the local-level governments.

The provincial executive council comprises the governor and deputy governor, and the chairmen of the permanent committees (not exceeding in total a third of the membership of the assembly). Since the governor appoints the committee chairmen, this provision gives the governor considerable authority.

### LLG Councils

LLG councilors are directly elected by the FPTP electoral system. For LLG councils, PNG has a ward system, each electing a single member to the council. Each LLG has between four and 40 wards, each ward represented by an elected councillor.

Each council may also have up to 3 additional members appointed to represent various interest groups as follows:

- 1 nominated by the PNG Trade Union Congress
- 1 nominated by the Employers' Federation
- 1 to represent women's organizations. In rural areas, two women are nominated. This has ensured the inclusion of at least one woman appointed councilor in each of the 299 local-level governments. Ten per cent of all councilors are women.

All council members, whether elected or appointed, have voting powers.

Council elections are held at the same time as national elections. In 2002 these elected 6,003 councilors to 299 LGs. A further 424 members were appointed to represent women, workers' unions and employers' federations.

Political parties are fully entitled to contest local elections in PNG.

Candidates for LLG elections must, by law, be able to demonstrate strong local affiliations (birth, residence, descent, local language fluency). Conditions for ineligibility include insanity, insolvency and a prior criminal record; in addition, LLG employees are not allowed to stand for election.

Local councils operate a leader-in-council system. The whole council represents the executive body as well as the legislative body in LG.

The leader of the authority may be elected by the councilors or, if there is a proclamation by the head of state, directly elected by the electorate. The term of office is five years. All leaders are full-time and are paid a monthly salary. This remuneration is determined by the Salaries Remuneration Commission.

The Organic Law on Provincial Governments and Local Governments provides for participative structures including a committee system that involves reporting from community meetings to ward development committees to the local council assemblies.

Each ward committee comprises the elected member for the ward (who is the chairperson) and a maximum of five community representatives (of whom two must be women) as associate members. The function of the ward committee is to serve as a consultative and advisory committee to the LG council.

### 8.3.3. Solomon Islands

The National Parliament is unicameral comprising 50 members elected by the FPTP system in single-member constituencies. Their term of office is not more than four years.

The system of LG is made up of nine provinces, the City of Honiara (the capital) and the Town of Noro. The table below summarises the main features of this system.

The main legislation governing LG is:

- Provincial Government Act (originally enacted in 1981 but re-enacted in 1997).
- Honiara City Council Act.

The Honiara City Council Act is currently under review.

Table 23: summary structure and features of LG system in the Solomon Islands

Rural areas		Urban areas	
Levels	Representative bodies	Levels	Representative bodies
9 Provinces Avge pop. = 51,000 Smallest = 5,250 Largest = 157,000	Provincial Councils made up of between 9 and 30 Councillors elected for 4 years from wards on FPTP basis	Honiara City Pop. = 70,000	City Council made up of Councillors elected for 4 years from wards on FPTP basis  No of council members
		Noro Town Pop. = 5,000	Town Council made up of Councillors elected for 4 years from wards on FPTP basis  No of council members

Provincial Governments are envisaged in the Solomon Islands Constitution and were established in Solomon Islands law through the 1981 Provincial Government Act, which was re-enacted in 1997 legislation. This Act created a Provincial Assembly for each Province, with elected councilors empowered to pass ordinances not in conflict with National policy or legislation. Councilors are elected through a ward system using the FPTP system for a term of office of four years. The size of each Provincial Assembly varies according to the number of wards – typically between 9 and 30 members.

Under the Provincial Government Act, each Provincial Assembly is headed by an Executive. The total numbers of the Provincial Executive shall not be more than half of the Assembly. The Provincial Executive is led by the Premier, who is elected (for a four-year term) by an absolute majority of Provincial Assembly members. The Provincial Premier is a full-time position. Once elected, the Premier appoints a Deputy Premier and Ministers with portfolio responsibilities, even where the sectoral responsibilities of the Province for services delivery are minimal. The Provincial Secretary is accountable to the Premier and the Executive, in the same way as National Permanent Secretaries are accountable to their Ministers.

Urban mayors are also elected by their councilors. The mayors are elected by the councilors from amongst themselves also for a period of four years. Unlike Provincial Premiers, the mayors are part-time. Their remuneration is set by the minister.



Very few women hold elected office, and the one leader who is a woman is the chair of the appointed authority currently administering Honiara City Council.

The Department of Provincial Government & Constituency Development is responsible for overseeing Provincial and other local elections.

The Constitution allows for traditional leadership to be incorporated formally into Provincial structures, although this has never been achieved. Traditional leaders or “chiefs” are widely seen as a credible source of village governance, however, integration into the formal political system has never been successfully completed. The role of traditional leaders is most commonly associated with questions of land use and the legal system allows for Local Courts to adjudicate land disputes to avoid bringing cases to court. There is great cultural variation of customary leadership roles within Solomon Islands and such roles are not always seen as relevant to administrative functions but some Provinces, notably Isabel, are considering more formal systems to facilitate advisory roles for traditional leaders at both Province and village level. The question of how to integrate traditional leadership into formal governance structures has been a focus of discussions of how to reform Provincial Government since the 1970s and remains a priority for Solomon Islanders.

The electoral system at the national level is classified by IDEA International as FPTP.

#### Organisation of elections

At the national level, IDEA International classifies the current electoral system as Alternative Vote or “Limited Preferential Voting” (LPV). Current arrangements date to May 2003, when LPV supplanted FPTP; the first general election to use LPV will be held in 2007.

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