

## Challenging the Norms and Standards of Election Administration: Boundary Delimitation\*

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\*Chapter published in *Challenging the Norms and Standards of Election Administration* (IFES, 2007), p. 59-74.

### I. Introduction

Different sets of electoral district boundaries can produce different election outcomes, even if the underlying vote patterns are identical. Electoral abuses such as malapportioned constituencies (electoral districts that vary substantially in population) and electoral districts that have been “gerrymandered” (constituency boundaries intentionally drawn to advantage one political group at the expense of others) can have profound effects on the outcome of an election and the composition of a parliament. If voters and other stakeholders suspect that the electoral boundaries have been unfairly manipulated to produce a particular political outcome, this will affect the credibility of the delimitation process. The legitimacy of the electoral outcome itself could be questioned.

Despite the possible political ramifications of the process, and the fact that the majority of the world’s countries undertake periodic delimitations of electoral districts, little in the way of international standards has been proposed. But such standards are important: they direct public expectations, serve as a target for reformers to aspire to and a benchmark for stakeholders in an electoral process to gauge the fairness of the delimitation practices of a given country.

### II. Proposed International Standards for Delimitation

Some international election standards have been proposed by regional and nongovernmental organizations to guide the delimitation process. These organizations include the OSCE, the European Commission for Democracy Through Law, the Commonwealth Secretariat, and the Electoral Institute of Southern Africa (EISA). The appendix to this paper—“Proposed International Standards for Delimiting Electoral Boundaries”—provides a list of the standards and guidelines suggested by these entities.

A number of the proposed guidelines are narrowly focused and less than universally applicable. In other instances, important guiding principles have been neglected. Underlying many of the proposed standards are the following fundamental principles:

- **Impartiality:** The boundary authority should be a nonpartisan, independent, and professional body;
- **Equality:** The populations of constituencies should be as equal as possible to provide voters with equality of voting strength;
- **Representativeness:** Constituencies should be drawn taking into account cohesive communities, defined by such factors as administrative boundaries, geographic features, and communities of interest;

- **Non-discrimination:** The delimitation process should be devoid of electoral boundary manipulation that discriminates against voters on account of race, color, language, religion, or related status; and
- **Transparency:** The delimitation process should be as transparent and accessible to the public as possible.

This paper will elaborate on each of these principles, providing standards that reflect them and offering examples of countries that have employed these standards, as well as countries that have neglected them.

### III. Impartial Boundary Authority

**Proposed Standard: The delimitation process should be carried out by an impartial boundary authority, one that is independent, professional and not aligned with a particular political party.**

Because the political ramifications of delimiting electoral boundaries are considerable, it is essential that the process itself be perceived as nonpartisan and independent. A boundary authority that is closely aligned with the ruling party, for example, may be viewed as committed to a specific election result. If the stakeholders do not have confidence in the boundary authority to carry out its functions in an impartial and unbiased manner, this can seriously damage the credibility of the delimitation process and may even compromise the legitimacy of the election outcome.

During the nineteenth century, in Europe and in self-governing European colonies around the world, the drawing of district boundaries was the responsibility of the legislature. Partisan politics and gerrymandering were a given part of the districting process. But in most Western democracies, the idea that politicians are best excluded from the delimitation process has emerged. The United States is one of the very few long-standing democracies that still allow the legislature a dominant role in the process. The consequence of this is that partisan politics plays a very large, and often quite explicit, role in the delimitation (redistricting) process, as the text box below illustrates.

#### **United States: Re-redistricting in Texas for Partisan Purposes**

Traditionally, state legislatures in the United States spend the year or two after the decennial census redrawing congressional districts boundaries to reflect population shifts since the last census enumeration. The political party in control of the state legislature at the time of redistricting almost always draws the electoral boundaries to benefit itself. Litigation may follow, but once the courts have decreed the legality of the plan—or sanctioned the drawing of a new one—both political parties accept the new maps and assume that they will remain in place until the next national census. In 2003, however, the state of Texas broke with tradition and redrew congressional district boundaries mid-decade.

The decision to re-redistrict was made when the Republicans gained control of both houses of the state legislature following the 2002 elections. During the initial redistricting in 2001, the Texas state legislature was divided politically—with a Republican-controlled state senate and a Democratic state house of representatives—and unable to agree on a redistricting plan for the state's 32 congressional seats. As a result, a panel of federal judges drew up the congressional redistrict plan.

The 2002 elections produced 17 Democrats and 15 Republicans in the congressional delegation, and a state legislature completely controlled by Republicans. Tom DeLay, a Houston-area

congressman, decided to revisit the congressional redistricting plan, vowing to make the congressional delegation more Republican.

Under DeLay's guidance, Texas Republicans drew up a new congressional redistricting plan in the spring of 2003, despite the fact that the old plan had only been in place for a single election. The new plan shifted more than 8 million Texans into new districts, concentrating Democratic votes in a handful of massively safe Democratic seats and diluting the Democratic presence in other seats that were, until that point, considered competitive for both parties. The new congressional districts were a resounding success for Republicans: the 2004 congressional elections produced a congressional delegation of 21 Republicans and 11 Democrats.

Currently, the United States sits at one end of the spectrum: electoral boundaries are drawn by politicians with a stake in the outcome, and gerrymandering is an expected part of the process. At the other end of the spectrum are those countries that have established independent boundary authorities or rely on nonpartisan election commissions to carry out delimitation. Many Commonwealth countries, for example, have reformed their delimitation process, granting neutral boundary commissions the authority for delimitation. Britain pioneered the boundary commission approach several generations ago, and most of the long-standing democracies once ruled by the United Kingdom have followed suit and adopted boundary commissions: Australia, New Zealand, and Canada, as well as many of the Caribbean countries (i.e., Bahamas, Barbados, St. Lucia, St. Vincent, and the Grenadines). Several Anglophone African countries (i.e., Botswana, Namibia, and Zimbabwe) have also adopted boundary commissions for delimiting constituencies.

These boundary commissions are typically composed not only of impartial (nonpartisan) public officials but also of professionals with the requisite skills in election administration, geography, cartography, demography, and statistics. In Australia, New Zealand, and the United Kingdom, for example, the commissions incorporate electoral officers or registrar-generals, as well as the Director of Ordnance Survey (United Kingdom) and the Surveyor-General (Australia and New Zealand). In Canada, academics knowledgeable about elections and/or geography may be asked to serve on electoral commissions. Members of the judiciary are also well represented on boundary commissions in many countries, including Australia, Canada, India, New Zealand, and the United Kingdom.

Noticeably missing from the boundary commissions in most countries are legislators and representatives of political parties.<sup>1</sup> The express purpose of this omission is to maintain the political neutrality of the commissions. New Zealand is one exception to this rule.<sup>2</sup> Two political appointees, one a representative for the governing party and the other a representative for the opposition parties, serve on the seven-member Representation Commission. The rationale for their presence is to ensure recognition and rectification of any egregious political bias inherent in a constituency boundary plan. Because the two political appointees constitute a minority of the commission, they cannot outvote the non-political commissioners, and the neutrality of the commission remains unquestioned.

<sup>1</sup> Australia, Botswana, Canada, India, and Mauritius are examples of countries that specifically exclude by constitutional provision any person with political connections from serving on the boundary commission.

<sup>2</sup> Other countries that incorporate political party representatives on the boundary commission include Albania, Bahamas, Barbados, Fiji, Papua New Guinea, and St. Vincent.

Even if politics is not permitted to play an overt role in the drawing of the electoral district boundaries, it is still possible for the legislature or executive to influence the process if the boundary authority and its product are not independent from legislative and executive control. In particular, if parliamentary or executive approval is necessary for implementation of the final electoral boundaries, the outcome may be less than unbiased.<sup>3</sup>

Reforms designed to remove “politics” from the delimitation process have not only assigned the task of drawing to neutral boundary authorities, they have revoked the power of legislatures to approve the delimitation plans in a number of countries. In New Zealand, for example, the final plan of the Representation Committee, once published, cannot be changed or appealed. Since 1983, Australia’s augmented Electoral Commission has had the same power. The constituency boundaries created by the Delimitation Commission in India are also final.

In other countries, the legislature can debate and possibly even delay the enactment of a commission’s plan, but it cannot modify the plan. In Canada, for instance, Parliament is permitted to consider plans produced by the commissions, but has no vote on their implementation.<sup>4</sup> In the United Kingdom, the final proposals of the four Boundary Commissions take effect only after an affirmative vote by Parliament, but Parliament’s power to accept or reject a plan is a formality: it has almost always affirmed Commission proposals. Other countries that require the legislature to either accept or reject the proposed delimitation plan, but do not grant it the authority to modify the plan, include Malaysia, Mauritius, and Papua New Guinea.

Some countries (for example, Cameroon and Zimbabwe) require executive approval, rather than legislative approval, to implement a delimitation proposal. While this approach removes the final decision from legislators—those most directly affected by the delimitation plan—it still leaves the process open to charges of political influence.

*Ensuring the impartiality, independence, and professionalism of the boundary authority encourages stakeholders to accept the process as unbiased even though the results may have profound political consequences.*

#### **IV. Equality of Voting Strength**

**Proposed Standard: Constituency populations (or, in the case of multimember electoral districts, the ratio of representatives to voters) should be as equal as possible to ensure that all votes carry the same weight.**

The Universal Declaration of Human Rights Article 21 (3) states:

The will of the people shall be on the basis of the authority of the government; this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

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<sup>3</sup> Legislative or executive influence may be even more subtle. The boundary commissioners may be directly beholden to the legislature for their appointments or funds to carry out their tasks. This kind of dependence, however, may be difficult to avoid.

<sup>4</sup> Parliament used this provision to delay the implementation of plans, prompting a change in the law: there is now a 60-day limit on Parliamentary consideration.

The concept of “equal” suffrage applied to constituency delimitation means that all voters should be granted a vote of equal weight in the election of representatives. This principle translates into a requirement of equal populations across single-member constituencies and the same ratio of voters to elected representatives in multimember constituencies.<sup>5</sup> What, precisely, is meant by equality—that is, how much variation from absolute equality is permissible—as well as what population is to be equalized should be clearly established prior to undertaking delimitation.

The population data used to measure equality differs across countries. The most popular alternative for a population base is total resident population (as enumerated via a national census), followed by the number of registered voters. Some countries (mostly European) use citizen population as the relevant base for determining population equality.<sup>6</sup> Although both practical and theoretical concerns are likely to guide the choice of one of these options over the other possibilities, what is important is to recognize that a choice must in fact be made, and must be clearly identified in advance and used consistently.

The degree to which boundary authorities are permitted to deviate from population equality when constructing constituencies also varies. Countries that have set specific limits regarding the allowable departure from the population quota<sup>7</sup> have established tolerance limits that range from “virtually no deviation allowed” (the United States) to as high as a 30 percent tolerance limit (Singapore).<sup>8</sup> But again, the point is that a reasonable limit should be established, and the boundary authority should be obliged to stay within this limit.

Malapportioned constituencies—constituencies that vary greatly in population—not only violate the principle of equally weighted votes, but may also suggest to stakeholders that intentional bias has been introduced into the delimitation process. This is because malapportionment can be, and not infrequently has been, used to ensure constituency boundaries that favor one group (such as the ruling party) over others. This can be accomplished through active, passive, or systemic malapportionment.

Active malapportionment occurs when a boundary authority makes the conscious decision to draw constituencies that vary dramatically in population, i.e., under-populating constituencies in areas where the ruling party is strong and over-populating constituencies in areas where the opposition parties are likely to win more votes. In Kenya, for example, the ruling party during the 1990s (KANU) used malapportioned constituencies to retain control of the parliament, as the text box below discusses.

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<sup>5</sup> In a multimember constituency context, the population of the electorates may well vary but the number of representatives per constituency should be proportional to the size of the electorate.

<sup>6</sup> Other choices include voting age population (e.g., Lesotho) and the number of voters in the previous election (e.g., Belarus).

<sup>7</sup> The *population quota* is the average number of persons per constituency (or per representative in the case of multimember districts). It is calculated by dividing the total number of districts to be drawn (or representatives to be elected in the case of multimember districts) by the population of the country.

<sup>8</sup> Other common thresholds are 5 percent (e.g., New Zealand, Albania, and Yemen); 10 percent (e.g., Australia, Italy, and the Ukraine); 15 percent (e.g., Armenia, Germany, and the Czech Republic) and 20 percent (e.g., Zimbabwe and Papua New Guinea). In Canada, the independent commissions charged with creating federal electoral districts are allowed to deviate by up to 25 percent from the provincial quotas—and even more under “extraordinary circumstances.”

**Kenya: Malapportioned Constituencies Favored the Ruling Party**

Kenya's single-member constituencies have traditionally varied dramatically in population: constituency populations for the 1997 elections ranged from as few as 3,635 people to as many as 301,558 people (with most constituency populations well above or below the population quota of 102,271). This configuration of constituencies systematically over-represented residents of the most sparsely populated areas (the Rift Valley and northern, eastern, and southern Kenya), and under-represented the residents of Nairobi as well as other more densely populated areas (western and central Kenya). This malapportionment was not a source of controversy, however, until the era of the one-party state (1969-1991) came to an end.

With the reintroduction of multi-party politics in 1992, it became evident that this system of unequal representation favored the regions that supported the then-ruling party, KANU, and discriminated against the regions that supported the opposition parties. In fact, in the 1997 elections, KANU won a narrow majority of 107 of the 210 seats in the National Assembly with only 43% of the vote, in large part because the enormous disparity in constituency populations worked to favor the party.

KANU's defeat in the parliamentary election of 2002 was quite remarkable given the discrepancy in constituency size in favor of their interests. KANU, in fact, had a 20% advantage in the parliamentary election, meaning that Kibaki had to defeat Uhuru Kenyatte by at least 20 percent of the popular vote to ensure that NARC won more seats in the National Assembly than KANU. In fact, NARC defeated KANU by more than 30 percent in both the presidential and parliamentary elections.

*(Africa Notes, number 14, January 2003, published by the Center for Strategic and International Studies.)*

Malapportionment does not have to be active. Simply avoiding the periodic redrawing of boundaries also produces malapportioned constituencies. This form of malapportionment—passive malapportionment—may be the result of an administrative decision (e.g., lack of funds), but it may also be sanctioned for political gain. In the United States, for example, a number of states, beginning in the early twentieth century through the 1960s, neglected to redraw legislative boundaries following the decennial census because to do so would produce a shift of power away from the rural areas to the then rapidly growing urban areas.

The solution to passive malapportionment is to require delimitation at established intervals. The majority of countries that delimit electoral districts have, in fact, set some mandatory time interval within which delimitation must occur. For instance, the Seychelles requires the delimitation of new constituency boundaries as often as every three years if necessary. On the other hand, Ireland, the United Kingdom, and France permit up to 12 years to lapse before undertaking another delimitation exercise. The most popular choice for periodic delimitation appears to be 10 years.<sup>9</sup> However, the establishment of a time interval, without a population deviation tolerance limit, may not produce the desired effect. In Fiji, the mandated delimitation process was carried out in name but not in fact. Public hearings were conducted but no changes were actually made to the boundaries despite large discrepancies in population across constituencies.

One other form of population inequality should be mentioned: "systemic" malapportionment. This exists when administrative boundaries are used as single-

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<sup>9</sup> Botswana, Canada, India, Japan, Kenya, Lesotho, Malaysia, Mauritius, Mexico, Nepal, Nigeria, Pakistan, Papua New Guinea, Tanzania, the United States, and Yemen all have electoral laws or constitutional provisions requiring delimitation at least every 10 years.

member constituencies despite large differences in population. Many upper houses of parliament employ territorial units as constituencies and do not adjust the number of representatives elected from these administrative divisions to reflect the differences in population, or do so to only a limited degree.<sup>10</sup> But this approach is usually balanced by a lower chamber that does, at least in theory, reflect the principle of equality of voting strength. There are exceptions, however. In the Republic of Georgia, for instance, even though there is only a single legislative chamber, *rayons* are used as single-member constituencies although they range in population from 5,264 to 180,822.

*Equality of voting strength requires constituencies that are as equal in population as possible. The establishment of a population tolerance limit and a mandatory time interval for delimitation helps guarantee equality.*

## **V. Representativeness: Maintaining Communities of Interest**

**Proposed Standard: The boundary authority should be obliged to take into account criteria relevant to representation such as administrative boundaries, geographic features, and other factors related to communities of interest.**

If electoral districts are more than conglomerations of arbitrary groups of individuals—if they unite cohesive communities of voters that share common interests—they are easier to represent. One means of ensuring that the boundary authority recognizes and takes into account such communities is to specify a set of criteria related to these communal interests and obligate the boundary authority to consider these criteria when drawing constituency boundaries. Typically these criteria are relevant to the administrative, geographic, and social milieu of the country and may include such factors as preexisting administrative boundaries, geographic features, and communities of interest.

Respect for administrative boundaries (such as county and municipal boundaries) is the most common delimitation criterion adopted. Dozens of countries stipulate that the boundary authority take into account administrative units when creating constituencies (e.g., Bangladesh, Bulgaria, Croatia, the Czech Republic, Fiji, France, Germany, India, Italy, Japan, Kenya, Lithuania, Malaysia, Mexico, Namibia, Uganda, and the United Kingdom). Some African countries (e.g., Botswana) specify consideration of not only administrative district boundaries but also the boundaries of tribal territories.

Geographic factors are also listed as a criterion in many countries (e.g., Australia, Canada, India, Ireland, Japan, Mexico, Namibia, and New Zealand). This might encompass such features as river valleys and islands, as well as natural barriers like mountain ranges and rivers. The remoteness of a territory and its population density are also sometimes mentioned as factors to consider when delimiting constituency boundaries (e.g., Botswana, Malaysia, Nepal, and the United Kingdom).

Many countries that delimit districts emphasize the importance of creating districts that correspond as closely as possible to communities of interest. Most countries' electoral laws do not elaborate on what specific communities of interest are relevant to

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<sup>10</sup> The seats in the U.S. Senate and the Australian Senate are distributed on the basis of equality for states: each state has two senators in the United States and 12 in Australia. Canada employs a version of this principle: each of the four "divisions" of the country has 24 senate seats. In Germany, a compromise was reached between the principle of equal number of seats per *Länd* and a distribution of seats based strictly on population; the result is that the larger *Länder* are substantially under-represented. France and Spain also have over-represented rural areas and under-represented urban areas in their upper chambers.

delimitation; the boundary authority is simply instructed to take into account “communities of interest.” German electoral law states that constituencies should form a “coherent” area. Nepal, Pakistan, and Papua New Guinea electoral laws instruct the boundary authority to consider “community and diversity of interest” or “homogeneity and heterogeneity of the community.” Australian electoral law indicates that the Redistribution Committee shall give due consideration to “community of interests within the proposed Electoral Division, including economic, social and regional interests.” In Hungary, the boundary authority is to take account of ethnic, religious, historical, and other local characteristics when creating electoral districts.

*Incorporating geographically-based communities of interest into constituencies simplifies the task of representing voters. Establishing a set of delimitation criteria (e.g., respect for administrative boundaries, geographic features, and communities of interest) and obliging the boundary authority to take these criteria into account when drawing constituency boundaries will help ensure more cohesive community-based constituencies.*

## **VI. Non-discrimination to Safeguard Minorities**

### **Proposed Standard: Constituencies should not be drawn in a manner which discriminates against disadvantaged minorities**

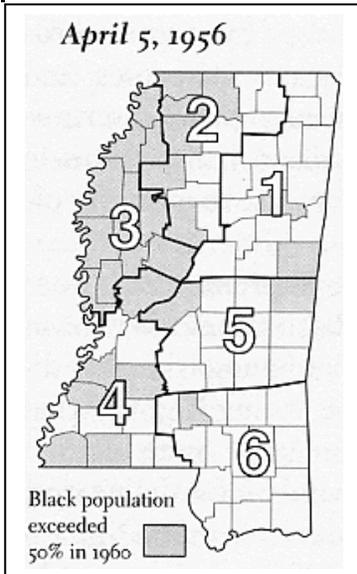
The International Covenant on Civil and Political Rights (ICCPR), Articles 2 and 25 (b), provides that suffrage be non-discriminatory.<sup>11</sup> Electoral district boundary configurations can be discriminatory by fragmenting geographically concentrated minority groups across constituencies to dilute or discount their votes. This practice should be prohibited. By the same token, however, it must be recognized that in the context of boundary drawing, only minority groups that are sufficiently large and geographically compact can be affected by the placement of constituency boundaries. Some traditionally disadvantaged minorities, such as women, will not be impacted one way or the other by a given set of constituencies.

The United States, because of its sizeable racial and ethnic minority population and its history of discrimination against certain minority groups, has had to address the issue of fairness to minorities in promulgating districting plans. The Voting Rights Act of 1965 and its amendments in 1982 have established that a districting plan that dilutes the voting strength of minority voters by dividing a geographically compact minority community across several districts (or packing them unnecessarily into a single, over-concentrated district) is illegal. The text box below provides an example of how constituency boundaries were used to discriminate against blacks in the American South.

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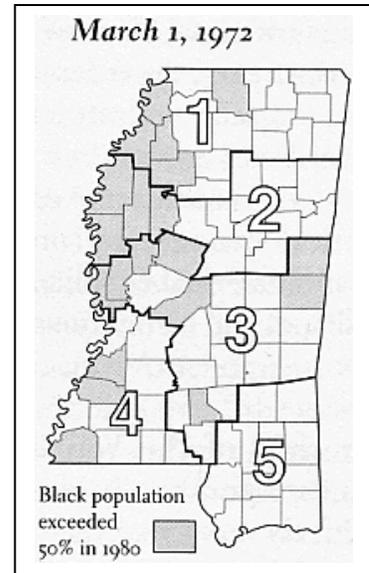
<sup>11</sup>ICCPR Article 2(1) states: “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Article 25 provides: “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country.”

**United States: Drawing Districts that Discriminate Against Blacks in Mississippi**



Until the mid-1960s, the state of Mississippi drew congressional districts such that one district (District 3 in the map to the left) followed the Mississippi River in the northwestern region of the state. Because this area of the state was heavily black in population, the congressional district was majority black in composition. Prior to the passage of the Voting Rights Act of 1965, blacks in Mississippi were denied the right to vote and therefore never had an opportunity to elect a candidate of choice to represent this district despite being in the majority.

When black citizens regained the right to vote in Mississippi in the late 1960s, the all-white state legislature decided that a majority black congressional district posed a threat. It was quite conceivable that black voters would elect a black representative to office. The legislature therefore purposely redrew the congressional district boundaries to ensure that black voters did not constitute a majority in this Delta region district, or any other congressional district in the state. They did this by fragmenting the Delta concentration of black voters across several districts rather than retaining them in a single district. It took several court challenges and nearly a dozen years before the district lines were redrawn in a less discriminatory fashion.



Electoral systems that rely solely on single-member constituencies to elect representatives to parliament cannot guarantee proportional representation or even some minimal percentage of seats to racial, ethnic, religious, linguistic, or other minority groups within the population. Prohibiting discriminatory delimitation will protect only minority groups that are sufficiently large and geographically compact to elect minority representatives to office if not fragmented; it does nothing to promote the representation of minorities that are not geographically concentrated. Affirmative measures for more than simply geographically compact minorities may be merited. Special provisions designed to ensure minority representation include reserved parliamentary seats, constituencies specifically designated for minority candidates, and constituencies specifically drawn to encompass minorities.

Many countries that employ constituencies for electing MPs have instituted special provisions to guarantee some minority representation in the parliament. For instance, Croatia, Mauritius, Singapore, and the Palestinian Territories all reserve a number of parliamentary seats for minorities. India and Pakistan each select a number of constituencies in which only minority candidates can compete. Other examples of countries with special provisions include Fiji and Papua New Guinea, both of which have separate sets of communal seats to guarantee representation of major ethnic groups. A significant feature of New Zealand's electoral system is a provision for representation of the descendants of New Zealand's aboriginal Maori population. The Representation Commission is obliged to create two sets of electoral districts (electorates) in New Zealand: one set of "General" electorates and a second set of "Maori" electorates, with the Maori electorates overlaying the general electorates. To vote in a Maori electorate,

the voter must be a Maori and must register on the Maori roll. This mechanism provides Maori voters the opportunity to select their own set of representatives.

*Provisions against discriminatory constituency boundaries protect minority groups that are geographically concentrated. Special provisions, beyond a prohibition against fragmenting minority communities, will be required to facilitate the representation of minority groups that are not sufficiently large and geographically compact to benefit from remaining unified within a single constituency.*

## **VII. Transparency: Public Consultation**

**Proposed Standard: Constituency boundaries should be drawn in a transparent manner and the procedure should be accessible to the public through a consultation process.**

Transparency is important for maintaining public confidence in the integrity of the delimitation process. Stakeholders are more likely to accept the outcome of the process—especially if the ramifications of the process are as political as they can be in delimitation—if they can scrutinize the process. To do this, they must have access to information on, and input into, the decisions of the boundary authority.

There are several factors to consider when designing a delimitation process that is as transparent as possible:

- The approach that is to be taken, and more specifically the criteria that will be employed to draw the electoral district boundaries, should be identified and made public in advance of commencing the drawing phase;
- The stakeholders in the process should be consulted during the process to solicit their comments and concerns regarding the placement of the constituency boundaries; and
- An explanation should be provided for decisions made concerning the final assignment of the boundaries, particularly if objections to these boundaries have been put forward.

A public awareness program designed to educate stakeholders about the process is important, especially because delimitation can be a very technical exercise and not particularly well understood. If the boundary authority makes an effort to inform the public about why the process is undertaken, what the criteria are that the boundary authority is obliged to take into account when drawing the constituencies, and what the final result of the process will be, it is more likely that stakeholders will accept the delimitation process and its outcome.

Voter education, as well as accessibility to the process, is usually fostered by a consultation process that includes a series of public hearings. These hearings should be utilized not only to inform stakeholders about the delimitation process but to solicit their comments and concerns regarding the placement of constituency boundaries. The consultation process may be undertaken prior to drawing any boundaries (e.g., Botswana), or it may be scheduled after a preliminary set of boundaries have been created, allowing stakeholders to react to a specific set of proposed boundaries (e.g., the United Kingdom). In Australia, the boundary authority (Redistribution Committee) receives suggestions from stakeholders and the general public before beginning to draft

a plan and then, once it has completed a plan, the augmented Electoral Commission hears public objections to the proposed plan, if there are any, and produces a final map.

One of the aims of Canada's Electoral Boundaries Redistribution Act of 1964 was to increase the public's awareness of and involvement in the redistribution process. The Act grants the public an opportunity to present suggestions or objections to commission proposals. Once the boundary authority completes its proposal, it publishes the map in local newspapers and the general public is invited to present written briefs or oral presentations at public hearings held by the commission. Commissions have received hundreds of comments from a wide variety of sources, including local jurisdictions, political parties, members of Parliament (MPs), candidates for Parliament, political activists, and other interested citizens. Redistribution plans have often been revised after these hearings.

The final product of the boundary authority should be well publicized (e.g., maps, narrative descriptions, and population reports for the constituencies should be produced and disseminated) and a final report justifying the choices made (particularly if stakeholders objected to the alternative chosen) should be written. This report will allow stakeholders to understand and assess the process and will provide legitimacy to the outcome.

*A delimitation process that is transparent and provides stakeholders with the information necessary to assess the process and even affect its outcome is more likely to receive the support of the public.*

## **VIII. Conclusion**

There is no single best model for delimiting constituency boundaries. The wide variety of delimitation practices, many of them quite successful, attest to this. However, it is important to establish standards to which the delimitation process might aspire, if current practices do not already meet them. These standards will need to be flexible to be relevant to both mature and transitional democracies, but underlying all of them should be the fundamental principles of impartiality, equality, representativeness, non-discrimination, and transparency.

Meeting standards that include an impartial boundary authority (guided by principles like equal voting strength, representativeness, and non-discrimination) as well as a process that is as transparent as possible offers credibility and legitimacy to a process that can have decided political consequences. The table below provides a summary of the principles that should guide the delimitation process and some examples of best practices that meet these standards.

**Summary Table: Boundary Delimitation  
International Principles, Standards, and Best Practices**

| <b>Standards</b>   | <b>Best Practices</b>  |
|--|--|
| <b><i>Principle 1: Impartiality</i></b>  |  |
| <ul style="list-style-type: none"> <li>• Nonpartisan boundary authority</li> </ul>   | <ul style="list-style-type: none"> <li>• No legislators or political party officials are permitted to serve on boundary authority, or</li> <li>• If party representatives serve, partisan representation is balanced and in the minority (nonpartisan commissioners control the authority).</li> </ul>   |
| <ul style="list-style-type: none"> <li>• Independent boundary authority</li> </ul>   | <ul style="list-style-type: none"> <li>• Constituencies produced by boundary authority are final, or</li> <li>• If parliament must pass legislation to implement constituencies, it is given a limited time to do so and is not permitted to modify boundaries.</li> </ul>   |
| <ul style="list-style-type: none"> <li>• Professional boundary authority</li> </ul>  | <ul style="list-style-type: none"> <li>• At least a portion of boundary authority serves ex-officio from government departments, agencies, or commissions relevant to the delimitation process (elections, geography, cartography, and demography).</li> </ul>   |
| <b><i>Principle 2: Equality</i></b>  |  |
| <ul style="list-style-type: none"> <li>• Constituency populations as equal as possible</li> </ul>                                    | <ul style="list-style-type: none"> <li>• Constituency populations are not permitted to vary more than a set percentage from the population quota.</li> <li>• Constituency populations that fall within tolerance limit but deviate substantially from the population quota are justified with reference to established delimitation criteria.</li> </ul> |
| <ul style="list-style-type: none"> <li>• Established trigger for undertaking delimitation</li> </ul>                                 | <ul style="list-style-type: none"> <li>• Delimitation is undertaken at mandatory time intervals, or</li> <li>• If other events trigger delimitation, one of these is a pre-determined level of malapportionment.</li> </ul>  |
| <b><i>Principle 3: Representativeness</i></b>  |  |
| <ul style="list-style-type: none"> <li>• Maintain cohesive communities</li> </ul>  | <ul style="list-style-type: none"> <li>• Boundary authority is required to take into account criteria relevant to representation such as administrative boundaries, geographic features, and other factors related to communities of interest.</li> </ul>  |
| <b><i>Principle 4: Non-Discrimination</i></b>  |  |
| <ul style="list-style-type: none"> <li>• Safeguard representation of racial, ethnic, religious, and linguistic minorities</li> </ul> | <ul style="list-style-type: none"> <li>• Prohibition against fragmentation of geographically concentrated minority groups, or</li> <li>• If justified, use of special provisions such as reserved seats, constituencies designated for minority candidates, or constituencies drawn specifically for minority voters.</li> </ul>                         |
| <b><i>Principle 5: Transparency</i></b>  |  |
| <ul style="list-style-type: none"> <li>• Access to information</li> </ul>  | <ul style="list-style-type: none"> <li>• Public awareness program (including publicizing the steps and criteria for delimitation) is required.</li> <li>• Public hearing schedule is established and publicized.</li> <li>• Final report explaining decisions is published.</li> </ul>   |
| <ul style="list-style-type: none"> <li>• Public consultation</li> </ul>  | <ul style="list-style-type: none"> <li>• Public consultation is required to provide stakeholders with an opportunity to comment on proposed constituency boundaries.</li> </ul>  |

## Appendix:

### Other Sources of Proposed International Standards for Delimiting Electoral Boundaries

#### I. Venice Commission

*European Commission for Democracy Through Law: Code of Good Practice in Electoral Matters, Guidelines and Explanatory Report, Adopted October 2002*

The *Guidelines* of the Venice Commission Report states:

- 2.2 Equal voting power: seats must be evenly distributed between the constituencies.
- i. This must at least apply to elections to lower houses of parliament and regional and local elections:
  - ii. It entails a clear and balanced distribution of seats among constituencies on the basis of one of the following allocation criteria: population, number of resident nationals (including minors), number of registered voters, and possibly the number of people actually voting. An appropriate combination of these criteria may be envisaged.
  - iii. The geographical criterion and administrative, or possibly even historical, boundaries may be taken into consideration.
  - iv. The permissible departure from the norm should not be more than 10%, and should certainly not exceed 15% except in special circumstances (protection of a concentrated minority, sparsely populated administrative entity).
  - v. In order to guarantee equal voting power, the distribution of seats must be reviewed at least every ten years, preferably outside election periods.
  - vi. With multimember constituencies, seats should preferably be redistributed without redefining constituency boundaries, which should, where possible, coincide with administrative boundaries.
  - vii. When constituency boundaries are redefined—which they must be in a single-member system—it must be done:
    - impartially;
    - without detriment to national minorities;
    - taking account of the opinion of a committee, the majority of whose members are independent; this committee should preferably include a geographer, a sociologist, and a balanced representation of the parties and, if necessary, representatives of national minorities.

#### II. Office for Democratic Institutions and Human Rights (ODIHR)

*Election Observation Handbook*

In the *Fourth Edition* of the ODIHR Election Observation Handbook, published in April 1999, in a section entitled “The OSCE Commitments,” the ODIHR identifies the following as a commitment:

The principle of *equality* requires that one’s vote be given equivalent weight to that of the other voters in order to ensure equal representation. Under the

majority voting system it requires that the size of the electorate among constituencies should not vary by more than approximately ten percent (10%). Under the proportional representation system, the size of the electorate may vary but the number of representatives for each district should be proportional to the size of the electorate. Voters should have equal and effective access to polling stations.

Later, in Chapter 9 (“The Pre-Election Phase: The Long-Term Observer”), Section 9.1 (Election Administration), part e (Election Boundaries), the ODIHR elaborates on this commitment:

According to the OSCE commitments, all votes should carry the same weight to ensure equal representation. This means that each elected representative represents a similar number of registered electors. For example, in a majority voting system, the size of the electorate should not vary by more than approximately ten percent (10%) from constituency to constituency. Under the proportional representation system, the size of the electorate may vary but the number of representatives for each district should be proportional to the size of the electorate.

The election law should provide detailed and uniform criteria for the drawing of electoral district lines, specifying considerations such as the number of voting population per district and natural, administrative and historical continuity of boundaries.

The boundaries must be drawn in a transparent manner, and ideally by a non-partisan commission of experts assigned for this purpose. Otherwise it may be difficult to determine if the boundaries are elaborated on the principle of political neutrality, or in a selective, discriminatory and biased manner.

Strangely enough, in the *Fifth Edition* of the ODIHR *Election Observation Handbook*, the slightly more detailed discussion relating to election boundaries no longer appears, and the only reference made to constituencies is in Chapter 3 (Universal principles on elections and human rights), Section 3.4 (Practical implications), which states:

EQUAL SUFFRAGE implied that each citizen’s vote should have the same value. This means that, under proportional-representation systems, the number of representatives for each district should be proportional to the size of the electorate and that the thresholds for winning seats in parliament should not be set so high as to disregard the political choices of relatively large numbers of voters. Under majority voting systems, equal suffrage means that the population of electoral constituencies should be approximately equal; a variance of more than some 10 per cent could be a cause for concern.

### **III. Commonwealth Secretariat**

*Good Commonwealth Electoral Practice: A Working Document, June 1997*

The Commonwealth Secretariat identifies the following points with regard to good electoral practice when delimiting electoral constituencies:

#### Delimitation of constituencies

- 20 The delimitation of constituency boundaries is a function occasionally performed by an election commission or otherwise by an independent boundaries commission, and in some cases after a population census.
- 21 General principles guiding the drawing of constituency boundaries include community of interest, convenience, natural boundaries, existing administrative boundaries and population distribution, including minority groups. There should be no scope for any "gerrymandering", and each vote should, to the extent possible, be afforded equal value or weight, in recognition of the democratic principle that all those of voting age participate equally in the ballot.
- 22 It is important that the general public play a part in the whole process and that the political parties also have an opportunity to respond to proposals before they are finalized. Where the size of a particular constituency is markedly out of line with the target "quota" of voters per seat, the reasons should be capable of being readily understood by both the parties and the general public.

### **IV. Electoral Institute of Southern Africa (EISA)**

*Principles for Election Management, Monitoring and Observation in the SADC Region, Adopted November 2003*

The Electoral Institute of Southern Africa (EISA) and the Electoral Commissions Forum (ECF) adopted the following principles relating to electoral boundary delimitation:

#### 4.1 Delimitation

In most SADC countries the EMB is responsible for the delimitation of constituencies, however some countries appoint special commissions to handle delimitation. The establishment, composition and status of an EMB applies equally to a delimitation commission. In most cases the mechanisms for establishing the body responsible for delimitation are entrenched in the Constitution.

It is important to note that the delimitation process is a technical exercise that can be used to achieve political goals. It is therefore important that the process be guided by clear criteria (see Table 1).

TABLE 1  
Delimitation of Constituencies

Delimitation should ensure that each constituency contains approximately the same number of eligible voters. The following consideration should be taken into account:

- i) population density
- ii) ease of transportation and communication
- iii) geographic features
- iv) existing patterns of human settlement
- v) financial viability and administrative capacity of electoral area
- vi) financial and administrative consequences of boundary determination
- vii) existing boundaries
- viii) community of interest

#### Recommended Principles

The delimitation process should:

- be managed by an independent and impartial body that is representative of society, comprising persons with the appropriate skills;
- be conducted on the basis of clearly identified criteria such as population, distribution, community of interest, convenience, geographical features and other natural or administrative boundaries;
- be made accessible to the public through a consultation process;
- be devoid of manipulation of electoral boundaries to favour political groups or political interests;
- be conducted by one body;
- include all spheres of government, both national and local.