

Parties, Candidates and Ballots: Access Rules That Prevent Both Bans and Chaos

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Series: Elections, Representation & Democratic Participation — research papers accompanying [the Elections, Representation & Democratic Participation working blueprint](#). **Paper E4.**

1. The question

A first free election is shaped long before polling day by three gatekeeping rules: who may form a party, who may stand, and whose name or emblem appears on the ballot. Rules set too loosely produce unreadable ballots and invite front organisations. Rules set too tightly let an incumbent or temporary authority shut out competitors without banning anyone. After a single-party system the risk is acute, because those drafting the rules may themselves be competitors. This paper asks what access rules a post-transition electoral law should adopt for parties, for individual candidates and for the ballot itself, so that entry is open, the ballot is usable, and exclusion is rare, reasoned and reviewable by a court.

2. The blueprint position

The Elections, Representation & Democratic Participation blueprint (<https://freechina.live/governance-public-policy/third-republic-governance-blueprints/elections-representation-democratic-participation/>) makes access a precondition of competitive elections. Among the conditions to be prepared before voting, it lists "freedoms of association, party formation, assembly, expression and press", together with voter and candidate registration, voter rolls, media access, campaign finance and observation. It requires that candidate qualification and ballot administration, along with counting, certification and disputes, be "institutionally separated from partisan campaign control where feasible". It also calls for "an auditable campaign-resource and equal-access record". It leaves thresholds, deposits, signature counts, ballot format and party-exclusion procedure open; this paper proposes them.

3. Evidence and comparative options

International floor. Article 25 of the International Covenant on Civil and Political Rights guarantees every citizen the right to stand for election "without unreasonable restrictions". Article 22 permits limits on freedom of association only where they are prescribed by law and necessary in a democratic society (<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>). The joint ODIHR–Venice Commission Guidelines on Political Party Regulation (2nd edition, 2020) put these standards into operational form (<https://www2.osce.org/files/f/documents/8/1/538473.pdf>). Registration requirements should not be unduly burdensome (para. 41). Minimum-support requirements must be reasonable, set clearly in law and proportionate, preferably expressed as a percentage of the relevant population rather than a fixed number (paras. 94–95). Fees must never be so high that they block legitimate parties, and non-monetary alternatives should be available (para. 93). A missed decision deadline should count as approval (para. 88). Losing registration is never by itself grounds for a ban (para. 39); dissolution is a last resort decided by an independent court (paras. 50–53); lawful advocacy of constitutional change is protected (para. 38).

ROC (Taiwan): a codified access regime. The Political Parties Act (<https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=D0020078>) sets a low entry bar. Founders file with the Ministry of the Interior after a founding assembly of at least 50, with a roster of at least 100 members (Art. 7). Only the Constitutional Court can order involuntary dissolution (Art. 26); administrative revocation is limited to grounds such as four years without a party congress (Art. 27).

Parties may not run profit-making businesses and must publish CPA-audited accounts (Arts. 21, 23); those winning 3 per cent of the party-list vote receive a per-vote subsidy (Art. 22). The Public Officials Election and Recall Act (<https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=D0020010>) governs candidacy. Candidates must generally be 23 (Art. 24); a deposit is forfeited below one-tenth of the district quota (Art. 32). A party may present a ranked list by meeting any one of four tests: 2 per cent in the last presidential vote, 2 per cent in recent party-list votes, five sitting legislators, or ten verified district candidates (Arts. 24, 67). Seats go only to parties above 5 per cent, and women hold at least half of list seats (Art. 67). Ballot numbers are drawn publicly by lot; ballots carry photographs and party names, and the party ballot carries emblems (Arts. 34, 62). Disqualification grounds are statutory, mainly final criminal convictions (Art. 26); serving military and election staff may not stand (Art. 27). Under this regime, three parties passed the 5 per cent party-list threshold in 2024, out of 16 on the national party list (<https://web.cec.gov.tw/api/file/7ee9ec67-e039-4663-b5f7-c9516262ae37.pdf>).

Germany: protection through the courts. Article 21 of the Basic Law guarantees that parties may be freely founded, requires their internal organisation to follow democratic principles, and requires them to account publicly for their assets. Only the Federal Constitutional Court may declare a party unconstitutional or exclude it from state funding (https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html). Funding exclusion is a sanction short of a ban.

United Kingdom: a light gate for candidates. A parliamentary candidate pays a £500 deposit, which is returned on reaching 5 per cent of the vote. These figures have applied since 1985, replacing a £150 deposit and a 12.5 per cent threshold dating from 1918 (<https://commonslibrary.parliament.uk/lost-deposits/>).

PRC (Mainland): the baseline to be replaced. The State Council's 2021 white paper describes the eight legally recognised "democratic parties" as participating parties working under the leadership of the Communist Party of China. It states that they are "不是在野党、反对党" (not opposition parties) (https://www.gov.cn/zhengce/2021-06/25/content_5620794.htm). In 1998 the China Democracy Party made what Human Rights Watch describes as the first attempt since 1949 to register an opposition party formally. At least 34 members were sentenced for attempted subversion, to terms of up to 13 years (<https://www.hrw.org/reports/2000/china/china009.htm>). After a transition no party will have a free-election record, so existing registers prove nothing about support.

What the comparison shows. Working systems keep the registration gate low, put the higher gate at seat allocation, offer alternative routes to the ballot, make exclusion judicial, and keep deposits modest and refundable. In a first election, tests tied to past results (as in the ROC (Taiwan) list rules) cannot operate, so only current-support tests remain usable.

4. Recommended design

1. **Founding a party is a notification, not a permission.** Any group of at least 100 adult citizens may found a party by filing its name, emblem, charter, officers and member roster with the independent election authority. Registration follows within 15 days or occurs by default; refusal only on listed grounds (confusing name or emblem, missing documents), with written, appealable reasons.
2. **Registration is not a licence to exist.** Unregistered associations keep full rights of association and speech; registration confers only list nomination, broadcast time and public funding.
3. **Exclusion only by a court, and only for the gravest conduct.** Only the constitutional court, on an evidenced petition, may dissolve a party or exclude it from public funding, and only for the use or organised preparation of violence or armed force against the constitutional order. Programmes for lawful constitutional change are not grounds. Funding exclusion is the preferred lesser sanction; decisions within 60 days.
4. **Several routes to the party ballot.** For a first election, a registered party gains a place on the national party ballot by meeting any one of the following tests: (a) nominating district candidates

- in at least a set number of constituencies; (b) collecting supporting signatures from 0.1 per cent of registered voters, spread across at least a set number of provinces; or (c) paying a refundable deposit. For later elections, past results (2 per cent of the vote or a minimum number of seats) are added as further alternatives, never as the only route.
5. **Independent candidates have equal access.** An individual may stand in any constituency with signatures from 0.5 per cent of the constituency's voters (capped at a fixed maximum), or by paying a deposit that is refunded on reaching 5 per cent of the vote. Signatures may be corrected within a set window; voters may sign for several candidates.
 6. **Disqualification is listed in law, narrow and individual.** Grounds are limited to age, citizenship, a final conviction for serious specified crimes (electoral fraud, corruption, violent crime), an incompatible current office (active military, police or judicial service, or election-authority employment) and a court-ordered loss of political rights. Past membership of any organisation, including the formerly ruling party, is not a ground; any office-specific vetting belongs to the lustration regime and needs an individual finding.
 7. **Candidate qualification is decided by the election authority, not by rivals.** The authority rules on every nomination within 5 days. The electoral court decides appeals within 7 days and before printing; if it cannot, the candidate appears provisionally.
 8. **Ballot order and format follow neutral rules.** Positions on the ballot are assigned by public draw in front of party agents. Ballots show name, photograph and party (or "independent"), and party emblems, to aid voters with limited literacy.
 9. **Rules for party lists.** Lists are ranked, published, consented to in writing by each candidate, and secure at least half of list seats for women.
 10. **Thresholds govern seats, not access.** Any threshold for legislative seats (no higher than 5 per cent nationally) applies to the allocation of seats, never to appearing on the ballot. Sub-threshold votes are published in full.
 11. **Equal access to the means of campaigning.** Registered parties and qualified candidates get equal minimum free broadcast time and equal access to public halls and spaces. An auditable equal-access record logs every allocation.
 12. **Transparency obligations scale with privilege.** Parties that receive public funds publish audited annual accounts and a list of their donors above a set threshold. No party may own profit-making businesses; unfunded small parties file a simplified statement.

5. Open questions and risks

- **Numbers.** The figures (100 founders, 0.1 and 0.5 per cent, deposits) are placeholders to calibrate across electorates from township to nation; in a very large population even small percentages can become heavy absolute burdens, hence the caps.
- **Fragmentation.** Low entry may crowd the ballot; seat thresholds limit parliamentary fragmentation but not polling-station confusion. Ballot designs need voter testing.
- **Front organisations.** Easy registration also helps proxy parties funded by former-regime networks or foreign states; enforcement capacity will be thin at first.
- **The formerly ruling party.** Whether it or its successors compete, and with what assets, is left to the courts and the lustration regime rather than settled by an access rule; some will find this too permissive, others too restrictive.
- **Signature fraud and coercion.** Sample verification and signer confidentiality need further design.
- **Evidence gaps.** Comparisons here are mainly the ROC (Taiwan), Germany and the United Kingdom; post-authoritarian transitions in Central and Eastern Europe and Latin America should be added before numbers are set.

6. Cross-links

- Hub: Elections, Representation & Democratic Participation — <https://freechina.live/governance-public-policy/third-republic-governance-blueprints/elections-representation-democratic-participation/>

- Related blueprints: Transition Readiness Methodology — <https://freechina.live/governance-public-policy/third-republic-governance-blueprints/transition-readiness-methodology/> ; Roadmap, KPIs & Review Gates — <https://freechina.live/governance-public-policy/third-republic-governance-blueprints/roadmap-kpi-review-gates/>
- Model legislation: the [Seven-Law model legislation package](#) (elections and political-parties provisions).
- Sibling papers in this series: E1 First Elections After Transition: Sequencing Local, Provincial and National Votes; E2 Who Runs the Count? Independent Election Administration; E3 Voter Registration Without the Hukou Trap; E5 Watching the Count: Observation, Media Access, Transparency; E6 When an Election Is Disputed: Fast Courts, Recounts and the Peaceful Transfer of Seats.

Sources

- Elections hub — <https://freechina.live/governance-public-policy/third-republic-governance-blueprints/elections-representation-democratic-participation/>
- ICCPR (OHCHR) — <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>
- ODIHR–Venice Commission, Guidelines on Political Party Regulation, 2nd ed. (2020) — <https://www2.osce.org/files/f/documents/8/1/538473.pdf>
- ROC (Taiwan) Political Parties Act — <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=D0020078>
- ROC (Taiwan) Public Officials Election and Recall Act — <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=D0020010>
- ROC (Taiwan) Central Election Commission results database — <https://web.cec.gov.tw/api/file/7ee9ec67-e039-4663-b5f7-c9516262ae37.pdf>
- Basic Law for the Federal Republic of Germany — https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html
- UK House of Commons Library, "Lost deposits" — <https://commonslibrary.parliament.uk/lost-deposits/>
- PRC State Council Information Office white paper (2021) — https://www.gov.cn/zhengce/2021-06/25/content_5620794.htm
- Human Rights Watch (2000), China Democracy Party report — <https://www.hrw.org/reports/2000/china/china009.htm>

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