



European Commission United Nations Development Programme International IDEA

***Joint Training on
Effective Electoral Assistance***

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**Media Regulations, Monitoring and Support to
Media Sector**

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Freedom of Expression

International law protections:

- ❑ 'Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and seek, receive and impart information and ideas through any media and regardless of frontiers' (Article 19, **United Nations Declaration of Human Rights**, 1999).
- ❑ 'Everyone has the right to freedom of expression. The right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television and cinema enterprises.' Article 10 of the **European Convention of Human Rights**
- ❑ "Freedom of the press affords the public one of the best means of discovering and forming an opinion on the ideas and attitudes of their political leaders. In particular, it gives politicians the opportunity to reflect and comment on the preoccupations of public opinion; it thus enables everyone to participate in the free political debate which is at the very core of the concept of a democratic society" (**Castells Judgement** 1992, cited in **Council of Europe 2001**, p.12).

Elections are one of the central instruments employed by nation states to ensure that the democratic right of citizens and the will of the public is channelled into the political decision making process. The mass media are a crucial component in this process and the dissemination of news and commentary, together with the nature of this information, are crucial for accountable and sustainable structures of governance.



Role of the Media During Elections

- ❑ The dissemination of news and commentary, together with the nature of this information, are crucial for accountable and sustainable structures of governance. The media are instrumental to this process and the platform that they provide at election times remains a vital stage for the presentation of party ideologies as well as granting the public the opportunity to scrutinise and gather information on a broad array of manifestos presented by candidates for election.
- ❑ As an integral part of accountable government the media is perceived to act as a fourth estate, which watches over the government of the day in the public interest. It is also seen to be a central vehicle that informs the public about a whole range of public affairs on which political decisions are made within parliamentary structures. This enables citizens to make an informed choice on a variety of public matters and it empowers them to reflect upon, and reason about, decisions that affect public life and the political decision making processes.
- ❑ Candidates and parties standing for election all rely on the media to carry their manifestos and ideological messages to the general public. It is perhaps one of the most important public interest functions of the media in the context of the democratic life of national citizens to not only report on politics generally, but also, during election campaigns when the electorate decide who will represent them in the institutions of government to provide a platform for discussion, representation and debate.



Key Functions

- ☐ **Disseminate information about the manifestos, characteristics and quality of political parties and candidates;**
- ☐ **Provide a platform for debate and critical evaluation of what the political parties and candidates represent and promise;**
- ☐ **Carry out voter education, to make sure the voters are informed not just of their choices in an election, but how to make those choices effectively;**
- ☐ **Encourage voter participation;**
- ☐ **Do all of the above in a way which is impartial, balanced and fair.**



Media Regulation

- ☐ **National protections of human rights – the Constitution**
- ☐ **Media laws and laws on advertising, which regulate media behaviour generally**
- ☐ **Election laws, which often contain guarantees of freedom of political expression, as well as descriptions of the responsibilities, rights and obligations of the media during elections**
- ☐ **Specific rules and regulations for media coverage of elections, usually outlined by the Election Management Body**

“The cornerstone of credible news coverage of campaigns and elections is journalistic autonomy. The media must be known to be free of interference from representatives of the government, a political party or a particular candidate in shaping the programme content.” (Mickiewicz & Firestone, 1992)



Media Regulation

- ❑ It is simple to describe the requirements that govern media outlets in the USA in regard to coverage of political candidates and elections: There are no rules that require fair, equal, or balanced news coverage. Because the original broadcasting outlets were awarded licenses to broadcast over the 'public's airwaves,' the FCA of 1934 mandated that they do so in the 'public interest, convenience, and necessity'. This doctrine, which derived from the notion of the broadcast frequency spectrum as one of scarcity, suggested that broadcast entities had to be particularly careful in their guardianship of objectivity and in the provision of diversity of viewpoints. From these principles there developed a strong presumption in the first fifty years of political broadcasting that the electronic media has special obligations to ensure that coverage of political candidates and parties was fair and equal. As a result of this presumption about objectivity and fairness in the broadcast media, political observers and scholars have generally held the broadcast media to higher standards of partisan objectivity.
- ❑ There are three guiding standards for journalists: independence, balance, and objectivity (Iyengar & Kinder, 1987). Independence from political allegiance or pressure, balance in length and content of coverage, and informative and complete, rather than judgemental language and tone, are goals that are not always achieved.



Media Regulation

To give free airtime, or not to give free airtime?

In the USA for example, broadcasters are allowed to give free airtime to candidates, but if they do, they must give all the candidates the same amount. The result is that free airtime is very rare, indeed a poll of US voters in 1997 and 2000 showed that the majority of Americans do not support the idea (61%).

This means that parties and candidates have only such access as is generated by news coverage or they are able to purchase. In a country where political parties are not well-established and poor, free airtime can level the playing field.

To give equal airtime or measured airtime?

In Germany, the granting of arithmetically equal airtime is considered inappropriate because small parties would benefit disproportionately to the detriment of the established parties and equal allocation could confuse instead of enlighten the audience about the political significance of minor participants in the election. Extra allocation of time is afforded to parties in accordance with the number of parliamentary seats gained in the previous election.

Equal airtime may be inappropriate where there are dozens, or hundreds of parties. The burden on state or public service broadcasters may be too great, and is likely to be confusing, rather than enlightening for the voters.

There are creative ways for regulators to deal with this issue – party debates, special election shows.



Media Regulation

Who is responsible for the content of political advertising?

The parties. Inevitably, some content provided by parties/candidates will contain material which could be described as slanderous. Sometimes it may violate laws on calling for the overthrow of the state, it may contain racist, xenophobic or otherwise disturbing content.

It is generally considered inappropriate to hold the media responsible for the content of political advertising which contains libel or slander. The media are allowed in many countries to refuse transmission on grounds of content – if it is clearly in breach of criminal law.

Campaign Silence?

Campaign silence is usually regulated for in order to allow the voters to experience a period of reflection, without being exposed to last-minute polls indicating who might win, or biased coverage which cannot be resolved in time for a right to reply before the elections. In practice it should be noted though that the party of power usually benefits from this.



Media and the EMB

The relationship of the EMB to the media is hence a fairly complex one. Potentially, election authorities may stand in three distinct relations to the media:

- ❑ **As regulator:** the EMB may sometimes be responsible for developing or implementing regulations governing media behaviour during elections (particularly relating to direct access to the media by parties and candidates). It may also be responsible for dealing with complaints against the media.

Rules that are simple and fair work more effectively – conferring with media representatives in advance may prevent conflicts later – does the EMB have the right facilities, time and personnel to monitor and quickly deal with media complaints?

- ❑ **As communicator:** the EMB will also, invariably, want to use the media as a vehicle for communicating its messages to the electorate.

Assess voter education needs well in advance – make the campaigns media friendly – make the message easy to understand and friendly

- ❑ **As news story:** the EMB will be a focus of media interest throughout the election process. The media will be interested in the information that the EMB can provide, as well as trying to scrutinise the EMB's performance and the efficiency and integrity of the elections.

Professional assistance with communications with the international and national/interregional media is going to make a huge difference to how the message comes across



EU EOM Media Monitors in Sierra Leone 2007



Media Monitoring Actors

Who monitors the media?

Four main groups may undertake monitoring of the media during elections:

☐ **Electoral management bodies**

This is relatively rare because costly and time-consuming, adhoc monitoring will not pass, the EMB can be accused of bias. EMBs can require media to maintain copies of their broadcasts/publications in the event of a dispute.

☐ **Independent media regulatory authorities**

Normally such bodies are required to monitor media by law, but they do not always do this in practice because of the above constrictions. MRAs can benefit from exchange programmes with other more established MRAs, to ensure professional standards are maintained.

☐ **International electoral observation missions**

In practice they use varied but comparable methodologies, which should be straightforward and easy to understand. They should normally be restricted from delivering findings until after the elections, so as not to unduly interfere in the process.

☐ **Civil society organisations.**

Good media monitoring can be an important tool for making media accountable to civil society during elections – they can and should publish during the campaign, responsibly.



Media Monitoring Methodology

European Union Election Observation Missions rely on media monitoring guidelines drafted by the OSCE/ODIHR, the European Commission and the Council of Europe and adopted by the Council for Democratic Elections and the Venice Commission in 2004.

1. Freedom of expression, including the right to communication and the right of the media to collect, report and disseminate information, news and opinions, is a fundamental right.
2. Individuals and groups should have the right of participatory access to the media.
3. Respect for the fundamental principle of editorial independence of the media, in particular printed and private media, and in their right to express a preference. This assumes a special importance during election periods, and applies in particular to regulations on media coverage of elections.
4. There should be no legal or administrative obstacle to obstruct access to the media within the electoral process.
5. The promotion of diversity as a primary goal of broadcast regulation, including gender equality, equal opportunity for all sections of society, and equal access to the airwaves.
6. The public shall enjoy freedom to receive and impart information and ideas, without interference by public authorities, regardless of frontiers, including through foreign publications and foreign broadcasts.
7. Media should enjoy unrestricted access to foreign news and information services.
8. Attacks on, and harassment of journalists must be condemned and those responsible should be held accountable.
9. Access of candidates and political parties to public and private media should follow the principle of equality of opportunity.
10. Regulatory frameworks should be established where political parties and candidates are permitted to buy advertising space from the media.
11. The media has a duty to offer a right of reply to statements that are inaccurate or offensive, and the exercise of this right must take place during the campaign period.
15. The right to freedom of expression is enshrined in a number of declarations, treaties and conventions. States that are signatories to these documents, or members of organisations which produced such declarations, have the moral



Media Monitoring Methodology

Media monitoring methodology

The methodology employed for the media monitoring is both quantitative and qualitative. The quantitative component of the monitoring consists of a content analysis of a representative sample of media outlets. Radio, television and newspapers are all included in the sample and are monitored on a daily basis.

☐ **Broadcast media**

Radio and television are monitored during peak time viewing hours and include monitoring of all programming within this time framework. The programmes are timed by the monitors in order to measure the access that each candidate and political party receives on each of the channels. Furthermore, quantifying the amount of coverage each candidate receives will be complemented with an assessment of the tone of the coverage received based on a scale of negative, neutral and positive. The monitoring also assesses balance and tone of news and current affairs programmes to assess the extent they provide adequate and balanced coverage of candidates.

☐ **Print media**

Newspapers are monitored daily to assess the coverage of candidates and parties standing for election. As is the case with broadcast media the tone, access and balance of coverage are assessed during the media monitoring.



Tone

Clear criteria must be established for the monitors' definition of positive, negative and neutral coverage. The definitions must be as straightforward as possible because this is the most subjective area of monitoring.

- ☐ **Positive:** where the media company/journalist is clearly biased in favour of the candidate/party; where the candidate/party is praised.
- ☐ **Neutral:** where information is presented in an unbiased way; there is no discernable tone.
- ☐ **Negative:** where the media company/journalist is clearly biased against the candidate/party; where the candidate/party is criticised.

For example, advertising should **not** be counted as positive or negative as it is clearly the object of advertising to praise oneself and criticise one's opponents. Similarly, a candidate or party spokesman's speech should not be coded positively or negatively since their goal will be to praise their own party or programme and criticise those of others. In both instances, monitors should be instructed to mark mentions as "neutral".

The tone of political candidates/parties about themselves or others is not what is being monitored, but rather the manner in which the media provides them with a platform. If, for example, a journalist asks a critical question -- this does not necessarily make a programme negative in content. It is part of the job of a journalist to ask difficult questions of political candidates. However, should the tone of the journalists' questions be monotonously critical and even insulting, then the interview could be considered to be "negative".



Media Assistance During Elections

☐ **Training for Editors and Journalists in Covering Elections**

This depends on the structure of media – some level of editorial and journalistic independence must be in place for it to be effective. Emphasis should be placed on election coverage that will make an impact locally – imported solutions are not always the best. It is important to have established good local partnerships, and if they are not there, build capacity among those which do exist. This should not just be theoretical training but very practical in nature.

☐ **Competitions for Grants to Make Election Programmes and Voter Spots/Ads**

Donors can stimulate local talent by organising (perhaps through a third party, e.g. the EMB or a local NGO) competitions for media production companies – to produce outlines for special election programmes and/or voter education adverts. The winning entries are financed to produce their idea – the competition should establish criteria by which the programmes/spots will then be aired or published. Criteria for winning should be transparent and fair.

☐ **Create dialogue between media/journalists' associations/parties and the EMB**

Organise a series of roundtables or meetings, get them networking, try to develop codes of conduct for the media and the political parties and candidates in advance of the election period.

☐ **Make sure the media know the rules**

It's advisable to arrange seminars for media lawyers, journalists and editors on the media's legal rights and responsibilities during the election – particularly when the rules are complicated.

☐ **Support professional local civil society media monitoring**

Regular media monitoring reports which are thoughtful, clear and fair can have a positive impact during a campaign. This is not just about keeping the media accountable, state media bias can be exposed and criticised in a timely fashion, and the public can assess the media behaviour of the political parties.