



A Reporter's Guide to Election Coverage

The contents of this file can be updated at intervals to take account of changing developments.

See webworld.unesco.org/download/fed/iraq
or www.indexonline.org.

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Editor's note

This publication is the work of several organizations and many individuals. The opinions expressed are those of the authors' alone. They are not necessarily shared by other partners in this project, including the UNESCO, the United Nations and its agencies.

About these documents

Introduction

This folder contains the first editions of what will become a regularly updated package of documents covering the election process in Iraq. New editions will be made available on a regular basis. The system is simple. As new sections are published and distributed, just remove the out-of-date section and replace it with the new one.

The new inserts will be made available across Iraq, at selected press conferences and eventually, direct to newspapers, broadcasters and anyone actively involved with the media in Iraq. The inserts can also be downloaded from the web, as PDF files, easily reprinted and cut to fit the folders.

Most often they will be distributed at future training events and media seminars planned for Iraq during 2005. This is the year that Iraq takes charge of its destiny. There will be a new parliament, a new constitution, a referendum and another election. It is the task of Iraq's journalists to report on these events, to understand them, track them and represent them fairly and professionally to the Iraqi people.

Iraq's journalists have another duty - to actively participate in the process of establishing a legal framework for the media as it carries out its duties. One of the new government's first tasks will be to review the media law in Iraq, to draft election rules that will affect the way the media does its job.

No government - especially one under as much pressure as Iraq's - will easily give up influence over the media. Journalists will have to work hard to ensure that their rights are preserved. They can do this by making sure their voice is heard in the debates on media rights that will run through 2005. This folder will contain some of the evidence and the arguments that need to be made.

The training courses and seminars planned as part of this project will cover basic issues such as reporting skills and election news coverage techniques. But it will also raise a debate about the journalist's role in society and his or her professional duties. It will also reinforce the case that fairness and professionalism by the Iraqi media must be matched by fairness and professionalism on the part of government - particularly in terms of regulation and access to information.

"Freedom of expression, including the constitutional right to receive and impart information, is a prerequisite for free and fair democratic elections. In order to enable citizens to make informed democratic choices, media representatives have a heightened responsibility to provide accurate and impartial information to the public during election periods. Media representatives play an essential role in the democratic process. It is imperative that they be afforded the highest level of access to election-related events, access to information, and protection from all forms of harassment and/or intimidation as reasonably possible during the election campaign period."¹

¹ From the International Organisation for Migration Media Code of Conduct.



Further information

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Journalist Safety: Guidelines

Objectives

- Support and develop safety programmes for all news media workers on a global and local level
- Encourage agreements on health and safety matters between employers and staff
- Disseminate information through practical training, advisories and literature
- Promote industry best practice for training, equipment and field work
- Investigate, develop and promote safety services including affordable insurance
- Establish a global network of organisations committed to risk-reduction
- Sponsor awareness-raising initiatives at media events

The INSI Code

1. The preservation of life and safety is paramount. Staff and freelances equally should be made aware that unwarranted risks in pursuit of a story are unacceptable and strongly discouraged. News organisations are urged to consider safety first, before competitive advantage.
2. Assignments to war and other danger zones must be voluntary and only involve experienced news gatherers and those under their direct supervision. No career should suffer as a result of refusing a dangerous assignment. Editors at base or journalists in the field may decide to terminate a dangerous assignment after proper consultation with one another.
3. All journalists and media staff must receive appropriate hostile environment and risk awareness training before being assigned to a danger zone. Employers are urged to make this mandatory.
4. Employers should ensure before assignment that journalists are fully up to date on the political, physical and social conditions prevailing where they are due to work and are aware of international rules of armed conflict as set out in the Geneva Conventions and other key documents of humanitarian law.
5. Employers must provide efficient safety equipment and medical and health safeguards appropriate to the threat to all staff and freelances assigned to hazardous locations.
6. All journalists should be afforded personal insurance while working in hostile areas, including cover against personal injury and death. There should be no discrimination between staff and freelances.
7. Employers should provide free access to confidential counselling for journalists involved in coverage of distressing events. They should train managers in recognition of post traumatic stress, and provide families of journalists in danger areas with timely advice on the safety of their loved-ones.
8. Journalists are neutral observers. No member of the media should carry a firearm in the course of their work.
9. Governments and all military and security forces are urged to respect the safety of journalists in their areas of operation, whether or not accompanying their own forces. They must not restrict unnecessarily freedom of movement or compromise the right of the



news media to gather and disseminate information.

10. Security forces must never harass, intimidate or physically attack journalists going about their lawful business.

16 Steps for Safety

1. Be physically and mentally prepared. Go on a Hostile Environment course that includes basic first aid training before your assignment if at all possible.
2. Most conflict zones require an ability at least to run, hike and endure discomfort. Ensure appropriate jabs and carry basic medical kit with clean needles. Wear internationally recognised bracelet with caduceus symbol and record of allergies, blood group etc.
3. Know the background of the people and place of assignment and of the dispute. Learn a few useful phrases in the local language, most essentially “foreign press” or “journalist”. Know the meaning of local gestures that might be important.
4. Do not move alone in a conflict zone. If travelling by road, use a safe and responsible driver with knowledge of terrain and trouble spots. Identify your vehicle as media unless that would attract attack. Travel in close convoy if possible. Do not use military or military-type vehicles unless accompanying a regular army patrol. Make sure your vehicle is sound, with plenty of fuel. In hot conditions check tyre pressures regularly as a blow-out can be disastrous.
5. Seek the advice of local authorities and residents about possible dangers before travelling. Check the road immediately ahead at safe intervals. Inform your headquarters and

colleagues remaining at base of where you are going, your intended ETA and expected return. Check in frequently. Beware of carrying maps with markings that might be construed as military.

6. Meet unfamiliar contacts in public places and tell your office or trusted colleague your plans. Try not to go alone into potential danger. Plan a fast and safe way out before you enter a danger zone.
7. Never carry a weapon or travel with journalists who do. Be prudent in taking pictures. Seek the agreement of soldiers before shooting images. Know local sensitivities about picture-taking.
8. Carry picture identification. Do not pretend to be other than a journalist. Identify yourself clearly if challenged. If working on both sides of a front line never give information to one side about the other.
9. Carry cigarettes and other giveaways as sweeteners. Stay calm and try to appear relaxed if troops or locals appear threatening. Act friendly and smile.
10. Carry emergency funds and a spare copy of your ID in a concealed place such as a money belt. Have a giveaway amount ready to hand over.
11. Keep emergency phone numbers at hand, programmed into satellite and mobile phones, with a key 24/7 number on speed dial if possible. Know the location of hospitals and their capabilities.
12. Familiarise with weapons commonly used in the conflict, their ranges and penetrating power so you can seek out the most effective cover. Know incoming from outgoing. Know what landmines and other ordnance look like. Do not handle abandoned weapons or spent munitions.



13. Wear civilian clothes unless accredited as a war correspondent and required to wear special dress. Avoid paramilitary-type clothing. Avoid carrying shiny objects and exercise care with lenses. Reflections of bright sunlight can look like gun flashes.
14. Be prepared to wear flak jackets, body armour, helmets, gas masks and NBC apparel as appropriate. For demonstrations, use more discreet gear such as hardened baseball-type hats and light undergarment protection.
15. Know your rights, internationally and locally. Know the Geneva Conventions as they relate to civilians in war zones.
16. Journalists who have endured high danger and witnessed dreadful events may experience traumatic stress in later weeks. Do not be embarrassed to seek counselling.

An Index on Censorship media rights seminar in Baghdad in May 2004. (Index/Rohan Jayasekera)



Journalists & media workers killed in Iraq during 2004

1. Duraid Isa Mohammed, producer and translator, CNN - 27 January
2. Yasser Khatab, driver, CNN - 27 January
3. Haymin Mohamed Salih, Qulan TV - 01 February
4. Ayoub Mohamed, Kurdistan TV - 01 February
5. Gharib Mohamed Salih, Kurdistan TV - 01 February
6. Semko Karim Mohyideen, freelance - 01 February
7. Abdel Sattar Abdel Karim, al-Ta'akhi - 01 February
8. Safir Nader, Qulan TV - 01 February
9. Ali Al-Khatib, Al-Arabiya - 18 March
10. Ali Abdel Aziz, Al-Arabiya - 18 March
11. Nadia Nasrat, Diyala Television - 18 March
12. Majid Rachid, technician, Diyala Television - 18 March
13. Mohamad Ahmad, security agent, Diyala Television - 18 March
14. Bourhan Mohammad al-Louhaybi, ABC News - 26 March
15. Omar Hashim Kamal, translator, Time - 26 March
16. Assad Kadhim, Al-Iraqiya TV - 19 April
17. Hussein Saleh, driver, Al-Iraqiya TV - 29 April
18. Mounir Bouamrane, TVP - 07 May
19. Waldemar Milewicz, TVP - 07 May
20. Rachid Hamid Wali, cameraman assistant, Al-Jazira - 21 May
21. Unknown, translator - 25 May
22. Kotaro Ogawa, Nikkan Gendai - 27 May
23. Shinsuke Hashida, Nikkan Gendai - 27 May
24. Unknown, translator - 27 May
25. Mahmoud Ismael Daood, bodyguard, Al-Sabah al-Jadid - 29 May
26. Samia Abdeljabar, driver, Al-Sabah al-Jadid - 29 May
27. Sahar Saad Eddine Nouami, Al-Hayat Al-Gadida - 03 June
28. Mahmoud Hamid Abbas, ZDF - 15 August
29. Hossam Ali, freelance - 15 August
30. Jamal Tawfiq Salmene, Gazeta Wyborcza - 25 August
31. Enzo Baldoni, Diario della settimana - 26 August
32. Mazen al-Tomaizi, Al-Arabiya - 12 September
33. Ahmad Jassem, Nivive television - 07 October
34. Dina Mohamad Hassan, Al Hurriya Television - 14 October
35. Karam Hussein, European Pressphoto Agency - 14 October
36. Liqaa Abdul-Razzaq, Al-Sharqiya - 27 October
37. Dhia Najim, Reuters - 01 November

Reporters sans Frontières



Iraq Votes: A review

The 30 January election

On 30 January Iraqis voted for parties contesting seats in the Iraqi National Assembly, a 275-seat parliament called to serve as a transitional body until elections for a fully fledged assembly under a new constitution are held in December 2005.

There were no voting districts - just a single country-wide election. This option was supported by the UN - advisors to the process - because it was thought easier to organise than drawing up electoral districts based on Iraq's cultures and ethnicities, though they did endorse a separate ballot for provincial councils in Iraq's 18 regional governorates.

In Iraq's Kurdish region, there was a third ballot for the Kurdish National Parliament, with special arrangements for the disputed northern city of Kirkuk. Expatriates in 14 countries were allowed to vote in the parliamentary polls only. On election day a reported 5,232 polling centres opened throughout Iraq's 18 governorates. The first provisional results are due to be announced by 10 February by the Independent Electoral Commission of Iraq (IECI), established by the U.S.-run Coalition Provisional Authority in May 2004.

All Iraqis born on or before 31 December 1986 were eligible to vote, provided they could prove their citizenship. Iraq has no current official census, so voters were registered through ration cards used during the sanctions years for the UN oil-for-food programme, which began in 1996. There

were roughly 7,700 candidates running for the 275 National Assembly seats and 11,300 for seats on the 18 regional legislatures, but Iraqis did not vote for individuals or specific parties in the traditional sense. Instead they picked from one of 111 "lists" of combined party groups and factions certified by the IECI.

The parties picked the order in which their candidates' names appeared on their own lists. This was important as seats were allocated to lists in proportion to the percentage of votes the list collected on election day - first names first - so the higher up the list, the higher the chance the candidate would get a seat. Every third candidate in the order on the list had to be a woman.

Most of the campaigners called on supporters to vote for the number of the list, rather than the name. On the day voters ticked off their choice of list from a ballot paper with the name, number, and identifying logos of the 111 lists. A lottery determined the order in which list names appeared on the ballot.

Once convened the newly elected National Assembly must then elect an Iraqi president and two deputies - a trio making up a Presidency Council that will represent Iraq abroad and oversee the running of the country. The Presidency Council will be responsible for naming the prime minister and for approving ministerial appointments.

The National Assembly will immediately be tasked to draft a permanent Iraqi constitution by 15 August. The constitution should be ratified by the Iraqi people in a general referendum by 15 October. If it fails to do this, it can extend the process for another six months. If a constitution is not ratified by then, its mandate will expire, and



fresh elections will be held for a new assembly that will start the process again.

But If the constitution is ratified according to schedule in October, Iraqis will elect a permanent government no later than 15 December. That government should assume office by 31 December.

The role of the Electoral Commission

The elections are organised by the Independent Electoral Commission of Iraq (IECI), established by the US-run Coalition Provisional Authority in May 2004. The Commission is run by a nine-member Board of Commissioners, which includes seven voting members who are Iraqi citizens, and two non-voting members.

The two non-voting members are the chief electoral officer, an Iraqi, and the Colombian UN expert Carlos Valenzuela, a veteran of 13 previous UN election missions. The UN selected the IECI membership from 1,878 applications short-listed to 25. The Iraqi Commission members were sent on a three week training course in Mexico by the UN.

Thirty other UN election specialists provided technical expertise to a staff of about 6,000 Iraqi election clerks and monitors. These teams faced severe violence, including a 19 December ambush in central Baghdad, in which three were killed. The US army reported that virtually every election worker in Nineveh province, which includes predominantly Arab Sunni Mosul, quit before the election because of security fears.

There were other resignations reported in several other cities, though the Commission frequently disputed or dismissed reports, or claimed that the staff who had resigned had been promptly replaced.

Voting papers were printed in Switzerland to avoid counterfeiting and centres established in each of the 18 provinces to collate results before sending them on to Baghdad.

The better than expected turnout and the relatively limited scale of the threatened insurgent assault on the process reflected well on the IECI. Its performance was not without its critics among both Iraqi & international media. IECI spokesman Farid Ayar was reported to be in dispute with the commission membership in the days before the vote, while on the day his delivery of interim turnout results to the media was confusing – some said unintentionally misleading.

The process itself did not appear flawless. Some polling stations in the so-called 'hot areas' did not open when insufficient numbers of election workers turned up to run them. On the day Ayar said that voters in these areas could vote at other stations, without saying where or how they could be reached with regional travel so heavily restricted.

As with the turnout figures, the commission's tally of polling stations that opened as planned on 30 January seemed over-estimated, given the flow of media reports from the field, including Samarra, the oil refinery town of Beiji and Baghdad's mainly Iraqi Sunni district of Azamiyah, and ravaged al-Fallujah where no voting at all was said to have taken place.



There was no independent monitoring body to confirm or support the validation of interim results from the commission. The UN, having helped organise the election, had made it clear in advance that it would not be involved in observing it, and Carlos Valenzuela, its lead official at the Commission distanced himself and the world body from the IECI's early statements on turnout and totals.

A hastily organised independent monitoring group of foreign election experts remained in Amman, Jordan, its members unable to get security clearance to move its operations into Iraq. Instead the specially-founded International Mission for Iraqi Elections (IMIE) plans to 'audit' and 'assess' the data from Iraqi observers and evaluate the process after the event. The IECI itself, with UN support, had trained several thousand Iraqi election observers, and briefed thousands more from the parties, but their true effectiveness has yet to be independently assessed.

In its preliminary statements, the IMIE team in Jordan said it had identified "several strong points

regarding today's election, including the extent and quality of (the IECI's) election planning and organisation, and its independence." But it added that "areas recommended for further development include transparency regarding financial contributions and expenditures, improvements to the voter registration process, and reviewing the criteria for candidate eligibility".

Registration of candidates, parties and voters

Any Iraqi who is at least 30 years old, has a high-school diploma and was not a high-ranking member of Saddam Hussein's Ba'ath Party or responsible for atrocities under Hussein's regime was allowed to run for office. Lower ranking members of the Ba'ath Party who have renounced their affiliation may run. Current serving members of the Iraqi armed services were barred from standing.

Under the 30 January system, which like all else in the current voting process, is open to review and may be changed by the National Assembly during 2005 ahead of the next vote, candidates may run as independents or on a list. A list is defined as a political party, an association or a group of people with a common political agenda – such as women's or human rights groups - that submits candidates.

Individuals can also apply and, if certified, they can run alone or form a coalition with other certified political entities.

Names must appear in rank order on the party lists and every third candidate in order must be a woman. Seats were allocated through a system of



Index on Censorship media trainers in Iraq: Sihem Bensedrine, Yahia Shukkie & Yousef Ahmed. (Index/Rohan Jayasekera)

proportional representation, with seats allocated proportionate to the percentage of the vote given to each of the 111 lists. The actual names of the 7,471 candidates on the 111 lists were kept secret up until two days before the poll to protect them against insurgent attack.

Iraqis born on or before 31 December 1986 were eligible to vote, provided they can prove their citizenship. Iraq has no official census, so voters were registered through ration cards used for the UN oil-for-food programme, which began in 1996.

Those voters who did not have ration cards were allowed to vote if they produced two official papers, such as citizenship certificates, identity cards, passports, or military service documents. Where the security situation permitted the process went smoothly, despite some problems with the registration of would be voters born in 1986.

Registration was allowed right up to election day on 30 January in the violence-plagued governorates of al-Anbar and Nineveh, where Mosul is located. But in many areas insurgents made verification of the voter lists virtually impossible. Iraq's interim president Ghazi al-Yawar conceded before the vote that there were areas where not one voter registration sheet had been handed out.

Some 200,000 refugees who fled the November 2004 US assault on al-Fallujah also faced severe practical difficulties registering and voting, beyond the physical threat posed by insurgents.

Even in the relatively peaceful northern governorates, Human Rights Watch reported up to 90 percent of the voter registration forms in Arbil province had mistakes that needed correction and

that up to 70,000 people in the area might lose their right to vote as a result.

The development of a more rigidly operated registration list, possibly as part of a nationwide census, will be a priority for the Iraqi government in 2005. This will be a politically contentious task, especially in disputed areas such as Kirkuk, and among minorities – Assyrian Christians, and Turkomans in particular – who do not believe their political presence should be measured only by their numbers.

Iraq has a population of more than 25 million people, but it is a young country – 40 percent of the population are under the age of 14, twice the percentage recorded in the United Kingdom & United States. That left just 15.5 million Iraqis eligible to vote, with 1.2 million of them living outside the country.

Overseas voting was supervised by the International Organisation for Migration, though only 281,000 of the 1.2 million eligible expatriates registered to vote and of them just over two-thirds actually cast a ballot, despite intensive efforts by the IOM. Future overseas registration and voting will probably be managed by Iraqi embassies abroad, as is the case with other nations.

Main Party Lists – 30 January 2005

United Iraqi List

- ♦ Iraqi National Congress (secular) – leader Ahmad Chalabi
- ♦ Islamic Action Organisation (Shi'ite Islamist) – leader Ibrahim al-Matiri



- Islamic Dawa Party in Iraq (Shi'ite Islamist) – leader Iraqi Vice President Ibrahim Jaafari
- Islamic Dawa Party Iraq Organisation (Shi'ite Islamist) - leader Abdul Karim Anizi
- Islamic Virtue Party (Shi'ite Islamist) - leader Nadim Issa Jabiri
- Supreme Council for Islamic Revolution in Iraq (Shi'ite Islamist) - leader Abdul Aziz al-Hakim
- Turkmen Islamic Union (Turkmen) - leader Abbas Hassan al-Bayati
- Also includes nine other Shi'ite and Turkmen parties and prominent Saddam-era dissenter Hussain al-Shahristani

Iraqi List

- Iraqi National Accord (secular) - leader Prime Minister Iyad Allawi
- With five other secular parties and one individual

Kurdistan Alliance List

- Kurdistan Democratic Party (Kurdish) - leader Massoud Barzani
- Patriotic Union of Kurdistan (Kurdish) - leader Jalal Talabani
- With nine other Kurdish parties

Patriotic Rafidain Party

- Assyrian Democratic Movement (Christian) - leader Yonadim Kanna
- Chaldean National Council (Christian)
- People's Union
- Iraqi Communist Party (secular) - leader Hamid Majid Moussa
- With one additional individual candidate

Main Single Party Lists

- Constitutional Monarchy (secular) - leader al-Sharif Ali Bin Hussein
- Independent Democratic Movement (secular) - leader Adnan Pachachi
- Iraqi Islamic Party (Sunni Islamist) - leader Mohsen Abdul Hamid
- Iraqi National Gathering (secular) - leader Hussein al-Jibouri
- Iraqis (secular) - leader Iraqi President Ghazi al-Yawar
- Reconciliation and Liberation Bloc (secular) - leader Mishaaan Jibouri

Electoral boundaries

There were no voting districts for the National Assembly vote - just a single country-wide election. This controversial plan was endorsed by the UN because it was thought easier to organise than drawing up electoral districts based on Iraq's cultures and ethnicities. But the system, not uncommon in Europe and Asia, has its problems. A key part of building representative parliaments and governments is building a sense of confidence that both are accountable to their constituents. Iraq's 30 January system weakens that confidence.

Under the 30 January system politicians are more accountable to their party leaders than to Iraqi voters. The party leader can 'punish' MPs who put local interests ahead of party interests by pushing them down the order of names in the party list.

That way they will be less likely to retain their seat in the next election. Party leaders can also use the list system to promote individuals – including some with Ba'athist era records or hardcore agendas



– who would never win popular votes in a straight vote for individually named candidates.

Generally, the use of nationwide party lists elsewhere in the Middle East has tended to bolster religious, ethnic and sectarian parties there. The agenda is fixed on the national not local level. And under the 30 January system, because the National Assembly elections are not tied to districts, there will be towns that have no local citizens in the Iraqi Assembly and other towns with scores of them.

The new National Assembly will be looking closely at the effectiveness of the separate ballot for provincial councils in Iraq's 18 governorates held on 30 January and the regional ballot for the Kurdish National Parliament as options when it comes to decide on how local the next elections will be.

But again, provincial level elections tend to favour tribal identities or the wishes of locally power-

ful clergy. In Jordan they found that by dividing election areas into smaller voting districts changed the political agenda and cut the Muslim Brotherhood vote by half.

In other countries the local focus has strengthened the hand of parties such as Hezbollah where they have turned to active community-level activism. Voters in single-member districts tend to focus on local issues, such as schools, health provision, electricity, and policing – and in Iraq the polls are clear that it is these issues that are the priority.

Finally one of many factors driving the pre- 30 January calls for an Iraqi Sunni election boycott was the understanding that under the agreed system, that 20 percent of the Assembly seats would be the best they could expect in any circumstance. In a vote based purely on national identities, this would inevitably be seen a defeat. But in a vote

Examining the lists of candidates in the Iraq elections.
(Reuters/Ali Jarekji)



based on local factors, sectarian matters would be less essential to the voters' choice.

NB: Up to mid-January, Kurdish political parties threatened to boycott elections in Kirkuk, alleging that Kurdish residents of Kirkuk who had been expelled from the area during Saddam Hussein's 'Arabisation' programme in the 1980s and 1990s were forbidden to vote in the provincial election.

On 14 January the IECI ruled that displaced Kurds from the area – up to 100,000 people – could vote in Kirkuk for the al-Tamin provincial government locally. Arab and Turkmen leaders in Kirkuk condemned the decision, complaining that the decision gave the Kurds leadership of the al-Tamin local government throughout 2005, when Kirkuk's territorial status in Iraq is scheduled to be determined.

How the media managed

"We feel defeated and we are frustrated... We fear that we will be branded as the spies and collaborators of the occupation. There are many whom we fear: The Board of Muslim Clerics, the foreign Jihadis, Muqtada al-Sadr, Zarqawi's people, and finally Saddam's henchmen." - Ali Hasan, Institute for War and Peace Reporting.

The Iraqi media entered the start of the election campaign period on 15 December working on what media rights groups had already dubbed the world's most dangerous assignment. Nearly 40 journalists and media workers, most of them Iraqis, were killed in the line of duty in 2004.

Journalists are no longer seen as impartial observers – by either side. Reporters were beaten, threatened, detained without cause, kidnapped for criminal and political reasons and killed, sometimes deliberately, all too often carelessly by trigger-happy troops. And afterwards it was often impossible for reporters to discover the true circumstances of their colleagues' deaths – whether deliberate or accidental – let alone see the perpetrators brought to justice.

This encouraged a climate of impunity, where perpetrators could expect to escape serious consequences for their acts. Conflicting messages were sent out by the US authorities – on the one hand advocating a free media, while on the other, closing down newspapers and detaining accredited journalists. The handover to an interim Iraqi government had not improved matters, as the new authorities had learnt bad lessons from their predecessors.

"We face different dangers now and there is no law to protect journalists in Iraq," Hussein Muhammad al-Ajl of al-Mada newspaper told Iranian-American journalist Borzou Daragahi. "There are threats from three sides: the Americans might shoot you if they're ambushed; the Iraqi security forces might stop you or beat you if they suspect you're with the resistance; and the resistance might kill you if they think you're a spy."

The danger increased in the run up to the election. On 12 September 2004 al-Arabiya journalist Mazen Tumeisi died in an US helicopter attack. He was the eighth al-Arabiya staffer to die since March 2003, and one of three killed by the US army in circumstances that have yet to be fully explained..



Al-Arabiya reporter Abdel Kader al-Saadi was detained by US troops despite being clearly identified as a journalist and in circumstances that gave rise to allegations of deliberate intimidation. His station has also received numerous threats from claimed supporters of the Jordanian insurgent leader Abu Musab al-Zarqawi, demanding that it support the “jihad” against the US occupation and Iraqi government.



Guarding a polling station in Mosul.
 (Reuters/Zohra Bensemra)

The insurgents and the country's criminals have also struck. Al-Sharqiyya television reporter Likaa Abdelrazzak was killed in the street in Baghdad on Oct. 27. Sada Wasit newspaper reporter Raad Beriaej al-Azzawi was kidnapped in November, one among many. Another Iraqi journalist reporting on police patrols in the town of Allawi was caught by the insurgents. They took his notes and tapes and told him to get out of town.

Daragahi also reported that one journalist at al-Mada was threatened with death after he wrote about alleged corruption in an Iraqi government ministry and had to flee the country. Al-Mada newspaper was also targeted by rockets. Western journalists, largely trapped in their hotels, relied on Iraqi reporters (stringers) to get infor-

mation they couldn't, and as the target profile of western journalists increased, so did the threat to Iraqis working with them. A leaflet circulated in al-Fallujah offered money to anyone giving information about Iraqi journalists, translators and drivers working with foreign media.

All the Iraqi media faced similar threats, plus the attentions of an interim authority that has sought in the past to impose its views on the media and ordering it not to attach 'patriotic descriptions' to the insurgents and criminals," and asked the media to "set aside space in news coverage to make the position of the Iraqi government, which expresses the aspirations of most Iraqis, clear," or face the consequences.

Yet with most election hopefuls unable to get out and campaign on the streets, names of candidates kept secret until shortly before the election, and the vote itself judged on national issues, not local agendas, the Iraqi media became the main player in the campaign.

The view is that they performed better than expected. "Sunni groups opposed to participating in the election regularly espouse their views in supporting newspapers and are often quoted in what would be considered the popular press, owned by independent or pro-election party newspapers," noted Kathleen Ridolfo of Radio Free Europe before the election. "Sunni groups that will participate in the elections despite some hesitancy over the issue have also made their platforms known."

Reports and commentaries in the print media did not shy from discussions about the role that Islam will play in a future Iraqi state with a Shi'ite majority, the possible withdrawal of multinational

forces, the Kurdish issue and the coming constitution. Newspapers have covered the activities of the Election Commission.

As for television, said Ridolfo, Allawi – “whether by virtue of being prime minister or by intention -- has dominated the airwaves”. A new feature for Iraqis was the use of sleekly-produced TV adverts to persuade people to vote and close to election day, to try and persuade Iraqi Sunnis to defy boycott calls. Chat shows on Iraqi radio made a dramatic impact. Party supporters filled streets with campaign posters, replaced as soon as they were ripped down by rivals with new ones.

A variety of alternative promotional techniques emerged: the Iraqi Hezbollah published a calendar with its campaign message, another party distributed video CDs with party messages interspersed with comedy clips.

The role of election observers

The United Nations said from the outset that it would encourage the electoral commission to ask for international observers for the election, though the world body, having helped organise the poll, would not be involved in observing it. About 7,000 representatives of Iraqi political parties and nongovernmental organisations have registered to observe voting, and each list has the right to have members present while votes are counted.

International monitoring of the 30 January elections in Iraq was heavily restricted. The United Nations said from the outset that it would encourage the electoral commission to ask for international

observers for the election, though the UN, having helped organise the poll, would not be involved in observing it. A group of two dozen experts brought together by the specially-founded International Mission for Iraqi Elections (IMIE) did its work from over the border in Amman, Jordan.

The high profile of some of the figures concerned their national governments, all senior election officials from countries ranging from Albania to Yemen under team leader, Elections Canada chief Jean-Pierre Kingsley. In the end their home governments barred them from crossing the border into Iraq. Observer team members argued that not crossing the border made their job impossible, but others said that trying to cover the election under strict security restrictions would give an inaccurate impression that the vote had been properly observed and validated.

In the end Kingsley's team opted for a limited mission, ‘auditing’ and ‘assessing’ the data from Iraqi observers and evaluate the process after the event. Their election day studies focussed on the following areas:

- legal framework
- voter registration
- electoral preparations
- voter information and education
- equitable access to media
- out-of-country registration and voting
- pre-polling complaint procedures
- certification of political parties, coalitions and candidates
- polling
- vote counting and compilation of results
- post-election complaints

Some 6,000 volunteer Iraqi monitors from some 150 Iraqi organisations were trained by a UN spon-



sored programme to act as independent observers, registered with the Election Commission while there were a reported 23,000 registered observers from different political parties who stood by to watch the process in action. But this is an unusual methodology. Normally foreign observers are heavily in attendance at this kind of vote.

The European Union declined an invitation from Iraq to send observers while the Carter Center, which has monitored more than 50 elections overseas, also decided not to send observers. The 9 January Palestinian elections drew 800 official observers, led by former US president Jimmy Carter and two former European prime ministers. Even the October 2004 Afghanistan polls, where

the threats to foreign observers was well stated in advance, drew more than 100 foreign observers.

"An election is "free" when it reflects the full expression of the political will of the people concerned. Freedom in this sense involves the ability to participate in the political process without intimidation, coercion, discrimination, or the abridgment of the rights to associate with others, to assemble, and to receive or impart information. The "fairness" of an election refers to the right to vote on the basis of equality, non-discrimination, and universality. No portion of the electorate should be arbitrarily disqualified, or have their votes given extra weight." - Human Rights Watch

Women waiting to vote in Iran's February 2004 elections. (Reuters/Damir Sagolj)



Measures of support - Estimates & opinion polls

Numbers – and predictions of numbers – were the all important issue during the 30 January election. For the US-led forces in Iraq, the actual turnout of voters in the face of the threat of violence was used as a measure of the insurgents' weakness, for example. But the major numbers debate spun around the calls for an Iraqi Sunni boycott before the vote.

The decision to base the 30 January elections on a national slate of party lists was logical, but it left Iraqi Sunnis in a quandary. The national slate system could leave them with only no more than 20 percent of the representation in the National Assembly if they voted as Sunnis, but what would it give them if they voted as Iraqis?

As it became clear that the closer the number of Iraqi Sunni voters got to 20 percent of the total votes cast, the more the new government would be able claim legitimacy, the issue of the Iraqi Sunni turnout on election day took on major significance.

Pre-vote polls by foreign organisations focused heavily on this issue. A poll by the US International Republican Institute from early January projected that 65 percent of Iraqis were 'likely' to vote, and 20 percent 'very likely'. The difference between the first and the second number was in the people's perceptions of threat, and the appeal of the very diverse arguments for a boycott.

It was here that the Iraqi media played a key role. The threat of violence deterred extensive studies by opinion pollsters, and exit polling on the day.

Security rules requiring pollsters to stand about 700 yards away from polling stations – outside the security cordons – inhibited them from carrying out exit polls. Though neither are wholly reliable guides to the real level of voter opinion, without them the Iraqi media was given extra responsibility to accurately represent the situation before and during the vote.

The media is always tasked to provide the information that the people need to make informed decisions, but here it was also backing up decisions on physical safety. The tone of the coverage as well as the facts reported played as much of a role in this. In addition there were non-sectarian party lists with Iraqi Sunni involvement trying to appeal to voters in the four predominantly Iraqi Sunni provinces where the threat of violence was high and campaigning was largely impossible.

The local media – and to an extent, the Arab satellite TV networks – was one of their few means of reaching voters in these areas, and its effectiveness in doing so may have been the Iraqi media's greatest test in the run up to 30 January.

Security

Security was set predictably high for the election, with major restrictions on movements around election day. Iraq's land borders were closed from January 29-31; only pilgrims returning from the Hajj in Saudi Arabia were allowed to enter the country. Travel between Iraq's provinces was allowed only by special permits, and most civilian travel of all kinds barred on election day to obstruct car bombers. The ban on car travel made it difficult for some voters to reach the polls, especially if



they have moved from the neighbourhood where they are registered.

The media were required to get special accreditation and coverage from the polling stations was strictly regulated. A reported 100,000 Iraqi police and 60,000 Iraqi National Guardsmen were deployed to protect the stations, backed up by 150,000 US and 10,000 British soldiers.

Radio Free Europe reported that an unsigned directive posted to a jihadist website in early January advised militants in Iraq to “prevent the continuation of participation by any members of the election committees through persuasion, threats, kidnapping, and other methods.”

It continued: “Make sure that once they agree to withdraw from the election committee, their withdrawal is not announced except during the critical and narrow time frame (so that) the government cannot replace them with other (workers).... This will make it extremely difficult to find trained people to manage the elections in such a short period of time.”

In the week before the election, the government announced the arrest of several senior aides to Abu Musab al-Zarqawi, suggesting it was making inroads against the group that had sworn to turn polling day into a bloodbath. However, Reuters reported some government officials had cast doubt on the importance of the arrests, suggesting the announcements were designed to build confidence in security arrangements.

- This report was compiled on 30 January by Rohan Jayasekera, associate editor at Index on Censorship. He is currently directing Index’s programmes of monitoring, publishing, training and advocacy in Iraq. Its conclusions are the magazine’s and do not necessarily reflect those of its partners.





The Media and the Election Process

Reference material

The contents of this file can be updated at intervals to take account of changing developments.

See webworld.unesco.org/download/fed/iraq
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Editor's note

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Reporting Elections: A Guide

Introduction

Elections are the cornerstone of any democracy, and the media has a vital role -- in informing the public about what the politicians are promising, in telling the politicians what ordinary people want, or do not want, and in ensuring that the polls are "free and fair". This is particularly important in countries lacking a solid background of democratic rule.

From the time that elections are announced to when they take place, usually between six



Woman voter, 30 January 2005.
(Reuters/Ali Jarekji)

and eight weeks, there is ample opportunity for incumbent leaders and parties to bend the rules to their advantage, in subtle and not-so-subtle ways. It is the journalist's task to deter them from doing this.

Good journalists should also report elections in a non-partisan way, suppressing their own political views in order to allow the public to make up their minds solely on the basis of what the various candidates are offering.

This guide looks at the various stages of the electoral process, and the areas where distortions can occur, either through deliberate actions or poor organisation.

Many of these areas are highlighted in guidelines given to observers from the Organisation for Security and Cooperation in Europe (OSCE), which has monitored elections in ex-Communist European states. They were also invited by the Palestinians to observe their January, 2005, presidential poll.

Voting systems

These mainly fall under three categories:

Plurality -- A candidate who obtains more votes than any other is elected even if that candidate wins only a minority of votes cast. The most common form of this is the "first-past-the-post" system, sometimes known as "winner takes all", used in Britain, the United States and India, among others.

Majority -- The successful candidate must win more votes than those of all the others combined. This is normally achieved by a holding

a two-round contest in which the early loser is eliminated after the first.

Proportional (PR) – The most common version of this is when voters choose from party lists, and seats are awarded according to the votes going to each party. This is used in most continental European countries, South Africa and Israel.

There is also the so-called Single-Transferable Vote, where voters indicate an order of preference among candidates. Once a candidate has received enough votes to be elected outright, second preference votes are added to the totals of the remaining candidates.

Each system has its supporters and detractors. For arguments on both sides, a useful web-site is www.electoral-reform.org.uk.

Counting the vote

There are a number of ways of counting the vote. Increasingly there is a move towards some sort of mechanical and/or electronic systems. All systems have their advantages and drawbacks.

Manual counting – The simplest, votes can be counted on the spot, provided there are enough staff, the count can be witnessed, and if the result is challenged there is a re-count. However counting can take days, particularly if there are several challenges.

Counting with machines – Ballots, usually punched cards, are fed into a machine that counts them. It is quick, but the machines are



Election official advises a voter.
(Reuters/Tobias Schwartz)

expensive and not available in all polling stations, meaning moving ballots, and the danger this brings of tampering. They can also go wrong, as in the U.S. 2000 Presidential Election in Florida, and some machines leave no paper record in case of a challenge and re-count.

Electronic voting – This allows computers to count marks on a ballot with an optical sensor before they are put into the box. The original ballots are therefore retained in case there is a need for a re-count. Another version allows voters to input their vote directly into a counting machine. Also expensive

Internet and telephone voting – Widely used in some countries for popularity contests and company board elections, but ruled out for general elections because of the problems of verifying the identity of the voter and the threat of computer hackers.

The Basics

As soon as an election is announced and campaigning begins, newspapers should carry essential information on how many candidates are involved, how many parties, the number of eligible voters, the total of constituencies,



results of the last elections. This could be in a box to be included in every edition during campaigning, or in a special election supplement. It is important to get this information out early to the electorate, so they can prepare to digest the barrage of information they will receive over the next few weeks.

Media should also advise the public on how to register as voters, and remind them of their rights and responsibilities in the political process.

Electoral Commission

The body charged with organising the elections must be independent of the government. Made up of experienced, respected neutral individuals, or a balance of political party representatives. With an independent budget guaranteed by the government.

In the 2000 Yugoslav presidential elections, won by Slobodan Milosevic and branded a sham by the OSCE, who were refused permission to observe, the entire process was run by his government. His regime was also accused of ballot-stuffing, widespread intimidation and using state media and funds for one-sided political campaigning.

Journalists covering elections should know the electoral law by heart. If something is not right, it is up to them to call for a boycott or postponement.

Registration of candidates and parties

Check that all candidates seeking to stand have been allowed to register. Make sure that the current electoral law does not discriminate against any individuals or groups. Watch out for unusual candidates, as in the following Reuter News Agency reports at the start of the Palestinian presidential elections in January 2005.

RAMALLAH, West Bank, Nov 25 (Reuters) - Firebrand uprising leader Marwan Barghouti has decided to run for Palestinian president from his Israeli jail cell, an official of his Fatah faction said on Thursday...

JERUSALEM, Nov 28 (Reuters) - A Palestinian journalist from Jerusalem's walled Old City said on Sunday she would run for president to succeed Yasser Arafat, becoming the first woman to enter the race...

Registration of voters

Voter lists should be posted well in advance, the registration process should be easily accessible for everyone, and there should be no restrictions according to gender, race, religion, ethnic origin, political affiliation, property ownership, qualifications or lack of money to pay a registration fee. Acceptable restrictions are those lacking proper citizenship or residency qualifications, criminals in jail for serious crimes, the mentally incapable. The registration process can be vulnerable to manipulation.



Journalists, along with observers, should be able to scrutinise and verify voters' rolls in advance. If registration is rushed and rolls are displayed after the official deadline, editors should be calling for a postponement of the vote.

Electoral boundaries

All votes should carry approximately the same weight, so the number of voters in each electoral district should not vary by more than 10%. Check that boundaries have not been altered by the ruling authorities, without proper consultation, for political advantage. There have in the past been many cases of "gerrymandering", in which election districts are manipulated by ruling authorities for electoral advantage by redrawing boundaries to include more supporters.

A classic case of gerrymandering was in Northern Ireland in the late 1960s, when Protestant Unionists succeeded in engineering the election of a Unionist-dominated city council in Londonderry, which has a solid Catholic majority. The Unionist move led to civil rights protests by Catholics in the city, spiralling into over 30 years of sectarian bloodshed.

The campaign

Election campaigns are exhausting for all journalists covering them. Since campaign rallies and televised debates are usually signalled well in advance, media organisations should draw up detailed daily schedules assigning reporters to the various events. If possible it is useful to have the same reporter covering each of the main candidates' rallies throughout the cam-

paign. Get them to do in-depth profiles of the leading candidates.

Decisions must be made on how many of the candidates/parties to cover regularly. While some individual candidates may look like com-



Campaign meeting in the Gaza Strip
(Reuters/Suhaib Salem)

plete outsiders, conscientious reporters should try to reflect the views of the smaller groups, which may be of interest to the public. And behind-the-scenes bargaining during campaigning could eventually propel some of the minor players to power in a coalition government.

Media

Is there unrestricted access for the media to all candidates/parties? All responsible media should report impartially about the election, particularly state-run media, since they are funded by the tax-payer.

Some governments have used media they control to attack opposition candidates, restrict the supply of newsprint and exclude opposition candidates from appearing on TV and radio. One frequent abuse by incumbent governments is to allow balanced coverage in designated elec-



tion broadcasts, but then show politically biased programmes on other programmes.

In Kyrgyzstan's Presidential elections in 2000, won by incumbent Askar Akayev, OSCE monitors complained that state-owned TV had allocated him nearly 70 per cent of its air-time devoted to the elections.

Conscientious newspapers and broadcasters should set up a monitoring system with daily assessments on the distribution of air-time and other issues.

The issues

Increasingly elections have been dominated by the personality of the candidates. Journalists should try to keep the focus on the issues, by talking to ordinary people, particularly those lacking a strong voice in society – the elderly and the young, women, in some countries, the poor, ethnic and religious minorities. Ask them if they are better or worse off since the last polls.

Put their views to the candidates, and report their responses.

Have your specialist correspondents look at the main issues arising during the campaign – the economy, law and order, transport, education, foreign policy, defence.

Select a representative sample of the general public at the start of the campaign, and return to them regularly to see how they have been influenced by the campaigning so far.

If you are a national paper based in the capital, ensure that reporters travel as widely as possible through the country to get the broadest selection of views. In France's 2002 presidential elections, the Paris-based national and international media failed to anticipate the rise of far-right leader Jean-Marie Le Pen in his southern power-base.

Campaign financing

Is there a system of state financing for political parties, as exists in many countries? Is there a limit to business/private donations to party campaigns? And is there an obligation for parties to declare them?

The public should be entitled to know if candidates are receiving significant cash from narrow business interests, with the potential for influencing the policy of a future government.

Nowadays the main tools of election campaigning are the broadcast media, particularly TV. In Britain, all broadcast media are barred from carrying election advertising apart from brief party political broadcasts which are carried simultaneously by all principal TV channels. There are also restrictions on how much each candidate can spend on campaigning, based on the size of the electoral district, as well as national spending limits on each party. Most campaigning is done by door-to-door or telephone canvassing by party workers, election rallies and leaflets through letter-boxes.

In the United States, there are no limits to campaign spending, the bulk of it on TV.





A boy stands in the shadow of a queue of voters in Basra. (Reuters/Toby Melville)

For newspapers, the question is whether they should accept paid political advertisements, assuming the law permits this, and, if so, whether all the main parties should be allowed equal exposure.

Election observers/ monitors

If the election is being attended by international monitors and observers, such as from the OSCE, or independent domestic groups, keep in regular contact with individuals, and their headquarters, through their mobile telephones,

as they spread across the country in bigger numbers than most papers can afford. Contact with them is particularly useful on election day as they observe the crucial voting and counting process. However they may be reluctant to talk to the media as individuals.

International observers are normally deployed for a few days, before and after the elections. Monitors tend to be in the country for longer periods, looking at the whole electoral process, including the election laws and the influence of the media on campaigning.

Crowd estimates

Be very wary of using organisers' estimates of crowds attending political party rallies, which can be wildly exaggerated, aimed at inflating their support. If you can't do your own count, try and check with independent sources such as monitors, or police, though they may also have reasons to inflate or deflate crowd figures. You can also check with other reporters if they are reliable.

The most accurate way of estimating crowds is from aerial photographs, but these may not be readily available.

On-the-spot counting is best done from a high point. One rough method is to divide the space into sections, count 100 people in one section, then multiply it to take in the whole area.

Another method is to work out the size of the crowd area, in square metres, and assign three people per square metre. Thus a road five kilometres long and 30 metres wide, if



packed with demonstrators, will contain roughly 450,000.

Opinion polls

Widely used by media on a daily basis during campaigning to gauge the public's reaction to campaign issues, and their likely voting intentions. Many media engage a polling organisation to work for them throughout the campaign. They should however be reputable, using scientific methods to reflect the broadest spectrum of public opinion.

Some broadcasting networks organise exit polls, asking people at polling stations how they voted, and declaring the winner immediately after the polls close. However such polls can be unreliable – in the 2000 U.S. presidential election a polling organisation called Democrat Al Gore the winner in Florida 12 minutes before the close, which could have affected the result in the crucial and tightly-fought contest. An exit poll at the 1987 British general election saw incumbent Margaret Thatcher re-elected with the narrowest of margins. When all the votes had been counted, she had won by a landslide.

Some countries have a ban on publishing opinion polls in the last few days before the election, to allow voters make up their own minds.

Security

The ruling authorities have a duty to ensure that political rallies can take place without intimidation from rival groups. But at the same time

they should not be deployed in such numbers and in such a way as to discourage people from attending such events – a tactic often used by authoritarian regimes.

In the first round of Ukraine's presidential election in September 2004, which OSCE observers criticised as seriously flawed, opposition campaign events were regularly disrupted. The ruling authorities were also accused of bias in state media and of using state funds in campaigning, among other things.

Postal ballots

Many countries allow a proportion of voting to be done by post, despite criticism that the process is open to fraud and intimidation, particularly in collecting votes from military personnel who might feel under pressure to vote for the ruling authorities. There have been cases of ruling authorities requiring signatures on absentee military ballots after they have been cast, but before they have been counted.

After postal elections for local authorities in Britain there were allegations that some sections of society, particularly immigrant women, had been effectively disenfranchised after their ballot papers were collected and filled in by local community leaders.

In the 2004 U.S. Presidential Election, over 50,000 postal ballots were reported to have gone missing in Florida.



Absentee ballots

Another potential opportunity for unscrupulous governments to influence the vote. Many countries have expatriate communities dotted around the world large enough to have a significant bearing on the vote. Checks need to be made by journalists on whether they received their absentee ballots in time, whether their vote was cast in polling stations set up in their country of residence, or sent in by post. And whether the numbers of absentee votes tally with latest figures on expatriate numbers.

Staggered voting – In some countries with multiple time zones, such as Canada, voting is staggered to allow all voters to cast their ballots without being influenced by the re-



A family of Iraqis registers to vote in Amman. (IOM)

sults or trends in other parts of the country. In some countries with remote communities and lack of communications, voters in these areas are allowed to cast their ballots days or even weeks early to allow them to reach the nearest counting office.

As with postal and absentee ballots, it is crucial for a truly free and fair vote that these early results be kept secure, and are not published

before the others, so as not to influence voting behaviour.

Election eve

Media should carry balanced reports summing up the programmes of the leading candidates, the main issues as expressed by ordinary people, prospects for the future, and the standing of the candidates/parties in the latest opinion polls.

RAMALLAH, West Bank, Jan 6 (Reuters)
– *A champion of non-violence is set to succeed Yasser Arafat in Sunday's Palestinian elections but hopes of peace pinned to his victory may be short-lived...*

The reports must also include detailed information on voting procedure, with the location and opening and closing times of polling stations. They should also report when first unofficial results can be expected, if exit polls are being organised, and when first official results are likely.

They could also carry a fact-box with all the essential details of the election.

Reuters carried the following before the Palestinian presidential elections.

RAMALLAH, West Bank, Jan 6 (Reuters) – *Palestinians vote on Sunday in a presidential election to choose a successor to Yasser Arafat. Below are some facts about the election:*



- The presidential election is the second since the Palestinian authority was established under interim peace agreements with Israel.

- Seven candidates are standing and Mahmoud Abbas, a relative moderate from the dominant Fatah movement, is tipped to win. His latest opinion poll rating is 65 percent.

- In second place is human rights activist Mustafa Barghouti with 22 percent in the most recent poll. The other candidates are expected to get only a few percent between them.

- The powerful Islamic militant group Hamas is boycotting the election.

- There are about 1.8 million eligible voters in the West Bank, Gaza Strip and East Jerusalem from an estimated population of 3.6 million.

- Voting will take place at about 3,000 polling stations between 7 a.m. and 7 p.m.

- Voters in East Jerusalem, annexed by Israel in a move not recognised internationally, will cast ballots at Israeli post offices.

- Votes will be counted at polling stations before being fed to the independent Central Elections Commission.

- Results are expected by Jan. 10.

- Some 800 international observers, including former U.S. President Jimmy Carter and former French Prime Minister Michel Rocard, will join 20,000 local monitors.

There is also always room for a human interest piece focussing on an ordinary citizen expressing his hopes and fears for the future. The Reuters example:

KHAN YOUNIS, Ghaza Strip, Jan 8 (Reuters) – Years of Israeli raids have left Essam Abu Odeh weary but on Saturday the school caretaker again took up bricks and mortar for a job he hoped would help build a better Palestinian future through elections....

Final Checklist

(Questions reporters should be asking themselves):

- Is the electoral commission organising the poll independent of the government and balanced/neutral in its composition?
- Have all candidates seeking to stand been allowed to register. Does the electoral law discriminate against any individual or group?
- Is the registration process easily accessible to all and free of restrictions related to race, gender, or political or financial status?
- Are the numbers of voters in each electoral district more or less equal? Could the authorities have changed boundaries for political advantage?
- Does the media have unrestricted access to all candidates/parties? Any sign that government is using state-run media to attack opposition candidates or restricting their exposure on radio/TV?
- Are political parties state financed? Is there a limit to business/private donations and must parties declare them?





Election day (Reuters)

- Can all political rallies take place without intimidation by ruling authorities or rival groups?

Election day

For broadcasters, news agencies and evening papers, a report when the polls open in the early morning.

RAMALLAH, West Bank, Jan 9 (Reuters)
- Palestinians began voting on Sunday for a successor to Yasser Arafat widely expected to be Mahmoud Abbas, a pragmatist they hope will revive a peace process with Israel after years of bloodshed....

Start checking with your reporters, police and international and domestic monitors for indica-

tions of the size of the turnout, which will help determine the success of the whole electoral process and could provide a first hint of who is likely to win, as well as any early signs of violence, intimidation or other irregularities.

Follow the main candidates to the polling stations as they vote, for their early comments and local colour.

RAMALLAH, West Bank, Jan 9 (Reuters)
- Palestinian leader Mahmoud Abbas, front-runner in Sunday's presidential election, said the voting to choose a successor to Yasser Arafat was going smoothly.

"We heard that there is a high turnout, especially by women, and this is a very good thing," Abbas said after casting his ballot in the Muqata headquarters in Ramallah under a portrait of Arafat...



During the day of voting, check constantly with your reporters and monitors for irregularities.

Things to look out for:

Multiple voting – All functioning voting systems include a mechanism aimed at ensuring that people vote only once. However none of them are absolutely fool-proof. There have been frequent cases of dead people being registered as voters, or of individuals finding ways of recording multiple votes.

Journalists should look closely at voters' rolls at polling stations to look out for repeats of names, addresses or occupations which could suggest multiple voting. One system used in several countries is to mark voters' fingers with indelible ink which stays visible for up to a week.

This system, used in Iraq's milestone January 2005 Presidential vote, can however leave voters vulnerable to retaliation from extremists opposed to the democratic process.

A possible solution to this is to use a mechanism used by the OSCE in local elections in Bosnia-Herzegovina and Kosovo following the break-up of Yugoslavia, where the paint contained silver nitrate that only shows up under ultra-violet light.

Getting out the voters – Candidates and parties can organise their own transport to polling stations on election day, particularly for the elderly and disabled. But the ruling authorities should not use state transport facilities for this, which would represent an unfair advantage.

Inside the polling centre. (IOM)



Security presence – A heavy presence of police and security forces in and around polling stations could be construed as intimidation. In the first round of Ukraine's 2004 presidential election, the OSCE reported a police presence in over 60 per cent of polling stations.

Transparency – Are the ballot boxes sealed? Are they located out of sight of election officials? Are the voting booths unscreened, undermining the secrecy of the ballot, leaving voters vulnerable to discrimination post-election.

Other things to watch out for:

- People with valid voting papers being turned away.
- Officials demanding extra identification documents.
- Long queues at polling stations, indicating a lack of organisation.
- Campaign posters prominently displayed outside and inside polling stations

Check that the transport of the ballot boxes to the central counting office is monitored in all cases by international and domestic observers.

The count

Check that the count is done by an independent body, and monitored at all times by qualified observers and representatives of all main political parties and groups.

Cross-check that local counts at polling stations or district counting centres tally with published national figures.

The result

When the result is clear, seek comments from the winners and losers, the final turnout figure, quick reaction from all of society including the man-in-the-street and independent analysts, and comments from international and domestic monitors as to the fairness of the poll.

Also seek reaction from abroad, particularly neighbouring states, and from domestic and international financial markets, if available.

Reuters put out a report including reaction when it was clear Abbas was heading for victory on the basis of an exit poll. An abridged version follows:

RAMALLAH, West Bank, Jan 9 (Reuters)
- Mahmoud Abbas, a Palestinian moderate aiming to talk peace with Israel, was on course for a landslide victory in Sunday's election for a successor to Yasser Arafat

The following is reaction to the exit poll result:

Israeli Vice-Premier Ehud Olmert: *"It's a democratic process and this is in itself enormously important because it proves to be the only democratic process taking place in any Arab country."*

"The main challenges are still ahead. Will he fight against terrorists and try to stop the bloody war against the state of Israel."

Former Palestinian Security Minister Mohammad Dahlan: *"I hope Palestinian factions will reconsider their relations with*



the Palestinian Authority and seek better and more serious relations...It was a vote for the future and for hope."

Senior Islamic Jihad Leader Khaled Al-Batsh: *"We hope Mr Abbas would begin to carry out the reforms he promised, including reaching an agreement with factions over the formation of a national unity leadership to protect out internal front, our Intifada and our resistance."*

Dr Stephen P. Cohen, President Of U.S.-Based Institute For Middle East Peace And Development: *"I think the fact that he's getting such a big percentage is a very encouraging sign."*

DIAA RASHWAN, AL-AHRAM CENTRE FOR STRATEGIC AND POLITICAL STUDIES, CAIRO: *"Mahmoud Abbas will be under real pressure from the Israelis, the Americans to end the conflict. But I don't think he can make the concessions, on the right of return of refugees, on borders, on Jerusalem and on the sovereignty of the Palestinian state demanded by the Israelis and Americans."*



Collecting registration papers. (IOM)

Look beyond the immediate figures of the result for the stories behind it, which could be more interesting in the longer term than a widely expected victory.

Was the turnout low, suggesting general voter disillusionment with politics, and possible rough times ahead for the victor?

Was there a surprisingly strong showing by a hitherto unheralded group, indicating a major political shift in the near future?

Is there a likelihood that defeated parties might agree to work together in coalition, which could dramatically alter the political balance?

In 1969 U.S. President Richard Nixon sent a message congratulating West German Chancellor Kurt Georg Kiesinger after his conservative coalition appeared to have won elections. However it failed to get an overall majority and the Social Democrats came to power with the help of the tiny Free Democrats.

The day after

Reporters do more in-depth interviews of the winners and losers, as well as further reaction from ordinary people, in particular those chosen earlier in the campaign for special attention. Political correspondents, with the help of independent analysts and others, to look closely at the election results for any voter patterns or changes in voter behaviour.

How did women/young people/the elderly/ ethnic minorities/ the different regions vote,

and what does this mean for the future of the country?

Specialist correspondents to look at future prospects for the country under the new leadership in their various fields – foreign affairs, defence, the economy, law and order.

All of this information to be included in a final wrap-up piece looking at the election, the reaction, including from abroad, and future prospects.

As an example of the number of news angles that can be covered after an election, the following are headlines of stories covered by Reuters in the immediate aftermath of the Israeli elections in February 2001 that brought Ariel Sharon to power.

Reuters Israeli Election coverage - Headlines

- Sharon claims all Jerusalem, Palestinians defiant
- Bush urges calm, says give Sharon chance for peace
- Victorious Sharon prays at Jerusalem Western Wall
- Sharon aide says Arafat sent letter to new leader
- Arafat's Fatah says Intifada will topple Sharon
- Israel's Barak concedes, to quit as Labour leader
- Arabs slam Sharon win, U.S. and EU plead for peace
- Larsen says U.N. urges Sharon to move on peace
- Sharon urges Palestinians to pursue dialogue

- Palestinians grim on Sharon, joyful on Barak defeat
- Arafat hopes peace talks will continue under Sharon
- Lebanon urges world to restrain Sharon
- Israel's Sharon has tough coalition-building task

ANALYSES/BACKGROUND

- Israel's Sharon has big challenges, little time
- Sharon may find no partners for changed peace term
- Israeli markets, economy want unity government
- Israel's northerners recall Sharon the general
- Sharon's bleak legacy lives on in Lebanon
- Sharon is Palestinian nightmare
- Can Sharon make peace without even a handshake?
- Israelis see "Arafat factor" in Sharon triumph
- Failure to make peace costs Barak dearly
- Israeli left scrambles for new direction, leader
- Sharon, an old soldier who wouldn't fade away
- Possible candidates to replace Barak at Labour
- Chequered career of Israel's Sharon



Useful Web-sites

www.osce.org/odhr/?page=election - Guide to OSCE election observer activity, and their reports, handbook for observers.

www.psr.keele.ac.uk - Lots of links to election-related sites.

www.aceproject.org - Joint project to provide information on electoral systems worldwide.

www.electoral-reform.org.uk - Web-site of Britain's electoral reform society – supports change to proportional representation, but gives arguments for and against all main systems.

www.cnn.com/WORLD/election.watch - CNN's guide lists election results around the world.

www.ifes.org - Calendar of elections across the world, other data.







Reporting Elections Broadcast Guidelines

The contents of this file can be updated at intervals to take account of changing developments.

See webworld.unesco.org/download/fed/iraq
or www.indexonline.org.

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Editor's note

This publication is the work of several organizations and many individuals. The opinions expressed are those of the authors' alone. They are not necessarily shared by other partners in this project, including the UNESCO, the United Nations and its agencies.

Reporting Elections Broadcast Guidelines

Introduction

The following Guidelines govern the rules and practice relating to broadcast coverage of election campaigns. They are based on international standards and best comparative practice, and thus represent a goal to which all countries hosting elections should aspire. They set out standards which should be observed during election periods, although they may also be relevant during non-campaign periods.

Most of the Guidelines refer to obligations which, strictly speaking, bind the State. It can be argued that publicly owned or funded broadcasters are directly bound by some of these obligations. Regardless, the governing authorities are obliged to put in place a framework of laws and other rules that ensures that public broadcasters satisfy the relevant obligations. ARTICLE 19 strongly recommends that government or State broadcasters be transformed into public service broadcasters, with independent governing boards. At the same time, we are of the view that, in most cases, private broadcasters also have a professional obligation to meet the standards outlined.

The Guidelines are drawn from a more detailed set of Guidelines and commentary published by ARTICLE 19, Global Campaign for Free Expression, *Guidelines for Election Broadcasting in Transitional Democracies*¹, and the present version has been adapted slightly to focus on

issues facing the media in Iraq during its first democratic elections.

The Guidelines can be grouped into four main categories: the duty to inform; rules regarding election coverage; protection for freedom of expression during elections; and implementation/applicability of the guidelines. These issues are addressed below both in specific Guidelines and in the commentary which accompanies them.

It may be noted that, throughout, the Guidelines refer to “parties or candidates”. This is both to ensure their relevance to elections focusing on individuals (as in presidential elections) and to cover situations involving independent candidates.

Summary of the Guidelines

The Guidelines address a number of different issues. This summary breaks these down into four categories: the duty to inform; rules regarding election coverage; protection for freedom of expression during elections; and implementation/applicability of the guidelines. The Guidelines are summarised below according to these categories.

1 (London: 1994). Available at www.article19.org/docimages/837.htm



The Duty to Inform:

- public media have a general duty to inform the public about matters relevant to the elections (Guideline 1)
- parties or candidates have a right to airtime for direct access programmes on a fair and non-discriminatory basis (Guideline 9)
- the media have an obligation to provide special information programmes (Guideline 10)
- the media have an obligation to ensure voters understand how to exercise their vote (Guideline 11)

Rules Regarding Election Coverage:

- the media have a duty of balance and impartiality (Guideline 2)
- the duty of balance and impartiality is particularly important in relation to news programmes (Guideline 8)
- the media have a duty to provide necessary information to understand the significance of any opinion polls broadcast (Guideline 12)
- both sides in a referendum vote should be granted equal time in the media (Guideline 15)

Protection for Freedom of Expression During Elections:

- laws that illegitimately restrict freedom of expression should be repealed (Guideline 3)
- the authorities should investigate threats and attacks on the media (Guideline 4)
- neither the authorities nor the media should censor election programmes in any way (Guideline 5)
- the media have a right to be exempted from legal liability for unlawful statements by

candidates made during election broadcasts (Guideline 6)

Implementation/applicability of the Guidelines:

- a right of correction or reply should be available in response to illegal statements (Guideline 7)
- an independent, impartial body should be established/appointed to monitor election broadcasts and hear complaints (Guideline 13)
- decisions of this body should be subject to judicial review (Guideline 14)
- the Guidelines also apply to local and regional elections (Guideline 16)



Guidelines for Election Broadcasting

Guideline 1: Duty to Inform the Public

Guideline 1

During the period preceding an election, publicly owned or funded media have a duty to ensure that the public are informed about relevant electoral matters such as the political parties, candidates, campaign issues and voting processes.

Commentary: States' obligation to ensure that "Every citizen shall have the right and opportunity, without [distinction of any kind] ... to vote and to be elected at genuine periodic elections" (see Article 25 of the International Covenant on Civil and Political Rights) obliges the authorities to ensure that electors have the necessary information to register and vote, and to make informed choices regarding the elections.

This obligation is particularly onerous where the electorate have not had prior experience of voting in free and fair elections, as is the case in Iraq at present. Although it is open to the State to determine how to satisfy this obligation, publicly owned or funded media, and particularly broadcasters, are an ideal means.

Guideline 2: Duty of Balance and Impartiality

Guideline 2

Publicly owned or funded media have a duty to be balanced and impartial in their

election reporting and not to discriminate against any political party or candidate. Other broadcasters may also be placed under a duty of balance and impartiality.

Guideline 2.1

This duty requires that news, current affairs, interview and information programmes must not be biased in favour of, or against, any party or candidate.

Commentary: States' obligation of balance and impartiality derives directly from the fundamental rights of voters and candidates to freedom of expression and information, and non-discrimination in the enjoyment of their rights (see Articles 2 and 19 of the International Covenant on Civil and Political Rights).

It is also implicit in the very idea of free and fair elections which rule out the party in power using the resources of the State, including those allocated to public broadcasters, to assist it in promoting its electoral chances.

Guideline 3: Laws Restricting Freedom of Expression

Guideline 3

Any laws that restrict freedom of expression in breach of international law should be abolished.

Commentary: The existence of laws which breach international guarantees of freedom of expression is at any time a serious problem. Such laws are particularly problematical during elections as they may limit political debate and the ability of the media to cover the election, thereby interfering with the fairness of the



election. Such laws should be abolished well in advance of the election campaign.

Guideline 4: Duty to Punish Attacks Against Media Personnel and Property

Guideline 4

The authorities should make special efforts to investigate all acts of violence, intimidation or harassment directed against media personnel or the property or premises of a media outlet, and to bring those responsible to justice, particularly where the act was motivated by an intent to interfere with media freedom.

Commentary: Attacks or threats against journalists, as well as the material destruction of communications facilities, pose a very significant threat to independent and investigative journalism, to freedom of expression and to the free flow of information to the public.

It is of particular importance that the media be protected against such acts during election periods.

Guideline 5: Limits on Prior Restraint

Guideline 5

There should be no prior censorship of any election programme.

Guideline 5.1

The government should issue a clear statement that the media will not be penalised for broadcasting programmes merely because they are critical of the government, its policies or the ruling party.

Guideline 5.2

Neither the authorities nor media outlets should interfere with the broadcast of an election programme unless they are certain that this is necessary to prevent substantial harm, such as an act of violence. Any decision to restrain a programme should be subject to prompt review by an independent body in order to determine whether it was in conformity with these standards.

Guideline 5.3

The standards used in determining whether or not to broadcast an election programme must not be vague or broadly defined.

Guideline 5.4

Any post-broadcast penalty must be proportionate to the harm inflicted and should not be so large as to constitute an effective ban on a political party.

Commentary: Prior censorship, especially concerning matters of political importance, is prohibited under international law except in extremely narrowly-defined circumstances. Any



restriction on freedom of expression must be necessary and, given the fundamental importance to a democratic society of free political debate during election campaigns, this implies that an election broadcast may be subject to prior censorship only where it is virtually certain that the broadcast would cause immediate, irreparable and substantial harm.

Broadcast channels are allowed to pre-screen programmes in order to ensure that they do not violate the standards set out above but this should not be used as a pretext to delay or prevent transmission of legitimate programmes. However, they cannot be required to pre-screen, as this would put them in the situation of being a censor.

The right of political parties to function is a fundamental right, based on the rights to freedom of expression and association, and to political participation. It is impermissible to force a party out of operation by imposition of excessive fines or through other indirect means.

Guideline 6: Limits on Media Liability

Guideline 6

The media should be exempted from legal liability for unlawful statements made by candidates or party representatives and broadcast during the course of election campaigns, unless the media outlet concerned has either taken specific steps to adopt the statements or where the statements constitute clear and direct incitement to violence and the media outlet had an adequate opportunity to prevent their dissemination

Commentary: This departure from the normal rules of liability is justified by the short duration of campaign periods and the fundamental importance to free and fair elections of unfettered political debate. Furthermore, post-broadcast remedies normally suffice to redress harm caused by speech that does not directly incite violence. It is of particular importance that the media be exempted from liability for defamation, based upon considerable national case-law and experience supporting the conclusion that defamation in the political context is adequately redressed by a prompt reply, retraction or correction (see Guideline 7). Primary speakers – such as political parties and candidates – are not hereby relieved of liability for their statements.

Guideline 7: Corrections and Replies

Guideline 7

Any candidate or party which has been defamed or otherwise suffered illegal injury by a broadcast should be entitled to a correction or, where this would be an insufficient remedy, be granted an opportunity to reply. The correction or reply should be broadcast as soon as possible.

Commentary: Many established democracies provide for corrections or replies during election campaigns and more generally. These provide a rapid and effective means for redressing harm from illegal statements which, if the rules meet certain conditions, does not unduly restrict the right to freedom of expression.



Guideline 8: News Coverage

Guideline 8

Publicly owned or funded media should be particularly scrupulous in complying with their obligations of balance and impartiality in their news and current affairs reporting. Other broadcasters should also be careful to comply with any obligations of balance and impartiality national law may place on them.

Guideline 8.1

The duty of balance requires that parties or candidates receive news coverage commensurate with their importance in the election and the extent of their electoral support.

Guideline 8.2

Publicly owned or funded media are urged not to broadcast editorial opinions at all, due to the potential for them to be confused with news. All broadcasters should endeavour to clearly identify editorial opinion and to avoid airing it during news programmes.

Guideline 8.3

Obligations of balance and impartiality imply that news coverage of press conferences and public statements concerning matters of political controversy (as opposed to functions of State) by the governing authorities should be subject to a right of reply or other equitable response from other competing parties. This obligation acquires even greater force when the person making the statement is also standing for office.

Commentary: Of the various forms of election broadcasts, news coverage is generally accepted to be the most influential. Furthermore, recent experience shows that the duty of balance is most often, and most seriously, breached in the coverage of news. Accordingly, the duty to report in a balanced and impartial manner is particularly strong concerning news programmes. The ruling party, due to its governing role, will normally attract more news coverage than other competing parties. Careful measures, such as those outlined above, need to be taken to prevent this from happening.

Where possible, it is recommended that a mechanism be established to determine the proportion of election news coverage to be allocated to the competing parties and that broadcasters adhere scrupulously to these standards. This approach may be difficult to implement in the context of a first democratic election, where the relative strengths of the parties cannot objectively be determined. Furthermore, the existence of a large number of political parties, or of shifting coalitions, as is the case in Iraq, renders such solutions difficult to implement. Nevertheless, efforts should be made to ensure that government appearances in the news are balanced with coverage of other parties. At a minimum, comparable events should be given comparable coverage. If a station covers a speech or election rally of one party's candidate, for example, it should give comparable coverage to other parties' speeches or rallies.



Guideline 9: Direct Access Programmes

Guideline 9

Publicly owned or funded media should grant all political parties or candidates airtime for direct access programmes on a fair and non-discriminatory basis. Other broadcasters may also be required to provide such airtime.

Guideline 9.1

All parties or candidates that are formally registered should be granted access to some airtime for a country's first multi-party election.

Guideline 9.2

For the second or subsequent democratic election, airtime may be allocated on a proportional basis, according to objective criteria indicating general levels of support for the different parties. All parties should still normally receive some airtime. It is recommended that the allocation of airtime be carried out by an independent body in consultation with all the parties.

Guideline 9.3

The amount of time allocated should be sufficient for parties/candidates to communicate their messages.

Guideline 9.4

Direct access programmes should be aired at times when the broadcasts are likely to reach the largest audiences. The duty of balance would be breached if the programmes of some parties/candidates were aired at less favourable times than those of others.

Guideline 9.5

Time slots for direct access programmes should be assigned in an equitable manner.

Guideline 9.6

Direct access slots should be made available on equal financial terms for all parties/ candidates. For first-time democratic elections, publicly owned or funded media should provide a reasonable amount of time free of charge or for a nominal sum.

Guideline 9.6.1

If parties/candidates are to be allowed to purchase airtime for political advertisements, they should have access to such time on equal terms. In such cases, rates and overall limits may be set by regulation in order to limit the advantage of richer parties. This is particularly appropriate during a first democratic election, especially where opposition parties had previously been proscribed and thus did not have the opportunity to raise funds.

Commentary: The right of parties and candidates to present their views and platforms to the electorate through the media is essential to democratic elections. Direct access programmes are a key means of achieving this goal. Direct access programmes provide an opportunity for political parties and candidates to express their positions in their own words, for small parties and independent candidates to broadcast their views, and for parties to respond to negative statements or comments made about them. Direct access programmes convey stylistic and other intangible information that is missing in other programmes. Public broadcasters in most



Western democracies are required to make time available for these programmes.

For the first democratic, multi-party election, allocation of airtime to political parties on anything other than an equal basis poses great difficulty because the two most objective indicators of support — the party's performance in past elections and the number of seats held in parliament — are unavailable.

In subsequent elections, particularly where a large number of parties compete, granting equal time to all parties may dilute the messages of the parties that are most likely to form the next government. For this reason, proportional allocation of airtime may improve the informative value of the broadcasts while maintaining the public's confidence in the fairness of the allocation process. In nearly all Western countries, time is allocated to parties on a roughly proportional basis. All parties should normally continue to receive some direct access airtime.

The primary purpose of direct access programmes is to allow political parties to communicate their messages to the electorate and, as a result, they should be aired at those times when the largest audiences are reached.

Where there are a large number of parties, as in the Iraqi elections, assigning time slots for direct access programmes is complicated and it is crucial that it take place pursuant to a fair process.

In most established democracies, public broadcasters make some amount of time available for direct access programmes free of charge. In most of these countries, paid political advertising is

prohibited throughout the campaign period and, in a few, it is prohibited altogether (i.e. even outside of campaign periods).

The prohibition, or strict regulation, of paid political advertisements during campaign periods is justified on several grounds, including that it is necessary: (1) to prevent corruption and undue influence by major contributors; and (2) to help create a 'level playing field' for parties with different levels of wealth.



Guideline 10: Special Information Programmes

Guideline 10

During elections, the media should broadcast special information programmes that provide an opportunity for members of the public to put questions directly to party leaders and candidates, and for candidates to debate with each other.

Guideline 10.1

Broadcasters have greater editorial discretion in relation to these programmes than the news but such discretion is subject to the general obligations of balance and impartiality.

Guideline 10.2

Journalists, experts and other questioners should be selected so as to ensure balance among the questions.

Guideline 10.3

Special information programmes should be aired during prime viewing or listening hours.

Commentary: These obligations flow from the duties to inform the electorate and to provide balanced information. Special information programmes include candidate forums and debates, interview programmes, and programmes that provide an opportunity for audience members to pose questions.

Guideline 11: Voter Education

Guideline 11

Publicly owned or funded media are obliged to broadcast voter education programmes, at least to the extent that this is not already sufficiently covered by other information initiatives.

Guideline 11.1

Voter education programmes must be accurate and impartial and must effectively inform voters about the voting process, including how, when and where to vote, to register to vote and to verify proper registration, the secrecy of the ballot (and thus safety from retaliation), the importance of voting, the functions of the offices that are under contention, and similar matters.

Guideline 11.2

These programmes should reach the greatest number of voters feasible including, where relevant, through programmes in minority languages and targeting groups traditionally excluded from the political process, such as women and indigenous groups.

Commentary: The right to participate in elections depends on knowing how to exercise one's vote. Broadcasting voter education programmes is a key way for the authorities to discharge their obligation to inform the public. Other methods – such as distributing leaflets and posters – may also be used but these will rarely reach as many people as broadcasting and they may not be as effective, for example in relation to people with low literacy.



Guideline 12: Opinion Polls and Election Projections

Guideline 12

If a broadcaster publishes the results of an opinion poll or election projection, it should strive to report the results fairly.

Guideline 12.1

Opinion polls should be accompanied by information to assist viewers/listeners to understand the poll's significance, such as who conducted, commissioned and paid for the poll, the methodology used, the sample size, the margin of error, and the fieldwork dates.

Commentary: Opinion polls can have a significant impact on voting patterns, especially where their significance is not adequately understood. Broadcasters that report on opinion polls should furnish such additional information as is required for viewers/listeners to understand them properly.

There is some debate about whether opinion polls should be allowed to be published close to or right up to polling day. Some observers are concerned about the disproportionate impact this may have close to the actual poll.

Most Western and Central European countries prohibit publication of the results of opinion polls during the last several days before an election.

Guideline 13: Regulatory and Complaints Mechanisms

Guideline 13

Election broadcasts should be monitored and regulated by an independent, impartial body.

Guideline 13.1

The body should allocate time for direct access programmes and should have the power to hear and take binding action on complaints concerning broadcast-related violations by the media, political parties or candidates, including by ordering a correction or reply.

Guideline 13.2

The body should render complaints decisions promptly.

Guideline 13.3

If there is a regularly constituted, independent broadcast-monitoring body, it may carry out these functions; otherwise, a special body should be established for this purpose.

Guideline 13.4

The body should not be able to take decisions only upon the strength of the votes of the appointees of the government or of one party.

Commentary: The proper implementation of the rules discussed in these Guidelines depends upon the existence of a body to monitor broadcasts and to decide on complaints that is independent and impartial. It should act promptly and fairly, and its decisions must be



subject to prompt review by the courts. In a number of countries, independent broadcasting authorities make decisions regarding election broadcasts.

Guideline 14: Judicial Review

Guideline 14

Actions and decisions of any body charged with regulating election broadcasts should be subject to judicial review, which should be carried out on an expedited basis.

Commentary: Judicial review of the decisions of election broadcast bodies is important to the reality as well as the appearance of fairness.

Guideline 15: Plebiscites and Referendums

Guideline 15

In plebiscites and referendums, where the voters have the choice only of voting “yes” or “no” to a particular proposition, equal airtime should be allocated to each side. This formula stands even if more parties support one side of the issue than the other. Guidelines 1-14, to the extent relevant, are also applicable.

Commentary: Equal allocation of airtime is required in order to meet the duties of balance and impartiality.

Guideline 16: Local Elections

Guideline 16

The preceding Guidelines should be appropriately modified and applied by local and regional government media in local, municipal and regional elections.

Commentary: Local elections are important elements of democratic transitions and the same principles apply to these elections as to national elections.



Useful Web-sites

www.osce.org/odhr/?page=election - Guide to OSCE election observer activity, and their reports, handbook for observers.

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International standards for the Media

Briefing notes on basic principles of journalism

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2005 Elections in Iraq: Briefing Notes

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A Palestinian father and son attend a Hamas rally in Gaza during local elections in January 2005. (Reuters/Ahmed Jadallah)



2005 Elections in Iraq: Briefing Note 1

International Guarantees of Freedom of Expression

Internal references:

- ARTICLE 19 Guidelines 1 and 3
- Briefing Notes 2, 3, 4, 6, 7 and 8

The right to freedom of expression is a fundamental human right; fundamental both in the sense of its central importance to human life and dignity but also because it is an essential underpinning of all human rights – including the right to participate in political life – due to its crosscutting nature as well as its role in ensuring effective protection of rights.

The right to freedom of expression is recognised in all of the main international and regional human rights treaties. It was universally declared to be a right of the highest importance in the Universal Declaration of Human Rights, adopted unanimously by the United Nations General Assembly in 1948, just three years after the United Nations was first created. Article 19 of the Universal Declaration states:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

This right has also been enshrined in the International Covenant on Civil and Political Rights, which Iraq committed itself to respect through ratification more than thirty years ago. All three regional human rights treaties – in Africa, Europe and Latin America – also protect this basic human right. Guarantees of freedom of expression are found in the vast majority of national constitutions, including Iraq's provisional constitution, the Transitional Administrative Law of Iraq.

The right to freedom of expression, as guaranteed under international law, including the right to seek, receive and impart information and ideas, is broad in scope. In terms of imparting information and ideas, it includes the right to express oneself verbally, by word of mouth, by writing, by electronic means or through any other means of communication. It includes the right to express controversial opinions in public; the mere fact that an idea is unpopular cannot justify preventing a person from expressing it.

Freedom of expression is not, however, limited to the right to express oneself. It also includes the right to seek and to receive information from others, including the right to obtain and read newspapers, to listen to broadcasts, to surf the Internet, and, of course, to participate in discussions in public and private as a listener. It is increasingly being recognised that the right also includes the right to access information held by public authorities. As such, it places a duty on these bodies to both disseminate information of key public importance and to respond to request for access to publicly held information.



Freedom of expression is not based on citizenship; for example, one has a right to express oneself in Iraq even if one is not a citizen of Iraq and, on the other hand, Iraqi citizens have the right to express themselves and to receive information when they are abroad. The right is also fully guaranteed regardless of a person's level of education, or his or her race, colour, sex, language, religion, political or other opinion, national or social origin, property, or birth or other status.

Importantly, the right to freedom of expression involves not only negative obligations on the State not to interfere with the flow of information but also positive obligations, for example to create an environment in which a free and independent media can flourish (see Briefing Note 4). During elections, these positive obligations mean that the State is under a duty to ensure that electors are properly informed about how to vote and election issues.

The right to freedom of expression, unlike the right to hold opinions, is, however, not absolute. It is universally recognised that a limited number of key public and private interests may justify restrictions on this key right. These include, among other things, the right to one's reputation and privacy, and the need to maintain public order and national security. International law, however, sets out a strict test which any restrictions on freedom of expression must meet in order to be valid (see Briefing Note 2).

Although the recognition of the right to freedom of expression has been nearly universal, such recognition has not always been accompanied by governmental support and respect. Regimes throughout the world have resorted to illegal

censorship, repressive restrictions on what may be published or broadcast, often accompanied by the threat of imprisonment for breach, and direct State control over the media. Even in established democracies, there is usually some tension between the right to freedom of expression, and the media in particular, and the authorities, who often dislike being criticised. For this reason, the right must be vigilantly protected and defended, not the least, by journalists and others working in the media.

In transitional democracies, laws from previous repressive regimes, which breach the right to freedom of expression, are often still in force. An important and urgent task facing the transitional leaders is reform of these laws. This should be a key priority as part of the move towards a democratic form of government.



2005 Elections in Iraq: Briefing Note 2

Restrictions on Freedom of Expression

Internal references:

- ARTICLE 19 Guidelines 3, 5 and 6
- Briefing Notes 14, 17 and 18

While the right to freedom of expression is universally recognised as one of fundamental importance, it is also accepted that the right is not absolute. Certain overriding public and private interests may justify restricting or interfering with the right. A key question here is when and under what circumstances freedom of expression may be interfered with.

International law, as reflected in international treaties and their authoritative interpretation by international courts and others, recognises that interference with freedom of expression is an extremely serious matter, and that, therefore, such interference is permissible only in certain very narrow circumstances. Article 19(3) of the International Covenant on Civil and Political Rights, which Iraq has ratified, sets out the test for assessing the legitimacy of restrictions on freedom of expression:

The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

This test includes three parts: first, the interference must be in accordance with a law or regulation; second, the legally sanctioned restriction must protect or promote an aim deemed legitimate in international law; and third, the restriction must be necessary for the protection or promotion of the legitimate aim.

The first condition means, first and foremost, that the interference cannot be merely the result of the whim of an official. There must actually be an enacted law or regulation which the official is applying. In other words, only restrictions which have been officially and formally recognised by those entrusted with law-making capacity may be legitimate. In addition, not all “laws” or “regulations” meet the standard of ‘provided by law’. The law must meet certain standards of clarity and precision so that it is clear in advance exactly what expressions are prohibited. Vaguely worded edicts with potentially very broad application will not meet this standard and are thus illegitimate restrictions on freedom of expression. For example, a prohibition on “displeasing the government” would fail the test on account of vagueness.

The second condition, that a restriction must serve a legitimate aim, is not open-ended. The list of legitimate aims provided in Article 19(3) of the International Covenant on Civil and Political Rights is exclusive and governments may not add to these. This includes only the



following legitimate aims: respect for the rights and reputations of others, and protection of national security, public order (*ordre public*), public health or morals.

Finally, even if a restriction is in accordance with an acceptably clear law and if it is in the service of a legitimate aim, it will breach the right to freedom of expression unless it is necessary for the protection of that legitimate aim. This has a number of implications. First, if another measure which is less intrusive to a person's right to free expression would accomplish the same goal, the restriction is not in fact necessary. For example, shutting down a newspaper for defamation is excessive; a retraction, or perhaps a combination of a retraction and a warning or a modest fine, would adequately protect the defamed person's reputation.

Second, the restriction must impair the right as little as possible and, in particular, not restrict legitimate speech (known as overbreadth). In protecting national security, for example, it is not acceptable to ban all discussion about a country's military forces. In applying this, courts have recognised that there may be practical limits on how finely honed and precise a legal measure can be. But subject only to such practical limits, restrictions must not be overbroad.

Third, the impact of restrictions must be proportionate in the sense that the harm to freedom of expression must not outweigh the benefits in terms of the interest protected. A restriction which provided limited protection to reputation but which seriously undermined freedom of expression would not pass muster. This again is uncontroversial. A democratic society depends on the free flow of information

and ideas and it is only when the overall public interest is served by limiting that flow that such a limitation can be justified. This implies that the benefits of any restriction must outweigh the costs for it to be justified.

In applying this test and, in particular, the third part on necessity, courts and others should take into account all of the circumstances at the time the restriction is applied. A restriction in favour of national security, for example, which is justifiable in times of war, may not be legitimate in peacetime.



2005 Elections in Iraq: Briefing Note 3

Freedom of Expression and the Media

Internal references:

- ARTICLE 19 Guideline 1
- Briefing Notes 1, 10, 17

It is recognised everywhere that the media play a vital role in protecting democracy and its institutions. The media are in the best position to investigate and report on issues of public importance and interest, particularly relating to the political process, the conduct of public officials, the positions taken by government with respect to international issues, corruption, mismanagement or dishonesty in government, and human rights issues, among other things. Indeed, it is fair to say that the vast majority of individuals gain almost all of their knowledge about matters outside of their own day-to-day lives from the media.

This role of the media is just important during elections as at other times. Citizens rely heavily on information imparted by the media to learn about the competing candidates, the leading issues being contested and the platforms of the various parties. Without the media, making the most basic decisions relating to the democratic process – deciding which candidate to vote for is an obvious example – would be immeasurably more difficult.

It is, therefore, of paramount importance that the freedom of expression of the media be ensured and protected. Media actors, such as journalists and editors, should be able to exercise their own right to freedom of expression. Even more important, however, is the right of others to seek and to receive information, a vital component of freedom of expression, which depends upon respect for the freedom of expression of the media.

The importance of freedom of the media has been stressed by international courts. The UN Human Rights Committee, the official body responsible for overseeing compliance by States with their obligations under the International Covenant on Civil and Political Rights, a legally binding treaty ratified by Iraq, has stressed the importance of a free media to the political process:

[T]he free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion. (General Comment 25, issued 12 July 1996)

The Inter-American Court of Human Rights has stated: “It is the mass media that make the exercise of freedom of expression a reality.” (Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism, Advisory Opinion OC-5/85 of 13 November 1985, Series A, No. 5, para. 34.)

And, as the European Court of Human Rights has noted, the media as a whole



merit special protection, in part because of their role in making public *“information and ideas on matters of public interest. Not only does [the press] have the task of imparting such information and ideas: the public also has a right to receive them. Were it otherwise, the press would be unable to play its vital role of ‘public watchdog.’”* (Thorgeirson v. Iceland, 25 June 1992, Application No. 13778/88, para. 63)

It follows from these general principles that the government and public figures must tolerate a great degree of criticism from the media. The media's role as watchdog in a democratic society implies that it has a duty to scrutinise the actions of those in power, as well as those up for election, and, where the media themselves consider this appropriate, to criticise them. It is illegitimate for governments to clamp down on media because they criticise or because the government does not like the particular form in which the media choose to express their criticism (for example, through satirical cartoons). Governments must also expect and accept the use of strong language and a degree of exaggeration, particularly in relation to topics of acute public interest.

In a strong democracy, the media should themselves play a key role in protecting freedom of expression. Indeed, if the media are not active in this regard, freedom of expression will be very much at risk. The media can do this in a number of ways. These include a strong commitment to publishing material of public interest, highlighting instances where freedom of expression has been restricted, and challenging laws restricting freedom of expression in solidarity with others.



2005 Elections in Iraq: Briefing Note 4

Regulation and Pluralism

Internal references:

- ARTICLE 19 Guideline 1, 9 and 10
- Briefing Notes 6 and 7

The concept of pluralism is fundamental to both democracy and to the protection of the right to freedom of expression. A society where only a privileged few can exercise their right to freedom of expression effectively is not a free society. Such a situation would breach not only the rights of those who are denied the ability to exercise their right to freedom of expression through the media but also the right of society as a whole to be well-informed and to receive information from a variety of sources. Indeed, the right of the public to receive a diversity of information and ideas is central to the right of freedom of expression.

For these reasons, international human rights law strongly not only promotes the idea of pluralism in relation to the right to freedom of expression but also requires States to take positive steps to safeguard it. In an often-repeated statement, the European Court of Human Rights has stated:

The Court has frequently stressed the fundamental role of freedom of expression in a democratic society, in particular where, through the press, it serves to impart information and ideas of general interest, which the public is moreover entitled to receive. Such an undertak-

ing cannot be successfully accomplished unless it is grounded in the principle of pluralism, of which the State is the ultimate guarantor. (*Informationsverein Lentia and others v. Austria*, 28 October 1993, Application No. 13914/88, para. 38)

The protection of pluralism provides one of the main justifications for media regulation, particularly in relationship to the broadcast media. It is internationally accepted that States should regulate the airwaves to provide for a plurality of voices. State monopolies are incompatible with the right of the public to receive information from a variety of sources. Simply allowing private broadcasters, however, is not enough. States should take steps to avoid excessive concentration of media ownership and to ensure that licensing systems for broadcasters promote a diversity of content on the airwaves. Indeed, contribution to diversity should be an explicit licensing criterion.

With regard to the print media, it is internationally accepted that the best way to encourage pluralism is by abolishing legal and administrative measures that inhibit the establishment of newspapers and magazines. In particular, there should be no licensing systems and, where a registration scheme exists, it should not impose onerous obligations on applicants (see Briefing Note 7: Print Media Regulation). These differences from broadcast regulation are justified by a number of considerations including public ownership of the airwaves, the dominant and intrusive nature of broadcasting and the relatively low cost of setting up print media outlets.



Regulatory measures may not be sufficient to ensure pluralism in the media and, where this is the case, States should also consider providing support measures. These may include general measures aimed at the media sector as a whole, such as the abolition of taxes on print paper and other materials necessary for operating media outlets, as well as direct support for certain types of media outlets, for example those that serve small or minority sections of the audience. If direct support measures are provided, States should take care to ensure that this takes place on the basis of objective and non-partisan criteria, within a framework of transparent procedures and subject to independent control.



2005 Elections in Iraq: Briefing Note 5

Guaranteeing Journalists' Safety

Internal references:

- ARTICLE 19 Guideline 4
- Briefing Note 1

The guarantee of freedom of expression places a strong obligation on States to protect the safety of all media workers within their jurisdiction, as well as equipment necessary for their work. States are under a general duty to protect all of their citizens but the special duty in relation to journalists is due to the fact that violence is sometimes used as a tactic to silence critical voices.

In 2000, the special mandates for protecting freedom of expression of the United Nations, the Organisation of American States and the Organisation on Security and Cooperation in Europe adopted a Joint Declaration stating:

Censorship by killing

Attacks such as the murder, kidnapping, harassment of and/or threats to journalists and others exercising their right to freedom of expression, as well as the material destruction of communications facilities, pose a very significant threat to independent and investigative journalism, to freedom of expression and to the free flow of information to the public.

States are under an obligation to take adequate measures to end the climate of impunity and such measures should include devoting sufficient resources and attention to preventing attacks on journalists and others exercising their right to freedom of expression, investigating such attacks when they do occur, bringing those responsible to justice and compensating victims.

States are under three distinct duties:

- 1) Never to take part in, or to sanction or condone attacks against the media or media facilities.
- 2) To take effective action to prevent violent attacks from taking place.
- 3) Where violations have taken place, to investigate the attack, to bring the guilty parties to justice and to provide an effective remedy to the victim.

The first duty not only means that States have to refrain from taking part in attacks; it also means that they should never condone attacks, even indirectly. Indirect support may, for example, be provided where senior political figures make excessively critical statements about the media or make serious and unfounded allegations against the media. Indeed, in certain circumstances, the authorities might even have an obligation to speak out publicly in response, for example, to particularly egregious attacks on the media.

The second duty requires States to take all reasonable steps possible to prevent violent attacks, particularly when these are foreseeable. Adequate security measures should be taken to protect the media and States may have to deploy extra police or security forces, and implement protective measures, when they become aware of



a real and immediate risk. During demonstrations or riots, for example, both events which the media are under a professional duty to report on, police and other security forces should see it as part of their role to protect media workers. On the other hand, because of their role in reporting events to the public, the State should never curtail journalists' access to a specific area "for their own safety". Such measures are often abused to close troubled areas off from the outside world.

The third duty, to investigate any occurrences of violence, is clear-cut under international law. Failure by the State to take any steps in the face of attacks is a serious matter. The Inter-American Commission on Human Rights, in the context of frequent and serious attacks against journalists in the Americas, has stated:

A State's refusal to conduct a full investigation of the murder of a journalist is particularly serious because of its impact on society ... the impunity of any of the parties responsible for an act of aggression against a reporter – the most serious of which is assuredly deprivation of the right to life – or against any person engaged in the activity of public expression of information or ideas, constitutes an incentive for all violators of human rights. At the same time, the murder of a journalist clearly has a 'chilling effect', most notably on other journalists but also on ordinary citizens, as it instils the fear of denouncing any and all kinds of offences, abuses or illegal acts. (Miranda v. Mexico, 13 April 1999, Report No. 5/99, Case No. 11.739, para. 52)

Finally, where journalists go missing, States are under an obligation to take steps to trace them, ascertain their fate, provide appropriate

assistance and, where possible, facilitate their return to their families.



2005 Elections in Iraq: Briefing Note 6

Regulation of Broadcasting

Internal references:

- ARTICLE 19 Guidelines 3, 5 and 6
- Briefing Notes 1, 2 and 4

It is almost universally accepted that some regulation of broadcasters is necessary. Such regulation is justified on a number of grounds, including the need to ensure order as well as pluralism in the airwaves, the fact that the airwaves are a limited public resource, the dominant and intrusive nature of broadcasting and the prohibitive costs of establishing a major broadcast outlet. At the same time, it is essential that regulation not be able to be abused to silence those critical of the government or who otherwise attract official censure. This would seriously undermine freedom of expression, as well as free and fair elections.

The primary means used to balance these competing demands is to allocate regulatory powers in relation to broadcasting to an administrative body which is independent of government. Further protection for freedom of expression is achieved by circumscribing the powers of this body very carefully, so that it may not abuse those powers, and by subjecting its decisions to judicial review.

Perfect independence is difficult to achieve but a number of measures can help prevent

political or other interference in the work of the regulatory body. At the very minimum, it is essential that it is not part of a ministry or government department but that it is a separately constituted body, answerable to the public through an independent governing board. Appointments to the governing board of the regulatory body should be made in a manner that promotes its independence. The process for appointments should be transparent and fair, and allow for participation by civil society and the general public. Appointments should not be made by a single person or party but rather in a manner which ensures a broad range of input. Once appointed, members should be protected against removal outside of certain extreme circumstances.

In most democratic countries, broadcast regulators undertake two key functions. First, broadcasters are required to obtain a license to operate and the regulator is responsible for overseeing the licensing process. Second, regulators are normally responsible for taking the lead in developing, and for applying, codes of broadcasting conduct which normally deal with a range of content and broadcast practice issues.

Licensing is a complex matter and regulators may need to take a variety of factors into consideration as part of licensing processes. In many countries, broadcast regulators work with those responsible for general telecommunications to develop an overall plan for the use of the radio spectrum. Such a plan should include an allocation of frequencies to broadcasting and, within that allocation, sub-allocation of frequencies to different broadcasting uses (radio, television, national and local stations, public,



commercial and community broadcasting). The idea is to ensure that frequency allocation takes place on a planned basis, not just to the highest bidder.

A key goal of licensing should be to ensure diversity in the airwaves, in terms of both ownership and content. This should, therefore, be an explicit licensing criterion. The licensing process should be fair and transparent. In most countries, calls for licence applications are issued from time-to-time and interested parties can compete for the licences being offered. Anyone who has been refused a licence should be able to apply to the courts for judicial review of this decision.

Broadcasters should not be subject to special criminal or civil restrictions relating to programme content, over and above rules of general application. At the same time, it is common for regulators to develop administrative codes of conduct governing broadcast content and practice. Such codes should be developed in close consultation with broadcasters and other interested stakeholders and should be clear and detailed.

Broadcasting codes normally deal with a wide range of issues programming issues such as accuracy, privacy, treatment of sensitive themes such as bereavement, sex and violence, and the like. They may also address practice issues such as using subterfuge to obtain information, the conduct of interviews and payment for information. Such codes may well set out rules of some relevance to elections, including the requirement of balance and impartiality, and perhaps also the rules relating to direct access programming.

Finally, such codes may deal with issues relating to advertisements.

The primary goal of the system should be to set standards rather than to punish broadcasters for breach. In line with this, sanctions, at least in the first instance, should normally aim at reforming behaviour, and so consist of a warning or requirement to broadcast a message recognising the breach. More serious sanctions, such as fines or suspensions, should be applied only in the context of repeated and serious breaches, where other sanctions have failed to redress the problem.

In Iraq, the National Communications and Media Commission has been established by the Coalition Provisional Authority as the regulatory body for broadcasting. It has as its main task the fostering of plurality and competition among Iraq's communications and media services.



2005 Elections in Iraq: Briefing Note 7

Regulation of the Print Media

Internal references:

- ARTICLE 19 Guidelines 3 and 6
- Briefing Notes 1 and 2

It is generally recognised that it is not necessary to set up specific regulatory regimes which govern the print media. This is based on the idea that, unlike broadcasters, who make use of a limited and public resource, there are no natural constraints on the number of print media outlets in operation and so no need for particular regulation. However, media are subject to same laws that apply to everyone – for example, defamation laws – and, if they have been set up as corporations, or as non-profit bodies, then they are subject to the same rules that apply to other corporations or non-profit bodies.

Under international law, a licensing system for the print media, which involves the possibility of being refused a licence and thereby being prohibited from publishing, is not legitimate. The right to freedom of expression includes the right to establish a print media outlet and, as noted, natural constraints cannot justify limiting this right.

On the other hand, technical registration requirements for the print media, properly defined as mass circulation, periodical publications, do

not, per se, breach the guarantee of freedom of expression as long as they meet the following conditions:

- 1) there is no discretion to refuse registration, once the requisite information has been provided;
- 2) the system does not impose substantive conditions upon the media;
- 3) the system is not excessively onerous; and
- 4) the system is administered by a body which is independent of government.

However, registration of the print media is unnecessary and may be abused, and, as a result, many countries do not require it. In 2003, the special mandates on protecting freedom of expression at the United Nations, the Organisation for Security and Cooperation in Europe and the Organisation of American States adopted a Joint Declaration in which they warn against the abuse of these systems:

Imposing special registration requirements on the print media is unnecessary and may be abused and should be avoided. Registration systems which allow for discretion to refuse registration, which impose substantive conditions on the print media or which are overseen by bodies which are not independent of government are particularly problematical. (Adopted 18 December 2003)

In many democratic countries, the print media has instituted its own self-regulatory systems for promoting better professional standards (see Briefing Note 17: Self-regulatory and Professional Approaches). Such systems can help promote better standards and stave off attempts to regulate these matters by law.





2005 Elections in Iraq: Briefing Note 8

Regulation of Journalists

Internal references:

- ARTICLE 19 Guideline 3
- Briefing Notes 1 and 2

The right to freedom of expression applies to everyone and through any media. As such, it clearly protects the right of everyone to engage in journalism. As regards regulation of journalists, a main issue is that of licensing of journalists, addressed below. Accreditation, which raises rather different issues, is also addressed below.

Licensing systems for journalists, whereby individuals are prohibited from practising journalism unless they are licensed, are, therefore, illegitimate. In this respect journalism is unlike other professions, such as the medical profession, for which licensing is accepted.

The Inter-American Court of Human Rights dealt extensively with these issues in a reference to it regarding a law from Costa Rica that required journalists to meet certain professional standards and be a member of a professional association ('colegio'). In a judgment that has since been recognised as standard-setting, the Court made it clear everyone has a right to practise journalism:

...[J]ournalism is the primary and principal manifestation of freedom of expression and thought. For that reason, because it is

linked with freedom of expression, which is an inherent right of each individual, journalism cannot be equated to a profession that is merely granting a service to the public through the application of some knowledge or training acquired in a university or through those who are enrolled in a certain professional "colegio." (Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism, Advisory Opinion OC-5/85 of 13 November 1985, Series A, No.5, para. 71)

International law also establishes that general conditions on who may practise journalism, such as the requirement of a university degree or a certain age, are not legitimate. Such conditions place unjustifiable restrictions on the right of everyone to express themselves through the print media, regardless of age or any other status. Furthermore, experience in many countries demonstrates that such conditions do not promote any useful social goal; in particular, they are not effective in promoting more professional journalism.

It is similarly illegitimate to require journalists to be members of a certain professional body. In many cases, this is simply an indirect way of limiting access to the profession, and is hence just as illegitimate as more direct forms of this prohibition. In other cases, this is a way of seeking to control journalists and to censure those who have in some way annoyed the authorities. All journalists enjoy the right to freedom of association which means that they have the right to join associations of their own choosing, or not to join associations if they do not wish to.



The Inter-American Court addressed both of these points in the Costa Rica reference:

It follows from what has been said that a law licensing journalists, which does not allow those who are not members of the "colegio" to practice journalism and limits access to the "colegio" to university graduates who have specialized in certain fields, is not compatible with the Convention. Such a law would ... be in violation not only the right of each individual to seek and impart information and ideas through any means of his choice, but also the right of the public at large to receive information without any interference. (Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism, Advisory Opinion OC-5/85 of 13 November 1985, Series A, No.5, para. 81)

It may be noted that accreditation of journalists raises very different issues from licensing, although the two are sometimes confused. Accreditation refers to a system whereby certain journalists are given privileged access to certain functions or locations which are not otherwise fully open to the public, normally due to space limitations but sometimes also for security or other reasons. A classical example is accreditation to Parliament, whereby journalists are often guaranteed access and sometimes even granted special privileges or even offices. The rationale for such privileged treatment is that the media are the eyes and ears of the public, ensuring that everyone hears about matters of public interest.

Accreditation schemes should not be able to be used as a means to interfere with or influence the work of journalists, or to exclude journalists

known to be critical. Therefore, they should be overseen by an independent body and accreditation decisions should be based on objective criteria. The overall aim of any accreditation scheme should be to accredit as broad a range of journalists as possible, subject only to space constraints. Where space is an issue, considerations such as the number of journalists from a particular media that already have been granted accreditation may be a consideration. Accreditation schemes should never impose substantive restrictions on journalists.



2005 Elections in Iraq: Briefing Note 9

The Right to Political Participation and to Vote

Internal references:

- ARTICLE 19 Guidelines I, 2
- Briefing Note 1

In a democracy, the will of the people is the basis of the government's authority. But in a modern State, with millions of inhabitants, it is not practicable to consult citizens on an individual basis about each and every decision. The solution is for the people to appoint, through elections, a government to take decisions on their behalf, in accordance with its election promises. Elections must be regular, so that the people can replace representatives who are not performing as expected. It is the responsibility of the State to organise the elections and to ensure that every citizen has a chance to cast a ballot. It is also the responsibility of the State to ensure that the elections are free and fair, in the sense that citizens are free and able to make informed electoral choices.

The Right to Vote

The right of every citizen to vote in elections is guaranteed under the International Covenant on Civil and Political Rights (ICCPR), a United Nations treaty to which Iraq is a party. The ICCPR establishes a number of standards to

which States must conform in the conduct of their elections.

The main requirement imposed by the ICCPR is that the elections must in principle be open to all citizens, including those born or living outside the country. The government may impose limitations on the right to vote, but such limitations should be provided by law and based on objective and reasonable grounds. For example, prohibiting those below a certain age from voting is considered to be objective and reasonable, and thus permissible. Certain limitations, namely those based on national origin, language, race, religion, sex, education, property, political opinion or other states, are not permissible under any circumstances.

Under the ICCPR, the authorities are not only bound to recognise the right of all citizens to vote; they must also to take active steps to ensure that all persons entitled to vote are in practice able to exercise that right. This means, for example, that the authorities should take effective measures to ensure that all prospective voters are aware of the procedures governing voter registration and the elections themselves. Furthermore, procedures should not be so complicated as effectively to disenfranchise potential voters. Information and materials about voting should be available in the various minority languages, and there should be assistance for people with specific difficulties, such as the disabled, illiterates and the homeless.

Effective exercise of the right to vote also depends on the electorate being sufficiently knowledgeable about the competing candidates and issues to be able to make an informed choice. The authorities are, to this end, obliged to take



measures to ensure that a free and adequate flow of information is available to voters.

As required, the Iraqi Electoral Law (Coalition Provisional Authority Order No. 96) permits all Iraqi citizens to vote, provided they were born on or before 31 December 1986. Furthermore, anyone entitled to reclaim Iraqi citizenship or otherwise eligible for Iraqi citizenship may also vote. This includes, in particular, those persons whose Iraqi citizenship was withdrawn in the past for political, religious, racial, or sectarian reasons, and those persons whose citizenship was withdrawn because they acquired another citizenship. All voters are required to register in advance, according to procedures issued by the Independent Electoral Commission of Iraq.

A particular concern for the upcoming elections in Iraq is the security situation. Although the authorities may never be able to guarantee complete safety, the government is obliged under the ICCPR to do all that it can to provide security around polling stations, and to prevent intimidation or coercion of voters.

The Right to Political Participation

In order for a democracy to be effective, the electorate must have a free and broad choice of candidates to vote for at elections. Therefore, the ICCPR prohibits all unreasonable restrictions on the right to stand for election. The permissible restrictions on the right to stand for election are similar, though not identical, to those on the right to vote. The law may, for example, set a minimum age for candidates in

the election. No candidates may be excluded by reason of their education, residence, descent or political affiliation. However, individuals holding certain positions may be prohibited from running for offices, if their election would raise a conflict of interest. For example, a judge may be prevented from running for an office, if part of his or her task as a judge is to decide disputes involving the holder of the office to which he or she aspires to be elected.

International law permits the State to require registration of candidates in the elections; however, the registration procedure should not entail conditions, deadlines or fees which are unduly difficult to meet, or which give some candidates an unfair advantage over others. Moreover, individuals who decide to stand for office should not suffer any disadvantage or discrimination as a result.

In Iraq, pursuant to the Political Parties and Entities Law (Coalition Provisional Authority Order No. 97) only individuals eligible to vote, that is, those born after 31 December 1986, may run for office. The same Law requires any individual, group of individuals or organisation wishing to stand for election to be certified as a political entity by the Independent Electoral Commission of Iraq.



2005: Elections in Iraq: Briefing Note 10

The Importance of Freedom of Expression during Elections

Internal references:

- ARTICLE 19 Guideline 1
- Briefing Notes 1, 3 and 9

In a democracy, citizens appoint the government of their choice by voting for their preferred suitable candidates at periodic elections. In order to exercise this power freely and wisely, the electorate needs accurate information about the various candidates, their programs and backgrounds, as well as about the key issues being debated during the election. As the UN Human Rights Committee has emphasised:

The free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion ... This implies that citizens, in particular through the media, should have wide access to information and the opportunity to disseminate information and opinions about the activities of elected bodies and their members. (*Gauthier v. Canada*, 7 April 1999, Communication No. 633/1995)

The provision of such information in the run-up to elections involves rights and duties for three

groups: the political parties and candidates competing for elected positions, the news media and, of course, the electorate.

Political Parties and the Right to Freedom of Expression

The right to freedom of expression, as guaranteed, among others, in the International Covenant on Civil and Political Rights (ICCPR), a treaty to which Iraq is a party, protects the right of all political parties to convey their messages to the public through any media of their choosing.

The ability of political parties to communicate with potential voters is paramount for the proper functioning of a democracy. Voters will be reluctant to vote for a party if they are not sure what it stands for. Although voters may formally be able to vote for the party of their choice, such choice is illusory in the absence of adequate information about the competing parties and candidates. If only one or two parties have been able to communicate their views, they will inevitably dominate the election.

Some political parties will inevitably be in a better position to spread their message than others; a party founded by a well-known person or bankrolled by rich backers will more easily attract attention than a party which lacks funds or fame. Such natural advantages are simply part of politics. However, under the ICCPR, the State is under an obligation to ensure that all parties have at least some access to means of communicating with the public. Any obstacles other than the natural disadvantages which flow from being a small party should be removed. For example, conditions such as having a certain number of



members should not be required before parties may spread leaflets or hold public meetings. In addition, the State must take certain positive steps to ensure that these parties have some access to the means of mass communication. Typically, a publicly owned or funded broadcaster is under an obligation to provide a measure of free airtime to all competing parties.

The News Media and the Right to Freedom of Expression

As the principal means through which the public gathers information, the news media play a central role in the electoral process. News media afford potential voters the opportunity to learn about the various parties and their programmes and they influence the outcome of elections by exposing hidden flaws and strengths of the candidates.

Given their tremendous importance, there is always a risk that news journalists will be subjected to pressure to report in a certain way. In order to assist them in the task of reporting as objectively and honestly as possible, journalists enjoy rights protected under the ICCPR (see Briefing Note 1). In particular, journalists have a right freely to seek, receive and impart information in any way they see fit, without interference from the government, subject only to legitimate restrictions, for example appropriate defamation laws. The authorities may not harass, intimidate or otherwise obstruct journalists in their work, or impose censorship, or, conversely, offer rewards for reporting in a certain way. Journalists should be permitted to cover all political parties, including those most

hostile to the government and they should not suffer any adverse consequences for publishing material which places the government in a negative light.

The Voters' Right to Freedom of Information

The ICCPR confers on the general public the right to receive information. Combined with the right to participate in public affairs, also guaranteed under the ICCPR, this means that the public has a right to receive complete and unbiased information about the contending parties. The main responsibility to ensure that this right is respected lies with the State, which has an obligation to create an environment within which the media – who are the primary source of information – are able freely to go about their job of informing the public. Publicly owned or funded media also have an important role to play in informing the public, and are under an obligation to do so, and without political bias.

At the same time, the media are under a professional obligation to inform the public fully and truthfully about all matters relevant to the elections. This leaves journalists with the occasionally difficult task of reporting on all the parties in a neutral way, however laudable or repugnant a particular candidate may seem to the journalist in question. However, in a democracy, the power belongs to the whole population, not just the educated or informed elite. It is imperative that journalists do not substitute their own judgment for that of the electorate by reporting more extensively and favourably on one party than another.



2005 Elections in Iraq: Briefing Note II

Different Types of Coverage in the Broadcast Media

Internal references:

- ARTICLE 19 Guidelines 8, 9, 10 and 11
- Briefing Notes 2, 6, 7, 12 and 13

As part of their duty to inform the public, broadcasters normally offer different types of programming during elections. Broadly speaking, these may be classified into three different categories:

- 1) news and current affairs programming;
- 2) interviews, debates and other 'special information' programming; and
- 3) direct access programming.

These three types of programming each serve a different purpose and require a distinct approach. The key aim for broadcasters should be to ensure that the public receive sufficient information, from a variety of sources and perspectives, to enable them to cast an informed vote.

1. News and Current Affairs

News and current affairs programmes are an essential means by which the general public receives political information, during, as well as

outside of, election periods. During elections, this form of programming assumes a particular importance. Broadcasters in many established democracies are under a strict obligation to be balanced and impartial in their coverage of election events, and may not express a particular preference for one candidate or party, or discriminate against a particular party or candidate.

Although the principle of balance is a simple one, its implementation in the context of news reporting during elections can be problematic, given that the governing party normally receives considerable attention by virtue of its role in running the country. The ARTICLE 19 Guidelines suggest that measures should be taken to counterbalance this, for example by granting a right of reply to opposing parties or implementing an 'equal time' rule to ensure that coverage is also provided to parties outside of government.

Furthermore, given the potential for editorial opinions to be confused with news, the ARTICLE 19 Guidelines recommend that publicly owned or funded media should not broadcast any editorial opinions at all in relation to the elections. Indeed, where a private broadcaster presents his or her own views, these should be clearly identified as such and should not be aired during news programmes.

2. Special Information Programmes

News and current affairs programmes are rarely enough, by themselves, to inform the



public sufficiently about electoral issues. The media should, therefore, broadcast additional programming, which focuses specifically on the policies and programmes under discussion during the election. Such programming should provide an opportunity for party leaders and other candidates to be questioned directly, and for candidates to debate with each other. A number of formats – including candidate debates, panels of candidates and interviews – may be used for this purpose.

Taking into account general obligations of balance and impartiality, broadcasters have a degree of editorial discretion in deciding how to structure such programmes. A fair and transparent formula must be used in deciding whom to invite and non-candidate participants should be carefully selected so as to ensure balance. Special information programmes should be aired, among other times, during prime viewing or listening hours.

3. Direct Access Programmes

So-called 'direct access' programming includes the allocation of airtime to political parties and candidates to broadcast short clips produced by themselves, as well as paid advertising. Direct access programming is important as it is one of the very few ways political parties and candidates can present themselves directly to the public (see Briefing Note 13). Public service broadcasters are often required to provide free airtime and production support (see Briefing Note 15) to facilitate these programmes.

Given that broadcasters have no editorial control over the content of direct access slots, their liability for such programmes should be limited. A number of other rules govern the allocation and timing of these programmes (see Briefing Note 13).



2005 Elections in Iraq: Briefing Note 12

Balance and Impartiality in News and Current Affairs Programming

Internal references:

- ARTICLE 19 Guidelines 2 and 8
- Briefing Notes 6, 11 and 15

News and current affairs programming has been identified by a range of actors, including international courts and tribunals, as one of the most important forms of broadcast programming. Even outside of election periods, news and current affairs programmes are the key way in which most people receive political, as well as other, information.

During elections, this form of programming assumes particular importance. Publicly owned or funded media are under a strict obligation to be neutral and impartial in their coverage of election events, and should never express a particular preference for one candidate or party, discriminate against a particular party or candidate, or in any other way be biased. In many countries, private broadcasters are also placed under an obligation to be politically neutral and such obligations may be a legitimate restriction on freedom of expression. It may be noted, however, that a similar restriction on the print media would be very hard to justify given the different nature of this medium.

While the principle is a simple one, its implementation can be problematic. The experience of broadcasting in transitional democracies, and indeed of certain established democracies, shows that news programmes are the broadcast category where the principles of balance and fairness are most often breached. The reality is that politicians belonging to a ruling party or coalition often receive considerable attention by virtue of their role in running the country. This role not only naturally generates news stories but also allows them more scope to manoeuvre themselves into situations where they are likely to receive news coverage.

Given this, and because of the importance of the broadcast media during elections, and because of the high credibility the public attaches to news and current affairs programmes, broadcasters should make every effort to ensure that they meet their obligations of balance and impartiality. In particular, an effort should be made to counterbalance disproportionate coverage of incumbent candidates. The ARTICLE 19 Guidelines suggest that measures that could be taken include granting a right of reply to other candidates where an incumbent has received news coverage, or implementing an 'equal time' rule, whereby the main competing parties get equal news and current affairs coverage during the election period.

Given the potential for editorial opinions to be confused with news, the ARTICLE 19 Guidelines recommend that publicly owned or funded media should not broadcast any editorial opinions at all in relation to the elections. Private broadcasters should make a commitment to clearly identify any editorial opinions and not to broadcast them during news programmes.



The Code for Media during Elections issued by the Iraq National Communications and Media Commission is broadly in line with these requirements. It places four specific obligations on all broadcasters:

- 1) to ensure that their reports are balanced and unbiased;
- 2) to treat all political entities and coalitions and their candidates fairly and impartially;
- 3) to make an effort to hear and represent all sides of a political question or controversy;
- 4) to distinguish opinion from fact so as not to ensure that the former is not confused with news coverage or current affairs programming



2005 Elections in Iraq: Briefing Note 13

Direct Access to the Media

Internal references:

- **ARTICLE 19** Guidelines 6 and 9
- Briefing Notes 6, 7, 11, 15 and 18

Some form of direct access to the media is essential for parties and candidates in elections to get their message across. While news and other programming should provide voters with information about parties' policies and platforms, direct access to the media allows them to speak in their own voices. Providing direct access to the media thus makes an invaluable contribution to the ability of parties and candidates to communicate their messages to the public. In practice, direct access of some sort is available to parties and candidates in all established democracies.

Direct access refers broadly to two distinct types of media content:

- 1) a system of entitlement to short slots in the broadcast media, allocated among the various competing political parties and candidates; and
- 2) paid advertising, in both print and broadcast media.

I. Direct Access Slots

The vast majority of the established democracies have instituted systems whereby a set amount of direct access slots are allocated among the various competing parties and candidates. The idea is to allow parties to speak directly to the electorate. Publicly owned or funded broadcasters are normally the main means for disseminating these slots but, in some countries, private broadcasters are also required to provide them.

The exact allocation of airtime among the parties and candidates may be calculated in different ways. In most countries with an established track record of elections, airtime is allocated in proportion to the previous performance of the party in question, as determined, for example, by the number of votes obtained in the last election. In other countries, free airtime is distributed evenly among all political parties and candidates. This approach is probably more appropriate for Iraq, where no track record exists. Whichever formula is adopted, the rules for allocation should be precise, fair and transparent.

Broadcasters have no editorial control over the content of direct access slots and, as a result, should not normally be held liable for their content. They may, however, be held liable where the media outlet concerned has taken specific steps to adopt or endorse the statements. Furthermore, this waiver of liability may not extend to extreme cases where the statements constitute clear and direct incitement to violence and the media outlet had an adequate opportunity to prevent their dissemination (see Briefing Note 18). This departure from the normal rules of liability is justified by the short



duration of campaign periods and the fundamental importance to free and fair elections of unfettered political debate. This limitation of liability does not, however, relieve political parties and other speakers themselves from liability for their statements.

Provision of these slots for free is recommended as it helps promote a level playing field during elections (paid political advertising, discussed below, is available only in the measure that parties and candidates can afford it). In many countries, public service, or publicly owned or funded, broadcasters are required not only to provide airtime free of charge but also to make available production facilities to assist political parties and candidates to prepare their clips (see Briefing Note 15).

It is important that the amount of time allocated for direct access slots is sufficient for parties and candidates to communicate their messages, and for the public to be informed about the issues, party positions, and the qualifications and characters of the candidates. The timing of the slots should be designed to maximise the number of viewers/listeners; wherever possible slots should be broadcast during prime time and they should never be broadcast at times when it is inconvenient for large segments of the population to view or hear them, for example past midnight.

In Iraq, the Code for Media during Elections issued by the National Communications and Media Commission requires the Iraq Media Network to provide direct access slots. The IMN may set rules and regulations with regard to these slots, so long as these are fairly applied to all.

2. Advertising

Paid political advertising is another way parties and candidates can gain direct access to the electorate. Political advertising in the broadcast media is controversial. Many European countries ban political advertising in the broadcast media – while others place stringent fetters on it – on the grounds that it advantages richer parties and candidates. A Recommendation calls on European States to consider introducing limitations on political advertising.¹ In the United States, on the other hand, a ban, or even restrictions, on political advertising would be deemed contrary to the right of freedom of expression.

Under international law, a ban on advertising in the broadcast media is considered to be legitimate. A complete ban in the print media would probably breach the right to freedom of expression, although some restrictions may be acceptable.

Where paid political advertising is allowed, it should be available on equal conditions and rates of payment to all contending parties.

In Iraq, the Code for Media during Elections issued by the National Communications and Media Commission allows paid political advertisements in any media, except for those that are part of the Iraq Media Network. It requires all political advertisements to be clearly identified as such, to be distinguishable from other programming, and to identify their sponsors.



2005 Elections in Iraq: Briefing Note 14

Opinion Polls and the pre-Election Period of Silence

Internal references:

- ARTICLE 19 Guidelines 12
- Briefing Notes 6, 7 and 8

Both the contenders for election and the general public are inevitably curious to know in advance what the outcome of the elections is likely to be. Various organisations and individuals may conduct opinion polls, where they question a substantial number of people in order to assess the popularity of the competing candidates. The results of such opinion polls are of interest to journalists, who may wish to publish them for the benefit of their audience. However, opinion polls can have a distorting impact on voting patterns, especially if they are not properly understood by the public. As part of their duty to inform voters, journalists should make sure that reporting on poll results is accompanied by an explanation of their significance.

How Opinion Polls are Conducted

Opinion polls may be conducted and/or commissioned by all sorts of different actors including academic institutes, commercial businesses, political parties, non-governmental organisations, government agencies and the news media.

Polls may be conducted either during an election campaign or at the end of the campaign, in the form of exit polls of voters on election day. The main methods used for conducting polls are face-to-face interviews (in the street or in people's homes), or interviews by mail, telephone or over the Internet.

Interpreting Opinion Polls

Not all opinion polls results are equally reliable. An opinion poll conducted by an impartial organisation will in many cases be more trustworthy than, for example, a poll conducted by the government or a political party. But even a poll conducted by a disinterested organisation should be treated with caution and can be substantially wrong or misleading. There are three main factors affecting the reliability of opinion poll results.

The first factor is the wording of the question posed to the public. For example, the question: "who do you plan to vote for?" may not be answered by all people in the same way as "who do you think should win the elections?" The former question would probably lead to a more reliable prediction of the election outcome.

The second factor affecting the reliability of polls is what is known as the 'margin of error'. If you ask only three people about their voting intentions, it is fairly obvious that the result will be extremely unreliable. Asking a hundred people will generate a better result and asking a thousand an even better one. There is, in other words, a positive relationship between the number of people interviewed and the reliability of the opinion poll. This can be calculated



mathematically and expressed as a percentage called the margin of error. The lower the margin of error, the better, as it is a measurement of the unreliability of the poll.

The third source of error in opinion polls is the selection of respondents. Although questioning more people reduces the margin of error, it does not always guarantee an accurate result because there may be skews in the sample of people interviewed. For example, an opinion poll conducted by Internet may be distorted because poor people are less likely to have Internet access than rich people. If poor people tend to vote for different parties than rich people, an Internet poll will overstate the popularity of the parties favoured by rich people.

Explaining the Significance of Polls

The publication of opinion poll results can have a significant impact on voting patterns. For example, voters may conclude that their favoured party is going to lose the elections anyway and decide not to bother to vote. Or voters may assume that a favoured party is already doing well in the polls and decide instead to vote for another party, which they would also like to see represented. To avoid a situation where people change their voting intentions on the basis of potentially wrong information, journalists who publish opinion poll results should explain their significance, and the risk of error, to the public.

The Code for Media during Elections, issued by the National Communications and Media

Commission, lists which information should accompany any published opinion poll result. The publisher should identify: 1) the organisation that conducted the poll; 2) the organisation or party that commissioned the poll and paid for it; 3) the methodology used; 4) the sample size (i.e. the number of people interviewed); 5) the margin of error; and 6) the dates on which the poll was conducted. In addition, it should be explained that the poll reflects public opinion only at the time it was taken.

Media Silence Period

Out of concern for the impact that they have on voter behaviour, several countries prohibit the publication of opinion polls during the last few days preceding elections. As is further discussed in Briefing Note 3, such limitations on the freedom of information may be permissible under international law.

The Iraqi authorities have not imposed any restriction on the publication of poll results. However, for a period commencing 48 hours before the opening of polling stations and lasting until the end of the voting, the media are not permitted to cover the political campaigns of any parties or candidates. This prohibition does not cover matters unrelated to the promotion of any particular contender in the election, such as party-neutral information about political issues or information aimed at educating voters.



2005 Elections in Iraq: Briefing Note 15

The Role of Public Media during Elections

Internal references:

- ARTICLE 19 Guidelines 1, 2, 8, 9, 10, 11 and 12
- Briefing Notes 12 and 13

It is internationally recognised that publicly owned or funded media have a special role to play during elections and have certain obligations over and above those that can be imposed on other media. This is particularly the case for public broadcasters.

Public broadcasters

As publicly-funded entities, public broadcasters should observe strict requirements of neutrality and should never endorse any particular candidate, party or programme (see Briefing Note 12: Balance and Impartiality). If they do carry political advertisements, these should be offered to all parties/candidates on a strictly equal basis.

Furthermore, because of their legal obligation to inform and educate the public, public broadcasters have a duty to ensure that the public is informed about the election. This includes practical matters, such as where and how to vote, to register to vote and to verify proper registration, the secrecy of the ballot (and thus safety from retaliation), the importance of voting,

and the functions of the offices that are under contention. It also includes important political issues and the political programmes and viewpoints of the various parties and candidates up for election. In broadcasting this material, it is crucial that public broadcasters not voice any opinions of their own, or endorse the ideas of any particular candidate.

The extent of this duty depends on a number of factors, including the level of awareness of the electorate as well as the availability of this information through other sources, such as private media and other public initiatives (for example posters, pamphlets or public newspapers (see below)). The duty flows from the need to inform the public; where other sources of information do not adequately inform or reach the public, public broadcasters will need to step in and provide this information.

One way to discharge this duty is to provide airtime for direct access programming to enable those up for election to present short 'clips' on themselves and their political views to the public. Public broadcasters are often required to provide this airtime free of charge and at an hour when a large audience will be reached, and to allocate studio time and technical resources, within the limits of their capacity, to facilitate the production of these clips (see Briefing Note 13: Direct Access to the Media). The rules relating to this programming, for example concerning the length and timing of clips, should apply fairly to all candidates.

A second way to discharge this duty is through news and current affairs programmes, as well as special information programmes, such as political debates and political discussion pro-



grammes. These are of particular importance where sufficient information on election issues is not forthcoming from other sources. Such programmes should involve all political parties or candidates up for election in the station's geographic area of coverage. The rules and regulations governing this programming, for example regarding the length of the contribution of each participant, should be applied fairly and equally so as to avoid granting privileged treatment to any one participant. The host of a discussion programme or debate should ensure that the questions asked are balanced and should not extend privileged treatment to anyone.

Finally, also pursuant to the duty to inform, public broadcasters have a particular obligation ensure that their programming reaches all groups in society, including ethnic, religious or linguistic minorities. This is of particular relevance to those public broadcasters stations whose geographic coverage includes such groups. For some stations, it may be necessary to broadcast information in a minority language.

In Iraq, the Iraq Media Network (IMN) has been designated as the national public broadcaster. The IMN consists of a network of radio and television stations which together reach the entire population of the country. The Code for Media during Elections issued by the National Communications and Media Commission (NCCMC) imposes a number of particular obligations on all broadcasters that form part of the Iraq Media Network. These generally reflect the international law and best practice obligations outlined above.

Public newspapers

Publicly owned or funded newspapers are, like their broadcasting counterparts, also covered by a strict obligation of neutrality. Like public broadcasters, they should never endorse any particular candidate, party or programme, and they should provide access to advertising on a strictly equal basis.

These newspapers also have an important role to play in voter education. While they are not normally required to provide free space in their columns for political parties and candidates, they should provide relevant information to ensure that the public is informed about practical matters and all political issues of relevance to the election.

In Iraq, Al Sabaah newspaper is part of the Iraq Media Network. The Code for Media during Elections, issued by the NCCMC, imposes a strict obligation of neutrality upon Al Sabaah and prohibits it from carrying political advertisements. It does not impose specific voter education obligations on Al Sabaah.



2005 Elections in Iraq: Briefing Note 16

Bodies Regulating the Media During Elections

Internal references:

- ARTICLE 19 Guidelines 13 and 14
- Briefing Notes 6, 7, 17 and 18

The existence of an oversight body to monitor and regulate the media during elections is crucial to the integrity of the elections process and to respect in practice the rules relating to election media coverage. The jurisdiction and powers of such a body should be clearly delineated and, where a self-regulatory mechanism exists, efforts should be made to ensure that the two mechanisms play a supportive, as opposed to conflicting, role. In particular, an official oversight body should not seek to duplicate or replace functions already being provided in an effective manner by a self-regulatory body.

Both the guarantee of freedom of expression and the need to safeguard the integrity of the elections process dictate that any oversight body with powers over the media be independent. The independence of the body should be formally guaranteed and, at least as importantly, should be protected through the manner in which members are appointed. The appointments process should be fair and transparent, should allow for input and participation by civil society, and should not be dominated by any particular political party. Once appointed, the tenure of members should be protected and

any reimbursement should be according to set schedules and criteria.

In different countries, different bodies perform the role of ensuring implementation of the rules relating to media election coverage. In many countries, it is the general broadcast regulator which performs this function; this is the case in Iraq, where it is the National Communication and Media Commission which is responsible for ensuring adherence to the election rules. Otherwise, a properly constituted election commission or specially created body may carry out these supervisory functions.

An official oversight body is particularly important in relation to the broadcast media, given the detailed rules that govern election coverage by broadcasters. The body should undertake a range of monitoring and regulatory functions in relation to broadcasters, including by playing a general role in monitoring broadcasts to assess their compliance with laws and regulations. These should include allocating time for direct access programmes, making sure broadcast election coverage respects obligations of balance and impartiality and ensuring that publicly owned or funded broadcasters adequately satisfy the public's right to be informed about election-related matters.

The official oversight body should also have the power to hear and decide on complaints from media outlets, the public, and political parties and candidates regarding breach of election-related rules. In particular, it should have the power to order a right of reply if it finds that rights have been harmed by the publication of inaccurate or misleading information. Given the relatively brief duration of an election campaign,



and the need for quick redress, the oversight body should render decisions promptly. This is particularly important in relation to allegedly defamatory broadcasts, as well as in relation to claims of violations that have resulted in preventing or delaying the airing of a direct access programme.

The oversight body may also have a role to play in regulating the print media sector, for example in relation to the right of reply. This is particularly important if no self-regulatory mechanism exists. However, the oversight body should not impose any content restrictions over and above those existing in laws of general application, and it should not impose licensing or registration requirements on the print media.

In case it finds serious violations of the rules regarding media election coverage, the official oversight body should have the power to recommend that the elections be postponed, suspended or annulled. However, the body should not attempt to subsume the functions of the courts and its decisions, particularly in this regard, should be subject to judicial review.



2005 Elections in Iraq: Briefing Note 17

Self-regulatory and Professional Approaches

Internal references:

- ARTICLE 19 Guidelines 1, 2, 12, 13
- Briefing Note 6, 7, 8, 18

In many countries, media professionals and/or outlets have adopted self-regulatory or professional measures to promote good practice both generally and specifically in the context of coverage of electoral campaigns. A key characteristic of self-regulatory systems is that they use moral and professional suasion, rather than legal force, to promote better standards. International law recognises these as useful and necessary complements to State legislation or rules in this area.

Self-regulatory mechanisms normally involve both campaign codes of conduct or internal guidelines and a complaints mechanism to address breaches of these standards; the latter may be more or less formal. Self-regulatory systems may be instituted across a sector – such as the print media or journalists as a group – as well as within a single media organisation. Large broadcasters such as the British Broadcasting Corporation and the Australian Broadcasting Corporation have adopted detailed internal guidelines which set high standards for their programme output.

Most self-regulatory mechanisms involve only limited sanctions for breach of the code, often simply a requirement to carry a statement by the complaints body recognising the breach. Self-regulatory mechanisms may also provide for a right of reply, although it may be noted that a statement by the complaints body is probably less offensive to freedom of expression than one by the offended party (as is the case with respect to a right of reply).

Practice in countries around the world has shown that self-regulation can be highly effective, including during election times. Voluntary measures are set by the profession itself and hence have a great deal of credibility. While the formal sanctions are normally limited, the impact of internal censure is often, of itself, quite a powerful force for change. Furthermore, the primary goal of these systems is to set high professional and ethical standards, not to enforce rules. The vast majority of media outlets, as well as individual journalists, are happy to conform to internally set standards which they can trust. Ultimately, effective self-regulation should strengthen media responsibility and professionalism and increase public trust in the media.

A key advantage of self-regulatory systems is that they provide the public, politicians and even other media outlets with an easily accessible complaints mechanism. Lodging a complaint is normally free or costs very little. Procedures are simple and fair, so there is no need (and little advantage) to engage a lawyer and decisions are normally reached rapidly, providing quick and effective redress, a matter of some importance for election-related matters.



Where effective self-regulatory systems are in place, official regulatory mechanisms covering the same subject-matter will be hard to justify. As noted above (Briefing Note 2), restrictions on freedom of expression must be necessary to be justified. Where self-regulation is effective, there will be no need for a formally binding system of complaints.

Self-regulatory codes of conduct or guidelines normally address a range of issues of general relevance to elections, such as obligations of fairness and accuracy, the functioning of the supervisory and implementing body, and the submission of complaints in case of alleged violations. Codes specifically geared towards elections may also cover matters such as the allocation of time slots for direct access programming, rates for paid political advertising (if allowed) and rules on reporting opinion polls. Broadcast media should take particular note of any obligations of balance and impartiality, which do not normally apply to print media.

The successful implementation of self-regulatory mechanisms is often dependent on appropriate training having been provided to those involved. Often, a significant amount of such training will be necessary in the early phases of establishing a self-regulatory system. Where local resources are scarce, the international community should make an effort to provide the necessary assistance.



2005 Elections in Iraq: Briefing Note 18

Complaints and Redress

Internal references:

- ARTICLE 19 Guidelines 7, 13 and 14
- Briefing Notes 16 and 17

International law recognises that it is important that any political party or candidate who has been defamed or otherwise suffered illegal injury by a broadcast during an election campaign should be entitled to a correction or, where this would be an insufficient remedy, to be granted an opportunity to reply. Such a correction or reply should be broadcast as soon as possible.

During the short and intense election period, unfair and incorrect accusations can have a significant effect on the overall outcome. In ordinary circumstances, anyone who has suffered a legal wrong from a publication, for example by being libelled, can bring a legal case for redress, in that case for defamation. During elections, however, a court case would almost certainly not be resolved until after the vote had been held and it would thus be of little value in redressing any bias to the electoral process that may have occurred. An expedited right of correction or reply can provide a rapid and effective means for redressing harm from illegal statements which, if the rules meet certain conditions, does not unduly restrict the right to freedom of expression.

We note that a right of correction is far less intrusive than a right of reply inasmuch as the

former merely involves retracting and correcting mistaken allegations while the latter requires a media outlet to provide a platform for the complainant. As a result, where a correction would adequately redress the harm done, it should be preferred to a right of reply on the basis that the guarantee of freedom of expression means that the least intrusive effective remedy should be used.

International law does not prescribe a specific procedure for guaranteeing an expedited right of correction or reply. In some countries, the correction or reply is guaranteed through self-regulatory systems while in others it is provided for by law. Advocates of media freedom, including ARTICLE 19, generally suggest that these rights should be voluntary rather than prescribed by law. However, the particular circumstances of an election campaign suggest that where no voluntary system is in place, a legal right of correction and/or reply may be necessary.

As noted, it is important that those harmed should be able to claim a right of correction of reply rapidly, regardless of its formal status (i.e. whether it is voluntary or legally mandated). Ideally, an accessible oversight body should be available to deal promptly with any complaints regarding the rights of correction and reply. This could be a self-regulator body, a media regulator or a body with general supervisory responsibilities in relation to elections.

Any legal right of reply, due to its intrusive nature, should at least meet the following conditions if it is to respect the guarantee of freedom of expression:

- 1) The reply should only be in response to statements which are false or misleading and



which breach a legal right of the claimant; it should not be permitted to be used to comment on opinions that the reader or viewer doesn't like.

- 2) It should receive similar prominence to the original article or broadcast.
- 3) It should be proportionate in length to the original article or broadcast.
- 4) It should be restricted to addressing the incorrect or misleading facts in the original text and not be taken as an opportunity to introduce new issues or comment on correct facts.
- 5) The media should not be required to carry a reply which is abusive or illegal.

In Iraq, Article 11 of the Code on Media during Elections issued by the National Communications and Media Commission provides for a right of reply, overseen by the Commission, to any political candidate or party whose standing has been significantly and unjustly affected by inaccurate information disseminated by the media during the campaign period. The reply must be afforded as promptly as possible.



2005 Elections in Iraq: Briefing Note 19

The Role of Media Monitoring

Internal references:

- ARTICLE 19 Guideline 13
- Briefing Note 16

The media play a key role in elections by providing the public with the information they need in order to make an informed decision at the ballot box. They provide a platform through which political parties and candidates can get their message across and they report on and analyse the policies and backgrounds of the various parties and candidates. Through their activities, they can make or break a candidate or party, not only by publishing negative reports but also by choosing to ignore particular parties and candidates.

Over the last 15 years, as a reflection of the ever-increasing role of the media, media monitoring has become an important part of election observation. Media monitoring can be most effectively performed by impartial, non-governmental organisations, such as citizens' groups, professional associations or international monitoring organisations working closely with local groups. Media monitoring has also become an important part of electoral observation missions sent by inter-governmental organisations.

The primary aim of media monitoring is to assess whether the media in general, and broad-

casters in particular, adhere to any requirements of balance and impartiality laid down in local laws or regulations. Even in the absence of such requirements, publicly owned or funded media are under a general obligation to be balanced and impartial.

Media monitoring can make a very practical contribution to the fairness and success of elections. At a minimum, the interim findings of media monitors, if they are made public during the election campaign, may influence the quality of media coverage. More effectively, there may be an 'institutionalised' dialogue between media monitors and the media, or media monitors may share their findings with the local or national electoral oversight body in an effort to engage its binding powers with the aim of making media coverage fairer. In some cases, as in South Africa in 1999, the electoral commission may even hire a non-governmental monitoring group to help it discharge its responsibility in the area of ensuring balance and impartiality in the media.

Media monitors need to examine the way in which local (and international) media report on the elections, as well as related issues, closely to assess whether or not the obligations of balance and impartiality are being respected throughout the election campaign. There are different ways of doing this. The two monitoring methods most often used can be described as 'quantitative analysis' and 'qualitative analysis'.

The first is the simplest, the least controversial and often has the greatest impact. It simply involves counting and measuring election coverage in the media, such as the number and length of items devoted to different parties, the length in



column inches devoted to a party, the timing and number of direct access programmes and so on. The amount of coverage each party or candidate receives is usually the first criterion that will be looked at in order to evaluate allegations of bias. However, quantitative analysis does not say anything about the kind of reporting and, in particular, whether reporting is positive or negative.

More advanced monitoring methods become important in this assessment. "Qualitative analysis" is, as the name suggests, an approach that measures the quality of the coverage that parties and candidates receive. A qualitative evaluation should look at the language used and the message conveyed and use this to "qualify" the quantitative measure. A qualitative analysis may look at aspects of coverage such as the type of language used in relation to different candidates.

For example, a government broadcaster might talk about an incumbent candidate only in positive terms while doing nothing but criticising opposition figures. At a more subtle level, media might use emotive words – such as 'exposed' or 'revealed' rather than 'said' or 'stated' – which can almost subliminally influence the views of an audience. The media can also generate bias by using particular terminology. For example, using the term "alleges" instead of the term "states" tends to undermine the credibility of the statement that follows, as it implies that the alleged is not reliable. A similarly negative impression can be created by adding unnecessary detail as, for example, a case where a journalist makes the comment that participants in a particular rally "left a lot of litter". It goes without saying that

monitoring at this level cannot be undertaken without appropriate training.

Media monitors should also be concerned with a number of more general issues. They should closely examine any apparent instances of censorship. Governments should not do anything that might inhibit the free flow of information and opinions necessary to inform voters. For example, advertisements placed by political parties should not be banned or censored, while media workers should be allowed freely to collect and report news.

Media monitors should be aware that self-censorship, which may be the result of pressure from media owners, can be as big a problem as government-driven censorship. Media monitors should also examine whether the media are free to do their work without interference by third parties. This includes threats by party members or armed groups as well as actual acts of violence. Governments are under a strong international law duty to ensure the safety of media workers, and monitors should examine whether the government has complied with this duty.

