Electoral Media and Advertising

Analysis based on the Lebanese elections experience of 2018: challenges and solutions

Policy paper- prepared by lawyer Tony Mikhael from Maharat Foundation

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Media and electoral advertising
Foundation for fair, inclusive and democratic elections

This paper is a summary of the monitoring of the previous parliamentary elections performed by Maharat Foundation in addition to the activities implemented keeping pace with the electoral process, in particular the part related to electoral media and advertising which constitutes an essential part of the electoral law and the basic general principles for ensuring fair, impartial inclusive democratic elections.

This paper presents the link between electoral media and advertising and the democratic process. It also sheds the light on challenges that have hampered ensuring balance between candidates and their access to information about their rights and duties as well as informing citizens about the democratic process through voter education. This paper offers solutions and recommendations to stakeholders that can use them as guidelines for the 2022 elections.

Electoral media and advertising, and the democratic process: what's the connection?

Electoral media and advertising play an essential role in the forming the public opinion and influence the course of "the democratic transition" during the electoral campaigns carried out by candidates to fill in the 128 parliamentary seats forming the Lebanese assembly every 4 years.

The larger the number of parliamentary blocs of a party or coalition, the more this political party can impose its conditions and bargain, either in the formation of the government and its path or in influencing the legislative process and policy making.

In this spirit, the law on the election of members of the parliament number 44 from 2017 stipulated that public and private media operating in Lebanon are subject to restrictions during the electoral campaigns period regarding electoral media and advertising. The text of the law included obligations for all media outlets including digital media outlets.

The chapter VI of the law on the election of members of the parliament stipulates under the title "electoral media and advertising" in the articles 68 to 83 several obligations related to electoral campaigns that apply to media, candidates, polling institutes and the Supervisory Commission with regard to regulation and control procedures.

The organization of electoral media and advertising implied several fundamental problems as follow:

Problem: Balance and impartiality among candidates in media appearances

1

The supervisory commission has not succeeded in securing justice, balance and impartiality between candidates and lists in media programs.
Similarly, communication between the commission and the candidates was weak since it did not do its part to inform the candidates of their rights towards the media and their rival candidates. Indeed, the fact that some of the candidates were not aware of the special procedures related to the right to request media appearance in the official media as well as in private media on an equal footing with competing candidates who enjoy the opportunity to appear in the media led to a defect in the media appearance of some candidates with others taking the advantage of space at their expense.

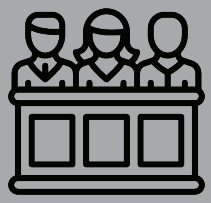
Solution

- The commission shall determine the maximum space for each media for a broadcast or publication of information or advertising programmes concerning lists or candidates as well as broadcast or publication times for these spaces.
- The commission must ensure upon request a balance in media appearance between contestants from the electoral lists and candidates, requiring from the media, when hosting a list representative or a candidate, to host its competitors under similar timing conditions, duration and type of programme.
- Before the start of the electoral process, the Commission shall determine the criteria for distinguishing between electoral information and advertising, which should be reported to all media for action and compliance, as the commission has to exercise its oversight role in checking whether any program hides, under the guise of media, unannounced election propaganda.
- The Commission shall ensure that the requirements of fairness and the right of candidates are respected equally in media appearances within the limits of the law and legitimate electoral competition through periodic observations ensuring pluralism and diversity in appearance.
- Establishment of a mechanism for direct communication between the Commission, the candidates and the lists through an electronic application allowing the Commission to provide information on the rights and duties of candidates, and more specifically on the right to media appearance and the reception of direct complaints on this matter.

Stakeholders

The Commission

Determining spaces, effective communication with media, provision of guidelines, establishment of a mechanism of communication with parties and candidates



Media

contribution in the balanced coverage of candidates



Civil Society Organizations

provision of advice and technical assistance



Legal text

Issue binding recommendations for those media ensuring justice, balance and impartiality of treatment between candidates and electoral lists.

Article 72 paragraph 2

The Commission determines the maximum space for each media outlet or advertising outlet for broadcasting or publishing information or advertising programs related to electoral lists or candidates. The Commission also sets broadcasting and publishing times of media within their determined space.

Article 71 item b

The Commission has to ensure a balance in media appearance between competitors and electoral lists so that a media hosting a representative of an electoral list or a candidate has the obligation to host his competitor under similar timing conditions, duration and type of program.

Article 72 paragraph 4

Case study

One of the most important mean available to the commission to promote democratic practice is to provide access for all candidates to media including public media. In this regard, Maharat Foundation found out that not all candidates know about special procedures related to the right to request public appearances in official media as in private media on equal terms with competing candidates that get the opportunity to make appearances in the media.

The campaign launched by Maharat Foundation to promote women's political participation and media appearances during the electoral campaign period of 2018 revealed that the majority of women candidates weren't aware of their right to request public appearance in public media to present their programme or in private media on equal terms with competitors to ensure a fair electoral competition.

Maharat Foundation has been able to inform many female candidates on their right to media appearance through public media programs. Maharat foundation also provided them with technical assistance to get the opportunity to appear in media through Tele Liban. Around 10 female candidates were able to appear in the media to inform citizens on their political program.

2 Problem: Effectiveness of the commission and the exercise of its powers

The texts related to the legal entity of the Commission, the extent of its independence and its permanence face a lack of clarity. Indeed, the commission exercises its powers in coordination with the Minister of Interior who secures its headquarters, keeps pace with its work and secures the necessary funding for it.

The delay in securing the necessary funds before the elections prevented the Commission from keeping up with electoral developments which had a negative impact on its work and capacity to enforce the provisions of the law that apply to candidates, electoral lists and media.

Furthermore, the legal texts relating to its mandate are contradictory and do not explicitly refer to the permanence of the Commission's work whose member's mandate expire months from the date of completion of the parliamentary elections. In addition, the Commission has not been assigned a subordinate administrative staff. The Commission does not have neither executive power nor direct or indirect means to deter violators. Moreover, errors and inconsistencies are present in some texts of the electoral law along with a lack of clarity in some other texts.

Solution

- Amendment of the electoral law, particularly the articles 9 and 10 on the establishment and the mandate of the commission along with the article 81 on imposing sentences and fines for media offences.

- It must be explicitly stated that the Supervisory Commission is a permanent and independent body on the financial and administrative levels similar to other independent public bodies established under the laws. The Supervisory Commission should also be allocated an administrative and technical structure other than the appointed members by decree.

- Financial revenues must also be specified in legal texts since it can be allocated to ensure the financial independence of the Commission.

Stakeholders

The parliament: amendment of the law



Legal Text

article 9

article 11

- A permanent commission should be established under the name "Supervisory Commission for elections" known by the name of the "Commission".
- The commission shall supervise the elections in accordance with the tasks assigned to it in this law independently and in coordination with the Minister of Interior and municipalities known by the name "the Minister".
- The Minister shall keep pace of the work of the Commission, determine its headquarters, provide it with a separate, private headquarters and attend meetings if necessary without voting.
- The term of office of the members of the Commission shall commence from the date of the decree of their appointment upon the decision of the Council of Ministers, ending six months after the completion of the general parliamentary elections.
- The existing body will continue to pursue its functions until a new body is appointed.

Case study

The need to ensure the independence and viability of the Commission is an old demand that goes back to the legislative elections of 2009 in accordance with the provisions of the electoral law of 2008 which stipulates in the article 11 that "The Commission shall exercise the functions specified in this law and shall be associated with the Minister of Interior". The Minister oversees the work of the Commission, determines its headquarters and is subsequently known as "the Minister". It is up to him to attend the commission's meetings whenever he wishes, presiding over such meetings without taking part in the voting. The demand for the independence of the Commission from the Ministry of the Interior has not resulted in the election of Members of the Parliament for the year 2017. The expression "linked to the Ministry of Interior" has been replaced with the expression "and in the coordination with the Ministry of Interior". This resulted in the hampering of the Commission's independence, particularly due to the fact that the funds and headquarters of the Commission are linked to the Ministry of Interior which threatens the independence of the Commission.

In its report on the 2018 elections, the Commission explicitly referred to the obstacles it had encountered with regard to its composition, its operation and its independence. The Commission noted that it had no annual permanent independent budget and its budget was part of the Ministry of Interior and municipalities' budget allocated to the elections, which hinders the commission's logistic and administrative work and delays the launch of the commission's work awaiting funds from the ministry of interior.
This situation led the Commission to begin its meetings in a hotel, pending the securing of a headquarters. Compensation for the technical and administrative bodies were also delayed. The Commission also noted that the law does not give it any authority to verify information or complaints that it receives through judicial police and other bodies such as the central inspection, according to its powers to conduct the necessary investigations to facilitate its work.

The commission also recommended that the law should be amended and that the Commission should be given broad decisional and executive powers for all matters related to its functions, such as giving the Commission the power to immediately stop any program related to the elections which violates the law.

3

The problem: voter education

The absence of voter education during and before election campaigns is due to the absence of a permanent Commission having the financial and human resources to prepare and disseminate such materials. The dates of the parliamentary elections are also influenced by the political atmosphere and this is reflected on the Commission and its role in awareness-raising, electoral education and the opening of channels reaching out to interested parties and the media.

Solution

Ensuring the independence of the Commission, the sustainability of its work, financial resources and human cadre, and creating channels of cooperation with the media for this purpose.

Stakeholders



Political parties: commitment and work to hold elections on time

Media: cooperation with the Commission



Parliament: amendment of the law



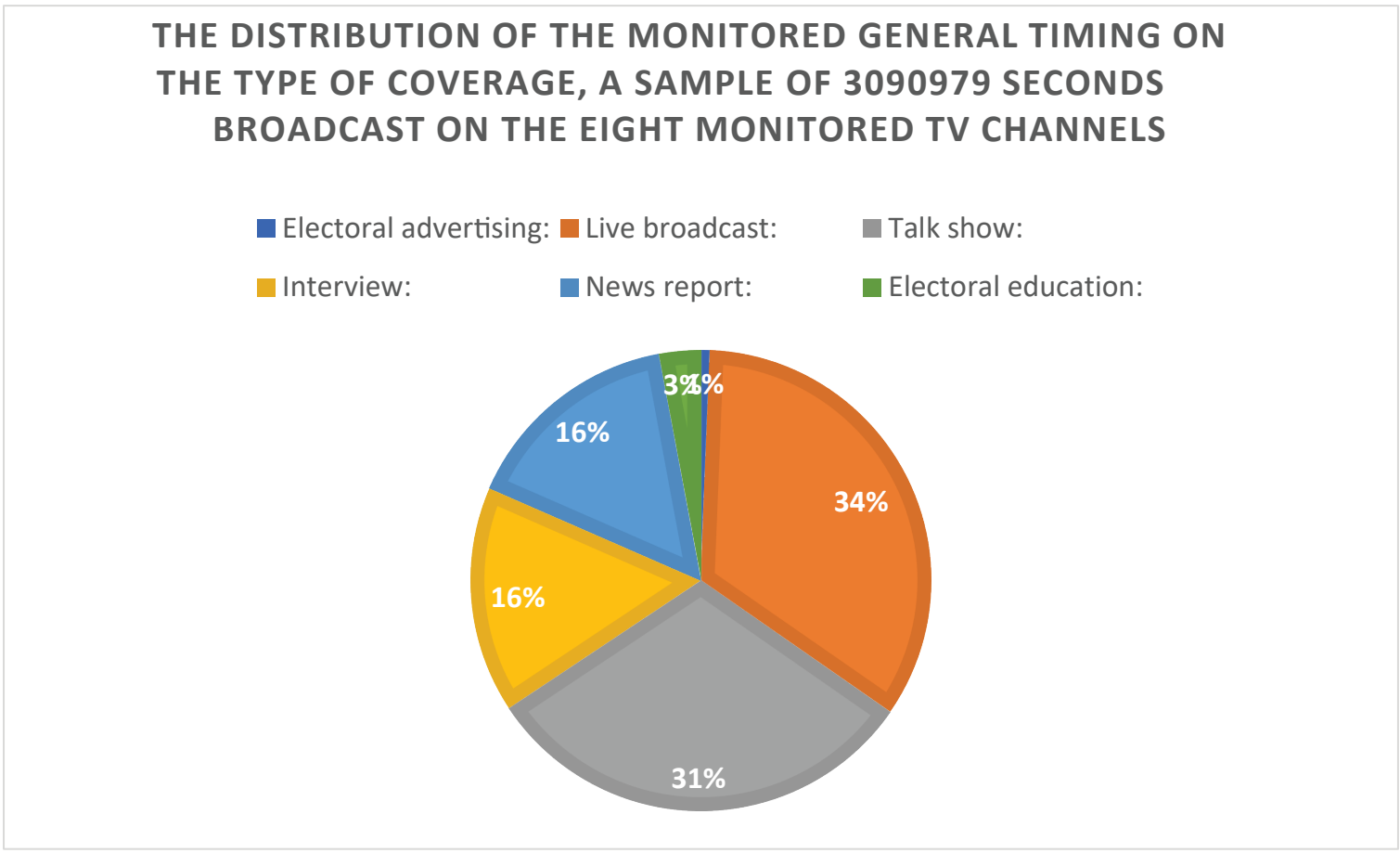
Legal Text

Article 19 item 10

Spreading electoral culture, educating voters and strengthening democratic practice by all available means. Commission's tasks

Case Study

The results of the monitoring studies showed that the space allocated for voter education is very small and the absence of any materials published by the Commission. Several international organizations, including the National Democratic Institute (NDI), recommended the importance of "having decisions made in advance to allow time for voters education and exchange of information according to the mandate of the Supervisory Commission for elections."



2018 Election Monitoring Study from a gender perspective, Maharat Foundation

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