

Principles and Best Practices for Transparency of an Election Administration

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The phrase “free, fair and transparent elections” has now become almost a journalistic cliché, regularly repeated by politicians, diplomats and journalists alike. Yet it remains, and must remain, the fundamental goal of all persons committed to a democratic process of government, where the public and politicians have the right to participate in a genuine election that reflects the free expression of the will of the electorate. But there is much debate over how to define what is meant by those terms “free, fair and transparent”. In all realms of public affairs, it has proven easy for reformists to demand transparency but hard for them to exactly say what is meant by that term. I suppose we just know it when we see it; or, perhaps more correctly, we can think of it like glass, that most transparent of materials: we know it even when we don’t see it, because it allows us to see everything else that’s going on.

The aim of this intervention is to look at how ‘transparency’ applies to an election process and to outline some of the principles and best practice that can help to promote transparency in the work of an election administration.

We all know that issues of transparency are especially important for the work of an election administration. Enabling insight into its work is critical for the persons and agencies running the elections to be considered credible and professional. Transparency through consultations with stakeholders on its work can help an election administration to prove that there is ‘nothing to hide and no one to exclude’. Elections around the world have shown that such openness and inclusivity by an election administration can contribute massively to increasing the public’s trust and confidence in the election administrators and, by doing so, strengthen the public’s trust and confidence in the broader electoral process. Transparency can also prevent opportunities for – and also prevent against allegations of – fraud and any claims of favouritism or partisan conduct that are easy to make against the election administration, which must always act independently and impartially if an election is ever to meet international standards. Perhaps the most crucial of areas is that of results: time and time again, elections where there has been an opaque or delayed system of processing results has proven to be highly controversial. An election administration will need to

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be fully transparent in how it counts, aggregates and publishes results. Perhaps transparency can be best summarised in the English legal maxim “Justice must not just be done but seen to be done”.

With this in mind, I would now like to focus on the key areas where an election administration can be expected to take constructive steps to promote the transparency in its work, even in cases where an election law does not specifically require those steps to be taken.

First, an election administration should **provide for effective and reasonable public access to relevant documents and information**. As a minimum, all stakeholders should be able to gain easy access to the legal framework for an election, so that they are able to become aware of their rights. This is more than just providing voter education – it is providing freedom of information. The information can range from copies of the law (in all official languages), including any relevant regulations or official decisions, to lists of candidates and polling stations, results of previous elections and numbers of registered voters in every district. Modern technology means that the public expectation is that this information should not just be provided upon request, over time or in print only, but also that this information is distributed immediately, placed on a website for downloading around the country and perhaps even sent by email to anyone who wishes to register.

Second, an election administration can **provide for regular opportunities for consultative meetings and events with stakeholders**. An election administration is likely to have specific information to share with its key stakeholders – candidates, political parties, observers and media – especially if the administration determines administrative regulations on an on-going basis, or has taken decisions that directly impact on stakeholders. Political parties and candidates are certainly going to have concerns that they may want to bring to the attention of the election administration. If there is no opportunity for them to do so, they may create alternative ways of bringing it out into the open, sometimes through the courts but more often through the media or other ways of making political pressure, such as public demonstrations. Media will have a thirst for information on the election and ensuring that they are provided with regular opportunities through press conferences to ask questions is key to enabling the media to recognise the transparency of the electoral process. Of course, the media can further contribute to a transparent electoral process through being asked to communicate the work of the election administration, by publicising its decisions, and the way in which the voting process works.

Third, an election administration must **ensure there is a clear framework for all of its actions**. The rules of the election game must be known in advance, so that decisions of the election administrations cannot be considered arbitrary or unjustified. While the election law provides the substantive base for all that the election administration must do, we know that it is far from sufficient in outlining all that needs to be done. In almost all areas of the electoral process, such as candidate registration and results procedures or the use of ink, or the size of ballot boxes, the election administration will need to prepare and publish administrative regulations or formal instructions or advisory guidelines. Apart from results, there is little in an election that can be unexpected and, so, if a scenario occurs, the election administration can transparently show its response to those events followed proper procedures. Ad hoc decisions by any electoral official have to be avoided. By developing guidelines and rules that clearly specify the delegation and limitation of authority within the electoral system, election officials are acting transparently and in a manner that can promote trust in the electoral process because it ensures that all stakeholders are aware of the extent of their administration's authority and can know that a system is in place to keep election officers from exceeding their responsibilities.

Fourth, and connected to this last point, the election administration should **be prepared to justify its decisions and to make available the information on which the decision was based**. There is perhaps no better guarantee of transparency than for stakeholders to be fully informed of the basis upon which an election administration decided to act in a certain way. This goes to the heart of the nature of accountability by the election administration by requiring the election administration to be able to prove that it acted at all times in accordance with its mandate and responsibilities. This practice also requires the election administration to publish its decisions.

Fifth, given that in Lebanon, as in many other countries, the election law fails to give any formal legal commitment for continuous transparency, the election administration can **adopt a Code of Conduct** that *inter alia* commits its staff to act in a professional, impartial and transparent manner. This can be especially important in circumstances where the 'public face' of the election administration – the polling station staff – are recruited at the last minute and yet are expected to act in a transparent and inclusive manner with e.g. election observers, candidate agents, journalists and, of course, voters.

Sixth, and finally, the election administration should **establish clear timeframes for their activities**. Many election laws fail to specify the deadlines for key administrative duties; this can be especially problematic in the cases where the law provides no deadline for the publication of results. By publishing its operational deadlines through a detailed election calendar, the election administration can ensure that none of its actions can come as a surprise to stakeholders.

The legal framework for elections in Lebanon already provides many commitments to transparency in the election process.² Broad opportunities are provided for public inspection of the updating of the voter register. As well as continuing the right of candidates to have representatives in every polling station and count, the new law guarantees that civil society groups can observe the entire electoral process. Further transparency will be achieved by the Supervisory Commission publishing its procedures and decisions and by the power of the Ministry of Interior and the Ministry of Information to require broadcasters to carry voter education programs. Yet, perhaps things can go much further, especially in relation to the publication of official information on the electoral process. So far, perhaps the biggest concern is the absence in the law of any fixed deadline for the tabulation and publication of results at a district or national level, while transparency would also be improved if the public was given access to inspect, verify and challenge candidate's campaign accounts.

In conclusion, steps towards transparency in the election process will encourage that an election is closer to being considered "free and fair". Transparency can ensure that stakeholders are able to see that the process was open, accessible and run according to the law. Transparency does not mean that everyone will always like what they see in the work of the election administration. And certainly, an election administration may not like having all of its actions being fully open to scrutiny. But, for a well-managed and credible election administration, transparency can take away the chance for critics to claim that those running the election process were at fault or acted badly. To that extent, transparency is not just a crucial element for an election process but also is the best way in which an election administration can prove its good work.

² A new Parliamentary Election Law was adopted on 30 September 2008, introducing a number of reforms to the Lebanese electoral process, including regulatory provisions on campaign finance and media coverage. Elections in Lebanon are administered by the Ministry of the Interior and Municipalities, although the law has also established of the Supervisory Commission for the Election Campaign with responsibilities for the oversight of media and campaign regulations.