When Practice Oversteps the Limits of Theory: An Assessment of Fair Media Coverage for Political Parties in Great Britain and Mexico

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Abstract

Over stressing the rights-safeguarding role of democracy has led to a widespread neglect of democracy’s essential function: to ensure the legitimacy of elected rulers and by doing so, to ensure political stability. The effects of this neglect are apparent in the disputes that arise concerning media coverage of elections. This article examines the difficulties democratic statesmen face to justify and consistently implement arrangements that limit the freedom of expression of the media in order to minimize the challenges to the legitimacy of electoral outcomes that a biased coverage of elections could incite. Current democratic theory does not address this problem. Indeed its emphasis on safeguarding the rights of citizens can suggest that the freedom of expression of the media should prevail over considerations of legitimacy and stability. This study examines the justifications adduced, and the implementation of, arrangements that curtail the right to advocating of broadcasters and limit their right to editorial discretion in order to provide political parties with what I refer to here as “fair media coverage.” In particular, the article highlights and assesses the experiences in fair media coverage of election campaigns in the British General Election of 1997 and the Mexican Federal Election of 2000. In full view of these case studies, and on the basis of the theoretical guidelines I develop at the beginning of this article, I argue for limiting freedom of expression and stress the urgent need for democratic theories to address the practical problems that trouble democratic authorities.

Introduction

Contemporary theories of democracy usually stress the commitment to safeguarding individual and civil rights as the most important reason for adopting democratic forms of government (Held, 1996; Lakoff, 1996; Beetham, 1995). At a more concrete level, the primary objective of democratic institutions is to provide a framework for a periodic process of political contestation that enables the selection of legitimate rulers. It is when we focus on this level that conflicts between existing schemes of individual rights and the specific requirements of the democratic political process become apparent. It is not always the case that theories of democracy focusing on the safeguarding of rights, and the freedoms they guarantee, lead to the coherent resolution of these conflicts. The place of rights and freedoms in democracy is clearly central. But it is not clear that they are best safeguarded if they are always permitted to trump the requirements of a legitimate democratic process. This is especially so regarding the freedom of expression.

One instance of such conflict concerns how the unfettered freedom of the media can damage the legitimacy of the electoral process and its outcome. In this article I discuss the particular difficulties that arise when the political sympathies of owners of broadcasting and press organizations are unevenly distributed between the main candidates in an election. Some candidates thus conduct their campaigns with scant access to relevant public domains and become the object of hostile editorializing.

This situation can be considered detrimental to democratic legitimacy in three respects. First, because it places democratic authorities in the predicament of having to enforce an outcome upon those who are politically defeated in conditions that hardly lend themselves to the acknowledgement of a fair and square defeat. Second, from the normative perspective of fairness, it can be argued that strategic advantages are being too easily translated into power. Third, from the standpoint of normative democratic theory, a biased coverage is conducive to well-informed collective decisions. While all three aspects influence the arguments in this article, I wish to focus predominantly on the first in relation to the British General Election of 1997 and the Mexican Federal Election of 2000. As I will show, the questionability of political victories and defeats as a result of biased media coverage can lead to political instability. And that instability may well obstruct rather than promote the very individual and collective freedoms that democracy is meant to protect.

The article is divided into four sections. The first sets out the basic arguments for and against full freedom of expression in the media. Section two describes what is entailed in fair media coverage arrangements. Section three analyzes some justifications given by British and Mexican authorities to adopt fair media coverage arrangements. Section four examines how those arrangements worked in the 1997 British General Election and in Mexico’s 2000 Federal Election.

Basic Arguments for and Against Full Freedom of Expression in the Media

Arguments defending full freedom of expression of the media are broadly libertarian in approach and appeal to three general claims. First, media owners have a right to editorial discretion that allows them to exclude from their political comment and reporting any view or position they disagree with. Second, media owners have a right to advocacy allowing them to proselytize in favor the views they share and against those they disagree with. Third, media owners have full control over their property allowing them to deploy the human and technical resources of their organizations in favor of whichever political cause they deem worth endorsing. The overarching argument here is that media owners have a right to freely express their political views and to contribute toward the political cause of their choice with the means at their disposal. I refer to this argument as the argument for full freedom of expression of media owners. The single argument available on the specific topic of the freedom of the media from this perspective is offered by the libertarians Kelly and Donway (2001); it follows exactly this form. Similar arguments can also be indirectly inferred from the views of democracy found in Schumpeter (1942/1976), Isaiah Berlin (1969/1958), and Hayek (1976).

While arguments to the contrary exist, they are confined to discussing the moral pertinence of media regulation (Petersen, 1956; Lichtenberg, 2001; Bollinger, 2001). They do not, however, relate the pertinence of media regulation to democratic stability and legitimacy. Yet, as this study will show, there is an urgent need do just this.

Arguments from social justice theorists like Rawls (1993) and Barry (1989), and from normative democracy theorists like Fiss (1998), Beitz (1989), and Dahl (1988) can be drawn from to question both the plausibility of arguments for full freedom
of expression and to establish a case for fair media coverage. Rawls and Barry, for example, would make a case on the basis of the equal moral worth of individuals, which is the strongest theoretical argument against the full freedom of expression of media owners. While this is a relevant consideration, it is too abstract to be invoked here as a ground for justifying the pragmatic adoption of and defining the scope of fair media coverage.

Fiss, Beitz, and Dahl would argue for fair media coverage on the basis of what I will call an “informed citizenry.” The idea stems from the claim that citizens perform a role within democratic institutions that involves them in an exercise of collective decision-making (Dahl, 1988, p. 98; Beitz, 1989, p. 114; Fiss, 1998, p. 51). From a perspective that accords such a responsibility to the citizenry, the media are expected to inform them “about the positions of various contenders for office” (Fiss, 1998, p. 51) and to enable them to perform “an adequately informed and reflective comparison of the merits of the contending positions” (Beitz, 1989, p. 115). Such requirements seem to rule out media owners’ right to advocacy. Arguments against the suppression “of positions that would gain substantial support if they were sufficiently exposed to public scrutiny” (Beitz, 1989, p. 114) or of “information which, were it available, might well cause citizens to arrive at a different decision” (Dahl, 1988, p. 112) also call into question the right to editorial discretion. Furthermore, the fulfilment of all these requirements seems to justify a guarantee for fair access to, and exposure in, the media for political parties.

These arguments undoubtedly have significant merits and, in part, inform the defense of free media coverage offered below. However, as a ground for restricting the freedom of expression of media owners, a concern for an informed citizenry is not as yet solid enough since its advocates have not fully resolved if it is merely a worthy purpose to pursue, if it entails a right, or if it involves an obligation. In this respect, normative democratic theory has failed to provide a compelling argument on the superior standing of the concern for an informed citizenry vis-à-vis any other rights that could prevent or obstruct its realization. This has not deterred democratic authorities from invoking it to justify media regulation arrangements. But it does mean that those arrangements operate without the guidance that normative theories could give. The argument offered here introduces the concern for the stability of the democratic process as an additional reason to both reject full freedom arguments and to defend arguments for fair coverage.

Political contestation during elections and the scrutiny of government activities by the opposition between elections are processes susceptible to innumerable contingencies. Full freedom of expression of media owners can increase the risk of instability if media owners take sides with one party or place their weight behind one social group involved in a controversy. This places a heavy strain on the democratic process, whose main functions are to regulate access to power and to allocate authoritatively both benefits and costs, or gains and losses. In particular, the allocation of costs or losses to those defeated in struggles channeled by the political process can be called into question if they attribute their defeat to the interference of a media organization or to their lack of access to it. Since the authority of the allocation of costs or losses is the very function on which the legitimacy of political outcomes rests, for there cannot be winners without losers that acknowledge their defeat, the government as much as the opposition ought to decide to protect
the allocation function from losing its authority. And they can protect the political process by curtailing media owners’ rights to advocacy and editorial discretion.

**Fair Media Coverage: Criteria and Justifications**

This section clarifies the costs and constraints under which broadcasters and journalists have to operate to satisfy requirements of fair media coverage. Clearly identifying those costs and constraints highlights the need to couple efforts made by broadcasters and journalists with a commitment on the part of the authorities, political parties, and the citizenry to make good use of fair media coverage.

**What Is Fair Media Coverage?**

Fair media coverage for political parties is a guarantee offered by the state to ensure equitable coverage in, and impartial treatment from, the media during election campaigns. Equitable coverage in the media is a standard for fair coverage that designates the terms in which broadcasters should distribute between political parties the total amount of air-time that is available in the media for the news coverage of party issues throughout election campaigns. The condition of equitable coverage can also designate the terms in which broadcasters should distribute the total number of news stories on party issues produced throughout election campaigns between political parties. I define equitable distribution in relation to the definition of proportional distribution of access to the media: a distribution of access to the media is proportional if political parties are allocated air-time or news stories in accordance to their share of the total vote in the previous election.

In view of this definition, a distribution of media coverage is equitable if the party or parties that under a proportional distribution would be allocated the greatest shares of air-time or news stories are allocated less than proportional shares to top-up the shares of the party or parties that under a proportional distribution would be allocated the smallest shares. Hence an equitable distribution of coverage in the media offers a head start to the party or parties with the smallest prospects of electoral success. The application of the condition of equitable coverage in the media is generally restricted to those parties able to obtain votes over an established threshold. Nevertheless, a small share of the total air-time for news coverage or of the total number of news stories is often allocated for the parties that fail to obtain votes over the threshold.

Impartial treatment is a condition of fair coverage aimed at preventing broadcasters and television journalists from engaging consistently in either favorable or hostile political comment toward any particular political party. Another aim here is to ensure that broadcasters and television journalists communicate news stories on party issues in a disaffectionate and nonjudgmental way. The leading idea of impartial treatment is that the focus should be exclusively on providing viewers with relevant information on party issues so that viewers arrive at their own conclusions by themselves. Unlike the condition of equitable coverage, which applies only to the main political parties, the condition of impartial treatment applies equally to all political parties.
What Constraints Does Fair Media Coverage Impose?

The implementation of fair media coverage arrangements creates two fundamental sources of tension between the government and broadcasters. The first is that fair media coverage interferes with the scope of managerial discretion of broadcasters. This is so to the extent that it pre-empts some decisions regarding the news coverage of party issues during election campaigns. Broadcasters must allocate some human and technical resources in accordance to the news coverage requirements for the campaigns of each party and not in accordance to their best judgment. If their judgment suggests that they allocate most of those resources to the party leading the polls, they must disown it.

Fair media coverage not only tells broadcasters how to run their businesses when it comes down to election news coverage, it also requires them to bear the costs of the additional activities it involves. Clearly, allocating similar amounts of human and technical resources to, say, three campaigns, is likely to be more expensive than allocating most of those resources to one. Fair media coverage is thus liable to the charge of seriously interfering with the organizational autonomy of private broadcasters, as it requires them to undertake activities whose financial returns are at best uncertain. Uncertainty here is due primarily to the distribution of news coverage for each party required by the condition of equitable coverage, which need not bear any resemblance to the actual distribution of the political preferences of viewers. This is indeed a critical requirement for an industry that is extremely sensitive to the actual preferences of its viewers and that very much depends on responding to those preferences to keep its competitive edge.

The second source of tension between the government and broadcasters is that fair media coverage hinders the media from exerting control over its output on party issues in two ways. First, it requires that news stories on the messages and events of political parties reach viewers in the terms party speakers and press officers want and not as the media would deem more appropriate. Often, messages are already packaged and events carefully staged by party media specialists. The media are asked simply to convey the messages of parties with the spin given to those messages by the parties themselves. Second, the condition of impartial treatment may aggravate matters further, as it adds to the requirement of capturing the spin of a party’s message in a given news story the obligation to communicate it in a disaffectionate and nonjudgmental way. Fair media coverage requirements become an extremely contentious matter if the ratings of news programs during elections fall in relation to their preelection ratings. Media journalists and specialists have often blamed those requirements for the loss of audiences.

Why are Fair Media Coverage Arrangements Adopted?

This section assesses if the concerns that underlie the adoption of fair media coverage can fall back on existing normative theories and whether those concerns are worthy of further normative theorizing. My position is that when democratic statesmen overstep the limits of theory, they may not be able to provide solutions congruent with democratic premises. I also stress that the concerns that drive
democratic statesmen beyond the limits of theory may illuminate areas worthy of further theoretical development.

**British Case**

In Britain, fair media coverage for political parties is one of the applications of the ideal of impartial broadcasting. Fair media coverage responds to a broad institutional aim to educate audiences into making fair and objective judgments on a wide array of controversial issues, not only political ones. The ideal of impartial broadcasting responds to the challenge of ensuring universal access to a public broadcasting system. That is, to ensure that no particular interest or set of political or religious convictions either receives excessive attention or is deliberately discriminated against in the programming of the system. This guarantee was essential to justify the allocation of taxpayers' money to fund the activities of the British Broadcasting Corporation (BBC). It is all the more relevant to justify the collection of license fees from all television set owners, which has been the case in Britain since the 1950s.

The centrality of the concern of British authorities for impartial broadcasting is apparent given that licensing the first private television channel (ITV) in 1954 was accompanied by the creation of the Independent Television Authority (ITA). This body is in charge of ensuring observance of due impartiality in relation to matters of political or industrial controversy and current public policy as the Television Act of 1954 required. The guidelines of impartiality the ITA enforces among private contractors or licensees are the same as those developed and followed previously by BBC radio and television broadcasters.

For a long time the provision of fair media coverage for political parties during election campaigns did not figure among the services offered by public and private broadcasters. Before the 1960s, election campaigns were given very little or no attention by both radio and television broadcasters. Blumler and Gurevitch point out that this was because “the Representation of the People Act [RPA] had been interpreted as disallowing any broadcast reporting on election campaigns” (1995, p. 186). What seems to be the case is that from 1927 to the late 1950s, BBC broadcasters had not been able to work out how to make good the requirements of impartiality in the coverage of election campaigns. Oddly enough, the first instance of impartial coverage of election campaigns was produced by the privately owned ITV channel, whose managers followed the developments of the 1958 Rochdale by-election (Pipkin and Bartle, 2002, p. 183). From the 1960s, public and private broadcasters placed normal television and radio programming under arrest during elections to give ample coverage to the campaigns of the main parties. Setting public service guidelines to private broadcasters proved to be a crucial move in the development of the application of impartial broadcasting to election campaigns.

Colin Seymour-Ure claims that British broadcasters have been required to be “scrupulously fair” in their coverage to counter the partisanship of the press (1998, p. 53). If this is accurate, the inference is that the concern of British authorities for impartial treatment of controversial issues is not confined to ensuring universal access to public and private television programming. In other words, that impar-
tial treatment not only responds to the challenge of justifying a public broadcasting system but also satisfies certain functional needs of the political system. One particular functional need that the partisan press fails to meet is that of fair coverage of the viewpoints and policy proposals of political parties during election campaigns.

The press in Britain is claimed to be partisan primarily because newspapers follow the tradition of endorsing one of the political parties at every election campaign. Newspapers use this practice in different ways. Some have a fixed editorial stance that is openly declared as either pro-Conservative or pro-Labour. Others have a shifting editorial stance and may change from a pro-Conservative editorial stance to a pro-Labour one, or vice versa. For these newspapers it is important to remain in tune with prevailing public feeling and opinion, so the direction of their editorial stance responds to their perception of the party the majority is likely to vote for. Very little coverage is given to the third political party (the Liberal Democrat Party). In the absence of the provision of fair media coverage, the contingent distribution of press coverage could become a source of post-electoral conflict.

Ensuring that political parties stand a fair chance of getting their viewpoints across during election campaigns is not only relevant to the legitimacy of the electoral process but also to the quality of electoral outcomes. To the extent that fair media coverage allows the comparison of the policy positions of three main political parties it goes some way toward enabling citizens to make well-informed decisions at the electoral stage. It also encourages parties to focus on the justification of, and account for the specific consequences of, their particular policy proposals. The aim of fostering a policy-centered election debate is where the importance of giving sufficient coverage to the Liberal Democrat Party becomes apparent. Since the partisan press is hooked on the logic of a two-horse race and privileges parties’ prospects of electoral success rather than merits of their policy proposals, it cannot fully contribute to a policy-centered debate. This is another relevant functional need that the partisan press fails to satisfy.

**Mexican Case**

In Mexico, fair media coverage constituted one of the key demands made by the main opposition parties in the negotiations of the 1994 electoral reform. Indeed the then Secretary of the Interior and president of the General Council of the Federal Electoral Institute, Jorge Carpizo, who chaired the negotiations with the representatives of opposition parties acknowledged that

> [o]ne of the aspects (of the new electoral law) that concerned and captured most of the attention of the new General Council (of the Federal Electoral Institute) was that related to the fairness of the electronic means of communication during presidential campaigns . . . this was one of the points that raised more controversy in relation to the federal electoral processes.” (1995, p. 63)

That particular guarantee was viewed by the majority of the members of the General Council of the Federal Electoral Institute (Consejo General del Instituto Federal Electoral) as “a necessary condition for the transparency and credibility of the electoral process” (Carpizo, 1995, p. 66). Adopting arrangements for fair media
coverage in Mexico posed a complex problem. On one hand, an important component of the agenda of democratization was to rollback authoritarian controls affecting the freedom of expression and autonomy of the media. On the other, the operation of those controls for more than six decades had allowed the development of close ties of loyalty and complicity between the media and the ruling party, the Partido Revolucionario Institucional (PRI).

Liberalizing the activity of the media entailed presenting the bulk of media organizations carte blanche to freely deploy their resources to support the ruling party as they had in the past. Since the arrangements of fair media coverage were aimed at preventing just that, those public officials committed to advancing the reform process found themselves embroiled in a very serious dilemma. If priority was given to liberalizing authoritarian controls, then the opposition would have to come to terms with a grossly biased media bred and nurtured by the authoritarian regime. If priority was given to ensuring fair conditions of political contestation for the opposition, the very same controls that were used to ensure media partisanship (the threat to cancel their broadcasting licenses) would have to be used to ensure their impartiality.

Authorities opted for the second course of action; hence, they could not commit themselves fully to full freedom of expression for media owners. This made their defense of fair media coverage especially vulnerable to libertarian contentions, which was something they were fully aware of as the following argument offered by Secretary of the Interior Jorge Carpizo in his progress report.

With objectivity and good faith, no one can deny the progress achieved in 1994; in many countries this problem has been faced through the simple way of denying parties access to free time in the means of communication, privileging the rights of the owners of the media. In Mexico, we have started to solve that problem by privileging the rights of the society and protecting the interest of political organizations, without calling into question the legal guarantees that protect the owners and concessionaires of the media. (1995, p. 71)

The rhetoric here reflects the difficulties entailed in justifying fair media coverage arrangements. As an advocate of the process of democratization, Carpizo could not simply declare that the steady advancement of that process in Mexico required limiting the freedom of expression of media owners. But neither could he say that such constraints were unnecessary given the obvious subservience of the media to the ruling party. It is therefore unsurprising that he dared to suggest that the adoption of fair media coverage arrangements does not call “into question the legal guarantees that protect the owners and concessionaires of the media.” It is difficult to see how a government can protect the “rights of the society” and “the interest of political organizations” without curbing the rights of media owners. This is precisely the way in which electoral authorities in Mexico have sought to ensure fair media coverage for political parties since 1994.

Electoral authorities support the implementation of fair media coverage for political parties on the grounds of a public appeal directed to broadcasters and journalists. Broadcasters and journalists are called upon to observe objectivity requirements and to share in the responsibility to create and strengthen the conditions of civility and concord during the electoral process (Carpizo, 1995, p. 67). What makes this public appeal for impartial broadcasting work almost as a properly enacted law is that the Federal Electoral Institute monitors compliance with it.
on a monthly basis during election campaigns. Deviations from the requests of the public appeal for impartial broadcasting are identified at a regional level and made known to the public in the press.

As shown below, this peculiar approach to securing fair media coverage has serious limitations. At this stage, however, it is worth considering why Mexican authorities did not contemplate making fair media coverage legally binding. Unlike British broadcasting authorities, Mexican electoral authorities give ample account of the reasons for adopting fair media coverage arrangements. Moreover, for anyone familiar with Mexico’s transition to democracy, biased coverage was certain in the absence of fair media coverage arrangements. Ultimately, the adoption of those arrangements together with other crucial electoral reforms reflected a disposition on the part of the ruling party to countenance the prospect of alternation. So it was very easy to appreciate the urgency of adopting fair media coverage arrangements and to identify the pertinence of those arrangements to the stability of the political system.

Less apparent to Mexican authorities was the fact that they could openly invoke any ground to justify the limits imposed on broadcasters. Hence Carpizo’s own attempt to justify fair media coverage on the intuition that society has rights and that political organizations have interests that trump the rights of media owners. This is a relevant instance of how democratic statesmen have to theorize “on the hoof” while simultaneously implementing policies once it is apparent that there is no theory available on the problems they are facing.

**Performance of British and Mexican Arrangements for Fair Media Coverage**

This section assesses the performance of fair media coverage in both countries in relation to the benchmarks established by their respective authorities. It also assesses the performance of media coverage in both countries from the standpoint of the concern for an informed citizenry. I hope to show here how normative theory can provide guidance and propose ways to improve existing arrangements and to render more theoretically defensible the initial intuitions that led to their adoption.

**Coverage of the 1997 British General Election**

British broadcasting authorities establish a maximum limit of coverage for each of the three major political parties during election campaigns. This upper limit or maximum share of coverage per party is called “ratio of allocation.” Under this arrangement, Conservative and Labour parties are allocated equal upper limits of coverage. However, these shares of coverage are smaller than the shares they would be allocated under a scheme of coverage based on the parties’ share of the total vote. Consequently, the Liberal Democrat Party is allocated a larger share than the one it would be allocated under a scheme based on the parties’ share of the total vote. The benchmarks for the allocation of coverage are therefore clearly established from the beginning of election campaigns. As Figure One shows, this procedure prevents broadcasters from allocating political parties more coverage than the ratio of allocation permits.

British broadcasting authorities prescribe a “balanced treatment” mode of reporting. That is, when assigned to a party leader’s entourage or to party con-
ferences; reporters should stress with equal emphasis both the favorable and the unfavorable side of the story of the day. Balanced treatment also entails that, when reporting on a particular campaign issue, reporters should not only present the position of one party, but also include the positions of the other major parties on that same issue. This enables broadcasters to ensure that only a small portion of the daily news stories on each party presented during the campaign are of the sort that stress purely the negative or positive side of the story. Figure Two shows the extent to which overall balance was accomplished in the 1997 election campaign coverage. Sky News (a satellite channel) is included to show the similarities of its pattern of distribution of news stories with those of terrestrial television news programs.

Figure Three adds up the news stories produced by the three news programs and shows how balanced, positive and negative news stories were allocated between the three main parties. What stands out here is that the Conservatives received most of the negative stories produced by the three programs. This was not unwarranted since the Conservative campaign was affected from the outset by sleaze scandals and throughout its development by internal disputes on John Major’s position on the European Monetary Union.
The requirements of impartiality, however, did prevent broadcasters from making Conservative sleaze scandals and disputes on the single currency prominent issues of the election campaign. In their content analysis of the election campaign, Scammell and Semetko (1999) found that from the totality of news stories produced by the three programs, 4% were related to sleaze scandals and 6% to Europe. In their content analysis of newspaper front-page stories they found that from the totality of front-page stories of the ten daily newspapers, 5% were related to sleaze and 12% to Europe. To the extent that broadcasters kept the issues of sleaze and the disputes on the single currency at bay, viewers of television news programs had the opportunity to consider a larger number of issues during the election campaign.

Balanced treatment is not merely a requirement imposed by broadcasting authorities but a benchmark of professional reporting within the community of television journalists. The BBC producers guidelines stress that reporting “should be dispassionate wide-ranging and well-informed” and that it should give “due weight” to the “main differing views” (British Broadcasting Corporation [BBC], 1996, Pt. 1, §2.2). Those guidelines state that reporters can “express a professional, journalistic judgement but not a personal opinion” (BBC, 1996, Pt. 1, §2.2). Specific guidelines for the campaign coverage state clearly “special care must be taken that in reporting this activity we are not being used to influence the campaign in favor of one party at the expense of others” (BBC, 1996, chap. 34). Another specific guideline goes as far as recommending that “great care” is taken “to ensure that BBC staff, presenters or free-lancers do not bring the impartiality of the BBC into question in pursuit of their own political careers” (BBC, 1996, chap. 34). This ethos of responsible journalism extends to private terrestrial and cable/digital broadcasting as the coverage of Sky News in Figure One shows. Moreover, the Programme Code of the Independent Television Commission (ITC), which regulates the activity of private broadcasters, is continuously updated in accordance with the BBC producers guidelines. “Reporting—according to the ITC’s Programme Code—should be dispassionate and news judgements based on the need to give viewers an even-handed account of events” (Independent Television Commission
The code also requires the clear distinction of opinion from fact and to give due weight to differing views in the “reporting of matters of industrial and political controversy” (ITC, 2001, §3).

The merit of impartial broadcasting is apparent only if one takes into account that a system of public communication is susceptible to being manipulated by political parties, broadcasters, journalists, and, as BBC producer guidelines point out, even by free-lancers. Libertarians are well aware of abuses, but they claim that under full freedom of expression those abuses can be countered by other sincere and well-informed expressions. The problem with this is not only that one has to trust that someone’s intention to mislead will be compensated by someone else’s intention to inform. One also has to believe that there is nothing wrong with using an opportunity to inform as an opportunity to mislead. Broadcasting authorities take issue with the latter assumption.

Licensees may make programmes about any issues they choose. However, the method of treatment is limited by the obligations of fairness and a respect for truth, two qualities which are essential to all factual based programmes. (ITC, 2001, §2)

This rules out, for instance, spinning false allegations or making personal opinions appear as facts, on the grounds that they presuppose neglect of the obligations of fairness and lack of respect for truth. Thus broadcasting authorities offer an argument that libertarians cannot contest without committing themselves to an implausible view of freedom of expression that includes the freedom to deliberately distort facts.

Fair media coverage in Britain rests heavily on a comprehensive body of prescriptions that regulate reporting and news-making. This does not prevent parties from presenting complaints to broadcasting authorities for bias or distortion in media outputs. Yet authorities’ efforts certainly ensure the overall reliability of public and private news programs. Hence electoral conflicts are considerably minimized in spite of the aggressive partisanship of the tabloid press. It is nearly a tradition that the party that fails to gain a majority of seats in parliament claims unfair treatment from the press, but those claims are hardly ever pressed further, since fair coverage and impartial treatment are guaranteed in the electronic media. It could be said that this guarantee is especially relevant given the adversarial and acrimonious nature of the relations between political parties, which accounts, to date, for the absence of debates between party leaders in Britain. It can be argued then that fair media coverage in Britain contributes considerably to the stability of the electoral process and, since it is a permanent provision, that it contributes to the overall stability of the democratic political process.

The other dimension of this performance assessment is whether British broadcasters contributed to the development of an informed citizenry. In principle, the requirement of balanced treatment and the established “ratio of allocation” are conducive to examining competing proposals. A more precise assessment must take account of the resources deployed to inform the electorate and the subjects of news stories.

In their research of the 1997 BBC campaign coverage, Blumler and Gurevitch observed three important innovations. First, news programs were required to
include in their coverage reports on the twenty issues British voters considered to be uppermost concerns according to survey data collected before the campaign. Second, specialist correspondents were charged with the presentation of issue packages summarizing the “the main policies of the parties’ manifestos on the problems concerned” (Blumler & Gurevitch, 1998, p. 187) and followed by a wide range of commentary and analysis including facts and figures, descriptions of typical problem situations, interviews with experts, professional and ordinary people and a summary assessment of the feasibility of policies proposed for tackling the issue concerned. (Blumler & Gurevitch, 1998, pp. 187–188)

Third, “the specialist correspondents were encouraged to be more robust in their commentary than they had been in the past” (Blumler & Gurevitch, 1998, p. 188). This was basically to enable correspondents to reach beyond the spin of the party communications they reported and to elaborate further on the background and complexity of the issue or subject of those communications.

The three innovations suggest that BBC news programs were prepared to address the issues the electorate wanted information on; that a systematic assessment of the policies proposed by the three parties on different issues was offered; and that an effort was made to enable viewers to get the message of party speakers, but not the spin. Nevertheless, a more detailed account of the news stories’ subjects throughout the campaign may give a better idea of the extent to which the electorate was informed.

In their book On Message: Communicating the Campaign, Pippa Norris et al. (1999) examine the main themes of the 1997 election campaign in Britain illuminating key qualitative criteria for fair media coverage assessment. The following identifies briefly some aspects of the methodology and some categories of the content analysis (Scammell and Semetko, 1999) used to classify news stories.

What Norris et al. identify as the “media news agenda,” resulted from the codification of all the news stories of two news programs, BBC1’s Nine O’Clock News and Independent Television News (ITN) News at Ten during the final month of the campaign (April 1–30). The totality of news stories was classified into fifteen categories and divided in two issue groups: campaign issues and substantive issues. The categories of the first group are: “Conduct of Campaign,” “Parties,” “Opinion Polls,” “Party Leaders,” “Sleaze,” and “Media treatment.” “Conduct of Campaign” includes stories related to the parties' campaign organization, strategy, tactics, and general campaign trail activity. “Parties” considers news stories on key party figures, events, and internal party politics. “Party Leaders” refers exclusively to stories related to the political and personal qualities of the leaders. “Media Treatment” identifies stories on how the media reports the election. The news stories classified in the categories of the first group make little or no mention of policy issues. Unlike the stories included in the previous categories, those within the substantive issues group refer to policy issues in the following areas: “Social Welfare,” “Regions,” “Economy,” “Foreign Affairs/Europe,” “Education and Arts,” “Constitutional Reform,” “Infrastructure,” “Environment/Energy,” and “Defence.”

Norris et al. use the same categories with which they reconstruct the media news agenda from all the scattered news stories presented during the election campaign to reconstruct the parties’ agenda from all their press releases during the same period. In this way, they can compare the importance accorded to each issue in the
parties’ agenda with the importance accorded to those issues in the media news agenda. The most important difference between both agendas is that parties were more interested in talking about substantive issues whereas broadcasters were more interested in making news stories about campaign-related issues. Eighty percent of party releases touched on substantive issues while television news programs devoted 69% of their coverage to campaign-related issues. This is indeed a delicate feature of fair media coverage. While it demands a lot from broadcasters and journalists, it is not necessarily keyed into disseminating and discussing the views of the parties. This could be due to the parties’ propensity to stump speech their way out of the campaign.

Thirty-two percent of party releases were on the issue of “Economy,” but 50% of these were presented by the Conservative Party. So maybe the parties were not offering much newsworthy material in their party releases. If so, then it is not so strongly apparent that fair media coverage contributes to developing an informed electorate. Some cooperation on their part seems warranted for fair media coverage to achieve that end. It is here that developing the case for an informed citizenry and basing fair media coverage on that concern appears to be a crucial task.

If fair media coverage is conceived as a provision for the parties, all that provision stands for is coverage of whatever the party’s wish to communicate is, be it attacks on opponents or images of photo opportunities and walk-abouts. If fair media coverage is conceived as a provision for the citizenry, however, some party commitment to substantive political communications could be required. In any case, it is common in most democracies to privilege the coverage of campaign-related issues over substantive ones, and uncommon to so decidedly assume the task of informing the citizenry during elections as the BBC did in 1997. The effort was so remarkable that Blumler and Gurevitch wondered years later “[w]hether heavy coverage of Britain’s 1997 election was the last gasp of a glorious tradition” (Blumler & Gurevitch, 2001, p. 393).

**Coverage of the 2000 Mexican Federal Election**

Mexican electoral authorities do not make use of upper limits or maximum quotas of coverage. They require that broadcasters evenly spread most coverage among the three main political parties. The broad aim of fair media coverage in Mexico is merely to prevent broadcasters from allocating most of their coverage to the party that ruled the country from 1929 to 2000: the PRI. That aim is likely to appear as extremely modest to anyone unfamiliar with Mexican politics. The introduction of fair media coverage did, however, break, once and for all, the PRI’s monopoly over the media. During the 1988 election campaign the two main television news programs allocated 83% of their coverage to the PRI’s campaign and the remaining 17% to the opposition. In the 1994 election campaign, immediately after the introduction of fair media coverage, those same news programs allocated 32% of their coverage to the PRI and the remaining 78% to the opposition. Table One shows the distribution of the coverage of all radio and television news programs among the PRI, the two main opposition parties, and the small opposition parties from 1994 to 2000.
Although, as Table One suggests, Mexican electoral authorities prevented broadcasters from allocating most of their coverage to the PRI, it is clear that the parties’ shares of coverage are considerably variable. While broadcasters allocated coverage in almost equal shares between the three main political parties in the 1997 election campaign, they again decided to top-up the PRI’s share of coverage during the 2000 campaign. The variability of the allocation of coverage for political parties need not be considered a limitation. It could be argued that in the absence of clearly specified quotas of coverage per party, broadcasters can allocate their coverage in accordance to the shifts in popularity of political parties at every election campaign. However, to accept that broadcasters merely adapt to the shifts in popularity of political parties, it is necessary to ensure that they have little margin to attempt produce those shifts. Unfortunately, the Mexican arrangement for fair media coverage does not offer that kind of assurance, primarily because its implementation is not legally binding.

The nonlegal status of fair media coverage may not prevent electoral authorities from exerting pressure over broadcasters whose coverage is openly partisan. It nevertheless prevents those authorities from requiring broadcasters to observe specific guidelines for the impartial reporting of election campaigns. This renders broadcasters immune to party complaints of unfair treatment in specific news stories. It also precludes the development of an ethos of impartial reporting among the community of journalists. Under such conditions, it is difficult to trust that the differences in coverage between parties are not driven by partisan motivations. One way of assessing the extent to which differences in coverage respond to partisan motivations is to consider the totality of media output of the election campaign and examine how parties were portrayed in that output. Authorities monitor all television and radio news programs to assess compliance with the requirements of fair media coverage. Monitors measure minutes of coverage allocated to each party and evaluate how parties are portrayed in every minute of news coverage. Per-minute evaluations merely indicate the extent to which broadcasters observe the electoral authorities' recommendation not to editorialize news stories.

Figure Four shows the distribution of balanced, positive, and negative per-minute evaluations of the electoral coverage of television and radio news programs. Balanced per-minute evaluation means that broadcasters accounted for the daily activities and leading contents of the communications of political parties without adding favorable or unfavorable comments. Positive per minute evaluation means that a favorable comment was added to the report, and negative means that the report was coupled with unfavorable comment. What stands out in Figure Four is

<table>
<thead>
<tr>
<th>Year/ Party or Coalition</th>
<th>PRI</th>
<th>PRD/ ALIANZA POR MEXICO</th>
<th>PAN/ALIANZA POR EL CAMBIO</th>
<th>SMALL PARTIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994</td>
<td>34.25%</td>
<td>23.12%</td>
<td>18.87%</td>
<td>23.76%</td>
</tr>
<tr>
<td>1997</td>
<td>25.33%</td>
<td>26.79%</td>
<td>26.24%</td>
<td>21.64%</td>
</tr>
<tr>
<td>2000</td>
<td>39.85%</td>
<td>20.18%</td>
<td>27.43%</td>
<td>8.98%</td>
</tr>
</tbody>
</table>

Source: Informes de la Comisión de Radiodifusión del Instituto Federal Electoral. This information is available on the Federal Electoral Institute’s web site: www.ife.org.mx.
that television broadcasters followed the recommendation not to editorialize news stories to a greater extent than radio broadcasters. It also shows that up to 90% of the total radio and television campaign output was neutral. On the basis of this information it is difficult to argue that the media are ostensibly partisan. However, to completely dismiss this charge it is worth examining how positive and negative per-minute evaluations were distributed among the three main political parties during the campaign, which are shown in Figure Five.

While Figures Four and Five show that the party with the largest share of negative per-minute evaluations was Alianza por el Cambio, the coalition led by the Partido Acción Nacional (PAN), Figure Six shows the proportion of the same per minute evaluations from the total coverage allocated to each of the three main political parties by radio news programs.

Given that the coalition led by the PAN won the presidency, it is difficult to argue that the allocation of negative per-minute evaluations reflected the public’s mood. Admittedly, fair media coverage is an impediment to the open partisanship on the part of broadcasters. However, two limited means seem to be available to partisan

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**Figure 4.** Balanced, Negative, and Positive Time Coverage of Electoral Stories in Mexican News Programs (% of minutes of coverage per media)

Source: Aggregate results of the monitoring of media coverage of the 2000 Mexican federal election (Broadcasting Commission of the Federal Electoral Institute); information from the period January 19–June 29, 2000.

*Minutes of coverage per media: Radio and television (2,650:19:32); Radio (2,091:04:14); Television (559:15:23).*

**Figure 5.** Balanced, Negative, and Positive Minutes of Coverage Allocated by Television News Programs to the Main Parties (%)

Source: Aggregate results of the monitoring of media coverage of the 2000 Mexican federal election (Broadcasting Commission of the Federal Electoral Institute); information from the period January 19–June 29, 2000.

*Minutes of coverage per party: Alianza por el Cambio: 144:04:02; PRI: 219:36:34; Alianza por México: 111:25:25.*
broadcasting. First, broadcasters can increase moderately the share of coverage of the party they wish to favor. Second, they can make limited use of negative editorial comment against the party they wish to place at a disadvantage. Fortunately, those means were not sufficient enough to improve popular support for the PRI during the 2000 election campaign. Nevertheless, that some broadcasters can use such means to attempt to favor a given political party certainly means that Mexico is still far from ensuring a stable electoral process.

The PRI took advantage of the loopholes of the existing arrangement of fair media coverage. Unsurprisingly, the attempt to bias coverage in its favor was openly argued for on libertarian grounds. The purchase of the misguided idea that limiting the freedom of expression of broadcasters is inconsistent with the purpose of consolidating a truly democratic regime meant that the PRI’s advocacy of libertarian principles would not be seriously challenged. Table Two shows the results of news election coverage monitoring from the first to the fourth month of the 2000 federal election campaign.

The table identifies a considerable increase in coverage of the PRI from the second month (February 13–March 11) to the third (March 12–April 8). It also shows that the PAN obtained a slightly higher share of coverage than the PRI during the second month (February 13–March 11) of the campaign. The story behind the sudden reallocation of coverage in favor of the PRI from the second to the third month of the election campaign is the following.
One item on the agenda of the Federal Electoral Institute General Council's ordinary session, March 30, 2000, was to examine and discuss the monitoring results for the second month of the campaign (February 13–March 11). In that session Dr. Jacqueline Peschard Mariscal, the electoral councilor in charge of presenting the monthly reports, stressed that the results for the second month of the campaign attested an unprecedented fact in the history of political campaign coverage. “For the first time in the aggregate figures of television [coverage], argued Peschard Mariscal, a candidature of the opposition, that of the Alianza por el Cambio, surpassed the time of exposure of the candidate of the Partido Revolucionario Institucional” (Instituto Federal Electoral [IFE], 2000a). This was indeed a major achievement suggesting that the news coverage allocation that prevailed up to 1988 would never present itself again. However, Senator Dionisio Perez Jacome, the councilor appointed by the legislature and member of PRI, did not share Peschard Mariscal’s enthusiasm for the results. He suggested that in its attempt to ensure the fairness of the electoral contest, the General Council could involuntarily fail to guarantee, respect, and protect the freedom of expression of the media of communication. He further added that it was not unwarranted to stress that the “purpose, desire and aspiration” of that electoral body was always to proceed with extreme respect in regard to the way of thinking, the way of feeling, and the way of appreciating [political events], of the gentlemen responsible of putting political parties and candidates in communication with the society, with the voters. Let us not affect, harm, in the attempt...[to bring about] greater fairness to current political campaigns, a principle... that fortunately exists, prevails and hopefully could become one of the most important elements that could also allow to support a progressively more authentic democracy in our society. (IFE, 2000b)

The reasons behind Perez Jacome's plea to respect broadcasters’ freedom of expression became apparent to the other members of the General Council in the ordinary session of April 27. In her comments to the monitoring report of the third month (March 12–April 8), Peschard stressed that the report “showed a drastic change in the behavior of the media at a national level” (IFE, 2000b). That change, she added, “is worrying because it departs from the tendency...that had been established since the implantation of [news coverage] monitoring” (IFE, 2000b). Councilor Juan Molinar Horcasitas showed similar disappointment with the results: “The media’s treatment of the different political options in the three last weeks covered by the monitoring report reminds us of times that neither the society nor the electorate would like relive” (IFE, 2000b). Councilor Jaime Cardenas even suggested that the media were deliberately closing ranks with the PRI to keep it in power: “In general, it is apparent that the media have picked a candidate and also that it is true that there is a propaganda apparatus in favor of only one political party” (IFE, 2000b).

The PRI dismissed the charge that the monitoring results suggested either a return to the past or that they seriously called into question broadcaster impartiality. The PRI’s representative to the General Council Congressman Morelos Canseco Gomez suggested that those disappointed with the results of the monitoring report were actually disappointed with the broadcasters’ exercise of freedom of expression. He argued that broadcasters should be left free to choose the events they want to report since they know the kind of information their audiences want.
He implied that some of the members of the General Council were not aware of the importance of allowing broadcasters to exercise their judgment in election news coverage. He also implied that some members of the General Council were wrongly expecting broadcasters to develop their activities in a blind and uncritical way. Canseco Gomez appealed to those sharing such an expectation: “we cannot consider the concessionaires or licensees of the electronic means of communication as second class citizens or as persons that do not have the capacity to exercise their political rights with liberty” (IFE, 2000b).

In response to the question of why in any case broadcasters decided to increase the coverage of the PRI’s campaign in the three weeks covered by the report, Canseco argued that it merely reflected a positive reaction to the party’s communication strategy. He explained to the members of the council that his party had programmed and reserved most of its publicity purchases for the weeks covered by the monitoring report given the proximity of the debate between candidates to take place on April 25. Senator Perez added that the success of the PRI’s communication strategy rested on the ability of its regional press officers to approach and convince broadcasters of the merits of the PRI candidate (IFE, 2000b).

The PRI’s contention that some members of the General Council cared little about the freedom of expression of broadcasters gave rise to a series of clarifications on the Council’s strong commitment to protect that freedom. On that battleground the advocates of fair media coverage were bound to lose the debate. To be sure, the arrangements of fair media coverage have enhanced the freedom of expression of broadcasters since they can now report on the activities and proposals of the opposition without fear of reprisals from the government. Nevertheless, it is also the case that under the present arrangements, broadcasters are now less free to either exclude opposition parties from their coverage or to adopt an openly hostile editorial stance in their coverage of those parties. That was the particular component of freedom of expression at issue. Indeed, it was the freedom that PRI representatives claimed to be standard bearers of, since they argued that the loss of that freedom would prevent broadcasters from following their own judgment in the conduct of their activities. No member of the General Council committed to creating and strengthening the conditions of fairness of the electoral contest could pose as an ardent supporter of that particular component of freedom of expression. Apart from the representatives of the PRI, the members of the council would rather have wanted broadcasters not to have any freedom to bias coverage. One must therefore assume they wanted broadcasters to have less rather than more freedom of expression. PRI representatives framed the terms of debate so that anyone who suggested limiting the freedom of expression of broadcasters would attract the charge of denying them first class citizenship.

If the General Council could not bring the PRI to task for undermining the conditions of fairness of the electoral contest, it could still call upon broadcasters to restore those conditions. Such an appeal had a favorable effect as broadcasters did offer less coverage to the PRI during the fourth month of the campaign (April 9–May 6). In light of the aggregate data of coverage allocation and per-minute evaluations, it can be acknowledged that the Mexican arrangement for fair media coverage met its own benchmarks of performance during the 2000 election campaign.
The shift of coverage in favor of the PRI during the third month may, in perspective, appear as an innocuous authoritarian hiccup of very little consequence. However, it is uncertain whether electoral authorities will be able to limit the damage of similar situations in the future, given the ambiguity of their position with regard to broadcasters’ freedom of expression.

One cannot say that broadcasters are free to exercise their judgment in the conduct of their activities since even though fair media coverage requirements are not legally binding in Mexico, electoral authorities are permanently on their back. Neither can one say that broadcasters are limited in the exercise of their freedom of expression because they can neglect fair media coverage requirements if the interests at stake are worth incurring the wrath of electoral authorities. It is clear that the present arrangement is vulnerable to abuses and therefore unable to ensure a stable electoral process in the future. Nevertheless, it is also apparent that, for an election that ultimately produced the first president from the opposition since 1910, with all its flaws, the arrangement for fair media coverage proved crucial. The difficulties facing electoral authorities in acknowledging and assimilating the fact that fair media coverage does limit broadcasters’ freedom of expression indicates that democracy is too readily associated with a form of government that does not restrict the scope of any right, and that an allegiance to democracy entails an allegiance to liberty along libertarian lines.

Conclusions

The object of this article has been to highlight the need for further theoretical development on the workings of the democratic process and the critical aspects of its operation and to argue for fair media coverage as a pertinent means to minimize some of the tensions and distortions affecting that process.

From the examination of the British case it can be concluded that although official publications of broadcasting authorities do not justify media regulations with reference to practical problems of the democratic process, those regulations diffuse conflict in two significant ways. First, they ensure the reliability of political information and on controversial matters, during elections and between them. In this way, political parties as much as social groups can expect that their views have a fair hearing in relevant public domains. Consequently, they need not fear denial of access or the suppression of their views, which may give them a sense of belonging and full participation within their government. It may also dissuade political actors and groups from resorting to informal means of protest. Second, especially during elections, when spin reigns undaunted, rebuttal units do their best to dent the messages of their opponents and tabloids indulge fully in character assassination. Broadcasters ensure a substantive and balanced provision of electoral coverage. Fair media coverage contributes to placating inconformity with electoral outcomes by keeping to a minimum redundant negative news stories that proliferate in other media, a process that is generally instigated by party communications officials. Broadcasters filtered out from their coverage redundant negative news stories on Conservative divisions on the single currency and on sleaze scandals. While the likelihood of complaints for unfair media treatment is at its peak,
triggered by the ambitions that the Westminster’s winner-take-all model fosters, fair media coverage enables British broadcasters to keep political communications safe from most of the distortions of modern political campaigning. This makes elections a relatively predictable event and provides a considerable margin to expect acceptance and conformity with electoral outcomes.

From the examination of the Mexican case it can be concluded that while fair media coverage arrangements were justified with clear reference to stability and legitimacy needs, there is still a long way to go in tightening those arrangements to minimize electoral tensions and conflicts. There is a patent need to make those arrangements legally binding. To achieve this, however, more theorizing on the status of the concern for the stability vis à vis specific rights must be produced. This is especially relevant to the case of Mexico as its transition to democracy renewed the commitment of many of its citizens to the constraints of constitutional democracy. Theory must illuminate how a strong commitment to constitutional democracy can be made compatible with ensuring a well-functioning democratic process. From making fair media coverage requirements legally binding, electoral authorities could move to gearing the reporting and political comment to satisfy the needs of an informed citizenry. To date, fair media coverage of elections means coverage of anything from stump speeches to walk-abouts. No deliberate effort to enhance political leaning is entertained by broadcasters. This makes the arrangement less defensible.

Perhaps this closer look at how British and Mexican democracies aim to diffuse electoral conflicts and ensure the legitimacy of electoral outcomes can go some way toward showing that we need to think more about the ways to make the democratic process more reliable and resilient. Last but not least, I also hope that this study has shown that it makes little sense to conceive the scope of our rights independently from the political process in which we use them.

Notes

1 I would like to thank Emma Norman for her crucial input in the definition of the structure of this article and for the innumerable times she patiently read the manuscript.
2 For a detailed argument that attempts to provide more coherent justifications to such arguments, see my forthcoming Democracia colectivista, México, D.F.: Ediciones Coyocán (2004).
3 “Thus, in the 1955 election, television newscasts studiously ignored the campaign, while in 1959, election events were covered only cursorily in late night bulletins” Blumler & Gurevitch (1995), p. 186.
4 These were dubbed “Acuerdos de Barcelona” not because the negotiations took place in Spain, but because they took place in the premises of the secretary of the interior or Secretaría de Gobernación located in the street of Barcelona.

About the Author

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