



Organizational And Legal Basis Of The Participation Of Political Parties In The Formation Of The Legislative Chamber Of Oliy Majlis

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ABSTRACT

The article provides an in-depth analysis of the organizational and legal framework for the participation of political parties in the formation of the Legislative Chamber of the Oliy Majlis. It sets out the procedure for nominating candidates to representative bodies and the participation of political parties in the nomination of candidates to parliament.

An analysis of the provisions of the Electoral Code in this article shows that the most important factor in ensuring the legitimacy of the election campaign is to ensure a level playing field for candidates and parties. Also, methods, forms and means of election campaigning: through electronic and print media; through public events; Distribution of election campaign materials and placement of outdoor advertisements, as well as other methods were studied and sound proposals were developed.

KEYWORDS

Political Parties, Election, Election Campaign, Candidates, Representative Bodies, Electoral Code, Election Commissions.

INTRODUCTION

Parliaments simultaneously include two main functions of political power – representation and the lawmaking. In this way, it ensures the rational management of public life, the legal

regulation of social relations through the adoption of laws with high legal force.

The clear and legally defined term of office of the Parliament implies that its composition shall be regularly updated. This is the most important guarantee of the right of citizens to elect representatives regularly. Mandatory conduct of periodic election campaigns, for instance the conduct of elections, is an important feature of parliament. It is the periodic elections that, over time, will allow the population and the government to assess the compliance of the activities of the corps of deputies with the requirements of the current socio-economic situation in the country[1].

Political parties, which consider participation in the formation of representative bodies of state power as their main goal, are more able than other public organizations to express the will of citizens and then incorporate it into the activities of representative bodies of public power. At the same time, the mechanism of party representation does not apply to all types of state bodies: for instance, the representation of political parties in the formation of the Senate of Oliy Majlis is not provided for in the Constitution.

Elections to Oliy Majlis shall be held in single-member constituencies on the basis of the principles of universal, equal, direct and secret ballot in accordance with the provisions of the Election Code. For this purpose, 150 single-member constituencies will be formed in Uzbekistan. As noted above, political parties are the only entity that has the right to nominate candidates for parliament. For instance, in the 2019 parliamentary elections to Oliy Majlis of the Republic of Uzbekistan, the Central Election Commission on November 11 this year registered 750 candidates for deputies of the Legislative Chamber from all political parties. By election day, six candidates had resigned on the basis of their applications. A total of 744 candidates were nominated[2].

As is the practice in the world, the election legislation of Uzbekistan strengthens the status of the main subject of political parties in the nomination of candidates for the parliament. In particular, according to the Law “On Political Parties”, the charters of political parties determine the possibility and procedure for nominating candidates, which they determine independently, taking into account the rules stipulated in law.

The decision on nomination of candidates by political parties in the elections to the Legislative Chamber shall be made at their councils, at the meeting of the territorial structure of the parties of candidates for local Councils of People’s Deputies . This is a self-justifying practice, as the lower house of parliament represents the interests of the entire population of the country, and therefore candidates for the highest representative body should be nominated by the central bodies of the parties. This procedure serves as a guarantee of the established democratic order of party decision-making, complies with the principles of openness and transparency in the activities of political parties, as well as ensures adherence to democratic principles in the nomination of candidates[3].

Analyses show that negative factors, such as the fact that activists who are selfless in the activities of a political party and pursue the interests of the party are not excluded from the reserve of personnel for public service and candidacy in their field, lead to a loss of interest in the party system. In political parties, the issue of recommendation for leadership and deputy positions, the creation of a system of social elevators and the creation of a long-term staff reserve is not sufficiently addressed. In our opinion, it is expedient to establish the right of political parties to nominate candidates only from among their members when nominating candidates for the

Legislative Chamber of Oliy Majlis and local Councils. This proposal will be a good incentive for “True devotion” members of the political party and those who sincerely serve to enhance its reputation.

It should be noted that political parties gain the right to participate in elections to the Legislative Chamber of Oliy Majlis only after nominating candidates for deputies after submitting the documents on state registration to the Central Election Commission. However, political parties have the right to participate only in this (next) election, the decision on its appointment or conduct will be officially announced after the submission of relevant documents.

When nominating candidates from a political party, as provided for in the first part of Article 45 of the Election Code of the Republic of Uzbekistan, it is expedient to disseminate and publish information on their program and election platform, encouraging to vote for their candidates. However, the legislation does not specify the procedure and deadlines for their adoption and publication. The Code provided for this possibility, but did not reinforce it as an obligation. At the same time, foreign practice shows that such an order and timing of elections is enshrined in law. For example, a political party nominating its candidates in the Russian Federation must publish the adopted election program no later than 10 days after the voting day, as well as post it on the Internet information and telecommunications network. In this regard, we propose to include this rule in the Election Code of the Republic of Uzbekistan, firstly, the rule on the mandatory publication of the party's election program (platform), and secondly, to determine the conditions and procedure for their publication.

The determination of the obligation of political parties to announce their election programs, in our opinion, stems from the following factors. Firstly, it is a form of election campaigning under the provisions of the Code. Secondly, it serves as a guarantee of the suffrage of citizens. A voter who is informed about a party's program can independently determine his or her position and form a personal opinion about the party's goals and objectives. At the same time, state election bodies and election commissions shall not have the right to interfere in the election campaign if it is conducted in the form and by legal means permitted by law.

In addition, the status of an entity that is an important participant in the election process, for instance an authorized representative of a party representing the interests of a political party, is noteworthy (Article 34 of the Election Code). He shall be appointed to participate in the meetings of the election commission, submission of documents, verification of the correctness of the signature sheets, counting of votes at the polling station.

The institution of “authorized representative of political parties” defined in Article 34 of the Election Code, in practice, causes various misunderstandings. According to the requirements of the Regulations on the authorized representative of a political party, approved by the decision of the Central Election Commission of the Republic of Uzbekistan, on September 11, 2019 No. 935, the authorized representative is divided into two categories:

1. Authorized representative participating in the meetings of the Central Election Commission, submission of documents, verification of correctness of signature sheets. In this case, the

main task of the authorized representative is to act as an intermediary between the Central Election Commission and a political party, directly responsible for the submission of the documents required by law. In this case, the authorized representative shall be registered by the Central Election Commission and the relevant certificate shall be issued.

2. Authorized representative of the territorial bodies of the political party nominated by the candidates participating in the counting of votes at the polling station. This authorized representative is the subject entitled to participate in the counting of votes after 20.00 on the voting day. These authorized representatives shall be registered by the relevant district election commissions.

If we pay attention to the functions, powers and appointment procedure of this institution, which performs two different forms, we can understand that their legal nature is not appropriate to call them by the same name. In practice, there are misunderstandings in the electoral process regarding the use of these two forms of institution with the same authority and the same name. Therefore, in order to avoid misunderstandings between these institutions, in the first case, we consider it appropriate to use the phrase “Representative of a political party” instead of “authorized representative of a political party”.

In our opinion, the requirements for these candidates (age, residence in a certain area, absence or removal of an unfinished conviction for a serious or very serious crime, restrictions on professional grounds, consent of a citizen to

participate as a candidate, etc.) to ensure democratic selection of candidates marked.

The legislation stipulates that the procedure for nominating candidates to representative bodies is decided by the political parties themselves. However, neither the charter nor any other documents of any political party answer the question of how this process is carried out yet. In our opinion, each political party should develop a procedure for selecting and nominating a candidate to the representative bodies and implement a mechanism to ensure that this process is open and transparent.

Thus, the main essence of the participation of political parties in the election process is characterized by the nomination of candidates for deputies of representative bodies of state power.

At present, the only pressing political issue is the party's failure to achieve the goals set out in its election programs and its failure to deliver on its promises to the electorate. In this case, due to the lack of constitutional and legal sanctions, voters' confidence in the parties and the government in general is declining. This, in turn, can turn the electoral process into a formal institution[4].

The activities of political parties are funded by the state, for instance at the expense of taxpayers, it is clear that the responsibility of political parties for the implementation of their election programs shall be on the agenda. If it is found that political parties have not implemented their programs for a certain period of time (for example, a year), we propose to take legal action in the form of a written warning to them, and to introduce legislation to suspend their activities if this happens regularly.

At the same time, the election campaign should be conducted on equal conditions, so its conduct is monitored by the relevant election commission. Also, both the candidate and the party have the right to conduct their election campaign independently and to involve other people in conducting it. It should also be noted that the electoral legislation defines the only source of funding for election campaign expenses – these are the funds of the state budget allocated for elections.

Therefore, 46.6 billion soums were allocated from the state budget to finance the participation of political parties in the 2019 parliamentary elections.

In addition, 54,551 authorized representatives of political parties and 79,345 proxies of candidates were registered by election commissions at various levels[5]. Appropriate conditions have been created for them to operate freely and exercise their powers.

The institute of observers also plays an important role in the participation of political parties in the election process. This will ensure the openness and transparency of the elections, and shall ensure the strict implementation of the requirements of the legislation. The obligation to ensure the participation of observers in the election process is also fixed in the acts of organizations such as the UN, OSCE, CIS. The participation of observers in the election process, while ensuring its transparency, allows political parties to obtain reliable information on how the voting process is going. Observation of the election process is assessed as a public-political function that party representatives have the right to perform.

Political parties have the right to appoint an observer for each polling station, which will ensure the observation of the polling

station[6]. Within five days of receiving an application from a political party that has appointed observers to precinct commissions, the district election commission shall issue a mandate for the observer. In our opinion, it would be expedient to include in the Election Code a rule that would allow parties to appoint two observers from each polling station in turn.

Since the election campaign is a special activity of state importance, the election legislation determines the procedural form of its implementation. This form is a system of electoral procedures and electoral actions established by the procedural norms of the Election Code. Electoral procedures are actions of legal significance, through which the subjects of electoral legal relations exercise their rights and perform the duties assigned to them.

The next stage of the election campaign is the election campaign. This is an important part of the election campaign, as this is where the election struggle culminates.

Campaigning, by its very nature, is an oral or printed campaign activity among the general public to disseminate the election programs and platforms of political parties, political goals and values, and to support candidates in order to attract voters. According to I.V. Vidrin, the election campaign is one of the most important and at the same time complex stages of the election campaign. It is an activity established by the electoral legislation aimed at forming a positive or negative image of a candidate among voters and encouraging them to vote for or against candidates[7].

Therefore, the main task of campaigning is to draw the attention of voters to a particular candidate or political party using legitimate methods and to campaign for or against it. The

Election Code of the Republic of Uzbekistan does not consider campaigning as an activity aimed at encouraging voters to vote for or against the party or candidate (Articles 44 and 45). Political parties have the right to campaign only for candidates nominated by the party.

At this point, we believe that the following points should be emphasized. Firstly, propaganda as an activity is always manifested in the performance of this or that action, so inaction is not recognized as propaganda. Secondly, such activity must take place in a specific period called the advocacy period. Thirdly, campaigning against candidates from another party (election rival) is recognized as legal in many countries (USA, Germany, Russia, Kazakhstan, etc.). The Code stipulates that the campaign period begins on the day following the last day set for the registration of candidates and ends one day before the voting day. According to some experts, the start of the election campaign for political parties should be determined by the time the required set of documents on the nomination of candidates is submitted to the relevant election commission[8].

The main rule of the election campaign is that it can be conducted only in the forms stipulated by law and only by legal means. Violation of this legal norms may not only have negative consequences for the candidate or political party, but may also result in administrative or criminal liability. The Election Code distinguishes between forms and methods of election campaigning. It directly lists the forms of propaganda, but does not directly specify the methods. In our view, the forms and methods of election campaigning are closely related concepts, but it is incorrect to call them the same. If the form of election campaigning is a means of its existence, then the method of campaigning describes practical guidelines, ways for its implementation[9]. Accordingly, it

is appropriate to describe the form of propaganda as a more general phenomenon than the method.

Undoubtedly, how to organize the election campaign is a key factor in winning the election. However, in the first elections to the bicameral parliament, candidates from political parties lacked experience, were not well versed in election technology, and some did not even fully understand the content of their party's election platform. This opinion is confirmed by the following views of Professor A.Tursunov: "Among the main problems of the candidates' behavior, it can be shown that they are not sufficiently prepared to address the public. Recent elections have shown that some candidates are not familiar with the content of the programs of political parties nominated by them"[10].

If we come to the calls to vote against the candidates, in our opinion, this is an expression of the freedom of election campaigning. After all, the purpose of election campaigning is to help voters form not only a positive attitude towards their candidate, a political party, but also a negative attitude towards the candidate of another party[11].

Campaigning is one of the most acute and controversial issues of suffrage. Today, the election campaign itself is causing a lot of objections from legal scholars. It is proposed to name the election campaign as "campaign for the nomination and support of the candidate", "campaign in the process of election", "pre-election campaign", "campaign in the election", "election campaign"[12]. However, in our opinion, the term "pre-election campaign" is the most acceptable and understandable category for all participants in the election process.

An important issue that requires scientific observation is the separation of the election campaign from other information activities carried out during the election campaign. Elections are an informative reality that encourages the activation of information dissemination, as voters form their positions about candidates, political parties and their programs on the basis of various data. The mass media widely cover the course of the election campaign, the course of the elections and the election campaign. Therefore, it is difficult to draw a line between the election campaign itself and the dissemination of election information[13]. All of these activities are described in terms of their purpose, content, and methods of providing information.

The current legislation (Article 35 of the Election Code) states: “Media representatives have the right to cover all events related to the preparation and conduct of elections, to be present at polling stations on election day, including during the counting of votes”. In our view, such information, if they are objective and impartial, will have the character of factual information, not propaganda.

In the 2019 parliamentary elections, 32 videos provided by the Central Election Commission were broadcast 7,200 times, and 35 videos prepared by the Uzbekkino National Agency were broadcast 3,000 times on all non-governmental TV channels. In general, according to the Agency of Information and Mass Communications of the Republic of Uzbekistan, during the election campaign, more than 42,000 speeches, including about 4,000 critical speeches on the election were recorded in the media and social networks[14].

Campaigning is, in essence, an outreach activity. However, the subject of propaganda is crucial here - only political parties and their

candidates can engage in this activity. At the same time, the information disseminated by them must be reliable, not mislead voters, and free from slander and insults.

In short, it should not violate the rights and freedoms of others.

An important feature of the election campaign is that it is conducted within the period and in the manner stipulated by law. For example, campaigning before the start of an election campaign is prohibited. Campaigning outside the election campaign is also illegal. In addition, “buying” voters during the election campaign is not allowed.

Campaigning in different ways, in different forms and using different means: through electronic and print media; through public events; distribution of election campaign materials and placement of outdoor advertising, as well as in other ways. For instance, debates, hotlines, and meetings with voters are common. It should be noted that the Code does not prohibit candidates from campaigning on the Internet, but does not clearly define the procedure for conducting it in this area. Initially, we believe that this gap should be filled, at least at the level of normative legal acts of the CEC. For example, given the current conditions of development of information and communication technologies, in our opinion, it is advisable to prohibit the use of propaganda techniques such as the spread of spam on the Internet.

An analysis of the provisions of the Election Code shows that the most important factor in ensuring the legitimacy of the election campaign is to ensure equal conditions for candidates and parties. Article 46 of the Code stipulates that the state media must be provided with equal conditions by providing the same amount of time and space free of

charge. This means that a media outlet or broadcasting organization has no right to refuse to provide any candidate or party who has applied in the first place with print space or paid time. Secondly, it must provide print or time on equal pay terms and in the same quality.

For instance, in the 2019 elections to the lower house of the country's parliament, in agreement with political parties, they were allocated the same amount of time and space in the media. In particular, party and candidates used 30 minutes five days a week on state television and 90 minutes on weekends to promote their programs through inter-party debates. It is noteworthy that this time coincided with the "prime time". The live debates were broadcast on 8 central and 12 regional TV and radio channels.

The National Association of Electronic Mass Media of Uzbekistan and more than 50 member TV and radio stations broadcast a total of more than 5,890 TV and radio campaign materials.

In total, a total of 141,952 campaign materials on political parties and their candidates were published in the media, on websites and on social networks.[15].

The next stage, which is important in terms of the activities of the subject of the electoral process, is voting. After all, the results of the vote objectively show that the goal of the candidate and the party has been achieved, as well as the results of the election campaign. In the process of determining the results of voting, parties and their candidates determine the effectiveness of their election activities.

While voting and announce of results is not a procedure carried out by candidates and parties, it should be noted that the

participation of party representatives and observers of candidates is important.

However, the election campaign does not end with the election campaign phase. The voting process, as well as its results, is very important. Here, election campaign participants (observers and authorized representatives of parties and candidates) observe the actions of election commissions, voting and the counting of votes. They must make sure that the requirements of the law are met and that the counting of votes is correct.

The above participants solve the following tasks: to protect the rights and legitimate interests of candidates and parties, to observe the voting procedure, to obtain preliminary information about the voting results, to identify violations of the law, to collect evidence that may contribute to the dispute.

All the mentioned participants of the election campaign have the right to observe. At the same time, they shall be given a real opportunity to vote, count the votes and observe the results of the voting. Observers have the right to inspect empty ballot boxes before voting begins.

Based on the analysis of the elections to the Oliy Majlis in 2019, we propose the following: Non-governmental non-profit organizations should be given the right to observe the elections. This, at the same time, would be one of the forms of exercising public control.

Part 2 of Article 2 of the Law of the Republic of Uzbekistan "On Public Control" contains the following provisions: The exercise of public control over the conduct of business and the execution of sentences shall be regulated by separate legislation". In our opinion, it is expedient to make appropriate changes to this paragraph on the introduction of a mechanism

for public control over the election process. At the same time, these changes should be reflected in the Election Code of the Republic of Uzbekistan.

In particular, according to the analysis of elections to the parliament in 2019, the Central Election Commission received complaints from political parties, candidates and observers that the district election commissions did not disclose the results of the elections in their constituencies.

We also believe that the Central Election Commission should create a single portal during the elections with the effective use of existing information and communication technologies. The portal contains all information about the election campaign, including the address and location of constituencies and precincts, election commissions, voter lists, observers, authorized representatives of political parties and the media, the participation of political parties in elections, candidates and their it is expedient to form a database on the registration of proxies, repeat voting, re-election, determination of results, announcement and financing of elections.

It would be a high recognition of public control for the portal to be posted on this portal with the full participation of all observers, with the relevant information, as well as a copy of the decision, attached to it after the precinct election commissions have fully counted the votes in the area.

As a result of the implementation of this proposal and the digitization of documents, the district and precinct election commissions will eliminate the practice of manual counting and the rapid exchange of information. As a result, the number of days required for the

vote count will be reduced and the election results will be announced to the public quickly.

Electoral commissions should use digital technology to facilitate the registration and mandating of observers, authorized representatives and the media.

Interested subjects should be allowed to exercise this right remotely.

Thus, the analysis of the norms of the Election Code allows us to draw the following conclusions. Political parties and their representatives (candidates, observers, etc.) have a very wide range of rights that allow them to fully observe the voting process, summarize its results and determine the election results.

The political parties that win the election have the opportunity to take seats in the representative bodies, their committees, commissions, factions. Political parties also have the right to participate in the formation of executive bodies and control over their activities.

Study of election legislation and relevant electoral practice show that all political parties operating in the country directly and actively participate in the formation of representative bodies of state power.

REFERENCES

1. Bekov I. Constitutional and legal basics for the participation of political parties in the formation of the Legislative Chamber of the Oliy Majlis //Journal of Critical Reviews. – 2020. – T. 7. – №. 11. – C. 1571-1577.
2. <https://saylov.uz/uploads/2021/07/20149.pdf>
3. Беков, И. 2021. How important is the electoral function of political parties in the

- election process: theoretical and legal views and national practice. *Society and Innovation*. 2, 2 (Apr. 2021), 151–162. DOI:<https://doi.org/10.47689/2181-1415-vol2-iss2-pp151-162>.
4. Беков И. Р. Сиёсий партиялар фракцияларининг парламентдаги ўрни: миллий ва хорижий тажриба // *Журнал правовых исследований*. – 2021. – т. 6. – №. 7.
 5. https://saylov.uz/uploads/89611269-de95-aa1f-a233-d6b6b77df5a8_docs_6411.pdf
 6. Unfortunately, the Election Code ignores the issue of the number of observers per party from one polling station (Articles 8 and 33). In practice, this leads to misunderstandings and disputes when placing observers at a polling station.
 7. Выдрин И.В. Избирательное право Российской Федерации. 3-е изд., перераб и доп. – М., 2009. – С.173; Он же: Муниципальное право России. Учебник. 4-е издание. Изд. Норма. – М., 2015. – С. 68.
 8. Аглеева Л.Т. Проблемы правового регулирования предвыборной агитации в свете изменений избирательного законодательства // *Конституционное и муниципальное право*. – 2015. – №7. – С.19.
 9. Зелинский Я.В. Формы и методы предвыборной агитации: проблемы идентификации // *Научный Вестник Омской академии МВД России*. – 2013. – №2. – С. 38.
 10. Турсунов А. Сайловларда иштирок этиш ва сайловолди ташвиқоти маданияти // *Ўзбекистон Республикаси Марказий сайлов комиссияси Ахборотномаси*. – Тошкент, 2004. - №4 (10). – Б. 25.
 11. Олькова О.Н. Участие политических партий в предвыборной агитации: проблемы правового регулирования // Пробелы в российском законодательстве. – 2009. – №1 – С.22.
 12. Предвыборная агитация: теория и практика / Отв. ред. Н.С. Бондарь.- М.: ОАО «Издательский дом «Городец»; «Формула права», 2004. - С. 23.
 13. Bekov , I. 2021. The fraction of a political party is an important subject of the legislative process. *Society and Innovation*. 2, 6/S (Jul. 2021), 292–301. DOI:<https://doi.org/10.47689/2181-1415-vol2-iss6/S-pp292-301>
 14. https://saylov.uz/uploads/89611269-de95-aa1f-a233-d6b6b77df5a8_docs_6411.pdf
 15. https://saylov.uz/uploads/89611269-de95-aa1f-a233-d6b6b77df5a8_docs_6411.pdf