

(Unofficial Translation)

ELECTION CODE OF CONDUCT

2072 (2015)

(First Amendment, 2016)



निर्वाचन आयोग, नेपाल
ELECTION COMMISSION, NEPAL



Foreword

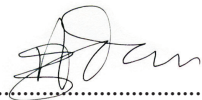
I am pleased to witness the publication of the Election Code of Conduct (published in Nepal Gazette on July 27, 2015) with amendment in both Nepali and English in the form of booklet framed by the Election Commission, Nepal based on wider consultation with the key electoral stakeholders. Election Commission had constituted a high-level Election Code of Conduct Drafting Committee meeting under convenorship of Election Commissioner and a Sub-Committee led by the Commission's Joint Secretary to initiate drafting of the model code of conduct in line with the international best practices and the lessons learnt from the past elections and CA Election 2008 and 2013.



An effective code of conduct is essential to conduct the election in a free, fair, impartial, transparent and credible manner. The Code of Conduct is a set of guidelines to be observed by political parties, candidates, voters and other key electoral stakeholders. There are 6 chapters and 18 Sections in this Code of Conduct which I believe will serve as a model code of conduct for all types of elections from local elections to parliamentary elections. This Election Code of Conduct sets codes for all the stakeholders such as political parties, government ministers, government employees, government bodies, non-governmental organizations, observers and etc.

I would like to extend my sincere gratitude to Former Chief Election Commissioner Mr. Neel Kantha Uprety, Former Acting Chief Election Commissioner Mr. Dolakh Bahadur Gurung, Honourable

Commissioner Ms. Ila Sharma, former Secretary Sharada Prasad Trital and Madhu Prasad Regmi, members of a high-level Election Code of Conduct Drafting Committee for their guidance and necessary support during the preparation of Election Code of Conduct 2015. I would also like to thank former Joint Secretary Ms. Lila Devi Gadtaula and all staff of the Law and Political Parties Related Division, Secretariat and DEOs staff for their cooperation in the drafting and publication of this Code of Conduct. I would also take this opportunity to express my sincere gratitude to the United Nations Development Programme, Electoral Support Project (UNDP/ESP) team for their technical and financial assistance and its donors (European Union, DFID, Denmark, and Norway) for their continued generous assistance in developing and publishing the Election Code of Conduct.



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Dr. Ayodhee Prasad Yadav
Chief Election Commissioner
Election Commission, Nepal

Regarding the Code of Conduct

If election is the foundation of democracy, free and fair election is a means to institutionalize it. Once we make it free and fair, people's participation in government system increases and legality of the state is enhanced. It is thus natural that election management body is seriously concerned about how election can be made free, fair, dignified and valued.



Election Code of Conduct aims to systematize and dignify the conducts of election stakeholders. This Code of Conduct is a standard to be followed by all concerned stakeholders, especially political parties, staff involved in election process, security forces and mass media, in various aspects of election. It is on this basis that election, which involves participation and interests of general people, can be made dignified and more valued.

Election Commission believes that all associated stakeholders follow this Code of Conduct with full commitment. Finally I would like to thank all - those who have offered invaluable suggestions in formulation of this Code of Conduct, the officials of political parties who have contributed to revise and improve this document, officials and staff of the Election Commission, and the friends from UNDP Electoral Support Project.

A handwritten signature in black ink, which appears to read 'Gopi Nath Mainali'. The signature is written in a cursive style and is positioned above a horizontal dotted line.

Gopi Nath Mainali

Secretary

Election Commission, Nepal



Preamble

Whereas, it is expedient for prescribing the Code of Conduct to be complied with by the concerned stakeholders to conduct the election by the Election Commission in a free, fair, impartial, transparent and reliable manner;

Now, therefore, the Commission has framed the following Code of Conduct after consulting with the stakeholders in exercise of the power conferred by Section 28 of the Election Commission Act, 2063 (2007).



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Chapter-1

Preliminary

1. Short Title and Commencement :

- (1) This Code of Conduct may be called “The Election Code of Conduct, 2015”.
- (2) This Code of Conduct shall come into force to the agencies for such a period as prescribed by the Commission.

2. Explanation: Unless the subject or context otherwise requires, in this Code:-

- (a) “Mass media” means the electronic and print media operated by the government, community and private sectors.
- (b) “Commission” means the Election Commission as referred to in * Article 245 of the Constitution of Nepal.
- (c) “Employees” means the employees of the Government of Nepal; and the term also includes the employees of public institution, agency, local *level which are fully or partially owned by the Government of Nepal as well as the teachers teaching in the universities and community schools and the employees thereof.
- (d) “Non- governmental Organisation” means the organisations registered with non-profit making objective pursuant to the prevailing laws and the term also includes the international non-governmental organisations operated after being affiliated with the concerned body of Nepal in accordance with the prevailing laws.
- (e) “Election” means an election required to be held by the Election Commission in accordance with the prevailing laws and the term also includes a referendum.

* Revised after first amendment

* Revised after first amendment

- (f) “Returning Officer” means Chief Returning Officer or Returning Officer appointed by the Commission pursuant to the prevailing laws.
- (g) “Observer” means the person authorized by the Commission for monitoring at the time of election and the term also includes the person deployed by domestic or foreign organisations permitted by the Commission.
- (h) “Voter” means a person whose name has been registered in the Electoral Rolls pursuant to the prevailing laws.
- (i) “Silence period” means a period from 48 hours before polling day till the closure of polling station on the day of polling.
- (j) “Political party” means a political party registered with the Commission in accordance with * Article 271 of the Constitution of Nepal.
- (k) “Concerned person” means a candidate or a person involved in the election campaign on behalf of the political parties and the term also includes the electoral representatives of the candidates or political parties or the members or workers of their sister organizations.
- (l) “Vehicle” means a vehicle plying with mechanical power and the term also includes cycle, rickshaw, cart and other such types of vehicles.
- (m) “Person holding a public post” means a person who is holding a post of responsibility or is entitled to exercise any public right or is required to fulfill duty in pursuance of the Constitution, prevailing laws or decisions or orders of the concerned body or authority and the term shall also mean an official or employee holding any post in a public institution.
- (n) “Public institution” means any institution prescribed as public institution pursuant to the prevailing laws.

* Revised after first amendment

3. Code of Conduct to be Applicable: This Code of Conduct shall be applicable to the following institutions, persons, bodies and authorities:

- (a) Candidates, political parties, sister organization of political parties or concerned persons;
- (b) Government of Nepal and Ministers of Government of Nepal;
- (c) Public institutions and local *level;
- (d) Mass media;
- (e) Non-governmental organizations;
- (f) Employees of the Government of Nepal, employees of local *level, persons and security personnel involved in election related functions;
- (g) Person holding a public post;
- (h) Observers;
- (i) Bodies, organizations and person to whom the Commission has prescribed that the Election Code of Conduct would be applicable.

Chapter- 2

Code of Conduct to be abided by Candidates, Political Parties and Concerned Persons

4. General Code of Conduct: The General Code of Conduct that is required to be abided by candidates, political parties and concerned person shall be as follows:-

- (a) Any activity shall not be conducted or cause to be conducted in a manner that incites hatred or enmity among religions, religious

* Revised after first amendment

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communities, castes, tribes, genders, languages, classes, regions or communities;

- (b) No criticism shall be made by causing harm to the private life of the candidates and members of political parties.

Provided that it shall not restrict to make criticism about policy and programmes of candidates or members of any political party and their acts carried out in the past;

- (c) No one shall solicit votes or carry out or cause to be carried out campaigning in a way that incites communal feelings;
- (d) No act shall be done or cause to be done or incitement shall be made to commit such acts that deem to be election related offences under the prevailing laws;
- (e) No resources and property of the Government of Nepal, public institutions, local level or any projects shall be used or cause to be used by the candidates or political parties to their interest or against the interest of others;
- (f) No cash and commodity shall be distributed or cause to be distributed; no party shall be held or cause to be held; and no alcohol shall be served or distributed or cause to be served or distributed to the voters;
- (g) No obstruction shall be created by any means against electoral rolls collection, voters education including other programmes conducted by the Commission and no any materials or information related to such programmes shall be defaced or altered;
- (h) No election related campaigning shall be made or cause to be made by using any convent, temple, monastery, mosque, church or any religious place;
- (i) No pamphlet shall, for the publicity of election related campaign,

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be pasted or written or shall cause to be pasted or written onto any religious, cultural, archaeological, historical places or any public location including buildings, monuments, walls, roads, pillars or structures of public institutions;

- (j) No political activities or campaigning shall be carried out or cause to be carried out into private houses and land without obtaining the consent of owners of such houses and land;
- (k) No election campaign shall be carried out or cause to be carried out by undermining the feelings or character of women;
- (l) No election campaign shall be carried out or cause to be carried out in a way that undermines the feelings of differently abled persons;
- (m) No children shall be used or cause to be used in election campaigns, mass meetings and rallies;
- (n) No any procession, mass meeting, rally, assembly, gathering or campaign shall be organized or cause to be organized at the time and place prohibited in accordance with prevailing laws;
- (o) No procession or mass meeting, rally, assembly, gathering or campaign shall be organised or cause to be organised by causing obstruction to public transportation; and
- (p) With regard to result of candidates or political parties, no poll survey or declaration of result thereof shall be made from the date of filing of candidacy till the announcement of the poll results.

5. Subject-wise Code of Conduct : The subject-wise code of conduct required to be abided by the candidates, political parties and concerned persons are as follows:-

- (a) **Code of conduct that are required to be complied with while organizing procession, mass meeting, rally, assembly and gathering:**

- (1) Procession and mass meeting shall be organised in such a decent manner that does not violate the rights relating to freedom of the citizens or individuals and no protest or demonstration shall be carried out or cause to be carried out while making objection against the conviction of anybody else in the periphery of his/her house;
- (2) Candidates and political parties shall not organize or cause to be organized any procession, mass meeting, rally, assembly or gathering at public places without obtaining permission of the local administration;
- (3) Before organizing or causing to be organized processions, mass meetings, rallies, assembly or gathering, the candidates or political parties shall inform the local administration and police about the time, date, route and place thereof at least 48 hours earlier for security arrangements;
- (4) The candidates or the political parties shall not use or cause to be used the banner or flag larger than the size of 3'x 5' in the vehicles used after taking permission from the authorized officials;
- (5) The candidates shall not use or cause to be used the poster larger than the size of 3'x 3' in the vehicles used after taking permission from the authorized officials;
- (6) Persons taking part in a procession or mass meeting shall not carry a flag larger than the size of 10"x18";
- (7) No any types of disturbance and obstruction shall be caused to a procession, mass meeting, rally, assembly, gathering or election programmes organized by the candidates or political parties;
- (8) More than one candidate and political party shall not organize or cause to be organized any procession, mass meeting, rally, assembly or gathering at the same place or route at the same time;

- (9) Any materials prohibited by the prevailing laws or local administration shall not be demonstrated or used in a procession, mass meeting, rally, assembly or gathering;
- (10) The programmes of procession, mass meeting, rally, assembly, gathering or campaign shall be organized only between 8 am to 7 pm.;
- (11) No procession, mass meeting, rally, assembly or gathering shall be organized, nor shall any slogan be shouted or any flag, election symbol or any campaigning materials of the political parties or the associations affiliated with such political parties shall be used or exhibited or cause to be used or exhibited from 48 hours before polling day till the announcement of result;
- (12) No mike and loudspeakers or other noise producing equipment shall be used in the place and time other than that of mass meeting;
- (13) No rallies of motor cycle and vehicles such as cycles, rickshaw, walking cart, horsecart and bullock carts used for transportation of people or goods shall be allowed or cause to be allowed in the process of election campaign.

(b) Code of conduct to be followed while using vehicles:-

- (1) For the purpose of election campaign, a candidate contesting first-past-the-post election may use a maximum of two light four-wheeler vehicles in one constituency or a maximum of four horses can be used in the place where such vehicles cannot be operated;
- (2) For the purpose of election campaign, political parties shall, on their behalf, submit the names of two main campaigners to the Commission. Only the main campaigner permitted by the Election Commission can use helicopter and the election campaign shall be allowed on the condition that the details of expenditure incurred against the use of such helicopter shall

be included in the election expenditure to be submitted by the concerned political party;

- (3) A transport vehicle approved or used in the name of one candidate or political party shall not be used or cause to be used by another candidate or political party;
- (4) In one district, political parties may, with the permission of Returning Officer, use two light four-wheeler vehicles or a maximum of four horses where such vehicles cannot be operated;
- (5) For the purpose of election campaign of any post of local *level, the candidates or political parties shall only use such number and types of vehicles as prescribed by the Commission.

(c) Code of conduct concerning election expenditure:

- (1) Candidates or political parties shall, for the purpose of election expenditure, open separate accounts in a bank or financial institution and carry out all election related transactions through such accounts;
- (2) Amounts shall be expended from the accounts opened in a bank or financial institution for meeting election expenditure pursuant to the Statute in the case of political parties and by the candidates themselves or through their authorized agents in the case of candidates;
- (3) Candidates or political parties shall not spend beyond the limit fixed by the Commission.
- (4) Operation of the accounts opened in a bank or financial institution for the purpose of election and the transaction thereof shall be transparent;
- (5) Candidates or political parties shall receive donation through

* Revised after first amendment

a bank or financial institution if the amount is more than Rs 5000;

- (6) Candidates or political parties shall give receipt or voucher to donor giving person or institution if the donation is received in the form of cash.
- (7) Candidates or political parties shall compulsorily maintain the bills and receipt of the expenditure;
- (8) Candidates or political parties shall furnish all the details of election expenditure to the District Election Office or the Commission within the timeframe as specified in the prevailing law in such a format as prescribed by the Commission;
- (9) In case the Commission deems unsatisfactory the details of election expenditure submitted by candidates or political parties and orders to submit bills, receipts and the statements of accounts maintained in a bank or financial institution, the concerned candidates or the political parties shall submit the original bills, receipts and the statements of accounts of a bank or financial institution accordingly.

(d) Code of conduct to be followed during silence period:

- (1) Election publicity campaign or soliciting votes shall not be allowed;
- (2) Respective election symbols and election campaign materials kept within the periphery of 300 meters of the polling centres shall be removed before the silence period begins;
- (3) No votes shall be solicited and election campaign shall be conducted through social network with the use of electronic means such as S.M.S., facebook and viber;
- (4) Symbolic materials such as clothes, cap, sticker, logo, bag and tattoos that contain the election symbol of any candidate or political party shall not be allowed or cause to be allowed to

use, sell or display;

- (5) No any news or notice shall be published or aired in a way that propagates the campaigning of any candidate or political party.

(e) Code of conduct to be followed on the day of polling:

- (1) Voters shall be allowed to exercise their voting rights in a peaceful manner;
- (2) Supports shall be extended to employees and security personnel deputed for polling;
- (3) Political parties or agents of candidates based in polling centres shall only use clothes, indentivity cards and badges not containing election symbol or indication;
- (4) No transportation of any person or their movement is allowed with the use of any types of transport vehicles;

Provided that such transport vehicles as prescribed by the polling officers may be used for the vorters who are physically unable or cannot walk around.

- (5) No any person other than the candidates, voters, persons permitted under the prevailing laws, persons or officials authorised by the Commission shall enter the polling centre;
- (6) No any act shall be carried out or cause to be carried out with the aim of preventing the voters from going for polling or depriving them from casting their votes;

(f) Other code of conduct:

- (1) For the purpose of election, only the pamphlet having the weight up to 75 grams of paper and the total size up to 300 square inches in a single colour with the name of the publisher shall be used;

- (2) Candidates shall submit their family and property details to concerned Returning Officer while filing their candidacy.

Chapter-3

Code of Conduct to be followed by Government of Nepal, Local Bodies and Public Institutions

6. Not to be involved in election campaign: The Ministers of Government of Nepal or persons holding public post shall not engage in election campaign in favour of or against any candidate or political party.

Notwithstanding anything contained in the above Section, a minister contesting the election shall not be prohibited from engaging in election campaign in his/her constituency.

7. No new programs shall be launched:

- (1) The Government of Nepal, public institutions and local ^{*}level shall not declare, approve and operate any new policy, plan and programme or mobilize or cause to be mobilized human resource and other resources and means other than those incorporated in the annual budget and programme.
- (2) The Government of Nepal, public institutions and local ^{*}level shall not undertake or cause to be undertaken the programmes, such as, laying the foundation stone of any project or inaugurating such project, conducting survey or research or providing grant for such purposes.

Notwithstanding anything contained in the above Section, such programmes may be carried out in case of natural disaster or in any other circumstance beyond human control after obtaining

* Revised after first amendment

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a permission from the Commission or the authority designated by the Commission.

8. Buildings, vehicles or other resources not to be used: Candidates, political parties, sister organizations of political parties or the concerned person shall not use the buildings, guest houses, city halls, vehicles or other resources of Government of Nepal, public institutions or local ^{*}level.

Chapter- 4

Codes Concerning Employees

9. New posts and vacancies not to be created, facilities not to be increased and awards not to be given: No new position shall be created in the entities of the Government of Nepal, public institutions and local ^{*}level, advertisement be made, vacant position be filled, allowance be increased, grade and other economic facilities be provided or awards be given.

However, this Section shall not be deemed to bar the regular recruitment actions to be conducted by Public Service Commission and Judicial Service Commission.

10. Not to be transferred, promoted or deputed:

(1) Employees shall not be transferred, promoted or deputed except for election purposes.

Provided that regular promotions and postings may be made as per the prevailing laws.

(2) Notwithstanding anything contained in Sub-section (1), employees may be transferred or sent on deputation if

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the Commission gives permission for the same in special circumstances where the concerned constitutional body or the ministry makes a request to the Commission by revealing the necessity and propriety thereof.

11. To be neutral and impartial: Employees and security personnel deployed in the election shall maintain neutrality and impartiality while discharging their duties.

12. Not to embark on foreign tours: Employees of the Government of Nepal, persons holding public post or employees of the local level shall not embark on a foreign tour during the election period for any purpose other than representing the country.

However, in the event the concerned constitutional body or ministry make a request for deploying any employee in a foreign tour by revealing the necessity and propriety thereof, and if the Commission deems it appropriate and provides approval therefor, the employees may be deployed in foreign tours.

13. Responsibilities relating to election not to be entrusted:

- (1) Any person holding public post or an employee, against whom a recommendation for any action was made by the Commission in the past or who was convicted of election-related offence by any court, shall not be entrusted with any responsibility relating to election.
- (2) The Commission shall not entrust any election-related responsibility to any officer or member of the sister organizations affiliated with any political party.

* Revised after first amendment

Chapter- 5

Code of Conduct to be followed by Mass Media, Non-Governmental Organizations and Observers

14. Code of Conduct to be followed by Mass Media: The mass media shall abide by the followings code of conduct:-

- (a) Giving high priority to the election related educational news and information;
- (b) Disseminating information or news based on facts in a non-biased manner;
- (c) Not to carry out any work or action contrary to professional ethics and norms;
- (d) Publishing, broadcasting or disseminating information or news in a manner that does not cause disruption to the relation and harmony among different ethnicities, communities, sex, religion, language and regions;
- (e) Giving equal opportunities to political parties and candidates;
- (f) Not to carry out or cause to be carried out the publication, broadcasting or dissemination of free or sponsored advertisements for election campaign of candidate or political party;
- (g) Publishing, broadcasting or disseminating election related advertisements relating to the candidate or political party without exceeding the time period specified by the Commission and denoting paid advertisement;

However, no such advertisements shall be published, broadcasted or disseminated during the silence period.
- (h) Maintaining updated record of the date and time of every election related information or advertisement of candidate or political party published, broadcasted or disseminated;

- (i) Publishing, broadcasting or disseminating election and voter education and other materials on proportional basis covering all the locally used languages;
- (j) Not to publish, broadcast or disseminate the baseless information in favor of or against candidate or political party on electronically used social networks such as S.M.S., Facebook, Twitter, and Viber.

(15) Code of Conduct to be followed by Non-Governmental

Organization: Non-Governmental organization, official or employees of such organization shall abide by the following code of conduct:-

- (a) Not to carry out or cause to be carried out any acts in favor of or against candidate or political party such as formulating new policy, programmes, inaugurating or laying foundation-stone;
- (b) Not to carry out or cause to be carried out the campaigning of candidate or political party.

(16) Code of Conduct to be followed by Observers: The observers engaged in election observation shall abide by the following code of conduct:-

- (a) Respecting different ethnicities, communities, sexes, religions, languages, regions and cultures;
- (b) Observing elections in a neutral, impartial and credible manner;
- (c) Not to carry out any work hampering the election;
- (d) Displaying one's identity during election observation;
- (e) Not to make any comment publicly or through mass media in support of or against any candidate or political party;
- (f) Conducting observation only in the permitted areas;
- (g) Preparing report on an impartial and factual basis;

- (h) Not to accept gift or exchange any other goods from/with candidate, political party, employee or other person.

Chapter-6

Miscellaneous

17. Monitoring Mechanism:

- (1) The Commission shall construct a Monitoring Mechanism in accordance with Section 29 of the Election Commission Act, 2063 (2007) to implement the Election Code of Conduct.
- (2) The functions, duties and powers of the Monitoring Mechanism constructed pursuant to Sub-Section (1) shall be as specified by the Commission.

(18) Proceedings and Punishment: If anybody violates this code of conduct, action shall be taken and punishment shall be imposed pursuant to the Election Commission Act, 2063 (2007).

* Revised after first amendment