

The Code of Conduct on Election to Members of the Constituent Assembly, 2064

Whereas, it is expedient to regulate the conduct of all concerned stakeholders for the purpose of organising the election to the members of the Constituent Assembly in a fair, impartial, transparent and reliable manner.

Now, therefore, in exercise of the powers conferred by section 28 of the Election Commission Act, 2063 (2007), the Commission has, in consultation with the concerned stakeholders, framed this Code of Conduct.

Chapter-1

Preliminary

1. Short title and commencement:

- (1) This Code of Conduct may be cited as the “Code of Conduct on Election to Member of the Constituent Assembly, 2064 (2007)”.
- (2) This Code of Conduct shall commence on such date as may be appointed by the Election Commission by publishing a notice in the Nepal Gazette.

2. Parties to which the Code of Conduct applies:

This Code of Conduct shall apply to the following persons, organizations or bodies, and it shall be the duty of such persons, organizations or bodies to observe this Code of Conduct:

- (a) Political parties and candidates,
- (b) Persons related with political parties and candidates,

Clarification: For the purpose of this Code of Conduct, persons related with "political parties and candidates" mean any individual who is engaged in election campaign in any capacity on behalf of any political party or candidate.

- (c) The Government of Nepal,
- (d) Governmental and semi-governmental bodies, and local bodies,
- (e) Mass media at the governmental, semi governmental and private sectors,
- (f) Employees of governmental and semi-governmental bodies, and local bodies, and employees engaged in the act of election and volunteers assigned by Election Commission for election related work.

Chapter-2

Conduct to be Observed by Political Parties and Candidates

The political parties, candidates and persons related with them shall, while conducting, or causing to be conducted, election campaigning or canvassing, observe or cause to be observed, the following conducts:

Publicity Campaign

3. Canvassing shall not be made, or caused to be made, in such a manner as to undermine the independency, national integrity and sovereignty of Nepal, prejudice the state authority vested in the people or competitive multi-party democracy, human rights and system of independent judiciary.
4. Canvassing shall not be made, or caused to be made, in such a manner as to create hatred or enmity on the basis of any religion, faith, caste, ethnicity, gender, language, community or region.
5. The language used in election canvassing shall be decent and dignified.
6. No plastic materials shall be used in course of election publicity campaign.
7. In the course of propagation, only pamphlets, with a maximum size of 180 square inches on the paper of up to 75 grams in maximum shall be allowed to be used. Such pamphlets shall have to be printed only in one colour, and every pamphlet has to bear the name and address of the printer, compulsorily.
8. In the course of election canvassing, posting or distribution of posters, making wall painting and using, or causing to be used cloth banners and badges are prohibited.
9. No one shall paste any kind of posters on wall or fence of any religious, archaeological or historical buildings, monuments, governmental or public places.
10. No one shall paste any posters or pamphlets in any one's private house, compound, shop, wall or similar other places without the consent of the house-owner.
11. No pamphlet or election symbol affixed for the purpose of election publicity campaign shall be removed, torn, or got one's poster posted thereon by any one representing another political party or candidate.
12. In course of election publicity campaign, no one shall carry or burn the effigy of any other person.
13. In course of election publicity campaign, carrying of arms and weapons or explosives, or display or use of chemical or poisonous materials, or sticks, spears, Khukuris and the likes of sharp and dangerous nature is prohibited.

14. The vehicles, other resources and property of Government of Nepal, or of agencies owned or controlled by Government of Nepal, or belonging to local agencies or any project shall not be used or cause to be used in election publicity campaign of any political party or candidate.

Processing and Mass Meeting:

15. No procession or mass meeting shall be held or caused to be held in such manner as to obstruct public movement.
16. No political party or candidate or their supporters shall disturb or obstruct any procession or mass meeting organised by another party or candidate.
17. The persons taking part in any procession in the course of election canvassing or propagation may carry at their hands flags up to the size of 10"x 18" in maximum.

Provided that flags of larger size can also be used in the vehicles used in election publicity and the venue of mass meeting.

18. No procession, rally, mass meeting or other program of canvassing shall be organized or caused to be organized at such place and time as may be prohibited under the laws in force by the Government of Nepal or local administration for the purposes of public security and interest.
19. Processions, rallies, mass meetings and other programs of canvassing shall not be allowed to be held at other times except from 7.00 a.m. to 7.00 p.m.
20. Procession or mass meeting shall be held only after giving 24 hour prior information to the local administration specifying the time, date, route and venue of such programs. The route so fixed shall not be changed without permission of the local administration.
21. No two or more than two political parties or candidates shall organize a procession, mass meeting or rally at the same time, venue and route. In consonance with the consent given by the local administration for this purpose, the concerned political party or candidate shall organize such procession, mass meeting or rally.
22. No torch carrying procession and armed procession of any type shall be organized and held.
23. No children shall be engaged in the holding of any type of procession, mass meeting or rally or in any election-related publicity campaign.
24. No one shall organize processions, chant slogans or exhibit the flag of a party or an association associated with that party or election symbol or any material in a manner to canvass election or propagate, or cause to be propagated, in any other manner for a period commencing from 48 hours prior to the day of polling till the completion of the polling.

25. Making or use of loudspeakers shall not be permitted for election publicity except for mass meeting and informing the public about such meeting in a manner that does not adversely affect the public interest.

Use of Means of Transport:

26. No expensive means of transport such as aircraft and helicopter shall be used, or caused to be used, for the canvassing of election.
27. A candidate shall be allowed to use only one light motor vehicle in an election constituency for the canvassing of election.

Provided that a maximum of two horses can be used in a district where such motor vehicle cannot ply.

28. A political party shall be allowed to use a maximum of two light motor vehicles in a district in the course of canvassing election.
29. Each political party or candidate shall give a written description of the motor vehicle being used in the course of election.
30. No person shall convey or cause to convey voters by aircraft, helicopter, bus, truck, jeep or any other means of transport on the day for polling.

Undue Influence and Obstruction:

31. No person shall distract any employee associated with election and the security personnel from responsibility to maintain peace and security from his or her duties by way of showing or exercising any kind of fear, terror, threat or force or showing gratification.
32. No person shall compel, or cause to compel, voters to vote or refrain from voting against their will, by committing such acts as using fear, threat or terror or intimidation or gratification or getting them to swear.
33. No person shall stop, detain or block any candidate from canvassing for election by committing such acts as using or showing fear, threat or terror or intimidation or force nor shall do, or cause to be done, any act in such a manner as to cause direct or indirect impact in the election.
34. No person shall do, or cause to be done, any act in such a manner as to disturb the election or create hatred toward election or create confusion or cause obstruction to election.
35. If any person or group obstructs a canvassing program organized by any political party or candidate, such party or candidate shall make a verbal request or an application to the local administration to take action against such person or group in accordance with the law. No political party, candidate, activist or supporter shall, on their own, take any kind of action against such person or group.

36. No obstruction or blockade of any kind shall be held, or caused to be held, with the object of preventing voters from voting.
37. No political party or candidate or their agent or worker or person shall capture or seize a polling station by using force or showing fear, intimidating or threatening or offering gratification nor shall forcefully snatch or take away, deface or destroy ballot papers or ballot boxes or voting materials.
38. No cash or goods or any kind of gift shall be exchanged with a view to influence the voter.
39. No feast and partying of any kind shall be held with a view to influence the voters and no election publicity shall be organised under the influence of intoxicants.

Obligation and Liability

40. While criticising any political party or candidate, focus should be only on policies and programs of that party or candidate.
41. Party workers and supporters should be made fully aware of election Code of Conduct and should be required to observe the same. Concern parties or candidates should take liability for violation of code of conduct done by their workers or supporters.
42. In course of election, observe and encourage others to observe electoral laws, regulations, orders and directives.
43. No election publicity materials may be pasted or displayed or painted at the polling centre and areas surrounding it. If any such publicity materials are pasted or displayed, the concerned political party or candidate shall remove them before the voting begins.

However it shall not be deemed to prohibit the posting and display of voters' awareness promotion materials provided by Election Commission.

44. On the polling day, no one shall wear or use a particular kind of dress, uniform, cap, sticker, logo, bag etc. that bears election symbol of a political party or candidate.
45. No one shall damage, destroy, deface or alter in any way the publicity materials and notification distribution by Election Commission to promote voters' education.

Chapter-3

Conduct to be observed by the Government of Nepal and Governmental and Semi-Governmental Offices and Employees

Government of Nepal, Governmental and Semi-governmental offices and Employees shall observe the following conduct:

46. The Government of Nepal, body owned or controlled by the Government of Nepal or local body shall neither declare new policies, plans and programs nor implement them nor mobilize, or cause to be mobilized, human resources and other means and resources for the implementation of such policies, plans and programs.

However it shall not be deemed to prohibit implementation or operation or continuation of plans approved prior to the enforcement of this Code of Conduct.

47. The Government of Nepal, body owned or controlled by the Government of Nepal or local body shall not do, or cause to be done, acts such as laying foundation stone of, or inaugurating, any plan, accepting, starting, surveying, studying, or providing grants to, a new plan or program.

However, when owing to the occurrence of an event beyond control due to natural calamity, it becomes necessary to render assistance on humanitarian ground; nothing shall be deemed to prevent the providing of such assistance.

48. While in a visit or inspection in the course of discharging a governmental business or engaging in any other governmental business, no Minister of the Government of Nepal or persons holding political appointment shall engage in the canvassing of election.

However, this shall not be deemed to prohibit expressing some opinion regarding Constituent Assembly other than to engage in publicity campaign motivated by party interests.

49. No Minister or Member of Parliament-legislature shall enter into a polling station except for the purpose of casting vote.

50. No Minister, political office-bearer or his or her adviser enjoying the facility of government resources shall use, or cause to be used, any governmental means, resources and facilities in the act of election canvassing.

However, keeping in mind the responsibility of the post of Prime Minister and security concerns surrounding it, this restriction shall not apply on the transport vehicles being used for his/her travels. In that vehicle, those people who are involved in election canvassing should not be involved.

51. The Government of Nepal or any competent authority shall not use, or cause to be used, any employees of the Government of Nepal and body owned or controlled by the Government of Nepal or local body for canvassing in favour of any political party or candidate or in such act as may affect the results of the election.
52. The Government of Nepal and body owned or controlled by the Government of Nepal or local body shall not allow their buildings, guest houses, meadows, conference halls or similar other means and facilities to be used by any political party or candidate and person engaged in an election canvassing for any political party or candidate.
53. The Government of Nepal, office in-charge or employee of a body owned or controlled by the Government of Nepal or local body shall not provide any governmental means and resources for canvassing in favor of any political party or candidate.
54. No employee in service in any governmental, semi-governmental and local body, teacher of a community school and security personnel shall be transferred, deputed, promoted or appointed to any vacancy other than election work.
55. There shall neither be created a new post nor salary and allowances be increased nor grade, prize or similar other facility and concession be provided.
56. No employee who, upon being appointed as a returning officer, has served in that capacity shall be transferred prior to fifteen days after the declaration of the election results.
57. The local administration shall make provision to prohibit sale, distribution and consumption of liquors for three days prior to the polling day until three days after that day. Similarly, from the date of filing of nomination by candidates until the declaration of election results, arrangement shall be made for prohibition of sale of intoxicants from 8 pm.
58. Every employee and security personnel involved in election shall perform his or her duties in an impartial and neutral manner without being engaged in favour or against any political party or candidate.
59. No returning officer, polling officer or other officer, employee or official or security personnel deputed at any polling station or observer deputed by the Commission shall, in the course of performing any act of election, perform, or cause to be performed, any act in favour of or against any candidate in an election, except the act of giving his or her vote for any candidate pursuant to laws.
60. After the publication of election schedule until the completion of electoral process, no foreign visit shall be allowed for other purposes from Government of Nepal or any governmental as well as semi-governmental or local bodies except for governmental delegation visiting abroad representing the country.

Chapter-4

Code of Conduct to be observed by Mass Media

The governmental, semi-governmental and private sector mass media (audio, visual and printing) shall, subject to the following basic principles, conduct, or cause to be conducted, election canvassing related programs as follows:

Basic principles:

61. Focus shall be on the dissemination of detailed, true and unbiased information in the context of protecting the right of voters to express their vote freely.
62. High priority shall be accorded to the dissemination of news related to promoting public awareness about election.

Dissemination of true, impartial and balanced news

63. Information and news relating to election shall be disseminated properly without being biased.
64. All necessary information and news relating to election shall not be hidden or suppressed or prevented from being disseminated.
65. Electoral news and information shall not be published or broadcast in such a way that confuses the general public.
66. All subjects reflecting the concern of the general public shall, as far as possible, be included in the information and news. If any person causes obstruction or hindrance in the collection and dissemination of such information, that matter shall also be disseminated.
67. News concerning political parties or candidates shall be disseminated without bias. While disseminating news, no special treatment shall be accorded to a leader of political party, or candidate or ruling party.

Conduct of mass media

68. In course of election publicity and canvassing, no undue benefits from anyone shall be accepted, nor shall anything be done that is against professional ethics and norms.
69. Use of language that suggests discrimination or incites violence in any way, or that may adversely affect the goodwill among Dalits, oppressed caste/ethnic indigenous groups, backward regions, Madhesis including gender, linguistic, religious and political or other groups shall not be permitted.

70. The mass media shall play conducive role to encourage the participation of the marginalised groups such as women, Dalits, oppressed caste/ethnic groups, Madhesi and others in the election and launch public awareness programs.

Duty to make correction

71. If any error and misinterpretation has been detected in already published and disseminated materials, high priority shall be given by the concerned media house to carry out the correction on the report.

Free air time

72. The broadcasting services shall provide free air time set forth in Section 73 to any political party taking part in the election under the proportional electoral system in proportion to the total candidates fielded by it, for the purpose of canvassing.
73. While providing free time as mentioned in Section 72, it shall be divided into a total of three phases and radio and television time shall be provided to a political party in proportion to the candidates fielded by that political party. While providing such time, in the first phase, 5-20 minutes of radio time, in proportion to the candidates fielded by a political party, shall be given to that political party for making public the manifesto of that political party; in the second phase 2-5 minutes for election canvassing through television, and in the third phase, one minute each, prior to the commencement of the silent period as referred to in Section 74, shall be given to each political party for making final submission for vote on television. While so providing the time to political parties for election canvassing, the concerned political parties shall prepare materials to be broadcast in the phases mentioned above and provide such materials to the concerned broadcasting service.

Tacit Period

74. No communication media shall carry any kind of election related publicity materials, political message or propagation of election campaign 48 hours prior to the polling day and such tacit period shall extend until the last polling centre is closed.

However, this shall not impede the communication of information provided by Election Commission.

Governmental mass media

75. The governmental publication or broadcasting agencies shall not write or broadcast editorials in favour or against any political party or candidate.
76. The governmental mass media shall, based on clear and reasonable grounds, provide opportunity to political parties or candidates to express their opinions, policies and programs amongst the voters.
77. The governmental mass media shall give priority to publish and broadcast materials relating to voter education.

Maintenance of records

78. The mass media or their representatives shall safely retain any information relating to the election to the members of the Constituent Assembly which has been published or broadcast or disseminated until 35 days after such publication or broadcasting.

Monitoring:

79. The Election Commission shall regularly monitor information materials published and broadcast by different communication media in course of conducting electoral publicity campaign. the Election Commission may issue directives to the concerned media to correct matters that constitute violation of election Code of Conduct if such a case is detected in course of monitoring. It shall be the duty of the concerned media to observe the directives of the Election Commission.

Chapter-5

Provision Relating to Election Expenses

Each political party or candidate shall have to observe, or cause to be observed, the following conduct in regard to the expenses to be made in launching election campaigns:

80. The maximum ceiling of election expenses shall be as stated in Schedule-1.
81. A candidate for election under first-past-the-post electoral system shall, while making expenses in the act relating to the election, make such expenses within the ceiling specified in Schedule-1 and submit the statements of election expenses to the District Election Office of the concerned district, in the format as referred to in Schedule-2, no later than thirty five days after the date of declaration of election results.
82. A political party taking part in election to be held under the proportional electoral system shall, while making expenses in the act relating to the election, make such expenses within the ceiling specified in Schedule-1 and submit the statements of election expenses to the District Election Office of the concerned district, in the format as referred to in Schedule-3, no later than thirty five days after the date of declaration of final election results.
83. Every candidate shall have to make expenses only by himself or herself or through his or her agent.
84. While submitting the statements of election expenses, a candidate shall also show expenses, if any, incurred by his or her political party or from other sources.
85. Every political party shall maintain statements of expenses in a manner to reflect distinctly the expenses incurred by it in relation to each of its candidates and provide such statements to the Commission within 35 days after the date of declaration of final results.

Chapter-6

Implementation and Monitoring

86. The Commission shall make appropriate mechanism as required, and inquire into and monitor as to whether the Code of Conduct has been abided by or not.
87. A political party or candidate or any person may make an application to the District Election Office or Office of Returning Officer or monitoring team or Election Commission, either verbally or through electronic means of communication or in the format referred to in Schedule 4, in relation to the violation of the Code of Conduct.
88. Upon receipt of an application in relation to the violation of the Code of Conduct, the District Election Office or Office of Returning Officer shall write to the local administration or police for the prevention thereof and give information thereof to the Election Commission.
89. If, in the course of carrying out inquiry or monitoring in relation to the observance of the Code of Conduct, it appears that any one has not abided by or has violated the Code of Conduct, the Commission may order the concerned political party, candidate, person, organization, official or body to stop or invalidate such act immediately.
90. If the Code of Conduct appears or is found to have been violated, with the help of local administration or police the returning officer or district polling officer or monitoring team shall take necessary action immediately to prevent such violation.
91. If the Code of Conduct appears, or is learnt or heard, to have been violated, the concerned returning officer or polling officer or monitoring team shall have to prevent such act immediately. For this purpose, assistance may be taken from the local administration and local police as per necessity; and it shall be the duty of the local administration and local police to provide such assistance.
92. The Returning Officer and District Election Office shall give information on the action related with the violations of the Code of Conduct to the Election Commission immediately.
93. If any political party or candidate including others who must observe the Code of Conduct do not abide by the Code of Conduct, the Election Commission shall give information thereof to the general public through media.
94. If any employee violates the Code of Conduct, the returning officer or the polling officer shall write to the Election Commission directly or through the district election officer for necessary action.

Chapter - 7

Miscellaneous

95. Prohibition on Opinion Survey: Beginning from the date of filing of nomination papers by candidates till the completion of polling work, no one shall publish or cause to publish the results of opinion survey conducted in a way to directly influence the election results of any political party or candidate. Similarly, results of opinion surveys held earlier are also not allowed to be declared until the completion of polling work.
96. Publication of Monitoring Reports: If monitoring work conducted by the Election Commission to ascertain whether the Code of Conduct has been observed or not shows violation of this Code of Conduct, the Commission shall publish the report about it for public information.
97. NGOs too must Honour the Code of Conduct: It shall be the duty of non-governmental organisation (NGOs) to make contributions from their respective sectors to make the electoral process fair and impartial. A separate procedure shall be issued regarding the conduct to be observed by NGOs.
98. Saving Clause: While implementing this Code of Conduct, if any hindrance is experienced including implementation of the Comprehensive Peace Agreement, the Election Commission may resolve such hindrance promulgating necessary order.

Note: Provision of Punishment:

1. If anyone is found violating the Code of Conduct, the Election Commission shall order the concerned party to desist from that act, and the person or body not desisting from such act may be fined up to Rs. one hundred thousand; and if the Commission is convinced that the election cannot be held in free, fair and impartial manner because of the violation of the Code of Conduct, the Commission may cancel the candidacy of such candidates. (Election Commission Act, 2006, Article 29)
2. If someone is found to have spent more than the maximum ceiling of expenses fixed by the Election Commission for polling expenses or not to have submitted the statement of expenses, the Commission may fine such person the amount whichever is higher between the expenses incurred by the candidate or the maximum permissible limit fixed by the Commission for electoral expenses; and if someone is found to have incurred expenses in an improper way on the basis of the auditor's report, the Commission may decide to impose on such person the punishment of disqualification from being a candidate in any election for up to six years to be effective immediately, and in case when such decision is made and the person is found to have been elected, his/her election shall be void automatically. (Election Commission Act, 2006, Article 31)

Schedule-1
(Relating to Section 80)
Ceiling of election expenses

(a) **The upper ceiling of the election expenses for candidates contesting election under the first-past-the-post electoral system:**

SN	Heading of expenses	Limit of Expenses in Rs.
1.	Purchase of electoral rolls	1,500/-
2.	Motor vehicle-one/horse-two	60,000/-
3.	Motor vehicle fuel/feed	48,000/-
4.	Loudspeaker	40,000/-
5.	Pamphlet printing	75,000/-
6.	Transportation	10,000/-
7.	Mass meetings/symposia	75,000/-
8.	Other canvassing (print & electronic media)	25,000/-
9.	Office operation	30,000/-
10.	Activist mobilisation	50,000/-
11.	Booth expenses	25,000/-
12.	Miscellaneous	20,000/-
	Total	459,500/-

(b) **The upper ceiling of the election expenses for political parties contesting election under proportional system:**

Under proportional system of election, a political party may incur expenses of up to Rs. 50,000/- per candidate according to the number of candidates included in the closed list it has submitted.

Schedule-2
(Relating to Section 81)
Statement of Election Expenses

To,
The District Election Office,
----- district.

As I Mr./Mrs./Miss ----- have become a candidate in constituency number-----, -----district, for the election of the Members of the Constituent Assembly, I have, pursuant to sub-section (4) of Section 69 of the Act Relating to Election of the Members of the Constituent Assembly, 2007 and Section 81 of the Code of Conduct on Election of the Members of the Constituent Assembly, 2007, presented the statements of all expenses incurred by me/the said candidate in the election. The statements of election expenses are as follows:

S.N.	Heading of expenses	Work, quantity	Amount of expenses	Remarks
1.	Purchase of electoral rolls			
2.	Motor vehicle/horse			
3.	Motor vehicle fuel/feed			
4.	Loudspeaker			
5.	Pamphlet printing			
6.	Transportation			
7.	Mass meeting symposia			
8.	Other canvassing (print & electronic media)			
9.	Office operation			
10.	Activist mobilisation			
11.	Booth expenses			
12.	Miscellaneous			
	Grand total			

Signature:

Name, surname:

Date:

Candidate/election agent:

Schedule-3
(Relating to Section 82)
Statement of Election Expenses

To,
The Election Commission,
Kantipath, Kathmandu.

Pursuant to sub-section (4) of Section 69 of the Act relating to Election of the Members of the Constituent Assembly, 2063 (2007) and Section 82 of the Code of Conduct on Election of the Members of the Constituent Assembly, 2063 (2007), I have presented the statements of all expenses incurred by -----political party in the election to the members of the Constituent Assembly held under the proportional electoral system. The statements of election expenses are as follows:

S.N.	Heading of expenses	Work, quantity	Amount of expenses	Remarks
1.	Purchase of electoral rolls			
2.	Motor vehicle/horse			
3.	Motor vehicle fuel/feed			
4.	Loudspeaker			
5.	Pamphlet printing			
6.	Transportation			
7.	Mass meeting symposia			
8.	Other canvassing (print & electronic media)			
9.	Office operation			
10.	Activist mobilisation			
11.	Booth expenses			
12.	Miscellaneous			
	Grand total			

Signature:

Name, surname:

Name of political party:

Designation:

Date:

Schedule-4
(Relating to Section 87)
Re: Violation of the Code of Conduct.

To,

The Election Commission/Office of Returning Officer/District Election
Office/Monitoring Committee/Monitoring Team

Whereas, the following political party/persons related with that party/governmental body/body controlled or owned by the government/body controlled or owned by the government/local body/governmental, semi-governmental and private sector media/employee, who has/have the duty to observe the Code of Conduct, in the course of the election to the Members of the Constituent Assembly, has/have violated the Code of Conduct as follows;

Now, therefore, I have made this application for getting the Code of Conduct to be observed and taking action pursuant to Constituent Assembly Member Election Code of Conduct, 2007.

Name, surname of the violator of Code of Conduct:

Address:

Details of violation:

Applicant's:

Signature:

Name:

Surname:

Address: