

MALAWI ELECTORAL COMMISSION

CODE OF CONDUCT FOR POLITICAL PARTIES AND CANDIDATES

(Prescribed under Section 61(2) of the Parliamentary and Presidential Elections Act No. 31 of 1993 and under Section 45 of the Local Government Elections Act of (1996)

PREAMBLE

One crucial tenet of free, fair and transparent elections is freedom of political campaigning by all election contestants. All persons have the right to express their political convictions and views without fear of intimidation or threats from anybody. Freedom of campaigning also carries responsibilities, which include tolerance of others to express their own independent views and opinion.

We the signatories hereunder on behalf of political parties and candidates contesting Parliamentary and Presidential Elections, Local Government Elections and any other By-elections and who are engaged in political campaigns, rallies, meetings and other forms of activities in connection with the elections cited above declare that we hereby subscribe to this Code of Conduct and that we shall always abide by it.

Section One: Purpose

The purpose of this Code of Conduct is to promote conditions that are conducive to a free and fair election that include tolerance for democratic debate and political activity and for the free expression of individual opinions and beliefs.

Section Two: Promotion of the Code of Conduct

All political parties, their members and supporters and all other candidates and their supporters agree to promote this Code, publicize the Code in their election campaigns and post a copy of this Code in a prominent place in every political party and campaign office.

Section Three: Compliance with the Code and the Electoral Laws

All political parties and candidates shall:

- (1) Instruct all their members, supporters and officials to abide by this code in full
- (2) Take all reasonable steps to ensure that all their members, supporters and officials comply or abide by this Code in full.
- (3) Make an oath or affirmation on the nomination form that they will abide by this Code of Conduct as the basis for acceptance to participate in the elections.

Section Four: Rights of Parties and Candidates

All political parties and candidates shall publicly state that everyone has the right within the limits of the law to:

- (1) Freely express their political beliefs and opinions;
- (2) Challenge and debate the political beliefs and opinions of others and offer alternatives to those beliefs and opinions;
- (3) Publish, distribute and post campaign materials and advertisements;
- (4) Erect banners, billboards, placards and posters;
- (5) Canvass support for political party or candidates;
- (6) Recruit members for a political party or campaign;
- (7) Hold public meetings and rallies; and

- (8) Travel and attend public meetings and rallies.

Section Five: Cooperation with Police

- (1) The party or candidates shall inform the local Police authorities and the District Commissioner of the venue and time of any proposed meeting well in time so as to enable the Police to make necessary arrangements for controlling traffic and maintaining peace and order.
- (2) A party or candidate shall ascertain in advance if there are any restrictive or prohibitory orders in force in the place proposed for the meeting. If such orders exist, they shall be followed strictly. If any exemption is required from such orders it shall be applied for and obtained well in time.
- (3) Organizers of a meeting shall invariably seek the assistance of the Police on duty for dealing with persons disturbing a meeting or otherwise attempting to create disorder. Organizers themselves shall not take action against such persons.
- (4) All parties shall denounce violence and cooperate with the law-enforcing agencies in the recovery of weapons of violence and the arrest of persons in possession of weapons of violence.

Section Six: Results of the Election

All political parties and candidates shall publicly declare their commitment to accept the results of any election or challenge the results in court under the Electoral Law, Parliamentary and Presidential Elections Act, Local Government Elections Act and the Constitution, as may be amended.

Section Seven: Prohibited Conduct

No political party or candidate or members of a political party shall do any of the following:

- (1) Use language or act or behave in any way that may provoke or promote violence during the campaign or intimidation of candidates, members of parties, representatives or supporters of political parties, candidates or voters;
- (2) Deface or unlawfully remove or destroy the posters, placards, billboards, or any other election material of a political party or candidate;
- (3) Aid, abate, tolerate, or promote intimidation in any form. All parties and candidates shall, in their manuals and instructions to members and supporters reinforce this prohibition;
- (4) Tolerate any kind of violent activity to demonstrate political party strength or prove supremacy.
- (5) Give a gratification to any person with the object of inducing him or any other person to exercise any electoral right (to stand or not to stand, to withdraw or not to withdraw from being a candidate, to vote or refrain from voting) or rewarding any person for having exercised any such right.
- (6) Accept either for himself or herself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right.
- (7) Publish false or defamatory allegations in connection with an election in respect of:
 - i) a party, its candidates, representatives or members, or
 - ii) a candidate or that candidate's representatives

- (8) Plagiarise the symbols, colours, acronyms or publications of other registered parties.
- (9) Discriminate on the grounds of race, ethnicity, sex, gender, class or religion in connection with an election or political activity.
- (10) Block access to voters for purposes of voter education, membership drive, fundraising, collecting signatures, recruiting members or canvassing support for a party or candidate.
- (11) Unduly interfere with the independence or impartiality of the Electoral Commission and its staff.
- (12) Impersonate others
- (13) Make intentional false statements.
- (14) Infringe secrecy.

Section Eight: Freedom of Access

All political parties and candidates shall ensure freedom of access of all other political parties and candidates to all potential voters on public or private property and ensure that potential voters wishing to participate in political activities are free to do so.

Section Nine: Cooperation with the Commission

Every political party and candidate shall recognize:

- (1) The authority of the Commission in the conduct of the elections;

- (2) The duty of the Commission to take measures to ensure that the elections are conducted under conditions of complete freedom and fairness pursuant to Section 8(m) of the Electoral Commission Act 1998.
- (3) The authority of the Commission to prescribe this Code of conduct and enforce its compliance in accordance with Section 61(2) of the Parliamentary and Presidential Elections Act 1993 and Section 45 of the Local government Elections Act 1996.

And in furtherance of the provisions of the Parliamentary and Presidential Elections Act of 1993 and the Local Government Elections Act 1996 and of this Code of Conduct, every political party and candidate shall:

- (1) Give effect to any lawful direction, instruction, or order of the Commission or an authorized member, employee or officer of the Commission.
- (2) Facilitate the access of members, employees and officers of the Commission and the Chief Elections Officer, to public meetings, demonstrations and rallies of that party or candidate;
- (3) Co-operate in any investigation of the Commission;
- (4) Take reasonable steps to ensure the safety of members, employees and officers of the Commission in the exercise of any power or performance of any duty and ensure that representatives of political parties and candidates attend meetings or other forum convened by the Commission.

Section Ten: Cooperation with the Media

Under media guidelines, every registered party and every candidate:

- (a) Must recognize the role of the Media before, during and after the elections
- (b) May not prevent access by members of the Media to public political meetings, marches, demonstrations and rallies

- (c) Must take all reasonable steps to ensure that the journalists are not subjected to harassment, intimidation, hazard, threat, or physical assault by any of their representatives or supporters.

Section Eleven: Sanctions for Violation of this Code

All political parties and candidates must recognize and agree that the Commission shall have the authority to enforce compliance of the provisions of this Code of Conduct through:

- (1) Negotiations and conflict resolution; and use of Multiparty Liaison Committees
- (2) Issuance of warnings and directives;
- (3) Orders to cease and desist;
- (4) The disqualification of parties or candidates from the ballot;
- (5) Enforce penalties prescribed by the Electoral laws as amended. Provided that any Political party or candidate aggrieved by a disqualification or a penalty imposed by the Commission shall appeal for judicial review in the High Court within 7 days of the order or disqualification or fine as the case may be.

SIGNED

NAME	SIGNATURE	PARTY	DESIGNATION
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Electoral Offences

Political parties and candidates are reminded that the following electoral offences are punishable either by imprisonment and/or by fine.

- (1) A person who –
 - (a) in relation to registration of voters –
 - (i) obtains his registration by giving false information;
 - (ii) gives information to obtain his registration or the registration of another person
 - (iii) obtains registration in more than one registration area;
 - (iv) registers another person knowing that that other person is not eligible for registration;
 - (v) prevents the registration of another person knowing that that person is eligible for registration;
 - (vi) having the authority to do so, does not delete a registration which he knows to be incorrect;
 - (vii) falsifies a register;
 - (viii) with fraudulent intent, modifies or substitutes a voters registration certificate;
 - (ix) through violence, threat or fraudulent intent, prevents the registration of another person;

- (x) knowingly obstructs the detection of incorrect registration or the verification of voters rolls;

(b) In relation to campaigning for the election -

- (i) prevents the holding or interrupts the proceedings of a meeting;
- (ii) denies any candidate equal treatment with any other candidate;
- (iii) destroys, defaces, tears or in any manner causes to be totally or partially useless or illegible any campaign material displayed in any place or superimposes thereon any other material concealing the earlier material;
- (iv) being entrusted, by virtue of his office or functions, with displaying or depositing any campaign material, fails to display or deposit such campaign material or misplaces, steals, removes or destroys such material,
- (v) because another person attended or did not attend any campaign meeting, directly or indirectly, dismisses that other person from any employment or other gainful occupation or prevents or threatens to prevent that other person from obtaining any employment or other gainful occupation or from continuing in any gainful occupation or applies or threatens to apply any sanction whatsoever to that other person;

(c) In relation to voting-

- (i) not being otherwise authorized to be present or not being a registered voter, knowingly presents himself at a polling station;
- (ii) knowing that he is not eligible to vote, casts a vote at any polling station;
- (iii) fraudulently uses the identity of another person in order to exercise the right to vote;
- (iv) consciously allows the right to vote be exercised by a person who does not have the right to vote;
- (vi) votes more than once;
- (vii) accompanying a blind or disabled person to vote, fraudulently and faithlessly expresses a vote not according to the wish of that person;
- (vii) within a radius of one hundred meters of a polling station, reveals his vote or procures another person by force or deceit to reveal that other person's vote;
- (viii) uses or threatens violence or uses false information or other fraudulent means to coerce or induce another person to vote for or against a particular candidate or to abstain from voting;

- (ix) being a public officer, uses his office to coerce or induce another person to vote for or against a particular candidate or abstain from voting;
- (x) directly or indirectly, dismisses or threatens to dismiss another person from any employment or other gainful occupation or prevents or threatens to prevent another person from obtaining employment or other gainful occupation or from continuing in any gainful occupation or applies or threatens to apply any sanction whatsoever to another person in order to induce that other person to vote for, or because that other person voted or did not vote for a particular candidate or because that other person abstained from voting;
- (xi) being a presiding officer of a polling station fails to display a ballot box in accordance with the requirements of this Act;
- (xii) illicitly introduces ballot papers in a ballot box before, during or after the voting;
- (xiii) fraudulently takes possession or conceals a ballot box with uncounted ballot paper or removes an uncounted ballot paper from a ballot box;
- (xiv) being a polling station officer, purposely neglects his duty with a view to occasioning an irregularity;

- (xv) being a polling station officer, unjustifiably refuses to receive a complaint, or a response to a complaint about the proceedings at his polling station or to examine and seek to resolve such a complaint;
 - (xvi) disturbs the regular functioning of a polling station;
 - (xvii) refuses to leave a polling station after being asked to do so by a polling station officer;
 - (xviii) being an officer-in-charge of police requested to assign police officers to keep order at a polling station, fails without justification to do so within a reasonable time;
 - (xix) being a police officer assigned to keep order at a polling station willfully neglects his duties;
- (d) uses or threatens to use any force or restraint to induce or compel another person to sign or refrain from signing any nomination paper;
 - (a) in any manner, fraudulently spoils, substitutes, conceals, destroys, amends or falsifies any document relating to the election;
 - (b) in bad faith, submits a complaint, or a response to a complaint or challenges or questions the decision thereon by a competent person or body; and
 - (c) without justification neglects to fulfill obligations imposed on him by or under electoral laws;
 - (d) induces the sale or surrender of a registration certificate;

- (e) sales or surrenders or buys a registration certificate; shall be guilty of an offence.
- (2) every election officer, candidate, election representative of a candidate or other person in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting at such station, and shall not communicate, except for some purpose authorized by law, to any person any information as to the name of any voter who has or has not applied for any ballot paper or voted at that station: and no such officer, candidate or representative or other person shall interfere with a voter after he has received a ballot paper and before he has placed a ballot paper in the box.
- (3) No person other than a person aiding a blind or an incapacitated voter in accordance with the Law, shall attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted.