

Republic of Somaliland

National Electoral Commission Code of Conduct for Political Parties Hargeisa 2005

PREAMBLE:

After holding a series of meetings in which the upcoming parliamentary elections were discussed; the three political parties of Somaliland,

Fully aware of the importance of the parliamentary elections to the people of Somaliland;

Mindful that successful completion of the democratic process will further advance the cause of Somaliland;

Recognizing that free and fair elections will enhance the prospect for enlarged freedom and justice in Somaliland;

Cognizant of the inherent risks and threats in transitional democracy and the prevailing climate of mistrust among the parties;

Fully aware of the urgent need to create an environment that is conducive to holding free and fair elections;

Mindful of the gaps/deficiencies in the electoral law that need to be addressed in order to ensure smooth elections;

Have agreed to abide by the letter and the spirit of this Code of Conduct which was jointly developed by the National Electoral Commission and the three political parties and which was signed by the parties and witnessed by the National Electoral Commission on **July 18, 2005**

Objective

The objective of this code of conduct is to promote conditions that are conducive to free and fair elections including:-

- a) tolerance of democratic political activity;
- b) free political campaigning and open public debate; and
- c) respect for human rights.

SECTION ONE: GENERAL PRINCIPLES

Compliance with the Code

1. **Every Party and every candidate:**

- a) is bound by this Code
 - b) will take decisive steps to prohibit leaders, officials, candidates and members from infringing the code.
 - c) will take all reasonable steps to discourage any type of conduct by their supporters which would, if undertaken by party official, candidate, or member be in breach of this code.
 - d) will not abuse the right to complain about violation of the code, nor make false, or frivolous complaints.
 - e) agrees to publicly condemn any action that undermines the free and fair conduct of election.
 - f) must accept the results of the election or challenge the results in the Supreme Court.
2. The Leaders of the political parties will issue directives to their parties' officials, candidates, members and supporters, requiring each one of them to –
 - a) Observe this Code of Conduct.
 - b) Take all necessary steps to ensure compliance.
 3. Every candidate, once accepted by NEC, must issue a letter signed by himself/herself in which he or she declares his or her acceptance to comply with this code of conduct and to ensure that the persons working in his or her candidacy will comply with this Code.

Compliance with the Law

1. Every Political party has agreed to adhere to the electoral laws, rules and regulations, and to take all necessary steps to ensure –
 - a) That the party, its candidates, persons who hold political office in the party, members, activists, and supporters, comply with the Code and the electoral law.
 - b) That representatives and supporters of the party candidates comply with the Code and the Electoral law.
2. Every political party will take all necessary steps to promote inclusion of women candidates in their respective list of candidates for each region.

Campaign Management

1. **Every political party will –**
 - a) respect the rights and freedom of all other parties to campaign, and to disseminate their political ideas and principles without fear.
 - b) respect the rights and freedom of all other parties to lawfully erect banners, billboards, placards, and posters.
 - c) conduct itself in a manner that respects the rights of other parties, and respects the rights of voters and other members of the community.
 - d) respect the rights of the press, election monitors and observers.
 - e) use its good offices to seek to ensure freedom of access by all parties to potential voters.

2. Every political party will ensure that it's party will not –

- a. engage, before, during and after election, in activities that may jeopardize the peace and stability of the country.
- b. use language or defamatory act in a way that may provoke violence during election.
- c. intimidate candidates and/or members of other parties, representatives or supporters of other parties.
- d. disrupt, destroy or frustrate the campaign efforts of any other party.
- e. prevent the distribution of handbills and leaflets, and the display of posters of other parties or candidates.
- f. deface or destroy the posters of other parties or candidates.
- g. prevent any other party from holding rallies, meetings, marches or demonstrations.
- h. prevent any other party from canvassing support for the a party or candidate.
- i. seek to prevent any person from attending the political rallies of another party.
- j. permit it's supporters to do anything prohibited by this code, or
- k. carry or display arms or weapons at a political meeting, in a march, demonstration, rally or other public events.

The Election Process

Every party must: -

1. recognize the full authority of the Commission in the conduct of the election.
2. cooperate with election officials in order to ensure peaceful and orderly polling, and complete freedom for voters to exercise their franchise without being subjected to any annoyance or obstructions.
3. give effect to any lawful direction, instruction or order of the Commission.
4. establish and maintain effective lines of communication with the Commission and other political parties.
5. ensure the safety and security of electoral officials before, during and after the polls.
6. not interfere unjustifiably or in bad faith with the duties of the election officials.
7. respect and cooperate with officials or accredited election observers or monitors.
8. maintain and aid, where possible, in maintaining secrecy of the voting, and
9. not Procure votes by forcible occupation of polling stations or through illegal activities in the polling stations.

SECTION TWO: GAPS/DEFECIENCIES IN THE ELECTORAL LAW

The following section of the Code of Conduct deals with the gaps and deficiencies in the electoral law and the solutions devised by the NEC and the political parties to remedy such deficiencies.

Article 12, paragraph 4

This article does not address the remote but possible situation of having two or more candidates in the same party list receiving the same number of votes and there is only seat to be allocated. To address this deficiency in the electoral law, the parties have agreed to the following sequential steps to break the tie:

1. The National Electoral Commission will, in the presence of the concerned party's regional executive committee, recheck the spoiled ballot papers that were marked for the candidates who are tied for a seat to see if there are any valid ballot papers that were inadvertently counted as spoiled ballot papers. During the recheck, if valid ballot papers are found, they will then be counted for the candidate that they were marked for. If, however, the recheck process does not produce a clear winner, then
2. The National Electoral Commission will openly conduct a **drawing of lots** between or among the candidates to determine who wins the tie seat. This will be done in front of the concerned party regional executive committee, Election Monitoring Board, media, etc

Article 12 paragraphs 6, & 7

These two paragraphs need further elaboration which can only be provided when the National electoral Commission undertakes the inspection of the polling stations in late June and early July. Using the information gathered by NEC, the three political parties and the National Electoral Commission will devise a joint solution on the allocation of seats in these districts or regions. The agreed upon solution appear on annex 1 of this code of conduct

Article 14

This article deals with candidates who were unsuccessful in winning seats in the election and therefore remain as reserve candidates. However, this article does not address the possible situation of two or more reserve candidates obtaining the same number of votes.

To address this shortcoming, the parties have agreed that the same mechanism for breaking a tie that is specified in Code of Conduct for article 12 paragraph 4 (above) shall also apply to this situation.

Article 16 pargarph 1

The electoral law mandates that the parties submit to the NEC a list of their candidates' 60 days before the voting day. The law however, does not mention the possibility that a candidature could become vacant due to death or incapacitation. To remedy this situation the political parties have agreed to the following:

If, after the period established by the law to present the candidates and before 14 days before the voting day, a candidate's position becomes vacant due to the above-mentioned reasons, then the parties have the right to replace that candidate. However there shall be no change to the ballot paper and the replacing candidate will use the name and the symbol of the replaced

candidate. When the final election results are announced, the replacing candidate's name will appear in all official election documents.

If, however, the position becomes vacant less than 14 days before the election date then the party can not replace the candidate. However, if there are any votes for the vacant position then they will be counted for the concerned party.

Article 23

This article grants the mayor the right to ban the holding of demonstration if he is satisfied that they might damage the health, morals or public order. However, if any action taken by a mayor is considered unreasonable, the article does not specify the procedure for submitting complaints. To address this deficiency in the electoral law, the three parties have agreed to the following:

That the mayors shall prepare and publish a schedule of planned rallies and demonstrations for the three political parties during the campaign period. Furthermore, the schedule shall allocate equal number of days to the political parties for organizing rallies, demonstrations, etc. Copies of the schedule must be sent to the NEC and to the parties at least 15 days before the start of the campaign period.

The political parties shall inform the mayors 48 hours in advance of their intention to proceed with scheduled events (rally, demonstration).

Any party that has been denied by a Mayor the right to hold demonstration has the right to appeal to the National Electoral Commission.

Article 27 , paragraph 1

This article does not address the issue of who can grant permission for the movement of vehicles in the Election Day. To address this deficiency the parties have agreed to the following:

The NEC is the only authorized body to grant permission for the circulation of vehicles during the Election Day. In accordance with the electoral law, the NEC will inform the public through the media and through its regional and district offices the ban on movement of vehicles during the voting day.

NEC will also make it publicly known that any person who violates the ban will be dealt with in accordance with the law.

Article 28, paragraph 1

This article does not address the central issue of when can parties substitute their agents. The law clearly states that NEC shall train the political parties' agents. This implies that only trained agents can be poll watchers. To address this weakness the parties have agreed to the following:

Parties may, if a need arises, substitute their agents provided that the substitutes are the reserve agents that were trained.

The parties further agree that the Party agents at the polling stations cannot be candidates at the election

Article 29

This article does not specify the roles and responsibilities of the party agent, which are crucial to the efficient and peaceful conduct of the election. To address this, the parties have agreed to the following:

The NEC shall draft detailed terms of reference for the party agents, which shall form annex 2 of this Code of Conduct.

Article 44, paragraph 3

This article is very specific and restrictive in terms of where the voter can put his/her mark in the ballot paper. Given the fact that a large percentage of the people are unable to read or write, the probability of disenfranchising a lot of voters due to high rate of illiteracy cannot be ruled out. To avoid this situation the parties have agreed to the following, which is in line with the practice that was used in earlier elections.

The voter is allowed to put his/ her mark on the ballot paper anywhere within the row that is designated for each candidate

Any mark be it a dot, cross, tick, sign, etc is acceptable so long as it is clearly within the row.

If a voter's mark spills over to an adjacent row then neither of the two candidates gets the vote. However, the vote shall be counted for the party of the candidates whose votes were counted as invalid.

If the Mark spills across two party columns, then that vote is treated as being an invalid vote.

Article 49, paragraphs 3 & 4

Paragraphs 3 & 4 of this article do not address the remote but possible situation of party agents from two political parties who have been present at the polling station and who deliberately refuse or disappear from the polling station before the signature of the outcome of the vote.

To remedy this, the parties have agreed on the following:

In order to avoid the loss of votes cast by the citizens, the signature of only one party agent and the signatures of the polling station officeholders shall suffice. However, the reasons for such an event shall be recorded.

Article 51, paragraph 3

This article requires that each presiding officer of the polling stations submit to the Supreme Court a copy of the written record of the polling station results. This is not logistically possible. Therefore, the parties have agreed to the following:

The presiding officer will send the copy of the written record of the polling station results intended for the Supreme Court to the District Election Officer who will then forward it to the Regional Election Officer for on-ward transmission to the Supreme Court.

SECTION THREE: PUBLIC FUNDS/PROPERTY/ GOVERNMENT RADIO AND MEDIA

Article 26 of the electoral law mandates the National Electoral Commission to ensure that the political parties have equal access to the government owned mass media and the use of the public assembly grounds during the election campaign. The article further states that no party may use for its own purpose the property of the nation. Article 64 gives NEC the power to impose administrative sanctions against anyone who commits acts that are contrary to the administration (of the election) or to the electoral law or procedures.

To effectively execute this mandate, the Commission shall put in place the following enforcement mechanisms to ensure compliance with the electoral law and procedures.

1. Use of Government Mass Media

a). Radio Hargeisa Broadcast During the Campaign Period

Implementation Mechanism:

- Stages one: Monitoring
- Stage two: Allocation of equal air time to the Political parties

Stage one: Daily Monitoring of Radio Hargeisa Somali language Broadcast

The National Electoral Commission will monitor and record daily Radio Hargeisa Somali language broadcast. The mechanism for monitoring Radio Hargeisa Somali service broadcast is detailed in annex 3 of this Code.

Stage two: Allocation of equal Radio Hargeisa air time for the three political parties

The National Electoral Commission will in consultation with the Ministry of information allocate equal airtime to the three political parties in line with the provisions of the airtime equal access schedule in annex 4

b) Maandeeq and Horn Tribune News Paper

The National Electoral Commission will make the following two arrangements in respect of Maandeeq.

1. Monitoring, on a daily basis, the content of Maandeeq and Horn Tribune news papers

2. Allocation of equal space in Maandeeq and Horn Tribune to the parties

The details of this arrangement are in annex 5 of this Code.

c) Privately owned Media

The privately owned media shall also provide equal access of the media to the political parties who are prepared to purchase space in the private newspaper. No party shall be discriminated against in terms of this access. This provision shall also be included in the media Code of Conduct and the Media Guide shall clearly state the need for objective and balanced reporting on the part of the media.

2. PUBLIC FUNDS/PROPERTY

The electoral law (article 26) prohibits the use of public property by any party for its own sole purpose. This article further state that no party may use directly or indirectly property owned by foreigners, as such as that of foreign NGOs and that of UN agencies. Furthermore, article 64 of the electoral law grants the NEC the authority to take administrative sanctions. To execute this authority, the National Electoral Commission shall establish an Election Monitoring Board that will ensure that the three parties have equal access to the Public funds, Government owned mass media and Public Assembly Grounds. The Board members representing a cross section of the society will be chosen on the basis of their moral authority (distinguished religious figures), academic qualifications, work experience, etc. The members will include academicians, former senior public finance officers, civil society members, etc. The term of Reference for the Board of Monitors is in annex 3 of this Code.

The Board will perform its tasks under the overall direction and supervision of the National Electoral Commission.

Pre-requisites:

In order to enable the Board members to effectively carry out their responsibilities, the following pre-requisites must be obtained.

- Presidential decree directing government officers to cooperate fully with NEC and any other body established by NEC to assist it in carrying out its national duties.
- Presidential decree officially prohibiting the use of government vehicles, etc for use of campaigning and affixing of party emblem, logos, slogan, etc on government offices, premises and vehicles

It shall be the responsibility of the National Electoral Commission to obtain from the President the above-mentioned decrees.

In order to ensure the effectiveness of the Board, NEC will grant the Board the authority to investigate, on its behalf, any violation of the electoral law and the Code of Conduct and if they deem it necessary to recommend to the commission a course of action to be taken against the offender.

During the election period, the government Ministers are not allowed to use government vehicles for campaigning for the party that they belong to.

Civil Servants are also not allowed, in accordance with the civil service law, to publicly campaign for a party. Doing this will be considered as a serious contravention of the election management process and NEC might initiate appropriate disciplinary action against the culprit(s).

To enhance the trust and confidence among the parties and to create a conducive climate for the smooth and efficient conduct of the election, it is necessary that the government refrains from any action that might be construed as an abuse of power. Likewise, it is necessary that political parties refrain from any action that may be construed as being detrimental to the peace and stability.

SECTION FOUR: INSTRUMENTS FOR THE ENFORCEMENT OF THE CODE

Part One: Operational Mechanism

1. Establishment of Election Board of Monitors (EBM)

2. Regular Board meetings:

The objective of the meetings (preferably once in a week) will be to evaluate compliance with the CODE and the Electoral law and to lessen the inevitable polarization that a competitive campaign brings among the contenders.

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Failsal Ali Warabe
Chairman
Signature: _____
Date: _____

UDUB

Ahmed Mohamed Mohamoud
Chairman
Signature: _____
Date: _____

KULMIYE

Ahmed Yussuf Yasin
Vice President
Signature: _____
Date: _____

Witnessed By:

National Electoral Commission
Ahmed Haji Ali Adami
Chairman
Signature: _____
Date: _____