

Code of Conduct for Political Parties

Campaigning in Democratic Elections



This Code of Conduct was drafted in the first half of 1998. The process involved the retrieval, collation, analysis and synthesis of all the different codes and materials on this topic. This enabled the formulation and drafting of a universal set of minimum standards. Following distribution of the draft code, a lengthy and detailed process of consultation with Election Management Bodies was undertaken over a 12-month period.

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Code of Conduct Political Parties Campaigning in
Democratic Elections – Prelims

Background

The Agreement Establishing the International Institute for Democracy and Electoral Assistance (International IDEA) includes several objectives of the Institute. One objective is – “to broaden the understanding and promote the implementation and dissemination of the norms, rules and guidelines that apply to multi-party pluralism and democratic processes”.

In pursuit of that objective in 1997, International IDEA published two texts: –

Code of Conduct for the Ethical and Professional Observation of Elections; and

Code of Conduct for the Ethical and Professional Administration of Elections.

This text, setting out a Code of Conduct for Political Parties Campaigning in Democratic Elections, is the third in the series. As with the previous two Codes, this one assumes that governments, parties, organizations and individuals are each committed to multi-party pluralism and the democratic process.

International IDEA reviewed several Codes of Conduct produced recently in various parts of the world, which are relevant and valuable to all democracies. Each of the Codes reviewed was developed at a time when the democratic process was facing significant challenges, and was implemented with the intention of minimizing conflict, eradicating intimidation, and encouraging a climate of open, free and fair competition during the election period.

A voluntary “Code of Conduct”

A “Code of Conduct” for political parties may be developed in any of several ways and can be quite diverse in character:

1. It may be a part of the electoral law, determined by the sovereign authority in a country; for example, see the Annex to the United Nations Electoral Law for Cambodia, 1992. Sometimes provisions in legislation prescribe the conduct of parties, even though those provisions are not described as a “Code of Conduct”.
2. It may be agreed by political parties, as an outcome of negotiations entirely among themselves, or, more commonly, as a result of negotiations moderated by a third party. An example is the agreement reached in September 1989 in advance of the Namibian independence elections.
3. It may be agreed by the parties, and then embodied in law. The parties who agreed the Code of Conduct before the 1996 elections in Sierra Leone appear to have contemplated that it would be enacted as law, although in fact that did not happen.
4. It may be determined by a third party, such as the election administration body.

A distinction can be drawn between those texts to which political parties voluntarily subscribe, and those which are imposed either by the

sovereign legal authority or by some other authority. A number of authors have placed particular emphasis on the importance of *voluntary* subscription to a Code of Conduct.

The Code that follows in this text is a voluntary Code, based on the following definition:

“a set of rules of behaviour for political parties and their supporters relating to their participation in an election process, to which the parties ideally will voluntarily agree; and which may subsequent to that agreement be incorporated in law”.

Reasons for using a voluntary Code of Conduct

In his study of international law and practice in relation to free and fair elections, Goodwin-Gill has noted that:

“Codes of Conduct agreed between the parties are increasingly accepted in potentially tense situations as a practical basis for contributing to a peaceful election; in the long term, such codes may also help to develop confidence in the democratic process as a mechanism for implementing representative government and effecting peaceful change. ... A crucial problem in transition situations is often the failure of competing parties to communicate with each other, together with a lack of confidence in the ability of the system to produce a free and fair result. Codes of Conduct, in which the parties agree on the basic ground rules and to meet regularly during the campaign period, clearly contribute not only to the avoidance of potentially dangerous confrontation, but also to popular support for the democratic process.”¹

The Commonwealth Secretariat in its *Good Commonwealth Electoral Practice* (at Paragraph 29), refers to:

“... the development, together with representatives of the political parties, of a written ‘Code of Conduct’ to which all of the parties, their candidates and agents, as well as all independent candidates and their agents subscribe by formally

undertaking to abide by its terms. ... Equipped with such a 'Code', an electoral body may be better placed to exert moral and legal authority over parties which may be in breach of its provisions. The 'Code' is also a valuable tool in promoting a public atmosphere of political tolerance."²

There are other arguments in favour of voluntary endorsement by parties to a Code of Conduct, for example:

- (a) Parties are more likely to feel bound by commitments into which they have freely entered, and therefore may be more likely to fulfil those commitments. This is true in all elections, but is particularly important in transitional elections, when citizens are being given the opportunity to vote for the first time, and may well question the moral authority of the hitherto dominant regime, the laws made by it, and the directives made by its organs.
- (b) Unless a code of Conduct is enforceable by legal methods, it can be effective only if the parties act in good faith, which is more likely to happen if the parties have voluntarily committed themselves to comply with the Code of Conduct.
- (c) Parties to a voluntary Code are able to bind themselves, and each other, to conduct or refrain from conduct that might otherwise conflict with international or constitutional obligations such as the freedom of speech or association.
- (d) By participating in consultation, development and use of a voluntary Code, political parties contribute positively to the style and culture of campaigning.

Negotiating the Code of Conduct

The parties to a voluntary Code will have to negotiate toward consensus on the text of the Code. There are certain matters which need to be addressed during negotiation, including:

1. Who does the Code of Conduct apply to?

A Code of Conduct should explicitly bind at least –

- (a) the parties who negotiate it; and
- (b) through the control of each party, its leader, officials, candidates and members.

To the extent that is reasonable in the prevailing local circumstances, a party should be expected to –

- (a) exercise control over the activities of its supporters; and
- (b) be responsible for violations of the Code by its supporters.

If a voluntary Code of Conduct is subsequently incorporated in a law, the law or the general legal framework will determine who is bound by the Code.

2. During what period will the Code apply?

The period will vary from case to case: in some circumstances, it will be the election period as provided by law; in other cases, the Code itself may specify a time for its application.

The Code should always apply to the period from the beginning of campaigning until the

certification and announcement of the results. Beyond that, a Code should apply to any period during which violations of it might have a particularly dramatic effect on the integrity of the election process.

Many of the provisions in a typical Code, for example, those that reflect and reinforce general human or political rights, would be operative at all times.

3. What sanctions will apply to breaches of the Code?

The most basic sanction, which should apply in virtually all cases, is the public exposure of a failure to comply with the Code by a party, or by those persons for whose conduct it has some responsibility. The type of sanction may vary from country to country.

If the Code is incorporated in a law, criminal or civil penalties could apply, and other specific electoral penalties, such as the disqualification of candidates or parties, may also be possible.

Whatever legal or other sanctions are established, a party and its members have to be able to clearly understand their obligations. Therefore, it is important that both the obligations and the sanctions should be spelt out in clearly-worded legal form.

4. Relationship of a Code of Conduct to the electoral law

Electoral legislation will generally set out the procedures and mechanisms to be used when dealing with complaints and disputes regarding the electoral process. Those provisions will differ from country to country, both in detail and in

content, and may affect how the Code of Conduct is enforced. For example, a country's electoral law may provide for adjudication or other mechanisms, such as mediation, to deal with infringements of a Code of Conduct or disputes arising from an infringement.

5. Relationship of a Code of Conduct to Human Rights Codes

Typically, a Code will incorporate generally acceptable provisions embodying basic human and political rights. However, some of its more valuable provisions may be:

- (a) those that require self-restraint by the parties in the exercise of their rights; and
- (b) the procedures which are to apply when the rights of different parties may potentially be in conflict.

Desirable forms of self-restraint, and the procedures for managing conflicting rights, will be determined by such factors as:

- (a) the political traditions and culture of a country;
- (b) the threats which may exist to the electoral process; and
- (c) the prevailing institutional framework.

In the past, the importance of each country's specific circumstances has been reflected in considerable variations in national codes.

International IDEA has a comprehensive collection of those codes, which negotiators may wish to consult separately when developing ideas for a new Code.

6. Implementing the code of conduct.

For a voluntary Code to be useful, the parties

must be committed to it, viewing it not merely as a set of mechanical rules, but as a set of *principles* to be honoured in spirit as well as in letter. No single code can ever anticipate and make appropriate prescriptions for the diversity of situations that may be encountered in the course of elections. In all cases, a Code of Conduct must be implemented with good common sense and in good faith.

The parties who negotiate a Code of Conduct should expect to:

- (a) Meet regularly after the Code has been adopted to discuss observing and implementing the Code over the campaign period. The duty to participate in these meetings could be an obligation in the Code.
- (b) Meet before, and in the early stages of, an election campaign to discuss the Code. These meetings can be a valuable step towards a tolerant electoral campaign.

Code of Conduct

These are core prescriptions generally accepted as applicable to the behaviour of political parties during a democratic election campaign.

1 Application of the Code

In this Code, “party” includes –

- (a) any entity that subscribed to this Code of Conduct, including political parties, independent candidates, alliances or coalitions of parties, and political movements other than parties; and
- (b) the leader, officials, candidates, members, agents, and representatives of any entity that subscribed to this Code of Conduct.

2 Principles of the Code

- (1) The legitimacy of a government chosen through a democratic multiparty election rests on these principles:
 - (a) that as a result of being informed through the electoral campaign of the policies and qualities of all political parties and candidates, voters are able to make an informed choice; and
 - (b) that voters are able to vote freely, without interference, fear, undue influence or bribery.
- (2) All parties, having accepted this Campaign Code, commit themselves to these principles and undertake voluntarily and in

- good faith to adhere to the Code so that –
- (a) these principles will be upheld;
 - (b) the elections will be recognised as expressing the credible free choice of the voters; and
 - (c) the result of that choice will be respected by all.
- (3) In any matter relating to the election process, a party will conduct itself in conformity with the prescriptions set out below.

3 Compliance with the Code

- (1) A party that has subscribed to this Code –
- (a) is bound by the 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 a party official, candidate or member, be in breach of the Code; and
 - (d) will not abuse the right to complain about violations of the Code, nor make false, frivolous or vexatious complaints.
- (2) The leader of a party that has subscribed to this Code will issue directives to the party's officials, candidates, members and supporters, requiring each of them to –
- (a) observe the Code; and
 - (b) take all other necessary steps to ensure compliance.

4 Compliance with the law

A party that has subscribed to this Code will adhere to existing election laws, rules and regulations.

5 Campaign management

- (1) A party that has subscribed to this Code will –
 - (a) respect the right and freedom of all other parties to campaign, and to disseminate their political ideas and principles without fear;
 - (b) conduct itself in a manner that respects the rights of other parties, and respects the rights of voters and other members of the community;
 - (c) respect the freedom of the press;
 - (d) use its good offices to seek to ensure reasonable freedom of access by all parties to all potential voters; and
 - (e) seek to ensure that potential voters wishing to participate in related political activities have freedom to do so.
- (2) A party that has subscribed to this Code will not –
 - (a) harass or obstruct journalists who are engaged in their professional activities; disrupt, destroy or frustrate the campaign efforts of any other other party;
 - (b) prevent the distribution of handbills and leaflets, and the display of posters, of other parties and candidates;
 - (c) deface or destroy the posters of other

- parties and candidates;
- (d) prevent any other party from holding rallies, meetings, marches or demonstrations;
- (e) seek to prevent any person from attending the political rallies of another party; or
- (f) permit its supporters to do anything prohibited by this section.

6 *The election process*

- (1) A party that has subscribed to this Code will –
 - (a) co-operate with election officials in order to ensure –
 - (i) peaceful and orderly polling, and
 - (ii) complete freedom for voters to exercise their franchise without being subjected to any annoyance or obstructions;
 - (b) ensure the safety and security of electoral officials before, during and after the polls;
 - (c) respect and co-operate with official or accredited election observers; and
 - (d) maintain and aid in maintaining the secrecy of the voting.
- (2) A party that has subscribed to this Code will not –
 - (a) procure votes by forcible occupation of polling stations or through illegal activities in the polling stations;
 - (b) interfere unjustifiably or in bad faith with the duties of election officials,

disturb the process of casting or counting of votes; or

- (c) falsely assert to voters that their votes will not be secret.

7 Accepting the outcome of a free and fair election

A party that has subscribed to this Code will –

- (a) accept the outcome of an election that has been certified;
- (b) submit any grievance only to the relevant dispute settlement agency; and
- (c) accept and comply with the final decisions of the dispute settlement agency.

6 Language

- (1) A party that has subscribed to this Code will –

- (a) organize and conduct its election campaign in a manner that contributes toward a congenial and peaceful atmosphere during the campaign period, the polling, the counting, and the post-election period; and
- (b) act with a sense of responsibility and dignity befitting its status.

- (2) Speakers at political rallies will avoid using language that –

- (a) is inflammatory, or defamatory; or
- (b) threatens or incites violence in any form against any other person or group of persons.

- (3) A party that has subscribed to this Code will not issue, either officially or anonymously,

pamphlets, newsletters or posters containing language or material that threatens or incites violence.

7 Symbols

A party that has subscribed to this Code will not –

- (a) imitate the symbols of another party;
- (b) steal, disfigure or destroy political or campaign materials of another party; or
- (c) permit its supporters to do anything prohibited by this section.

8 Intimidation and violence

- (1) A party that has subscribed to this Code accepts that intimidation, in any form, is unacceptable, and will –
 - (a) issue directives expressly forbidding its officials, candidates, members and supporters to intimidate any person at any time;
 - (b) campaign against violence or threats of violence, and against any acts of vandalism or public disorder committed or threatened by their officials, candidates, members or supporters; and
 - (c) respect other persons and parties, and their property.
- (2) The leader of a party that has subscribed to this Code will instruct the party's officials, candidates, members and supporters that no weapon of any kind, including any traditional weapon, may be brought to any political rally, meeting, march or other

demonstration.

- (3) A party that has subscribed to this Code will not –
- (a) engage in or permit any kind of violent activity to demonstrate party strength or to prove supremacy;
 - (b) cause damage to any public or private property; or
 - (c) permit its supporters to do anything prohibited by this section.

9 Abuse of position

- (1) A party that has subscribed to this Code will not –
- (a) abuse a position of power, privilege or influence for a political purpose, by offering a reward, threatening a penalty, or by any other means; or
 - (b) use official State, Provincial, Municipal or other public resources for campaign purposes.
- (2) In this section, “a position of power, privilege or influence” includes a position of parental, patriarchal, governmental, police, military or traditional authority.

10 Corrupt practices

- A party that has subscribed to this Code will not –
- (a) coerce or offer monetary or other kinds of inducements to persons to vote for or against a particular party or candidate, or to abstain from voting;
 - (b) coerce or offer monetary or other kinds of

inducements to persons to stand or not to stand as candidates, or to withdraw or not to withdraw their candidacies; or

- (c) procure the support or assistance of any official or civil servant to promote or hinder the election of a candidate.

11 Continued Communications

- (1) A party that has subscribed to this Code will make every effort to maintain communications with other parties that have subscribed to this Code.
- (2) A committee to function as a forum for discussion of issues of common concern during an electoral campaign will be established by parties that have subscribed to this Code. The Committee will comprise representatives of –
 - (a) political parties,
 - (b) contesting candidates; and
 - (c) officials from the Electoral Management Body.

Annex

Codes of Conduct of various countries used as reference documents

Bangladesh (1991)	<i>Jatiya Sangsad (Parliament) Election, 1991 – Code of Conduct to be Adhered to by Political Parties, 1991</i>
Bangladesh (June 1996)	<i>The Code of Conduct for the Political Parties and Contesting Candidates Seeking Election to the Jatiya Sangsad, 1996, 1996</i>
Bosnia and Herzegovina	<i>Electoral Code of Conduct for Political Parties, Candidates and Election Workers, Provisional Election Commission, 1996</i>
Cambodia	<i>United Nations Electoral Law for Cambodia, 1992 – Annex – Code of Conduct, August 1992</i>
Costa Rica	<i>Electoral Tribunal Agreement by Political Parties on the Ethical Conduct of Political Parties during Elections, 1998</i>
Ghana	<i>Code of Conduct for Political Parties in Ghana for Public Elections, 1992</i>
Guinea	<i>Draft Code de Conduite des Parties Politiques de la République de Guinée pour les Elections Legislatives, 23 March 1995</i>
India	<i>Model Code of Conduct for the Guidance of Political Parties and Candidates, Election Commission of India, 1991</i>
Malawi (1993)	<i>Parliamentary and Presidential Election Act (No. 31 of 1993) – Code of Conduct (Issued under section 61(2)), 1993</i>
Malawi (1994)	<i>Parliamentary and Presidential Elections – Code of Conduct, 1994</i>
Namibia (1989)	<i>Code of Conduct for Political Parties During Present Election Campaign, September 1989</i>
Namibia (1994)	<i>Code of Conduct for Political Parties, reproduced in Consolidation of Democracy in Namibia – AWEPA Electoral Observer Mission – December 1994</i>

Nicaragua	<i>Rules of Electoral Ethics</i> – Approved by the Supreme Electoral Council of the Republic of Nicaragua, October 1989
Pakistan	<i>Code of Conduct for the Political Parties – General Elections 1993</i> , 1993
Seychelles	<i>Code of Conduct to be Adhered to by Political Parties, their Members and Supporters on an Election or Referendum</i> , 1992
Sierra Leone	<i>Draft Code of Conduct for Political Parties</i> as accepted by the contesting political parties, 1996
South Africa	<i>Electoral Act, 1993 – Schedule 2 – Electoral Code of Conduct</i> , 1993
St Kitts and Nevis	<i>Code of Conduct for the Political Process: Ethical Guidelines issued by the St Kitts Christian Council and the Nevis Christian Council</i> , June 1995

¹ Guy S. Goodwin-Gill, *Free and Fair Elections: International Law and Practice*, Inter-Parliamentary Union, Geneva, 1994, pp 71-73.

² Commonwealth Secretariat, *Good Commonwealth Electoral Practice: A Working Document June 1997*, London, 1997, para 29.



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