

**ELECTION CODES OF CONDUCT
IN
SOUTH ASIA.**

Jafar Ahmed Chowdhury

About the Author

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About the Book

Election Codes of Conduct in South Asia is a research work that brings out many interesting aspects of democratic systems prevailing in South Asia. This study, for the first time, combines together the election code of conduct for the guidance of political parties and candidates of South Asian countries in a single volume and makes a critical comparative study of them. The author finds the fragile democratic values and institutions and corrupt practices that prompted the Election Commissions of South Asian Countries to frame and promulgate code of conduct for the political parties and candidates during elections. Besides, the over-all socio-politico-economic conditions and the changing social structure could not escape the researcher. He finds the truth of Samuel P. Huntington's (1968) observation that political corruption "Correlates reasonably well with rapid social and economic modernization". This research further finds a serious flaw in the election codes of conduct of South Asian Countries to the fact that these are not legally binding and therefore do not have an effective impact. He terms the democracy in South Asia as "developing democracy" corollary to developing economy.

This research is a contribution to existing literature on electoral systems in the sense that it develops a theoretical framework, i.e., a new set of variables that is appropriate for a comparative study of election codes of conduct for developing democracies like those of South Asia.

This study is, therefore, a fine tribute to a great deal of work and dedication that makes it an impressive performance. This piece of research will work as a reference on South Asian democracy to policy makers, political observers and students of politics.

Election codes of Conduct
In
South Asia

দক্ষিণ এশিয়ার নির্বাচনী আচরণ বিধিমালা

Election Codes of Conduct in South Asia

Jafar Ahmed Chowdhury

Dhaka, Bangladesh.

Election Codes of Conduct in South Asia

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Dedicated to my father

Late Mr. Rafique Ahmed Chowdhury (1904-99)

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Timing, Size of codes,

Subjectwise rules : (i) State Ideology, Sovereignty, Integrity, Security and Judiciary. (ii) Election Expenditure, (iii) Religion, Community, Caste, Sect and Religious Institutions, (iv) Meetings, Procession and Rallies, (v) Subscription and Donation, and Promises there of and that of Development Projects, (vi) Role of the Government and the Ruling Party, (vii) Posters, Pamphlets, Hand bills Leaflets, (viii) Banners and Wall writing, (ix) Election Camps and Entertainments, (x) Carrying and Burning of Epigies, (xi) Miking, (xii) Use of Transports (xiii) Fire arms, Explosives, other weapons, Money and Muscle power, (xiv) Corrupt Practices, (xv) Cooperation and Assistance to Election Personnel, (xvi) Role of Public Media, (xvii) Access to Polling Station, (xviii) Pre-poll Irregularities, (xix) Education about code of conduct, (xx) Legal Coverage.

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Preface

This book, **Election Codes of Conduct in South Asia**, like my other book **Voter Registration and Identity Cards in South Asian countries**, is the product of my working experience for a long time in the Bangladesh Election Commission Secretariat and my study tour to India and Nepal from February 25 to March 2, 1997 under the leadership of Mr. Mushtaq Ahmed Chowdhuri, Election Commissioner of Bangladesh. The aim of the study tour was the study of electoral process of those countries. Among others, we studied the Election Codes of Conduct for the guidance of Political Parties and Candidates. We discussed this issue with the Election Commissions of India and Nepal and their officials and collected codes of conduct of those countries. Later in April, 1997, the Election Code of Conduct of Pakistan was collected during a Workshop for Commonwealth Chief-Electoral Officers in Asia and Indian Ocean held in Dhaka. The Election Codes of Conduct of these countries including Bangladesh have been incorporated in this book. The Bangladeshi Code has been translated into English by the author. The original Bengali version has also been appended. Moreover, the code of conduct for the recently held (December, 1997), Union Parishad election in Bangladesh

has been incorporated with a view to update the readers in Bengali. No translation was made thereof because the codes of conduct for local government election of other countries were not provided. So far knowledge goes, Bhutan, Maldives and Sri-Lanka do not have such codes of conduct for the guidance of political parties and candidates during elections.

This book, I believe, will work as a reference to the students of politics, democratic forces and policy makers as they would find the election codes of four conduct of four countries and their comparative study in a single volume. This research has a notable contribution in developing appropriate sets of variables, against which a comparative study of codes of conduct of countries like those of South Asia can be made. Moreover, this study along with my, other piece of research Voter Registration and Indentity Cards in South Asian Countries will help, to some extent, in the fulfillment of the ardent efforts of the Bangladesh Election Commission for improvement of the electoral process of Bangladesh.

Finally, it should be noted here that views expressed by way comments and analysis are those of the author and are neither of the Bangladesh government nor necessarily of the Bangladesh Election Commission.

July, 2001

(Jafar Ahmed Chowdhury)

Introduction

Election is a key element in a democratic system. Democracy is the rule of the people run by their representatives who are elected by them. It synthesies different opinions of the society manifested through political parties or groups. Democracy, however, has been defined by various writers in various ways. Even the communists or socialists have their own connotations of democracy. In Greek terminology, democracy means the right of the citizens to participate directly in the act of government of the Greek city states. In modern days, democracy has taken the shape of representative democracy, i.e., it is through the election of representatives. Therefore, according to many political scientists, [Alan Ball, Alan Bullock, Bingham Powell Jr., Peter H. Merkl, Roger Scruton, Walter Laqueur, and etc.) the criterion of representative democracy consist of :

- (i) Free elections :** It refers to a situation where the voters can exercise their franchise without fear and intimidation. Political parties and candidates can campaign freely, particularly in opposition to the existing government. The elections are held periodically and frequently based on universal franchise.
- (ii) Effective Choce :** The voters have the alternative choices of political parties and candidates in the elections. It means a multi-party political system i.e., there should be more than one political party competing for political power.

- (iii) **Civil liberties are ensured :** These are freedom of speech, association, press, petition, movement, security against arbitrary arrest and imprisonment, and equality before law.
- (iv) **Rights of the elected body :** The representatives have the right to legislation, vote taxes, control the budget, free discussion and oppose government measures without any subject to arrest or threats.
- (v) **Separation of powers :** It refers to a situation where judiciary is independent of both executive and legislature. The executive is accountable to the legislature.

2. **Walter Laqueur** termed democracy as a system of government that "should reflect the people's will and the choice-hence the constitutional provision of regular elections, by secret ballot, with representatives of at least two parties standing for election". **Alan Ball (1978)** enumerated seven features of a democratic system of which four belong to elections and political parties. These are:

- (1) There is more than one political party competing for political power.
- (2) The competition for power is open, not secretive and is based on established and accepted forms of procedure.
- (3) Entry and recruitment to positions of political power are relatively open.
- (4) There are periodic elections based on universal franchise.

The other three features relate to civil liberties, existence of associations without subject to close governmental control and the system of separation of powers.

3. J. Bingham Powell Jr. (1985) related the legitimacy of the democratic government to competitive, contesting and free elections. According to him, the basic requirements to call a government democratic are as follows:

- “1. legitimacy of the government is based on the assertion that it represents the will of its citizens (consent),
2. the basis of the legitimacy is arrived at through competitive political elections with a minimum requirement of at least two political parties (elections),
3. most of the people attaining a certain age can participate in the elections both as a voter as well as a candidate (contesting elections),
4. voting is free and secret (free voting), and
5. citizens and political leaders have the basic freedom of speech, press, assembly and organization (fundamental civic rights.)”

4. The constitutions of the modern democratic states also assert the authority of the people and their fundamental right of universal franchise. Article 7 of the constitution of Bangladesh, for example, states,

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“All powers in the republic belong to the people and their exercise on behalf of the people shall be effected only under, and by the authority of, this constitution.”

Again Article 11 of the constitution of Bangladesh states,

“The Republic shall be a democracy in which fundamental human rights and freedoms and respect for the dignity and worth of the human person shall be guaranteed and in which effective participation by the people through their elected representatives in administration at all levels shall be ensured.”

Article 21.3 of the Universal Declaration of Human Rights also state,

“The will of the people shall be the basis of the authority of government, periodic and genuine election which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.”

5. It is, therefore, a pre-requisite for an effective democratic system where people can cast and seek votes in a free, fair and neutral situation. This can not be achieved if all the actors in the election process do not behave in an orderly fashion. Three principal actors are the Election Commission, government, and the political parties and candidates. The constitution and other electoral laws guide the Election Commission in every country. Its duty is to ensure a free, fair and neutral election. Other actors should also play properly. After all, if we recollect Hobbes as saying, “Man is by

nature, selfish, brute and short," we can be careful. These adversaries of human character may make both social and political order unbearable. In the modern perspective, such bad qualities, if tenable by political parties and contesting candidates, may jeopardize the ardent urge of the people for real democracy.

6. The countries of South Asia, like many other developing countries, have been trying hard to institutionalize democracy. At least people want so. But, the democratic values and institutions are more or less fragile. Because of not having a long tradition of democracy, people, politicians and activists are distrustful to one another. Often there are allegations and counter allegations. If one party wins, the other can not accept the results. The Bangladeshis are familiar with such terms as "vote dacoity". "rigging" and "sharp rigging". Moreover, because of underdevelopment in almost every horizon of life, there emerged inequality in political contest too. Added to this, are black money, muscle power and other undesirable activities and thereby creating a situation for framing a set of principles, known as code of conduct, for the guidance of political parties and contesting candidates.
7. For a ready reference, the definition of the Code of Conduct given by international IDEA is noted below :
"The Code of Conduct for Political Parties Contesting Democratic Elections can be defined as a set of rules of behavior 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 practiced by all political parties involved in the electoral process."
[IDEA No. 12, June 1999, p.6.]. Some may

contradict this definition, as it is too idealistic. Here, political parties and their supporters are supposed to agree ideally and voluntarily and consequent to that agreement the rules of behavior are practised, Hence if there is no ideal and voluntary agreement and practice, the code ceases to exist.

8. The election codes of South Asian Countries also do not ignore the government or the ruling party. The government or the ruling political party is another important factor during electioneering. It's role during elections can't be ignored. It is widely believed in the region that under a party government, the election is not held in a neutral atmosphere. How far this allegation is true is subject to critical examination of the political system prevailing in each country. But, no doubt, it is a matter of great concern in every country of South Asia as it has been reflected in the election code of conduct of Bangladesh, India, Nepal and Pakistan. All the codes of conduct have specifically and elaborately discussed the principles as to how the Government or the ruling party should behave. Cardinaly, Bangladesh has overcome this issue of distrust relating to ruling party by establishing a Care Taker Government constitutionally in 1996. The election to parliament in 1991 also took place under a Care Taker government headed by the then Chief Justice Shahabuddin. The incorporation in the constitution of a Care Taker Government in 1996 for holding general elections is a new element in the gamut of governments hitherto unattended in Political Science. The election code of Bangladesh as framed by the Election Commission need not, therefore, provide detailed guidelines for the government or the ruling party as the codes of other countries did.

9. **Officials of all governmental, semi-governmental, autonomous bodies and corporations are also involved during elections. Naturally, they must be guided by some codes of conduct. The election codes for the guidance of political parties and candidates have accommodated this with different degrees of gravity. In almost all the countries, there are separate election laws and rules too pertaining to the conduct of officials (Election officers, Returning Officers, Presiding and Polling Officers, Personnel of law-enforcing agencies, etc.) engaged directly in elections. The role of the polling agents had not also escaped the attention of the Election Commissions. These issues have been dealt both in the codes of conduct for the political parties and contesting candidates, and also separately.**

10. **The preamble and the contents of the codes of conduct themselves speak out the intention and the issues required to be addressed in the countries under study. This has been nicely spelled out in the preamble of the Election Code of Conduct of Nepal as, "In order to render the election free, fair and impartial, it is expedient to make it less expensive, non-pompous, free from undue competition, curb any misuse of power and to conduct it without interference in the rights and normal life of the people in general. So for the purpose of achieving this objective, a significant responsibility lies with the political parties, independent candidates, His Majesty's Government and all governmental and**

semi-governmental entities, in addition to the Election Commission". Hence, the responsibility lies with

- a) The Election Commission,
- b) Government,
- c) Semi-Government entities (corporations, autonomous bodies),
- d) Political workers and
- f) Public media

The objectives are :

- (i) To make the elections free, fair and impartial.
- (ii) To make it less expensive and non-pompous.
- (iii) Free from undue competition
- (iv) To curb any misuse of power and
- (v) To uphold the rights and normal life of the people.

11. I have tried to examine and compare the election codes of conduct of all countries of South Asian Association of Regional Co-operation (SAARC). Since Bhutan, Maldives and Sri Lanka do not have election codes of conduct, those of Bangladesh, India, Nepal and Pakistan have been dealt in this research.

12. Writing on September 22nd, 1998, Mr. Dayananda Dissanayake, Commissioner of Elections of Sri Lanka says, "there is no such code of conduct adopted upto now. I think it is mainly due to the historical back-ground of our country. You may cite Sri Lanka as a unique example for a country conducts elections without a code of conduct for Political Parties and candidates." The "Historical background", may be attributed to the fine tradition of democracy.

13. The rest of this research oriented study is arranged as follows: The second Chapter describes methodology and sources of data, Third Chapter attempts at analysing the background for formulation of Election codes of conduct by the Election Commissions for the guidance of government/ruling party, political parties and contesting candidates, the Fourth Chapter attempts at setting up a standard set of elements for the theoretical framework of comparative study of the election codes, the Fifth Chapter makes a comparative analysis of the election codes of conduct of four selected countries and the Sixth Chapter contains summary and indicative policy conclusions.

Second Chapter

Methodology and Sources of Data

14. In studying the election codes of conduct and developing this paper, a systematic analytical scheme has been followed. The scheme covers the following:
- Putting together the codes of conduct for the guidance of political parties and candidates contesting elections of four South Asian countries.
 - Referring other laws and instructions relating to conduct of the government officials and government media during election schedule.
 - Indicating laws relating to electoral offences and punishment.
 - Background that necessitated the formulation of Election code of conduct.
 - Examining whether there is a correlation between corrupt practices in elections and changing socio-economic order.
 - Indicating the historical antecedents about corrupt practices in elections.
 - Setting appropriate theoretical framework for a comparative study of election codes of conduct.
 - Finding similar or dissimilar issues in the election code of conduct of selected countries under study.
 - Indicative recommendations which may help the policy makers.

15. Both empirical and qualitative approaches have been followed. The empirical approach is based on personal observation, meetings and interviews with the concerned officials in Dhaka, Delhi and Kathmandu. Secondary data from available publications have also been used. Laws and rules have been consulted from available manuals, books, and gazettes. Available literature relating to both the theoretical and the historical perspective of electoral systems and elections has also been consulted and the relevant information has been suitably used in this study.
16. It should be mentioned that one particular discipline of research study of the electoral systems has taken the form of quantitative study. This is due to availability of vast seas of elections' data. There is huge number of such studies. Several quantitative models and equations have been developed by many scholars and reserachers. In the context of our study of election codes of conduct such matchmatical modelling is neither necessary nor appropriate.
17. The objective of this research is to find appropriate sets of variables that suit the theoretical frame work for a comparative study of election codes of conduct and to indicate policy recommendations that would make the code effective.

Third Chapter

Background for formulation of Election Code of Conduct

18. Countries of South Asia have both similarities and differences in terms of religion history, tradition, culture and political systems. While Pakistan, India, Sri Lanka and Bangladesh were under the British rule, Nepal was an independent monarchy. India has been practicing parliamentary democracy since its independence in 1947. But Pakistan and Bangladesh experienced several discontinuities in their political history. There were several coups and counter-coups, and military rule in both the countries. Many tragic incidents also took place. Both the countries, with some degree of difference, followed the cyclical order of parliamentary, presidential, dictatorship and again parliamentary form of government. In October, 1999 there was another military coup in Pakistan. After about 200 years, constitutional monarchy and multi-party parliamentary democracy were established in the Kingdom of Nepal. Sri-Lanka has been practicing democracy since its independence, but is torn with ethnic problems. Bhutan is a monarchy with non-party political system. Reportedly, the monarch has initiated liberalising the political system in June 1998. No substantive progress towards multiparty democratic system has been achieved, however, to-date. Similarly, the Maldives had practically no political party. Ofcourse, it has a presidential system of government with a parliament, called Gana Majlish of 50

members Naturally, democratic values and institutions are generally fragile in almost all countries and more fragile in other countries of South Asia than in India.

19. It is told that democracy is the best form of all human-made systems. Democratic rule has now been established in all countries, except one, of South Asia due to current of history and the global changes. The last decade of the second millennium of the Christian callendar is termed as the 'Decade of Democracy' by the western world. No doubt, democracy is there. But, many political analysts believe that inspite of sincere will and efforts of the people and all well-wisher groups, except in the biggest democracy, India, it will take more time for democracy to be institutionalised in other countries of South Asia.

20. Inspite of a relatively fine democratic tradition and development of democratic institutions for over half a century in India, the Indian Chief Election Commissioner, Dr.M. S Gill underscored the need for a Care-Taker government, like that of Bangladesh, in India for free and neutral elections (The Daily Janakantha, 12 February 1998, Dhaka). During our official meet in New Delhi in February 1997, the Chief Election Commissioner of India foresaw that although no dem and for a Care-Taker government was made in India till that time, the wave of such a demand might pass rapidly over New Delhi to Islamabad. The other Election Commissioner, Dr. Krishnamurthy added with a quote of Gokhale, "What Bengal thinks today, Indai thinks tomorrow". According to

the Chief Election Commissioner of India, "there is no other way but to proceed towards a new system like that of Bangladesh when the relationship between the ruling party and the Election Commission deteriorates."

21. While the importance of the Care Taker government is underscored for holding a free, fair and neutral election, it is equally important how the political parties and their candidates behave. Generally, political parties and their candidates may resort to a fighting spirit when they are only concerned with victory and capturing power by fair means or foul. As a result, there is a possibility of the use of muscles power, arms and black money. Then it becomes very difficult to keep election free, fair and neutral. Many politicians, observers, political scientists and constitutionalists think that "black money" and 'arms' are endangering democracy. These two go together. When they really go, tested and honest leadership can't fare well and voters can not exercise franchise independently and neutrally. In this context we can recall a statement of Mr. Mohammad Abu Hena, the Chief Election Commissioner of Bangladesh. He said, "In many countries, election is not held on the basis of political ideology and principles. It is held by guns and cartridges. We are not unfamiliar with it. We know that it is an impediment to democracy. There is tremendous influence and power of money in many changing social structures. The influence of this money power should be curbed in the interest of democracy. We should think over the existing laws and rules of election expenditure in Bangladesh," (The Daily Ittefaw, 5 March, 1998, Dhaka).

Mr Hena's assertion of a correlation of influence and power of money with changing social structure has a theoretical backdrop in Smauel P. Huntington's (1968) observation. According to him, political corruption "correlates reasonably well with rapid social and economic modernization. "The countries of South Asia are rapidly changing. Hence, these elements are found in elections and other aspects of socio-political life. This is due to the fact that the existing system is unable to accommodate sufficiently the growing changes in the social structure.

22. Corrupt practices in elections are not new. These were prevalent even in western democracies. The eighteenth century Britain and the nineteenth century United States bear testimony to it. In the United States, wrote Howard W.Allen and Kay Warren Allen (1981),

"Stories of fraudulent election practices color the political history of the United States, and anecdotes about vote buying, the dishonesty of election officials, and the like suggesting the widespread prevalence of election fraud in the American past are in integral part of the lore of American politics. Many scholars, moreover, have accepted this depiction. In the 1880s, Henry George found that elections in all parts of the nation were corrupted with vote buying and excessive campaign expenditures. He cited the "large cities" and several western states as examples and added that "the most flagrant election corruption" actually was

not be found in the major urban centers but in "the older agricultural communities." Joseph P. Harris, in a book published in 1929 by the prestigious Brookings Institution, declared that "indifference, fraud, corruption and violence have marked the operation of our electoral system. Nor has this condition existed sporadically or in a few particular localities. It has been a more or less permanent condition in all parts of the country." L.E. Fredman in 1968 in the Australian Ballot agreed. "By the middle decades of the nineteenth century," Fredman claimed, "It was obvious to many Americans that the manipulation of the ballot had made voting a meaningless procedure," (Pp. 153-154).

This scenario, the observers say, is found in many developing democracies of today.

23. Moreover, it is heard that a new group of candidates purchase candidature by giving huge amount of money to the political party and its leaders. They try to win the election by spending huge amount of money in various ways. They try to influence and gain over the polling personnel and hire mastans (hooligans) and terrorists. This seems to have prompted the Election Commissions of South Asian countries to fix up a ceiling of expenditure to be incurred by a candidate. But political observers believe that it is not a sufficient measure. They suggest that the bank accounts, income and expenditure statement of the political parties and candidates should be

made public. These should be regularly audited and be brought under the Income Tax laws of the respective countries.

24. The defeated political party and candidates, on the other hadn, are found of not accepting the election results. This creates tension and violence in politics. In this connection, the comments made by Justice Shahabuddin Ahmed, President of the People's Republic of Bangladesh, in a seminar of Bangladesh Supreme Cour Bar Association held on 6 December, 1997 are very important. He said, "Election rigging is a bad thing if it is done by the rival candidates or party; but it is an act of patriotism if it is done by me or my party. Election is fair if I win, it is rigged if I lose, even if it is conducted by an Angel", (President says It Again, but who listens? editorial of the Daily Star, 8 December, 1997, Dhaka). However, it is not a case in established democracies. In South Asia, India is a notable example. Observers noted how Sonia Gandhi and for that matter Indian Congress conceded the defeat in the recently hald 13th Lokshava election (1999).
25. If one observes the trend of elections in South Asian countries one can observe fragile democratic values and institutions, and the attitude of the fuling party in addition to unequal money power, arms and muscle power. Many political parties also try to influence the voters by using some sensitive issues. These are: religion, regionalism, communalism and ethnic issues.
26. There are some other im pediments in the way of free, fair and neutral election. For example , if the ruling

Party or person dictates percentage of voting. It may happen during referendum or plebiscite. Again, officials engaged in election works may not be willing to work neutrally and firmly if there is a chance of punishment transfer after the election results. Election may also be rigged if administration, law enforcing agency or other polling personnel are biased and gained over. The mischief mongers also can terrorise the voters by letting terrorism during election time in the election areas. The electors may also cast their votes by taking bribes. This is due to economic condition of the people in some areas of the region.

27. Law and order has become a very important issue and costly item in an election. Now-a-days people highly expect that the government and the Election Commission have to ensure a congenial atmosphere for holding a free and fair election. For example, the priority task of the Care Taker Government of Bangladesh in 1996 was to recover illegal arms and to book the persons allegedly involved in crimes. On the eve of the 12 June 96 parliamentary election some forty thousand persons were taken to custody. The Care Taker Government was successful in recovering a few thousand firearms. About three hundred seventy five thousand members of the law enforcing agencies were deployed during that election. Observers suggest that three-fourths of election expenditure are meant for maintaining law and order. In spite of all such measures, it is still difficult to ensure a peaceful order. In 1998 Lokshava election in India, scores of people were killed. Elections had to be postponed in

many places. In 1999 Lokshava election, "Since voting started September 3, about 95 people were killed in clashes between rival party supporters and in bombing and shootings by separatist militants trying to enforce election boycotts in the several states. "[The Daily Star, Dhaka, Monday October 4, 1999]. Of them 39 were killed most in north eastern states before polls closed on October 3, in the final phase of Indian parliamentary elections. It is reported that about half a million police, soldiers and officials were deployed to limit violence and vote fraud on October 3 election. Similar incidents happen in other countries of the region. In Bangladesh, for example, during June, 1996 election, "at least 11 persons, including children, were killed in polls violence and another five hundred people were hurt, many seriously, all over the country, "(CCHRB, 1996, p.16). In another example, in order to hold by-election to Barisal-5 constituency of Bangladesh Parliament on July 20, 1998, four thousand police, BDR and Ansars, and three hundred army personnel were deployed; one hundred and seventy one Magistrates were deputed, and four senior officers (an Additional Secretary and three Joint Secretaries) were engaged to supervise and control the law and order for 93 polling centres. The number of magistrates were almost double than the number of presiding officers. As a routine work, the Divisional Commissioner, the DIG, of Police, the District Magistrate and the Superintendent of Police were there. Moreover, one of the Election Commissioners visited the constituency three days before the election. Above all, the Chief Election Commissioner of Bangladesh along with the Secretary of the Election Commissioner of Bangladesh along with the Secretary of the Election Commission

Secretariat were present in the constituency for the whole day. In spite of the unprecedented security measures, there were bomb explosions at least in two polling centres. There was police firing in one centre. In another centre, the armed hooligans attacked and snatched away the ballot papers. The election had to be postponed in that centre.

28. Examples may be multiplied. On the 15th November, 1999 by-election to Tangail-8 Constituency of Bangladesh Parliament a total of 131 magistrates, and about 2760 Police, BDR, Ansars and Soldiers were deputed to maintain law and order in 82 election centres. Officially polling of 4 centres had to be postponed due to violence and vote fraud in spite of heavy security measures. Law and order situation may also be understood by examining the violence during 1997-December Union Parishad elections in Bangladesh. Let us quote the Coordinating council for Human Rights in Bangladesh, (CCHRB), "as with many other elections in Bangladesh, the 1997 UP elections were marred by violence. Forty-seven people were killed and another 1955 injured in clashes which took place before, during and after polling", (CCHRB, 1998, p.2). This speaks of the state of political culture prevalent in the region.
29. If one analyses the election codes of conduct of different countries, one can understand the socio-economic conditions, political culture and political developments of those countries. It can be understood what is the economic condition, whether meetings and

processions are attacked, traffic jams created; how the issues like religion, caste, creed, language and regionalism come up in politics; how is the concern about integrity, security and indivisibility of the state; and whether there exist muscle power, arms and hooliganism. Moreover, the election codes of conduct incorporate issues like, size and nomenclature of posters, leaflets, banners, gates; meetings and processions, election expenditure; conduct and utterances of the parties and candidates about opponents, judiciary, armed forces, foreign relations and etc.

30. All these issues have been accommodated in the codes of conduct for political parties and candidates framed and promulgated by the Election Commissions of Bangladesh, India, Nepal and Pakistan.
31. The Election Commissions of the countries under study framed and promulgated the election codes of conduct in exercise of their powers under their respective constitution and election laws. Hence, these codes are to be obeyed in principle. These codes, however, are not laws and, therefore, not legally binding. Offcourse, all the contries under study in South Asia have their own laws providing election offences and punishment thereof. In addition to the Penal Cods of the sub-continent, the election laws record some "corrupt practices" and provided for punishment. Such laws are : (i) The Representation of the People Order in Bangladesh, (ii) The Representation of the People Act. in Pakistan and (iii) The Representation of the People Act. in India. In Nepal, it is the Election (Offences and Punishment) Act, 1991. But,

the election codes, as not being laws, do not provide for punishment.

32. Many political scientists and constitutional experts think that the election code of conduct should be legally binding and be a part and parcel of the electoral laws of the country. Citing that the election codes of conduct of South Asian countries are not legally binding and that of South Africa is legally binding and effective, the renowned Bangladeshi lawyer Dr Kamal Hossain said, "It is important to underline that the South African Code of Conduct is a legally binding code which forms an integral part of the electoral law, and is thus, more effective than non-binding codes, such as the Indian or Bagnaldeshi codes," (Dr. Kamal Hossain, Urgent Need for Electoral Reform : Some Concrete proposals, the Daily Star, 8 December, 1997, Dhaka). The election codes of conduct as we study in this book clearly demonstrate that these are not an integral part of the electoral law and hence, not legally binding.
33. The issues as emanated from the codes to render the election free, fair and impartial, may be grouped within the following categories :
1. Less expensive and non-pompous which include :
 - a) ceiling on election expenditure,
 - b) ban on donation, subscription and promise thereof,

- c) size and quality of posters, pamphlets, handbills and leaflets,
 - d) election camps and entertainments,
 - e) use of transports,
 - f) bribing of voters, etc.
2. Restriction on undue competition, which includes
- a) appeal to casts, sect, language and religious feeling,
 - b) statement derogatory to sovereignty, integrity, security and ideology of the state,
 - c) conveyance of voters to and from polling station.
3. Curb on misuse of power :
- a) use of official position,
 - b) use of official facilities,
 - c) access to polling station,
 - d) giving jobs to people,
 - e) providing public utility services (water supplies, gas, electricity, erecting roads and bridges, etc.),
 - f) advertisement in the news papers.
 - g) using government media for party propaganda.
4. Interference in the rights of others :
- a) breaking or disturbing meetings of opponents,

- b) attacking processions of opposite party or candidate,
 - c) pasting posters and leaflets on those of the opponents,
 - d) wall writings and hoisting flags and banners in the house of common people.
 - e) * random use of microphones and loud speakers
 - f) carrying and use of firearms, explosives and other weapons.
 - g) creation of terrorism
 - h) intimidation and impersonation of voter
 - i) creating hindrance to the performance of election officials.
34. All the factors as stated in para 33 amply suggest the backdrop against which the election codes of conduct have been framed and promulgated in the countries under study. These also give us an opportunity to devise a rational theoretical framework within which the comparative analysis of the election codes of conduct could be made.

Fourth Chapter

Theoretical Frame work of Comparative study

35. There has been a renewed attention for last two decades to the study of electoral systems, and their consequences on the political systems. The objective is to examine how far fair and effective the existing electoral system to yield a free, fair and neutral election. Although many books were written by many scholars on electoral systems, a few serious studies were undertaken on the comparative study of election codes of conduct for the guidance of political parties and contesting candidates now being practiced in many countries. The social scientists have evolved many sets of elements or variables for a proper analysis of electoral systems. This gives us a theoretical framework for making a comparative study of election codes of conduct that contain many issues. Available literature, however, has not singled out the election code of conduct from amongst other laws, rules and procedures of the electoral system. But the sets of variables evolved by them provide a standard theoretical background of high academic discussion. Following this academic discipline, we shall be able to single out the sets of elements which are relevant to the comparative study of election codes of conduct in particular.
36. According to Taagepera and Shugart (1989), "designers of electoral systems have three principal variables which they can manipulate. These choices may

be expressed as three questions : (1) What should be the ballot structure? (2) How many seats should there be in a district? (3) What method should be used to translate votes into seats? "The issues as cropped up in the election codes of conduct as enumerated in para 33 can not be accommodated within these three choices. At least the **fourth choice** could be added as what method should be used for true reflection of the general will?

37. A comprehensive list of factors has however been discussed by two other scholars, Grofman and Lijphart. According to them, traditionally, in a broader perspective, comparative study on the electoral system (laws and their political consequences) is used to be done on the following sets of elements :

- "1. Electoral formulas (e.g. proportional representation (PR) vs. majoritarian systems; for alternative typologies see rae, 1967; Grofman, 1975)
2. Ballot Structure (e.g., nominal vs, ordinal)
3. District magnitude (number of seats)
4. Size of legislature
5. Number of candidates/parties."

[Grofman and Lijphar, 1986, p.2]

38. Apart from the sets mentioned above there are other important sets of elements as listed by Grofman and Lijphart for a comparative study of electoral systems. These are :

1. Suffrage and registration requirements.

Theoretical Frame Work

2. **Ease of voter access to the electoral process (e.g. availability of bilingual ballot, polling hours, number and location of polling stations, and enforcement of voter rights against intimidation)**
3. **Ease of party/candidate access to the political process (e.g. candidate eligibility requirements, signature-gathering rules, nominating fees, party slating procedures, and bans on antisystem parties)**
4. **Structure of political competition (e.g., partisan vs. nonpartisan ballots and availability of intra-party preference voting)**
5. **Special features of ballot format (e.g., Office block vs. party check-off, machine vs. paper ballot, open vs. secret, and sequencing rules for candidate/party ballot position)**
6. **Special features of transforming votes into outcomes (e.g, the US electoral college and electoral thresholds in PR systems)**
7. **Districting procedures (e.g., rules which constrain districts to satisfy equal population guidelines or compactness norms, or to provide representation of ethnic or other community of interests)**
8. **Campaign financing rules (limits on donations and spending, nonconfidentiality of information on donors, and provisions for public financing).**

9. Campaign timing rules (e.g., fixed vs. variable interval elections and length of term in office).
10. Other features of campaigning (e.g., rules on media access, rules prohibiting “unfair” advertising, rules on sites where campaigning is forbidden, and restrictions on the period during which a campaign can be conducted)
11. Number and type of offices which are subject to electoral choice (e.g, appointive vs. elective vs. administrative mechanisms for various policy domains, number of different elections voters are expected to participate in annually, and regularity of election dates)
12. Degree of bundling of elections (e.g., sequencing of dates for local, state and national, elections and regularity of elections dates).
13. Mechanisms for intervention (e.g., initiative, referendum and recall)”,
[Grofman and Lijphart, 1986, p. 2-3.]

39. These two eminent scholars tried to list some other variables and issues relevant to comparative study of electoral systems. In fact all these important variables and issues are relevant to the overall study of electoral systems and consequences of electoral laws on other elements of political systems. In the context of our study of election codes of conduct the sets of variables mentioned in the serial number 2, 8, 9, and 10 of para 38 above are most relevant. But as we will see, later on, there are other sets of

variables which are new to the systems of elections in South Asian countries and have not been duly cared by the scholars on the literature of electoral system. These are

- (i) Religious and Cultural factors (e.g., role of religion, language, regionalism, civic culture, education of voters, party cadres and supporters and etc.).
- (ii) Question of national security, integrity, sovereignty and indivisibility of the state.
- (iii) Law and order situation (e.g., terrorism; breaking, disturbing and attacking meetings and processions; carrying and use of fire arms, explosives and other weapons; creating hindrance to the discharge of the functions of the election officials),
- (iv) Role of the ruling party (use of official position and facilities).

40. All items in the election codes of conduct of Bangladesh, India, Nepal and Pakistan, therefore, fall and can be compared within the framework of eight sets of variables namely, four from those of Grofman and Lijphart in para 38 and i-iv in para 39. The eight sets, combined together, are as follow :

- a) Ease of voter access to the electoral process (e. g., availability of bilingual ballot, polling hours, number and location of polling

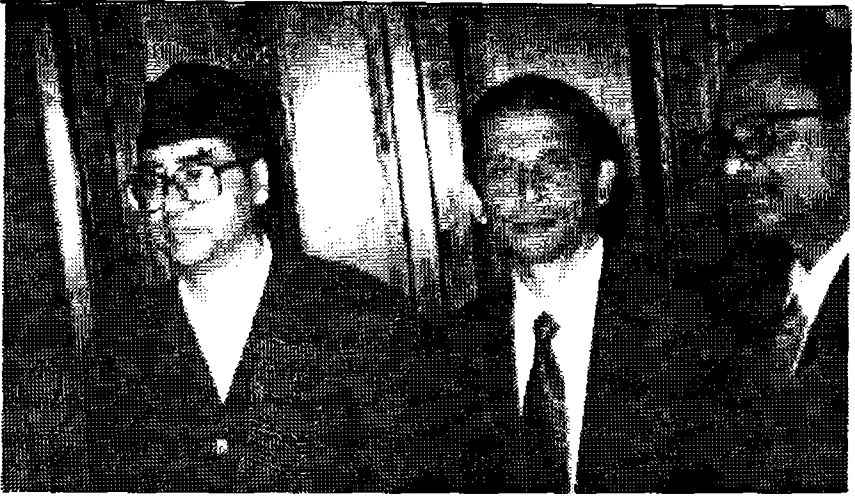
- stations, and enforcement of voter rights against intimidation)
- b) Campaign financing rules (limits on donations and spending, nonconfidentiality of information on donors, and provisions for public financing).
 - c) Campaign timing rules (e.g., fixed vs. variable interval elections and length of term in office).
 - d) Other features of campaigning e.g. rules on media access, rules prohibiting "unfair" advertising, rules on sites where campaigning is forbidden, and restrictions on the period during which a campaign can be conducted)
 - e) Religious and Cultural factors (e.g., role of religion, language, regionalism, civic culture, education of voters, party cadres and supporters, and etc.)
 - f) Question of national security, intergrity, sovereignty and indivisibility of the state.
 - g) Law and order situation (e.g. terrorism; breaking, disturbing and attacking meetings and processions; carrying and use of fire arms, explosives and other weapons; creating hindrance to the discharge of the functions of the election officials).
 - h) Role of the ruling party (use of official position and facilities).

Fifth Chapter

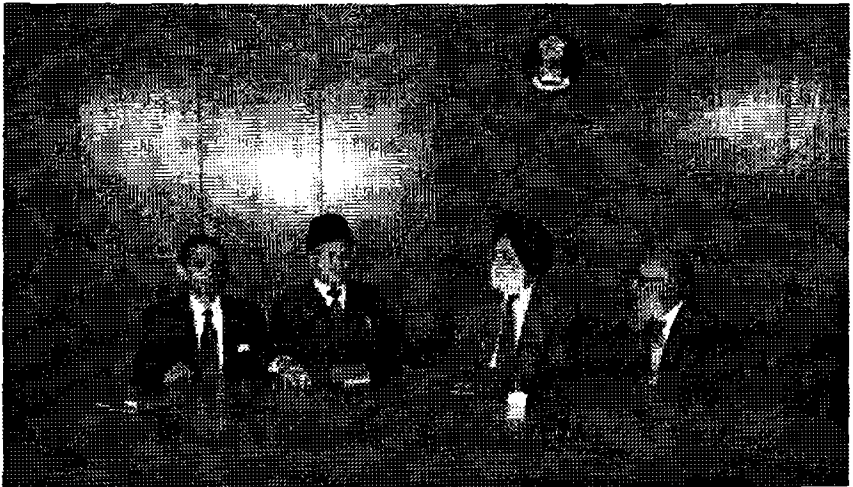
Comparative Analysis of Election Codes of Conduct of Selected countries

41. **Timing :** Bangladesh, India, Nepal and Pakistan have framed and promulgated their respective election code of conduct in the 1990s. Here we are discussing the codes of these countries promulgated in 1996, 1991, 1996 and 1997 respectively. The Election Commission of Pakistan and that of Nepal also framed and promulgated code of conduct for the guidance of political parties and candidates before 1993 and 1992 general election respectively. The time period, however, is the 1990s. It is to be noted that except Nepal, with some odds and evils, multiparty democracy has been being practiced in three other countries of the region. The democratic tradition in India has been of a long time. It is the biggest democracy of the world. Yet, there emerged in India a political necessity for framing a Model Code of Conduct for the guidance of political parties and candidates. This necessity also cropped up in other neighbouring countries. Time demanded of promulgating codes for guiding the behaviour and activities of the political parties and candidates during elections. This again speaks of the fragile political values and democratic institutions in South Asia.

42. **Size of the Codes** : The Bangladesh Election Code contains eight rules. The first one gives the title. The second rule gives definitions of “pre-poll period, candidate and political party”.. The remaining six rules relate to actual code of conduct of political parties and candidates. The Model Code of Conduct of India consists of seven principal rules. The 1st rule contains seven sub-rules which illustrate general conduct for the guidance of political parties and candidates. The second, third, fourth, fifth, sixth and seventh rule provides for meetings, procession, polling day, polling booth, observers and role of party in power respectively. The code of conduct of Nepal is broadly divided into four parts. Part A, Part B, Part C and Part D deal with the conduct of the political parties, election expenditure, conduct of his Majesty's government and Miscellaneous issues respectively. Part A contains twenty seven general principles for the guidance of political parties and candidates. There are seven rules in Part B regarding election expenditure. Part C contains 12 rules, seven of which are for the guidance of ruling party. The miscellaneous part consists of seven rules. The Election Code of Conduct of Pakistan provides for thirty three rules. Among those, rule 10 and 12 were printed with importance in capital letters. Rule 10 barres the political parties and candidates from disclosing state secrecy. Rule 12, on the other hand, asks the politicians and candidates to refrain from issuing any statement on foreign relations which may emberass the government, or doing any act or making any such comment which may prejudice Pakistan's foreign relations, or making controversial or harsh remarks against foreign leaders or ideology.



The author (Second from right) is seen with Mr. Sher Bahadur Deuba, Hon'ble Prime Minister of Nepal (Third from right) in kathmandu on March 2, 1997.



The author is seen (from 1—R) with Mr. G.V.G. Karishnamurti, EC of India, Dr. M.S. Gil, CEC of India and Mr. Mushtaq Ahmed Chowdhury, EC of Bangladesh, in Delhi on 21.02.1997.



The author is seen (from L—R) with Mr. Mushtaq Ahmed Chowdhury, EC, Bangladesh and Mr. Bishnu Pratap Shah, CEC of Nepal in Kathmundu on March 2, 1997.

- 43. State Ideology, Sovereignty, Integrity, Security and Judiciary:** When we analyse the election codes of conduct of the countries under study, we find that both Pakistan and Nepal are very concerned with the issues like independence, sovereignty, indivisibility, integrity and security of the country. These issues have been well emphasized in the election codes of conduct of these two countries. The Nepalese code goes as, "No publicity shall be made or allow others to do so which would adversely affect the nationality, independence, indivisibility and sovereignty of Nepal." The election code of Pakistan states. "The political parties shall not propagate any opinion or act in any manner prejudicial to the ideology of Pakistan, or the sovereignty, integrity or security of Pakistan."The degree of importance attached to these issues speaks of the state of national integration in the region. The codes of conduct of Bangladesh and India did not incorporate these issues. Because of homogenous nationality Bangladesh, however, has no problem of national integration. Moreover, the code of conduct of Pakistan asked the political parties and candidates to refrain from any act or opinion that might bring into ridicule the judiciary or the armed forces of Pakistan as provided under Article 63 of the constitution of Pakistan. Nepal , for its exigency of the situation, asked the political parties, their candidates and independent candidates not to make any publicity during election campaign which would be contrary to multiparty democracy, parliamentary system and the constitutional monarchy. This is because of the fact that Nepal has just recently entered into its phase of parliamentary democracy and constitutional monarchy.

- 44. Election Expenditure :** Election expenditure has been observed to be a great concern in South Asian elections. In all four countries under study, the maximum limit of election expenses has been fixed. The amount has been clearly spelled out in the Election Code of Conduct of Pakistan, but has not been mentioned in the codes of three other countries. These countries issued separate orders giving the amount of the limit of expenditure. We gathered information on election expenses of India and Nepal during our official visit to New Delhi and Kathmandu.
- 45.** Rule 27 of the Pakistani code fixed Rs. 10,00,000 (ten lakh) and Rs. 6,00,000 (six lakh) as maximum limit of election expenses for each candidate in the national and Provincial assembly election respectively. Rule 27 of Pakistan's Code of Conduct goes as, "No contesting candidate or a Political Party shall under no circumstances, cross the limit of election expenses- rupees one million for the National Assembly and rupees six hundred thousands for the Provincial Assembly seats (section 49 of the Representation of People Act, 1976)." In India, the limit of election expenses for a candidate in the election to Lokshava was fixed as Rs. 6,00,000 (six lakh). In Nepal, the amount varies from Rs. 1,50,000-2,50,000 depending on the number of voters in a constituency and the geographical condition. Detailed principles about election expenses were laid down in Part B of Nepalese

Election Code of Conduct. The districts of the Kingdom were grouped into four regions judging factors like number of electors, geographical condition, resources and other available facilities and accordingly ceiling of expenditure was fixed in varied amounts for different regions. Provision for submission of expenditure statement at every 15 days was made. Rule was also made to keep and submit accounts of expenditure on transport, party expenditure for the candidate, expenditure from other sources and etc. All items of expenditure shall be accounted within the maximum ceiling for election expenditure. It also gave responsibility to political parties to maintain accounts of all election expenditure of their of their candidates and submit it to the Election Commission. Rule 6 in part B of Nepalese election code states, "The political parties shall maintain the particulars of expenses incurred on behalf of their candidates and shall submit such details to the Commission." In Bangladesh, the limit of election expenditure of a candidate was Tk. 3,00,000 (three lakh) in the last June, 1996 parliament election. Clause 3 of article 44B of the Representation of the People Order, 1972 says, "the election expenses of a contesting candidate, excluding the personal expenditure incurred by such candidate, shall not exceed Take three lakh." Rule 5 (18) of Bangladeshi election code states, "No contesting candidate shall, under any circumstances, cross the limit of election expenses".

- 46.** It is true that the level of election expenditure of a candidate in a country depends on over all socio-

economic condition of that country. The socio-economic condition of the United States is not similar as that of Bangladesh or India. It is, therefore, natural that expenses will be of diverse amount in different countries. Election expenses in different countries have been increasing over time. For example, according to the news papers, there was an expenditure of over \$5 billion on the last Presidential election campaign of the United States. In spite of differences in different countries, it is believed that the limit of expenses set by rules is not adhered. Political observers suggest that stringent measures should be accommodated in the election code of conduct and other electoral laws to ensure strict compliance of the limit of election expenses. Some suggest that when it is proved that expenditure limit was exceeded, the membership may even be vacated. The election, thus, be made free from black money.

- 47. Religion, Community, Caste, Sect and Religious Institutions :** These issues have been accommodated in one form or another in the election codes of conduct of Bangladesh, India, Nepal and Pakistan. It has been stated in the Election Code of Bangladesh that no provocative and bitter statement shall be made that might hurt the sentiment of the followers of any religion. Rule 1 of the general conduct of Indian code says, "No party or candidate shall indulge in any activity which may aggravate existing differences or create mutual hatred or cause tension between different castes and communities, religious, or

linguistic". Rule 3 of the general conduct in the Election Code of India asked the candidates and the political parties not to appeal to caste or communal feelings for securing votes. It further barred them not to use religious institutions like, Mosques, Churches, Temples and etc. as forum for election propaganda. The Nepalese Code provided that no publicity should be made which would generate hatred, jealousy, contempt and hostility amongst different religion, sect, caste, creed and community. It further envisaged that political parties and candidates should not induce the voters to cast their on the basis of religion, cast and language. The election code of Pakistan asked the political parties to refrain from making any speech that might arouse parochial and sectarian feelings. It further barred them from making any statement that might create conflicts or controversy between sects, communities, genders and linguistic groups. Rule has also been made asking the political parties, candidates and their workers not to propagate against the participation of any person in the elections on the basis of sex.

- 48. Meetings, Processions and Rallies :** In the election code of conduct of all these countries, the right to hold meetings, processions and rallies has been well recognized. But these codes asked the political parties, contesting candidates and their supporters not to break up or obstruct or disturb the processions or meetings organized by other parties and candidates. The codes further advised the political parties and contesting

candidates to notify and contact the local police and administration while organizing any public meeting, rally or procession. It suggested to seek co-operation of the law-enforcing agency regarding disturbing elements.

- 49.** All the codes of conduct asked the political parties and contesting candidates not to hold public meetings and rallies on main streets and roads that might create traffic jams and public inconvenience. To avoid traffic congestion, the India election code suggests, "If the procession is very long, it shall be organized in segments of suitable lengths so that at convenient intervals specially at points where the processions has to pass road junctions, the passage of held up traffic could be allowed by stages thus avoiding heavy traffic congestion. If there is any coincidence of the program of meetings and processions by rival parties and candidates, on the same date and time, the India election code suggested the contesting candidates and political to make prior contact between them. In addition, the election codes of Bangladesh, Nepal and Pakistan prohibited the torch procession of any contesting candidate. In fact, the two issues, meeting and processions, have been extensively dealt in all the codes of conduct. For example, the India code provides four rules on meetings, and eight rules on processions. Further, the Election Commission of India has pinpointed some issues in rule 7 of the general code to uphold the basic right to expression and meeting by saying "Political parties and candidates shall ensure that their supporters do not create obstructions

in or break up meeting and processions organized by the other parties. Workers or sympathizers of one political party shall not create disturbances at public meeting organized by another political party by putting questions orally or in writing or by distributing leaflets of their own party. Processions shall not be taken out by one party along places at which meetings are being held by another party . . . Moreover, the codes apprehend that violence may occur during meetings and processions. And in many cases it so occurs. This is why the codes asked the political parties and candidates to avoid violence during meetings and processions.



The author is seen (from L—R) with Justice Hamidd Ali Mirza, member, Pakistan Election Commission and Mrs. Mirza in Dhaka, April 9, 1997.



The author is seen with Mr. H.L. Regmi, Secretary, Election, Commission of Nepal in Kathmandu, March 2, 1997.

- 50. Subscription, Donation etc. and promises there of and That of Development projects:** A ban has been imposed by the election codes of conduct of all countries under study on giving subscription or donation or making promise of giving subscription or donation to any institution by any candidate or any person on his behalf openly or in secret following the announcement of the election schedule till the day of polling. Nor they shall commit to undertake any development project in the respective constituency. However, the political parties or the candidates can announce their development programs as a part of the election manifesto.
- 51. Role of the Government and the Ruling Party:** The election codes of conduct of Bangladesh, India, Nepal and Pakistan have elaborately discussed this issue. Because

of the establishment of the Care-Taker government during general election in Bangladesh, the code of this country, without mentioning the ruling party says, "No candidate or political party or any body on their behalf shall use government media, government officers, employees or transport or other state facilities following the announcement of the election schedule,"[Rule5(6)].

52. In other countries, the election codes of conduct have specifically mentioned about the government or the Ruling Party. Section VII of the Indian code elaborately deals the issue. It has been told that the Ministers "Shall not combine their official visit with electioneering work and shall not also make use of official machinery of personnel during electioneerin work:"It has further made provision that the Ministers shall not use government transport including official aircrafts, vehicles, machinery and personnel for furtherance of the party interest. Rule was made so that the use of public places such as maidans, etc., rest houses, dak bungalows or other government accommodation shall not be monopolized by the party in power or its candidates. These should be allowed to be used by other parties and candidates in a fair manner on equal terms and conditions. They were also barred from issuing advertisement at the cost of public exchequer in the news papers and other media for furtherance of the interest of the party in power. Sanction of "grants payment out of discretionary funds" by the Ministers could not be made during election

schedule. Further, the Ministers and the other authorities were asked not to (a) " announce any financial grants in any form or promises thereof (b) lay foundation stones, etc., of projects or schemes of any kind or (c) make any promise of construction of roads, provision of drinking water facilities, etc., or (d) to make any adhoc appointments in Government, Public Undertaking, etc., which may have the effect of influencing the votes in favour of the party in power." They were also barred from entering into any polling station or place of counting except in their capacity as a candidate or voter or authorized agent. The impact of these restrictions, said the Chief Election Commissioner of India during our visit to New Delhi in February 1997, that one Chief Minister told him that it was better not to have any cabinet during elections.

- 53.** The Pakistan election code of conduct made a rule about the Ministers saying that they should " not combine their official visits with electioneering work." ON the role of the civil servants, the election code of Pakistan in consonance of section 83 of the Representation of the People Act, 1976 states, " The political parties and contesting candidates should not procure the support or assistance of any civil servant to promote or hinder the election of a candidate." The election code of conduct of Nepal is as elaborate as that of India. But it has an additional noteworthy rule that the Prime Minister, considering the official responsibility and security, can use the official vehicle and enjoy other facilities. Virtually in Nepal, we were told, not Minister or Adviser except the Prime Minister can use the government vehicle or enjoy other facilities following the announcement of the election schedule.

54. **Posters, Pamphlets, Handbills and Leaflets:** Such is the political culture in South Asia that minor issues like posters, pamphlets, handbills and leaflets did not escape the notice of the Election Commissions. It has been provided in the Election Code of Bangladesh that no posters, leaflets or handbills shall be stuck over the posters, leaflets or handbills of the rival candidates. In Nepalese code there is such a provision. In addition, rule 6 of part A of the Nepalese Code states that no posters, pamphlet or handbills or no enamel and other color paints shall be used to inscribe or be inscribed in any religious, archaeological, historical edifices and monuments. Moreover, pasting of poster, pamphlets or handbills or inscribing enamel and color paints in any private residence, shop, wall or any other similar palces without obtaining permission of the owner has been barred in the code. The political parties and the candidates were asked to clean up such posters, handbills and election symbols after the elecation at their own expenses. If they don't do so the local administration shall have them earsed or removed them on its own, The expenses so incurred shall be required to be paid by the authority desinated by the commission. Such expenditure shall be added to his election expenditure. The election code of Pakistan has provided the similar rule that the political parties or candidates shall not use posters and pamphlet without

prior permission. The codes of conduct also narrate about the size of the posters used for publicity during election. The election code of Bangladesh states that the size of the poster shall not be more than 22"x18" and it should be printed on country made black and white paper. The Indian code is silent on this issue. Similarly nothing has been told about the size and colour of the posters, leaflets and handbills in the election code of conduct of Pakistan. On the other hand, it has been stated in the Nepalese code that the size of posters and pamphlets should not be more than 18"x 22" and 6"x10" respectively. These should be printed in a single colour 60 grams paper. Provision has also been made in the Nepalese code that the name and address of the printer shall mandatory be mentioned on such posters and pamphlets.

55. **Banners and Wall writing** : The election code of Bangladesh asked every person to refrain from all sorts of wall writings as a means of election campaign. Nothing has been told about the banners. The Pakistani Code says that no person or political party shall affix banners of any size or cause wall chalking as a part of election campaign. The Nepalese election code did not say anything about wall writings but, it says about the banners. The provision is that no banner made of red cloth or any other kind of cloth shall be used for publicity campaign. In the Indian election code of conduct, use of banners and wall writings have not been banned but, it has been told that no individual's land, building, compound wall etc. shall be used without his permission for suspending banners, pasting notices, writing slogans, etc.

56. Election Camps and Entertainments : In the region, elections take festive mood. Political parties and candidates are found to establish election camps where electioneering and entertainments go together. The election codes of conduct of all the countries under study took these issues into cognizance and asked the political parties and candidates to keep the election camps simple. It has been provided in the election code of Bangladesh that the election camp shall as far as possible be simple and shall not be set up on any public road or place. It has further been stated that the voters should not be served with food or drinks in the election camps. Rule 6 of the Pakistan election code of conduct narrates the same thing about the election camps and entertainment therein, stating that the candidate's camp shall be simple. The election code of India provides that posters, flags, symbols or any other propaganda materials should not be displayed in the election camps. Provision has also been made that no eatables shall be served or crowds be collected near the camps or be allowed at the camps. It has further suggested that the identify slips supplied by the political parties and candidates to voters should be on plain white papers and should not contain any symbol, name of the candidate or the name of the party. The Nepalese code has not specifically told any thing about the election camps. But both the Indian and the Nepalese codes categorically mentioned about the use of liquors.

The Nepalese election code of conduct prohibited the sale, distribution and consumption of alcoholic drinks during three days each prior to the commencement and termination of the poll. The Indian election code has asked the political parties and candidates to refrain from serving or distributing liquor on polling day and during twenty four hours preceding it. Both Bangladesh and Pakistan need not say about liquors perhaps due to the fact that liquors are officially banned and are not generally used in these two countries.

- 57. Carrying and Burning of Effigies:** This relates to prevalent culture in India although it is sometimes seen in other countries too. This subject has not been incorporated in the election codes of conduct of Bangladesh, Nepal and Pakistan. The concerned rule in the Indian code is that no political party or candidate shall carry the effigies of the leaders and members of other political parties or burn such effigies in public.
- 58. Miking :** Publicity through miking is recognized in every country under study. But its use and the time for use have been restricted depending on the climate, social, cultural and religious conditions on the climate, social, culture and religious conditions for respective country. The rule in the Bangladesh election code of conduct is that no contesting candidate shall use more than three microphones in his constituency and the use of mikes shall be restricted between 2 PM and 8 PM. The Indian election code asked the political parties and candidates to take prior permission for the use of microphones and loudspeakers in public meetings. No

timetable for the use of microphone has been set in the election code of India. The Pakistani election code restricted the use of microphones upto three. The use of loudspeakers has been restricted to public meetings only. The use of mikes was restricted between 11 am and 4 p.m. particularly in view of Ramzan-ul-Mubarak (fasting month of the Muslims) and Taravee prayers. This rule was adapted from section 83 A of the Representation of the people Act, 1976. The Nepalese code asked the political parties and candidates to use loud speaker, radio, cassette and other similar kind of sound amplifier in such a manner as they would not hinder others or create disturbance in public peace and order. The use of these instruments was restricted between 7 AM to 9 PM.

- 59. Use of Transports :** All election codes of conduct have made rules about the use of transport by the political parties and contesting candidates for election campaign and of the polling day. Without mentioning the number or mode of use of transports, the Indian election code asked the contesting candidates to abide by the restriction to be imposed by the authorities on the plying of vehicles. They were asked to take permits for the use of transport and those should be displayed prominently on those transports. The Bangladeshi code provides that in the interest of maintaining law and order no motorcycle or any other mechanical transport should be used within the premises of the polling stations. Procession of buses, trucks or any other vehicles in favour of any contesting

candidate has been barred in the election code of Bangladesh. Exactly the same provision has been made in the election code of Pakistan. The election code of Nepal Prohibits the processions of trucks, buses, tractors, motors, cars, motorcycles and rickshaws other than cycles. It has asked the political parties and candidates not to transport the voters in bus, truck, jeep or any other means of transportation on the day of polling. Further provision was made in the code that not more than one vehicle could be used on behalf of a candidate on the polling day. Rule 23 in part A of the Nepalese code goes as, "The candidate shall not use or make others to use more than one vehicle in the day of polling."

- 60. Fire arms, Explosives, Other Weapons, Money and Muscle Power :** Population growth, increase in unemployment, social tension and the attitude of eliminating the opponents have given birth to the use of fire-arms and muscle power in politics side by side with black money. The Election Commissions in South Asian countries appear to be aware of these developments. This is why these issues have been accommodated in the election codes of conduct. Rule 6 of the election code of Bangladesh says that election shall not be influenced by money, arms, muscle power or local influence. In another rule, it has been told that no firearms or explosives shall be carried within the premises of the polling stations. Similar provisions have been made in the election code of Pakistan. Pursuant to section 81 of the People Representation Act, 1976, rule

has been made in the election code of Pakistan that appeals to violence or resort to violence during meetings, processions or during polling hours shall be strictly avoided. Further, rule 23 of the Pakistan's election code prohibited the use of crackers and other explosives, at public meetings, and carriage of lethal weapons and fire arms in public meetings and processions. Moreover, political parties and candidates were asked to strictly observe all official regulations on lethal weapons, firearms and explosives. The Indian code of conduct advised not to carry such articles as may be put to misuse by undesirable elements. The election code of Nepal prohibited the use of force, fear, threat, coercion or temptation to capture polling stations and also prohibited the capture, snatch and destroy the ballot box or ballot paper or polling materials by use of force.

- 61. Corrupt Practices :** The election codes of conduct of all countries except that of Bangladesh enumerate a list of corrupt practices and asked the political parties and candidates to avoid scrupulously all these activities. The Indian election code of conduct asked them to refrain from indulging in "corrupt practices and offences under the election law, such as the bribing of voters, intimidation of voters, personation of voter, canvassing within 100 meters of a polling station, holding public meetings during the period of 48 hours ending with the hour fixed for the close of the poll, and the transports and conveyance of voters to and from polling station." Rule 25 of the election code of

Pakistan has provided this issue almost in the same language. The Nepalese election code has not enumerated such a list of corrupt practices but, mentioned that (rule 27) every candidate during election, must abide by all election laws, orders, rules and directives including the Election (Offences and Punishment) Act, 2047.

62. Although, the election code conduct of Bangladesh did not provide any rule on corrupt practices, the Representation of the People Order 1972 gave a long list of corrupt practices (vide Article 73) and provided punishment for them (vide Article 74-86). These are cognizable offences and can be tried under criminal procedure code. Similar lists have, however, been provided in the Representation of the People Act 1976 of Pakistan and the Representation of the People Act, 1951, of India.
63. **Co-operation and Assistance to Election Officials :** The election codes of conduct of all the countries under study asked all concerned to extend co-operation and assistance to the officers and employees on election duty. The political parties, contesting candidates and their followers were asked not to create any hindrance in performing their duty by any means.
64. **Role of Public Media:** The election codes of conduct of Bangladesh, India, Nepal and Pakistan dealt with the role of public media during election time. The subject has been dealt elaborately in the election code

of Nepal. Other codes have not extensively dealt it. The Bangladesh Election Commission has, however, vide its memo no. Nikasha/ga/8-Mise-7/96/922 dt. 29.10.97 issued some guidelines for election related Television spot, Radio talk, play and etc.

65. The Bangladesh election code suggests that no candidate or political party or anybody on their behalf shall use government media following the announcement of the election schedule. The concerned rule in the election code of conduct of India says that the party in power shall not misuse the official mass media for partisan coverage of political news and publicity for furtherance of the prospects of the party in power during the election period. The election code of Pakistan asked the political parties and contesting candidates to "discourage their worders for exerting undue pressure against the news media, including newspaper offices and presses or resort to violence of any kind aganist the media."
66. The Nepalese election code of conduct has extensively dealt the issue on the role of government media during election period. Part C, of the election code of conduct of Nepal has provided five rules regarding the use and role of public media (audio, video and printings under his Majesty', government). Firstly, the public media was asked to conduct the program neutrally and impartially without prejudice to any political party or candidate. It asked them to present the policies, programs and views of the political parties

“on the basis of a clear and judicious criterion.” Secondly, audio, video and other written materials should be disseminated in such away that would eccourage the voters to cast their votes without any apprehension. The third principle is that no publicity should be made that might arouse sect, cast, creed, language or religious bias or that might give rise to “violence, sensation, terrorism, hostility and confusion.” Fourthly, any reporting, editorial, feature articles, question-answers, analysis, discussion or other audio, video and written materials, picture, cartoon, etc. should not be published in such a manner that might incite the voters to cast their votes in favour of any political party or candidate. Fifthly, it was told that copies and materials on the subjects mentioned in rule 4 should be pressrved and presented to the Election commission as and when demanded.

- 67. Access to polling Station:** The election codes of conduct of countries of South Asia under study have almost the common rule regarding access to the polling Stations. The codes have provided that only election officials, candidate, agent of the candidate or voter can enter into the polling station. Worker of the political parties and their candidates shall not enter into or move about in the election centres. The polling agents are required to sit earmarked for them and discharge their duties. The Bangladesh Election Commission has promulgated separately a code of conduct for the agents of the candidates.

- 68. Pre-poll Irregularities :** The election code of Bangladesh has specifically made provision that if any body is aggrieved by violation of any provision of these rules, he may apply to the Electoral Enquiry Committee or Election Commission seeking redress. The application is sent to the Electoral Enquiry Committee by the Election Commission if it is found tenable. This committee would cause inquiry as per provisions of Article 91A of the Representation of the People Order, 1972 and submit recommendations to the commission. The Nepalese code has given authority to concerned election officer, the local administration and police to take necessary action under the existing laws for violation of any provision of the code. The election officeres have been asked to despatch all such information to the Election Commission. The Commission may conduct or require to conduct investigation whether any provision of the code is violated. No specific provision in this respect has been made in the election codes of conduct of Pakistan and India.
- 69. Education about the code:** The election code of Nepal has made a specific rule that the cadres and supporters should be provided with adequate knowledge about this code by each political party or the candidate. They are required to abide by these rules. The candidates are responsible for its implementation. Rule 26 of part A of the Nepalese election code may be quoted as saying, "Each political party or candidate shall provide adequate knowledge of this Election Code of

conduct to its cadres and supporters and shall require them to abide by it. The concerned candidate shall be responsible for its implementation.” The election codes of other countries, i.e. Pakistan, India and Bangladesh have not made such a provision. The Pakistani election code, however, asked the political parties to “carry out a comprehensive plan for education of voters in the manner of marking the ballot paper and casting votes.” Nevertheless, incorporation of such provision for education of party cadres and workers on the election code of conduct of other countries will be useful and have a positive impact on electioneering.

- 70. Legal coverage :** It has been mentioned in para 31 that the election codes of conduct have been framed and promulgated by the respective Election Commissions in exercise of their powers under their respective constitution and election laws. It is also a fact that election laws of these countries provide for punishment for some corrupt practices relating to elections. But the election codes of conduct are not treated as laws and do not provide for punishment. But these have got some loose legal implications. Violation of any provision of these rules may be treated as pre-poll irregularities. No other code except that of Bangladesh clearly term such violation as pre-poll irregularities. Rule 8 of Bangladesh code States as

“Violation of any provision of these rules shall be Considered as pre-poll irregularities and any person or political party aggrieved by such

violation may apply to the Election Enquiry Committee or Election Commission seeking redress.”

If any body seeks redress to the Election Commission, it shall send the same to the Electoral Enquiry Committee. The Committee will dispose of it as per provisions of Article 91A of the Representation of the People Order.

71. It may be mentioned that clause 1 of Article 91B of the Representation of the People Order empowered the Election Commission to “formulate a Code of Conduct not inconsistent with the provisions of this Order” for the purpose of ensuring free and fair election. Clause 2 of Article 91B says “Violation of any provision of the Code of Conduct shall be deemed to be a pre-poll irregularity within the meaning of Article 91A”. It may be recalled that Articles 91 and 91A were substituted for the former Article 91 by Act XXIII of 1994, s.17. Again Article 91A (having 9 clauses) empowers the Commission to form Electoral Enquiry Committee consisting Judicial Officers to ensure the prevention and control of pre-poll irregularities. The Committee may make any recommendation to the commission after holding enquiry. Clause 6(a) (i) provides that “in the event of non-compliance, if any to the above order, instructions as the case may be, the commission may impose fine not exceeding Tk. 5000”.

72. The Election Code of Conduct of Indian does not tell anything about legal measures for violation of the

provisions of the code. Similarly the Code of Conduct of Pakistan did not say about legal measures for violation of its rules and provisions. But it has referred several sections of the Representation of the People Act, 1976 while laying down the rules of the Code.

- 73.** The Code of Conduct of Nepal has said something clearly about application of the Code. Part D of the Code contains such provisions. Rule 1 of Part D empowers the Election Commission, to follow up and investigate "in order ensure whether this code of Conduct has been or is followed or not". Rule 2 empowers the concerned Election Officer to take immediate necessary action when he sees its violation. Rule 3 authorises the local administration or police personnel to take necessary action according to existing laws to prevent the violation of any rule of the Code. Again rule 27 of part A of the Nepalese Code states that the candidates should "abide by the provisions of Acts, Rule, Orders and Directives relating to election, including Election (Offences And Punishment) Act, 2047, during the election."
- 74,** It is to be mentioned that no Code of Conduct has the force of law although almost all provisions of these codes follow from the electoral laws of those countries. These electoral laws sufficiently record electoral offences and made provisions for punishment (see appendices). But these codes are not enforceable by the Courts as there is no such provision in these Codes.

Sixth Chapter

Summary and Policy Conclusions

75. We have seen that the 1990's saw a development in South Asian electoral systems in the form of code of conduct for the guidance of government, political parties, candidates and public media. The global changes as well as the rapid changing socio-economic structure of the region have a tremendous impact on South Asian politics. This necessitated the promulgation of election codes of conduct embracing many issues. These codes set rules and principles as to guide the behaviour and activities of political parties, candidates, government and public media about (i) state ideology, sovereignty, integrity, security and judiciary, (ii) election expenditure, (iii) religion, caste, sect, community and use of religious institutions, (iv) meetings and processions, (v) subscription and donation, (vi) use of official facilities by Ministers (vii) promise of construction of roads and public utilities by the Ministers, (ix) use of rest houses/dakbungalows, (x) announcement of financial grants by Ministers, (xi) posters, pamphlets, handbills and leaflets, (xii) banners and wall writing, (xiii) election camps and entertainments, (xiv) carrying and burning of effigies (xv) use of transports (xvi) procession of vehicles, (xvii) black money, (xviii) fire arms, explosive and muscle power, (xviii) role of government media, (xix) cooperation with the election officials, (xx) right of access to polling station, (xxi) pre-poll irregularities, (xxii) avoidance of corrupt practices like bribing, intimidation and personation of voters, transport and

conveyance of voters, holding public meetings and processions during restricted time and etc, (xxiii) education of voters party cadres and supporters and etc. Inclusion of so many subjects in the election code of conduct does not seem to be exhaustive. Violation of the code in some respects on the one hand and changing socio-politico-economic scenario may encourage the policy makers to expand the list.

- 76.** The comparative study of South Asian election codes of conduct has given us an opportunity of examining the available theoretical framework in election literature and to develop it by finding any other new set of variables appropriate to such study. The study on the theoretical side as has been demonstrated in the fourth chapter shows that there are some other new sets of elements/variables which are peculiar to the electoral systems in South Asian countries. The new sets of variables are (i) religious and cultural factors, (ii) question of national security, Integrity, sovereignty and indivisibility of the state, (iii) law and order situation and (iv) role of the ruling party. These four sets along with four other sets of variable adopted from Grofman and Lijphart (1986) as mentioned in para 38 gives us a sound theoretical framework for a comparative study of election codes of conduct. The comparative study that has been made in the fifth chapter relates to this theoretical framework.
- 77.** This research suggests that there should be rigorous study about the effective administration and implementation of codes of conduct for the guidance of political parties and candidates. It can be done after every election. Unfortunately, the studies are few. The most positive side of such codes, however, is that it has

Summary and Policy Conclusions

an impact on the government, ruling party, other political parties and candidates. They have to think several times about these before doing anything. In spite of this awareness, experiences suggest that because of fragile political culture, violation of the provisions of the code does happen. For example, the Coordination Council for Human Rights in Bangladesh terming the 12 June 96 Parliamentary Election in Bangladesh fair, neutral and highly acceptable observed, "This new code was violated especially in the capital city of Dhaka", (CCHRB, 1996, P.15). Observing election in 150 parliamentary constituencies out of 300 it found that 226 persons were arrested on charges of violation of the election code of conduct. Fair Election Monitoring Alliance (FEMA) of Bangladesh, while terming election campaign of 12 June 96 Parliamentary election in Bangladesh as 'reasonably non-violent and devoid of remarkable problems,' also observed "Some irregularities were noticed during the campaign period including violations of the code of conduct by the candidates," (FEMA, 1996, p.24). Whether the Election Commission was adequately discharging its oversight and disciplinary role FEMA observed, "where complaints were filed, the Election Commission promptly took action. There were banners, excessive number of microphones, graffiti, colourful billboards, vehicle procession and other violations of the code of conduct as well as the election laws. The enforcement of the code of conduct by the Election Commission was better than earlier elections in Bangladesh. The pre-poll Enquiry Committees were seen to work actively in many places. The Election Commission acted on the feed back from the Electoral Enquiry Committee and warned candidates of different political parties for violation of

Summary and Policy Conclusions

the code of conduct. For instance on 26 May, 1996, the Election Commission warned five candidates of the major political parties for violating the code of conduct. The candidates were 3 from the Awami League, one from BNP and one from Jamaat,” (FEMA, 1996, p.24). One may, therefore, conclude that inspite of the active role of the Election Commission, the violations of the code occurred. FEMA itself observed posters with different designs and layouts in Dhaka-9 constituency by different candidates. About campaign expenditure, FEMA observed, “In most cases it was not possible to effectively enforce the limits on campaign expenditure in any way.”

78. Violations of the codes also take place in other countries under study. Report on General Elections, 1993 by the Election Commission of Pakistan quoted the observations of the Human Rights Commission of Pakistan (HRCP). Watching 50 National Assembly and 100 Provincial Assembly constituencies the HRCP observed according to the report, “observers did not report any instances of open official interference in the electoral process or violation of the basic requirements such as of instant counting, certification and pasting of votes cast at each polling station. However, it was observed that the Election Commission was unable to ensure strict compliance of Code of Conduct and adherence to the limits imposed by the law in the election campaign expenditure. The HRCP observers point out certain irregularities, which according to them, adversely affected the polling process one-way or the other.” Examples of violation suggest that the codes should be strictly implemented.

Summary and Policy Conclusions

79. Election Commission of every country is an independent and constitutional body. But, it is not above the constitution. The Election Commission is guided by the powers given by the constitution. Many thinkers are of the opinion that in order to really ensure free, fair and neutral election, the Election Commission should be strengthened and the electoral laws and rules should be reformed. For legal and effective implementation of election code of conduct, says Dr Kamal Hossain, there should be two Divisions, like those of South Africa, namely, **Monitoring Division** and the **Adjudication Division** in the Election Commission. The Monitoring Division would monitor the implementation and prosecute the violators. The Adjudication Division would try the complaints. In fact, it deserves a serious consideration for strengthening the Election Commission for effective and neutral implementation of all electoral laws including the election code of conduct to ensure free, fair and neutral election and thereby institutionalising democracy.
80. Needless to say that law is the will of the people. And in the ultimate analysis, it is the people who have to decide the course of history. Hence, the electors have a very important role to play. They have to decide what should be the code of conduct of their representatives who will govern the country on their behalf. It is told that "there is no escape from the adage : People get the government they deserve." People have to guard and judge the behaviour and activities of the political parties and candidates.
81. This research, to mention again, has accommodated the available election codes of conduct of the countries of South Asia, i. e. Bangladesh, India, Nepal and Pakistan. These election codes of conduct have been analysed and evaluated in this book. But no attempt has been made to frame a model code of conduct to be followed by all countries concerned, nor specifically for Bangladesh. This is due to the fact that

the socio-politico-economic conditions and democratic advancement of these countries are not one and similar. Every country has its own political culture, problems and own way of solution. Every party or opinion maker might have its own attitude and interpretation. For this reason, there should be open & free discussion at the national level to reach a consensus every where. One positive trend in South Asia is that election codes of conduct were framed by the Election Commissions after long deliberations with the political parties.

- 82.** Finally it should be emphasized that within a very limited scope of this book, no significant policy conclusions could have been drawn. But in the process of analysing the election codes of conduct of four countries of South Asia, three important issues crop up which need due consideration.

These are :

- (i) In order to make election really free, fair and neutral, the political parties must have an unequivocal agreement on some basics;
- (ii) For effective implementation, the election code of conduct should be a part and parcel of the electoral law and be legally binding, and
- (iii) The Election Commission should be vigilant about changes in the socio-political arena of the country and update the code accordingly.

**Appendix I : Election Code of Conduct of
Bangladesh**

**The Code for the Political parties and
contesting candidates for
the Election to the Jatiya Sangsad**

Election Commission Secretariat, Dhaka-1996

Appendix I : Election Code of Conduct of Bangladesh

The Code for the Political parties and contesting candidates for the Election to the Jatiya Sangsad

(Unofficial Translation)

Election Commission Secretariat
Sher-e-Bangla Nagar, Dhaka

Election Code of Conduct

Notification

13th Baishak 1403/26 April, 1996

S,R,O No. 60-law/96.- The Election commission, in exercise of the powers conferred by Article 91B of the Representation of the People Order, 1972 (P.O. No. 155 of 1972) has framed the following code of conduct as :

- 1. Short title :** This code may be called The Code of Conduct, 1996 for the Political Parties and contesting Candidates Seeking Election to the Jatiya Sangsad.
- 2. Definitions :** In these rules, unless there is anything repugnant in the subject or context-

- (a) "pre-poll period"** means the period commencing on the announcement of the election schedule and ending on the declaration of results;

- (b) "candidate" means a person nominated by a political party or a person contesting the election independently from a constituency; and
- (c) "political party" includes a group or combination of persons who operate within or outside Parliament under a distinctive name and who hold themselves out for the purpose of propagating a political opinion or engaging in any other political activity.

3. Ban on Subscription, donation etc. to any Institution :

Concerned political parties may announce their overall development plans. But following the announcement of the election schedule till the day of polling, no candidate or any person on his behalf shall, openly or in secret, give any subscription or donation, or make promise for giving such subscription, or donation, to any institution of their respective constituency or to any other institution, nor shall commit to undertake any development project in the respective constituency.

4. Use Dakbungalows, Rest House, etc : All parties and candidates shall be given equal rights for using government dakbungalows, rest houses and circuit houses on the basis of the application first made and in accordance with the existing rules for using of the same. But the officers engaged in the conduct of the election shall get preference to use government dakbungalows, rest houses and circuit houses.

5. Election campaign :

- (1) All political parties and candidates shall have equal rights with regard to election campaign, meetings, processions and other election campaigns of the opponents shall not be disrupted or obstructed.**
- (2) The date, time and venue for holding meetings or processions in favour of any contesting political party or candidate shall be informed in advance to the local police administration and the opposite party.**
- (3) The local police administration shall, well in advance, be informed of the date, time and venue of the proposed holding of meeting by any contesting party or candidate, so that the police administration can take necessary steps for unobstructed movement of the public and for ensuring law and order there.**
- (4) No meeting shall be held on any thorough fare creating hindrance to the movement of the public without obtaining permission form the appropriate authority.**

- (5) The organizers of any meeting shall have to seek the assistance of the police of taking action against the persons who obstruct to the holding of such meeting or create disturbances in such meeting. The organizers shall not themselves take any action against such persons.
- (6) No candidate or political party or anybody on their behalf shall use government media, government officers, employees or transport or other state facilities following the announcement of the election schedule.
- (7) No posters, leaflets or handbills, shall be stuck over the posters, leaflets or handbills of the rival candidates.
- (8) No election camp shall be set up on any road or place meant for the use of the public. Election camp shall as far as possible be simple. No food or drink shall be served to the voters in the election camp.
- (9) No Government dakhungalows, rest houses, circuit houses and government office shall be used by any party or candidate as a place for election campaigning.

- (10) The posters for election campaign shall be printed on paper manufactured in the country and its colour shall be black and white and its size in no case shall be more than 22"×18".
- (11) No contesting candidate shall use more than three microphones in his constituency and the use of mikes shall be restricted between 2 P.M. and 8 P.M.
- (12) No land, building or movable or immovable properties of any citizen shall be damaged in connection with the election and personal peace of any individual shall not be violated by undesirable activities or disorderly behaviour.
- (13) Every person shall refrain from all sorts of wall writings as a means of election campaign.
- (14) In the interest of maintaining law and order, no motor cycle or any other mechanical transport shall be used and no firearms or explosives shall be carried within the premises of the polling stations. No government officer or local influential person shall make any illegal interference in the election process.

- (15) No procession of buses, trucks or any other vehicles or torch procession shall be brought out in favour of any contesting candidate.
- (16) All political parties and candidates shall have to render necessary assistance to the officers and employees entrusted with the responsibility of holding elections in order to ensure peaceful and disciplined casting of votes independently by the voters without any hindrance.
- (17) During election campaign, no contesting party or candidate shall make any bitter and provocative statement and any such statement that may hurt the sentiment of the followers of any religion.
- (18) No contesting candidate shall, under any circumstances, cross the limit of election expenses.

6. Keeping election free from any influence : Election shall not be influenced by money, arms, muscle power or local influence.

7. Right of access to polling station : Only the polling personnel, contesting candidates, polling agents and voters, shall have access to the polling station. Workers of the political parties or candidates shall not enter and move about inside the polling station. Only the polling agents, sitting on their allotted places, shall perform their specific duties.

8. Pre-poll irregularities : Violation of any provision of these rules shall be considered as pre-poll irregularities and any person or political party aggrieved by such violation may apply to the Electoral Enquiry Committee or Election Commission seeking redress. If the application filed with the Election Commission is found by the Commission as tenable, it shall send the same to the concerned or any Electoral Enquiry Committee for investigation. In both the cases, the Election Enquiry Committee, after making investigation as per provisions of Article 91A of the Representation of the People Order, 1972 (P.O. No. 155 of 1972), shall submit its recommendations to the Commission.

By order of the Election Commission,
Muhammad Fayezur Razzak
Secretary.

**Appendix 11 : Election Code of Conduct of
India**

**Model Code of Conduct For the Guidance
Of
Political Parties and Candidates**

**Election Commission of India
1991**

Model Code of Conduct For the Guidance of Political Parties and Candidates

Election Commission of India
1991

1. General Conduct :

- (1) No party or candidate shall indulge in any activity which may aggravate existing differences or create mutual hatred or cause tension between different castes and communities, religious or linguistic.
- (2) Criticism of other political parties, when made shall be confined to their policies and programme, past record and work. Parties and Candidates shall refrain from criticism of all aspects of private life, not connected with the public activities of the leaders or workers of other parties, Criticism of other parties or their workers based on unverified allegations or on distortion shall be avoided.
- (3) There shall be no appeal to caste or communal feelings for securing votes. Mosques, Churches, Temples or other places of worship shall not be used as forum for election propaganda.

- (4) All parties and candidates shall avoid scrupulously all activities which are "corrupt practices" and offences under the election law, such as the bribing of voters, intimidation of voters, personation of voters, canvassing within 100 metres of a polling station, holding public meetings during the period of 48 hours ending with the hour fixed for the close of the poll, and the transport and conveyance of voters to and from polling station.
- (5) The right of every individual for peaceful and undisturbed home life shall be respected, however, much the political parties or candidates may resent his political opinions or activities. Organising demonstrations or picketing before the houses of individuals by way of protesting against their opinion or activities shall not be resorted to under any circumstances.
- (6) No political party or candidate shall permit its or his followers to make use of any Individual's land, building, compound wall, etc., without his permission for erecting flag staffs, suspending banners, pasting notices, writing slogans, etc.
- (7) Political parties and candidates shall ensure that their supporters do not create obstructions in or break up meetings and processions organised by the other parties. Workers or sympathisers of one political party shall not create disturbances at public meetings organised by another political party by putting

questions orally or in writing or by distributing leaflets of their own party. Processions shall not be taken out by one party along places at which meetings are being held by another party. Posters issued by one party shall not be removed by workers of another party.

II. Meetings

- (1) The party or candidate shall inform the local police authorities 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) If permission of licence is to be obtained for the use of loud speakers or any other facility in connection with any proposed meeting, the party or candidates shall apply to the authority concerned well in advance and obtain such permission or licence.
- (4) Organisers 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 disorders. Organisers themselves shall not take action against such persons.

III. Processions :

- (1) A party or candidates organising a procession shall decide before hand the time and place of the starting of the procession, the route to be followed and the time and place at which the procession will terminate. There shall ordinarily be no deviation form the programme.
- (2) The organisers shall give advance intimation to the local police authorities of the programmes so as to enable the latter to make necessary arrangements.
- (3) The organisers shall ascertain if any restrictive orders are in force in the licalities throught which the procession has to pass, and shall comply with the restrictions unless exempted specially by competent atuthority. Any traffic regulations or restrictions shall also be carefully adhered to.
- (4) The organisers shall take steps in advance to arrange for passage of the processions so that there is no block or hindrance to traffic. If the procession is very long, it shall be organised in segments of suitable lengths, so that at convenient intervals, especially at points where the processions has to pass road junctions, the passage of held-up traffic could be

allowed by stages thus avoiding heavy traffic congestion.

- (5) Processions shall be so regulated as to keep as much to the right of the road as possible and the direction and advice of the police on duty shall be strictly complied with.
- (6) If two or more political parties or candidates propose to take processions over the same route or parts thereof at about the same time the organisers shall establish contact well in advance and decide upon the measures to be taken to see that the processions do not clash or cause hindrance to traffic. The assistance of the local police shall be availed of for arriving at a satisfactory arrangement. For this purpose, the parties shall contact the police at the earliest opportunity.
- (7) The political parties or candidates shall exercise control to the maximum extent possible in the matter of processionists carrying articles which may be put to misuse by undesirable elements, especially in moments of excitement.
- (8) The carrying of effigies purporting to represent members of other political parties or their leaders, burning such effigies in public and such other forms of demonstrations shall not be countenanced by any political party or candidate.

IV. Polling. Day :

All political parties and candidates shall,

- (i) Co-operate with the officers on election duty to ensure peaceful and orderly polling and complete freedom to the voters to exercise their franchise without being subjected to any annoyance or obstruction;**
- (ii) supply to their authorised workers suitable badges or identify cards;**
- (iii) agree that the identify slips supplied by them to voters shall be on plain (white) papers and shall not contain any symbol, name of the candidate or the name of the party;**
- (iv) refrain from serving or distributing liquor on polling day and during the twenty-four hours preceding it;**
- (v) not allow unnecessary crowds to be collected near the camps set up by the political parties and candidates near the polling booths so as to avoid confrontation and tension among workers and sympathisers of the parties and candidates;**
- (vi) ensure that the candidate's camps shall be simple. They shall not display any posters, flags, symbols or any other propagand material. No eatables shall be served or crowds allowed at the camps; and**

- (vii) co-operate with the authorities in complying with the restrictions to be imposed on the playing of vehicles on the polling day and obtain permits for them which should be displayed prominently on those vehicles.

v. Polling booth :

Excepting the voters, no one without a valid pass from the Election commission shall enter the polling booths.

VI. Observers:

The Election Commission is appointing observers. If the candidates or their agents have any specific complaint of problem regarding the conduct of the elections they may bring the same to the notice of the observer.

VII. Party in Power :

The party in power whether at the centre or the State or States concerned, shall ensure that no cause is given for any complaint that it has used its official position for the purposes of its election, campaign, and in particular.

- (i) (a) The Ministers shall not combine their official visit with electioneering work and shall not also make use of official machinery or personnel during electioneering work;

(b) Government transport including official aircrafts, vehicles, machinery and personnel shall not be used for furtherance of the interest of the party in power;

- (ii) Public places such as maidans, etc., for holding election meetings and use of helipads for airflights in connection with elections, shall not be monopolised by itself. Other parties and candidates shall be allowed the use of such places and facilities on the same terms and conditions on which they are used by the party in power;**

- (iii) Rest houses, dak bungalows or other Government accommodation shall not be monopolised by the party in power or its candidates and such accommodation shall be allowed to be used by other parties and candidates in a fair manner but no party or candidate shall use or be allowed to use such accommodation (including premises appertaining thereto) as a campaign office or for holding any public meeting for the purposes of election propaganda;**

- (iv) Issue of advertisement at the cost of public exchequer in the news papers and other media and the misuse of official mass media during the election period for partisan coverage of political news and publicity regarding achievements with a view to furthering the prospects of the party in power shall be scrupulously avoided:**

- (v) **Ministers and other authorities shall not sanction grants payments out of discretionary funds from the time elections are announced by the Commission;**
- (vi) **From the time the elections are announced by the Commission, Ministers and other authorities shall not-**
 - (a) **Announce any financial grants in any form or promises, thereof; or**
 - (b) **Lay foundation stones, etc., of projects of schemes of any kind; or**
 - (c) **Make any promise of construction of roads, provision of drinking water facilities etc. or**
 - (d) **Make any ad-hoc appointments in Government, Public undertaking, etc.; which may have the effect of influencing the votes in favour of the party in power;**

(viii) Ministers of Central or State Government shall not enter any polling station or place of counting except in their capacity as candidates or voter or authorised agent.

**New Delhi,
January, 1991**

**T. N. Seshan,
Chief Election Commissioner of India.**

**Appendix III : Election Code of Conduct of
Nepal**

Election code of conduct, 2053

Election Commission of Nepal, 2053 (1997)

Appendix III : Election Code of Conduct of Nepal

Election code of conduct. 2053

The Election Commission, in exercise of the powers conferred by Section 24A of the Election Commission Act, 2047, has promulgated this Code of conduct.

In order to render the election free, fair and impartial, it is expedient to make it less expensive, non-pompous, free from undue competition, curb any misuse of power and to conduct it without any interference in the rights and normal life of the people in general. So, for the purpose of achieving this objective, a significant responsibility lies with the political parties, independent candidates, His Majesty's Government and all governmental and semi- Governmental entities, in addition to the Election Commission. Hence, in order to conduct and get conducted the election and its campaign in a healthy and disciplined manner, this Code of Conduct has been framed following discussions with His Majesty's Government and various political parties.

It shall be duty of His Majesty's Government, officials of all governmental and semi-governmental entities, political parties, the candidates of the political parties, independent candidates, to abide by this Code of Conduct.

This Code of Conduct shall come into force upon announcement of the polling date.

A. *Conducts of the political Parties and their Candidates :*

While conducting the election campaign, the political parties, candidates of the political parties and the independent candidates shall observe and require others to observe the following conducts :

1. No publicity shall be made or allow others to do so which would adversely affect the nationality, independence, indivisibility and sovereignty of Nepal and which would be contrary to multiparty- democracy, parliamentary system, and the constitutional monarchy.
2. No publicity shall be made which would generate hatred, jealousy, contempt and hostility amongst different religions, sect, caste, creed, and community. Similarly, the voters shall not be induced to cast their votes on the basis of religion, cast and language.
3. No publicity shall be made or allow others to do so, which would cause character assassination of the candidate and his family members.

4. No political party and its candidate shall encroach upon other's democratic rights and the language to be used in the publicity campaign shall not be immodest and impolite.
5. No political party and its candidate shall take out procession, shout slogans or conduct publicity campaign of any nature commencing from 48 hours prior to the polling date till the completion of polling.
6. No poster, pamphlet or handbills of publicity shall be pasted or allow others to do so and no enamel and other colour paints shall be used to inscribe or be inscribed in any religious, archaeological, historical edifices and monuments.
7. No poster, pamphlet or handbills of publicity shall be pasted or allow others to do so and no enamel and other colour paints shall be used to inscribe or be inscribed in any private residence, shop, wall or any other similar places without obtaining written permission of the owner. The Commission may, if it deems necessary, ask to show such permission. No political party or any candidate shall remove or tear off or deface by any other

means the posters or handbills or election symbols, nor superimpose over other political party's or candidate's posters, nor shall it require others to do so. The concerned political party or the candidate shall clean-up such posters, handbills and election symbols after the election.

8. Nobody shall destroy or obliterate, smear or alter by any means the notices or election publicity materials distributed by the Election Commission.
9. No banner made of red cloth or any other kind of cloth shall be used for publicity campaign nor shall require others to do so.
10. For publicity purposes, pamphlets of 6"× 10" size printed in paper of 60 grams in maximum and posters of 18"× 22" size only can be used. Such poster and pamphlets should be printed only in a single colour and the name and address of the printer shall be printed mandatory on such posters and pamphlets.
11. One candidate shall not be allowed to use in one constituency more than three vehicles, in the type of bus, truck, car and tractor. Similarly, a candidate can not use more than three loud-speakers in one constituency.

12. While using any loud speaker, radio, cassette and other similar kind of sound amplifier, these instruments shall not be used in a manner to hinder others or create disturbance in public peace and order. Even within permitted range, it shall not be used at other time except from 07 A.M. to 09 P.M. While using such sound amplifier, it shall not be used continuously at a single place, other than at a general public meeting.
13. No general public meeting, people's meeting or corner meetings and procession shall be conducted at any other time except between 7 A. M. and 9 P.M. No torch procession or any procession equipped with arms and ammunitions shall be allowed.
14. While organising any procession, rally or general public meeting, the local administration shall be duly notified or contacted.
15. It being the duty of all to render necessary assistance to and maintain co-operation with employees on election

duty and security officers to enable them to observe their duty, nobody shall deflect them from performing their duty under any kind of fear or threat or under any duress or coercion or use of force or through any temptation.

16. Nobody shall compel the voters to cast their votes against their will by using fear, threat or temptation or coercion or requiring to take oath.
17. Nothing shall be pasted or written or require others to paste or write at any place prescribed as a polling centre and around its periphery. If any object of publicity is found therein, the concerned candidate shall cause it to be removed before the polling was held.
18. No hindrance of any kind shall be placed or any detention shall be made in order to deprive the voters from the act of voting.
19. No candidate, or his representative, or his worker or any other person shall, with the use of force, fear, threat, coercion or temptation, capture the polling centre or polling sub-centre, nor shall forcefully capture, snatch, destroy the ballot box or ballot paper or polling materials.

20. While filing the nomination papers, no political party or candidate shall enter within the area specified by the Election Officer together with the procession.
21. No rally of truck, tractor, bus, rickshaw, motor, car and motorcycle, other than cycle, shall be used.
22. the voters shall not be transported in bus, truck, jeep or any other means of transportation on the day of polling.
23. The candidate shall not use or make others to use more than one vehicle on the day of polling.
24. No political party or candidate shall arrange or require others to arrange any feast with intention to influence the voters.
25. The task of polling and counting of votes shall be allowed to be performed without any hindrance at all places and it shall be the duty of all concerned to create appropriate environment conducive for the same.
26. Each political party or the candidate shall provide adequate knowledge of this Election Code of Conduct to its cadres and supporters and shall require them to

abode by it. The concerned candidate shall be responsible for its implementation.

27. Every candidate shall, in course of election activities, completely abide by the provisions of Acts, Rules, Orders and Directives relating to election, including Election (Offences And Punishment) Act, 2047, during the election.

B. Election Expenditure :

While conducting the election campaign, the political parties, candidates of the political parties and the independent candidates shall observe and require others to observe the following conducts :

1. The expenditure in respect of election activities should be limited within the ceiling prescribed by Commission.. For this purpose, the particulars of expenditure should be maintained in its entirety in the form determined by the Commission as provided in Appendix (A). Such particulars covering a period of every 15 (fifteen) days should be submitted to the designated officer within three days of the expiry of such period.
2. In view of the number of voters, remoteness of geographical areas, the

availability of means and resources etc., various districts of the Kingdom have been divided into four categories, as mentioned in Appendix (B), for the purpose of prescribing the ceiling of expenditure for election.

3. The detailed expenditure in respect of the means of transport used during the election campaign and on other items of expenditure should be maintained at the rate fixed by the Commission as shown in Appendix (C).
4. Every candidate shall incur election expenditure either by himself or through his representative only. The Commission may require to conduct an inspection or scrutiny of the details of such account through a designated institution, agency or person.
5. The candidate shall, while submitting the account of election expenditure, also include the amount expended for him by his political party or by any other source. Such amount shall be accounted within the maximum ceiling for election expenditure.

6. The political parties shall maintain the particulars of expenses incurred on behalf of their candidates and shall submit such details to the Commission.
7. If, contrary to this Conduct, any banner is hung or any inscribing is made on the walls by enamel or any other colour, or any hand-bills or pamphlets are pasted therein, the Election Officer may order the concerned person to erase or remove them. If the concerned person does not erase or remove them, the local administration shall have them erased or removed on its own and the expenses so incurred shall be required to be paid to the authority designated by the Commission. Such expenditure shall be added to his election expenditure.

C. *Conduct of His Majesty's Government :*

1) *Public Media*

The Public media (audio, video and printings under His Majesty's Government shall, while operating their programmes, conduct in the following manner:

1. It shall operate the program with full impartiality and temperance without prejudice of any kind towards any political

party or candidate. While assigning opportunity to the political parties who have raised their candidates, in order to present policy, programs and views of their party to the voters, they shall do so on the basis of a clear and judicious criterion.

2. They shall disseminate as much as possible such audio, video and written materials which would encourage the voters to cast their votes without any apprehension.
3. They shall not disseminate such material which may arouse the voters with the bias of religion, sect, region, caste, creed or language nor which may generate in the people's mind acts of violence, sedition, terrorism, hostility and confusion.
4. While reporting, editing or captioning any news, or publishing any picture or cartoon, or while publishing through editorial, comment, report, description, discussion, analysis, feature articles, question-answer, and other similar audio, video or written materials, they shall not act in a manner which may incite

the voters to vote in favour of any political party or candidate.

5. The concerned entity shall preserve the recorded cassettes or the copy of materials as mentioned in paragraph 4 above and shall provide the Commission, when demanded, with such cassettes or copies of materials.

II. Other Governmental Policy, Programme and Services

1. Any activity relating to the laying down of foundation-stone or inauguration, or approval, commencement, survey of any new plan or programme, initiation of any study or releasing any grant therefor, and similar other measures shall be avoided.
2. His Majesty's Government or any authorised official shall not use or require the use of employees of His Majesty's government or of the government owned corporation, institution or committee on the publicity activities in favour of any political party or candidate, nor shall they be engaged in any activity which may affect the outcome of the election.

- 3. No vehicle, other facilities or property of His Majesty's Government, or corporation, institution or committee under the ownership of His Majesty's Government and other autonomous institution shall be used on the activities of any political party or candidate.**
- 4. No building, guest-house, open-ground, play-ground, meeting hall or other similar means and facilities of His Majesty's Government, or corporation, institution or committee owned by His Majesty's Government or of other autonomous institution, shall be allowed to be used by any political party or candidate or by any other person engaged in the publicity activities of any political party or candidate.**
- 5. The Minister or advisors of His Majesty's Government shall not use, nor allow to be used, their vehicles, other utilities, facilities and resources on publicity activities of any political party or candidate.**

Provided that, considering the official responsibility and security of the Prime

Minister, such restrictions shall not be applicable in respect of the use of his governmental vehicle during his visits.

6. Excepting where any employee is required for the purpose of conducting election, no employee shall be recruited or transferred or otherwise deputed in any vacant position, without prior permission of the Commission, after the announcement of the polling date. Similarly, no new position may be created, nor any increment in salary or allowance or grade, or any reward or other similar privileges or facilities may be conferred.
7. All sale, distribution and consumption of alcoholic drinks shall be prohibited during three days each prior to the commencement and termination of polling.

D. Miscellaneous :

1. The Commission may conduct or require to be conducted investigation and follow-up, as deemed necessary, in order to ensure whether this Code of conduct has been or is followed or not.
2. If it is observed, known or heard that the Code of Conduct has been

violated, the concerned Election Officer shall immediately take necessary action for its prevention. For this purpose, necessary co-operation of the local administration and local police may be procured and it shall be the duty of the local administration and police to render such assistance.

3. If any violation to the Code of Conduct is observed or detected, the local administration or police themselves shall immediately take necessary action to prevent its commission and the Election Officer shall be informed thereof. If the concerned person refuses to cease such act, the administration or the police shall take necessary action according to the existing laws and inform the Election Officer.
4. The Election Officer shall immediately despatch all information obtained according to paragraph 3, to the Election Commission.
5. In the context of by-election, this Code of Conduct shall be applicable only within the constituency where the by-election is being conducted.

**Appendix IV : Election Code of Conduct of
Pakistan**

**CODE OF CONDUCT FOR THE POLITICAL
PARTIES AND CONTESTING
CANDIDATES IN PAKISTAN**

General Elections, 1997

**Appendix IV : Election Code of Conduct of
Pakistan**

**CODE OF CONDUCT FOR THE POLITICAL
PARTIES AND CONTESTING CANDIDATES IN
PAKISTAN**

General Elections, 1997

Election Commission of Pakistan

Notification

Islamabad, the 17th December, 1996

S.R.O. 1376(1)/96.-In pursuance of the provisions of Article 218(3) of the Constitution of the Islamic Republic of Pakistan, the Election Commission is pleased to lay down the following Code of Conduct for the Political Parties and the contesting candidates for General Elections, 1997—

**Code of Conduct for the Political Parties
and Contesting Candidates for
General Elections 1997**

- (1) The Political parties shall not propagate any opinion, or act in any manner prejudicial to the ideology of Pakistan, or the sovereignty, integrity or security of Pakistan, or morality, or the maintenance

of public order, or the integrity or independence of the judiciary of Pakistan, or which defames or brings into ridicule the judiciary or the armed forces of Pakistan, as provided under Article 63 of constitution.

- (2) The political, parties, their candidates, agents or workers shall not obstruct or break up meetings organized by the rival parties and candidates, nor interrupt speeches or prevent distribution of handbills and leaflets.
- (3) No person or political party shall affix hoarding, posters or banners of any size or cause wall chalking as a part of election campaign of a candidate. [Section 83A of the Representation of the People Act. 1976].
- (4) No person or a political party or a contesting candidate shall hoist or fix party flags on any public property or at any public place. [Section 83A of the Representation of the People Act. 1976].
- (5) There shall be ban on hoisting party flags on house roofs. Party flags shall be allowed to be displayed on party and election offices of political party.
- (6) No election camp shall be set up on any road or place meant for the use of the public. Election camp shall as far as possible be simple. No food or drink shall be served to the voters in the election camp.

- (7) No contesting candidate shall use more than three microphones in his constituency and the use of mikes shall be restricted between 11 am. and 4 p.m. particularly in view of Ramazan-ul-Mubarik and Taraveeh Prayers. Loudspeakers shall not be used for election campaign except at the election meetings. [Section 83A of the Representation of the People Act. 1976.]
- (8) The processions of buses, trucks or any other vehicles or torch procession shall not be brought out by any political party or any contesting candidate in favour of a candidate.
- (9) Only the polling personnel, contesting candidates, election agents, polling agents and voters shall have a right to enter the polling station. Workers of the political parties or candidates shall not enter the polling station. The polling agents, sitting on their allotted places, shall perform their specific duties.
- (10) Parties and politicians should Refrain from Making reference to secret and confidential Matters, Which were within Their official Knowledge when They were in Power, Nor should They Betray the confidence which they enjoyed by virtue of their official position.

- (11) Political Parties and contesting candidates should discourage their workers for exerting undue pressure against the news media, including newspapers offices and presses or resort to violence of any kind against he media.**

- (12) Political parties and contesting candidates should refrain from making such ocmments on international issues as are likely to embarrass the governments relations with other countries. Nor should they say any thing or do any act in any manner which might prejudice pakistan's foreign relations. Controversil and harsh remarks about leaders of other contries and their ideologies should be avoided.**

- (13) Political paties should carry out a comprehensive plan for education of voters in the manner of marking the ballot paper and casting votes.**

- (14) The political parties shall avoid criticism of other political parties, their leaders and candidates having no bearing on their public activities. Criticism and comments shall be confined to policies and programmes of other parties. Speeches and slogans shall be dignified and based on principle of morality, decorum and decency.**

- (15) The political parties, contesting candidates and workers shall refrain from deliberate dissemination of false and malicious information and their workers shall not indulge in forgeries and misinformation to defame other political parties and their leaders, and use of abusive language against the leaders and candidates of their political parties.**
- (16) No leader or candidate of a political party shall call the leader or candidate or another party kafir or traitor.**
- (17) The political parties shall refrain from speeches calculated to arouse parochial and sectarian feelings and controversy or conflicts between genders. Sects. communities and linguistic groups. {Section 78 of Representation of the People Act. 1976}.**
- (18) The political parties, contesting candidates and their workers shall not propagate against the participation of any person in the elections on the basis of sex.**
- (19) Public leaders and all other participants in political activity shall act with a sense of responsibility and dignity befitting their status. While propagating their own views and programmes, they shall not interfere with the freedom of others to do the same as that would be the negation of democracy.**

- (20) The political parties and contesting candidates shall not hold public meetings or rallies on main streets, roads and chowks to avoid traffic jams and public inconvenience.
- (21) Appeals to violence or resort to violence during meetings, processions, or during polling hours shall be strictly avoided. [Section 81 of the Representation of People Act. 1976]
- (22) No person shall in any manner cause injury to any person or damage to any property, [Section 81 of the Representation of People Act. 1976].
- (23) Carriage of lethal weapons and firearms shall not be allowed in public meetings and processions and official regulations in this regard shall be strictly observed. Use of crackers and other explosives at public meetings shall not be allowed.
- (24) The political parties and their candidate shall extend cooperation to the officers on election duty in order to ensure peaceful and orderly polling and complete freedom for the voters to exercise their franchise without being subjected to any annoyance or obstructions. [Section 86 of the Representation of the People Act. 1976].

- (25) The political parties and their candidates shall scrupulously avoid all activities which are "corrupt practices" and offences under the election law, such as the bribing of voters, intimidation of voters, impersonation of voters, canvassing within 400 yards of a polling station, holding public meetings during the period of 48 hours ending with the hour fixed for the close of the poll. [Sections 78, 84 and 85 of the Representation of the People Act. 1976].
- (26) The political parties, contesting candidates, agents or workers shall not indulge in offering gifts or gratifications or induce or induce another to stand or not to stand as a candidate, or to withdraw or not to withdraw his candidature [Section 79 of the Representation of the People Act. 1976].
- (27) No contesting candidate or a political party shall under no circumstances, cross the limit of election expenses- rupees one million for the National Assembly and rupees six hundred thousands for the Provincial Assembly seats.
[Section 49 of the Representation of the People Act. 1976].
- (28) A political party may, at the national level, publish or broadcast or cause to be published or broadcast advertisements as a part of its election campaign: total expense of such publication, broadcast or advertisement shall not exceed thirty million rupees. [Section 83B of the Representation of the People Act. 1976].

- (29) Concerned political parties and contesting candidates may announce their overall development programme. But folling the announcement of the election schedule till the day of polling, no candidate or any person on his behalf shall, openly or in secret, give any subscription or donation, or make promise for giving such subscription or donation, to any institution of their respective constituency or to any other institution, nor shall commit to undertake any development project in the respective constituency.
- (30) Ministers shall not combine their official visits with electioneering work.
- (31) The local police administration and the opposite party shall, in advance, be informed of the date, time and place for holding meetins or processions in favour of any contending political party or candidate. The organizers of any meeting shall have to seek the assistance of the police for taking action against the persons who obstruct to the holding of such meeting or create
The organizers shall not themselves take any action anginst such persons.
- (32) The political parties and contesting cadidates should not procure the support or assistance of any civil servant to promote or hinder the election of a candidate. [Section 83 of the Representation of the People Act. 1976].

(33) The political parties and their candidates shall dissuade their workers or sympathizers from destroying any ballot paper or any official mark on the ballot[Section 87 of the Representation of the People Act. 1976].

By order of the Election Commission of Pakistan.

sd/

KHAN AHMED GORAYA.

Secretary.

**Appendix V: Bengali version of Election
Code of Conduct of Bangladesh**

নির্বাচন কমিশন সচিবালয়
শেরে বাংলা নগর, ঢাকা

নির্বাচনী আচরণ বিধিমালা

প্রজ্ঞাপন

তারিখ ১৩ই বৈশাখ ১৪০৩/২৬শে এপ্রিল ১৯৯৬

এস, আর, ও নং ৬০-আইন/৯৬। The Representation of the People Order, 1972 (P.O. No. 155 of 1972)-এর Article 91B তে প্রদত্ত ক্ষমতাবলে নির্বাচন কমিশন নিম্ন-রূপআচরণ বিধিমালা (Code of Conduct) প্রণয়ন করিলেন, যথা :

- ১। সংক্ষিপ্ত শিরোনাম : এই বিধিমালা জাতীয় সংসদ নির্বাচনে রাজনৈতিক দল ও প্রতিদ্বন্দ্বী প্রার্থীগণের জন্য অনুসরণীয় আচরণ বিধিমালা, ১৯৯৬ নামে অভিহিত হইবে।
- ২। সংজ্ঞা : বিষয় ও প্রসঙ্গের পরিপন্থি কিছু না থাকিলে এই আচরণ বিধিমালা,-

(ক) “নির্বাচন পূর্ব সময়” বলিতে নির্বাচনের তফসিল ঘোষণার তারিখ হইতে নির্বাচনের ফলাফল ঘোষণার তারিখ পর্যন্ত সময়কে বুঝাইবে।

(খ) “প্রার্থী” বলিতে কোন নির্বাচনী এলাকা হইতে নির্বাচনের প্রতিদ্বন্দ্বিতা করার জন্য কোন রাজনৈতিক দল কর্তৃক মনোনীত ব্যক্তি অথবা স্বতন্ত্রভাবে প্রতিদ্বন্দ্বিতাকারী ব্যক্তিকে বুঝাইবে,

(গ) “রাজনৈতিক দল” বলিতে এমন একটি অধিসঙ্গ বা ব্যক্তিসমষ্টি অন্তর্ভুক্ত, যে অধিসঙ্গ বা ব্যক্তিসমষ্টি সংসদের

অভ্যন্তরে বা বাহিরে স্বাতন্ত্র্যসূচক কোন নামে কার্য করেন এবং কোন রাজনৈতিক মত প্রচারের বা কোন রাজনৈতিক তৎপরতা পরিচালনার উদ্দেশ্যে অন্যান্য অধিসঙ্গ হইতে পৃথক কোন অধিসঙ্গ হিসাবে নিজদিগকে প্রকাশ করেন।

৩। কোন প্রতিষ্ঠানে চাঁদা, অনুদান ইত্যাদি নিষিদ্ধ : সংশ্লিষ্ট রাজনৈতিক দলের সার্বিক উন্নয়ন পরিকল্পনা পেশ করা যাইবে। তবে নির্বাচনী তফসিল ঘোষণার পর হইতে ভোট গ্রহণের দিন পর্যন্ত কোন প্রার্থী কিংবা তাঁহার পক্ষ হইতে কেহ সংশ্লিষ্ট নির্বাচনী এলাকার কোন প্রতিষ্ঠান বা অন্য কোন প্রতিষ্ঠানে প্রকাশ্যে বা গোপনে কোন প্রকার চাঁদা বা অনুদান প্রদান বা প্রদানের অঙ্গীকার করা যাইবে না অথবা সংশ্লিষ্ট নির্বাচনী এলাকায় কোন প্রকার উন্নয়ন প্রকল্প গ্রহণের অঙ্গীকার করা যাইবে না।

৪। ডাক-বাংলো, রেট হাউস ইত্যাদির ব্যবহার : সরকারী ডাক বাংলো, রেট হাউস ও সার্কিট হাউস ব্যবহারের ক্ষেত্রে প্রথম আবেদনের ভিত্তিতে ব্যবহার সংক্রান্ত বিদ্যমান নীতিমালা অনুযায়ী সকল দল ও প্রার্থীকে সম-অধিকার প্রদান করিতে হইবে। তবে নির্বাচন পরিচালনার কাজে সংশ্লিষ্ট কর্মকর্তাগণ সরকারী ডাক বাংলো, রেট হাউস ও সার্কিট হাউস ব্যবহারের অগ্রাধিকার পাইবেন।

৫। নির্বাচনী প্রচারণা :

(১) রাজনৈতিক দল ও প্রার্থী নির্বিশেষে প্রচারণার ক্ষেত্রে সমান অধিকার থাকিবে। কোন প্রতিপক্ষের সভা, শোভাযাত্রা এবং অন্যান্য প্রচারাভিযান পণ্ড করা বা উহাতে বাধা প্রদান করা যাইবে না।

(২) কোন প্রতিদ্বন্দ্বী রাজনৈতিক দল বা প্রার্থীর পক্ষে আয়োজিত জনসভা বা মিছিলের দিন, সময় ও স্থান সম্পর্কে সাধারণভাবে পূর্বেই স্থানীয় পুলিশ কর্তৃপক্ষ এবং প্রতিপক্ষকে অবহিত করিতে হইবে।

(৩) কোন প্রতিদ্বন্দ্বী দল কিংবা প্রার্থী সভা করিতে চাহিলে প্রস্তাবিত সভার বেশ পূর্বেই তাহার স্থান এবং সময় যাহাতে ঐ স্থানে চলাচল ও আইন শৃংখলা রক্ষা করিতে হইবে,

যাহাতে ঐ স্থানে চলাচল ও আইন শৃংখলা রক্ষার জন্য পুলিশ প্রশাসন প্রয়োজনীয় ব্যবস্থা গ্রহণ করিতে পারে ।

- (৪) জনগণের চলাচলের বিঘ্ন সৃষ্টি করিয়া কোন সড়কে উপযুক্ত কর্তৃপক্ষের অনুমতি ব্যতিরেকে কোন জনসভা করা যাইবে না ।
- (৫) কোন সভা অনুষ্ঠানে বাধাদানকারী বা অন্য কোনভাবে গোলযোগ সৃষ্টিকারীদের বিরুদ্ধে ব্যবস্থা গ্রহণের জন্য সভার আয়োজকদের অব্যাহত পুলিশের শরণাপন্ন হইতে হইবে । এই ধরনের ব্যক্তিদের বিরুদ্ধে তাহার নিজেরা ব্যবস্থা গ্রহণ করিতে পারিবেন না ।
- (৬) নির্বাচনের তফসিল ঘোষণার পর কোন প্রার্থী বা রাজনৈতিক দল বা তাহাদের পক্ষে কেহ নির্বাচনী কাজে সরকারী প্রচার যন্ত্রের ব্যবহার, সরকারী কর্মকর্তা বা কর্মচারীগণকে ব্যবহার বা সরকারী যানবাহন ব্যবহার করিতে পারিবেন না এবং রাষ্ট্রীয় সুযোগ-সুবিধা ব্যবহার হইতে বিরত থাকিবেন ।
- (৭) কোন প্রতিদ্বন্দী প্রার্থীর পোস্টার, লিফলেট ও হ্যান্ডবিলের উপর অন্য কোন প্রার্থীর পোস্টার লিফলেট ও হ্যান্ডবিল ইত্যাদি লাগানো যাইবে না ।
- (৮) কোন সড়ক কিংবা জনগণের চলাচল ও সাধারণ ব্যবহারের জন্য নির্ধারিত স্থান নির্বাচনী ক্যাম্প স্থাপন করা যাইবে না । নির্বাচনী ক্যাম্প অনাড়ম্বর হইতে হইবে । নির্বাচনী ক্যাম্পে ভোটারগণকে কোনরূপ খাদ্য ও পানীয় পরিবেশন করা যাইবে না ।
- (৯) সরকারী ডাক বাংলো, রেষ্ট হাউস, সার্কিট হাউস ও কোন সরকারী কার্যালয়কে কোন দল বা প্রার্থীর প্রচারের স্থান হিসাবে ব্যবহার করা যাইবে না ।

- (১০) নির্বাচনী প্রচারণায় ব্যবহৃত পোস্টার দেশী কাগজে সাদা কালো রং এর হইতে এবং উহার আয়তন কোন অবস্থাতেই ২২" x ১৮" এর অধিক হইতে পারিবে না।
- (১১) কোন নির্বাচনী এলাকায় কোন প্রতিদ্বন্দী প্রার্থী একই সাথে তিনটি মাইকের বেশী ব্যবহার করিতে পারিবেন না এবং উক্ত মাইকের ব্যবহার দুপুর ২ ঘটিকা হইতে রাত ৮ ঘটিকার মধ্যে সীমাবদ্ধ থাকিবে।
- (১২) নির্বাচন উপলক্ষে কোন নাগরিকের জমি, ভবন বা অন্য কোন স্থাবর বা অস্থাবর সম্পত্তির কোনরূপ ক্ষতিসাধন করা যাইবে না এবং অনভিপ্রেত গোলযোগ ও উচ্ছৃঙ্খল আচরণ দ্বারা কাহারো শান্তি ভঙ্গ করা যাইবে না।
- (১৩) নির্বাচনী প্রচারণা হিসাবে সকল প্রকার দেয়াল লিখন হইতে সকলকে বিরত থাকিতে হইবে।
- (১৪) নির্বাচনে শান্তি শৃংখলা রক্ষার সুবিধার্থে ভোটকেন্দ্রের নির্ধারিত চৌহদ্দির মধ্যে মোটর সাইকেল বা অন্য কোন যান্ত্রিক যানবাহন চালানো এবং আগ্নেয়াস্ত্র বা বিস্ফোরক দ্রব্য বহন করা যাইবে না। কোন সরকারী কর্মকর্তা কিংবা স্থানীয় প্রভাবশালী ব্যক্তি কোন নির্বাচনী কার্যক্রমে অবৈধ হস্তক্ষেপ করিতে পারিবেন না।
- (১৫) কোন প্রতিদ্বন্দী প্রার্থীর পক্ষে ট্রাক, বাস কিংবা অন্য কোন যানবাহন মিছিল কিংবা মিছিল বাহির করা যাইবে না।
- (১৬) শান্তিপূর্ণ ও সুশৃংখলা ভোটগ্রহণ এবং কোন প্রকার বাধা-বিপত্তি ছাড়া স্বাধীনভাবে ভোটারদের ভোট প্রদান নিশ্চিত করার লক্ষ্যে সকল রাজনৈতিক দল ও প্রার্থীকে নির্বাচনী কাজে নিয়োজিত কর্মকর্তা-কর্মচারীদেরকে সহযোগিতা করিতে হইবে।

(১৭) কোন প্রতিদ্বন্দ্বী দল কিংবা প্রার্থী নির্বাচনী প্রচারণাকালে কোন ধরনের তিক্ত, উস্কানীমূলক এবং ধর্মানুভূতিতে আঘাত লাগে এমন কোন বক্তব্য প্রদান করিতে পারিবেন না।

(১৮) কোন প্রতিদ্বন্দ্বী প্রার্থী নির্বাচনী খরচের ব্যয়সীমা কোন অবস্থাই অতিক্রম করিতে পারিবেন না।

৬। নির্বাচন প্রভাবমুক্ত রাখা : অর্থ, অস্ত্র, পেশী শক্তি কিংবা স্থানীয় ক্ষমতা দ্বারা নির্বাচন প্রভাবিত করা যাইবে না।

৭। ভোট কেন্দ্রে প্রবেশাধিকার : ভোটকেন্দ্রে নির্বাচনী কর্মকর্তা-কর্মচারী, প্রতিদ্বন্দ্বী প্রার্থী, নির্বাচনী এজেন্ট এবং কেবল ভোটারদেরই প্রবেশাধিকার থাকিবে। কোন রাজনৈতিক দলের বা প্রতিদ্বন্দ্বী প্রার্থীর কর্মীগণ ভোট কেন্দ্রের অভ্যন্তরে ঘোরাফেরা করিতে পারিবেন না। কেবল পোলিং এজেন্টগণ তাঁহাদের জন্য নির্ধারিত স্থানে উপবিষ্ট থাকিয়া তাঁহাদের নির্দিষ্ট দায়িত্ব পালন করিয়া যাইবেন।

৮। নির্বাচন-পূর্ব অনিয়ম : এই বিধিমালার যে কেন বিধানের লঙ্ঘন নির্বাচন-পূর্ব অনিয়ম হিসাবে গণ্য হইবে এবং উক্তরূপ অনিয়মের দ্বারা সংস্কৃত ব্যক্তি বা রাজনৈতিক দল প্রতিকার চাহিয়া ইলেকটোরাল ইনকুয়ারি কমিটি বা নির্বাচন কমিশনের বরাবরে পেশকৃত আর্জি কমিশনের বিবেচনায় বস্তুনিষ্ঠ হইলে কমিশন তদন্তের জন্য সংশ্লিষ্ট বা যে কোন ইলেকটোরাল ইনকুয়ারি কমিটির নিকট প্রেরণ করিবেন। উভয় ক্ষেত্রে ইলেকটোরাল ইনকুয়ারি কমিটি The Representation of the People Order, 1972 (P.O. No. 155 of 1972) এর Article 91A-এর বিধান মোতাবেক তদন্ত কার্য পরিচালনা করিয়া কমিশনের বরাবরে সুপারিশ প্রদান করিবে।

নির্বাচন কমিশনের আদেশক্রমে

মুহাম্মদ ফয়জুর রাজ্জাক

সচিব।

Appendix VI : Code of Conduct for Union Parishad Election In Bangladesh.

ইউনিয়ন পরিষদ নির্বাচন-ডিসেম্বর ১৯৯৭ উপলক্ষে প্রণীত এই নীতিমালা নির্বাচন কমিশন সচিবালয়ের ১৬ই আশ্বিন ১৪০৪ বাংলা বরাবর ১লা অক্টোবর ১৯৯৭ইং তারিখের নিকস/স্বাঃনিঃ-১/ইঃপঃ/১(৭)৯৬ নম্বর স্মারকের “পরিশিষ্ট” হিসাবে প্রথম প্রচারিত।

ইউনিয়ন পরিষদ নির্বাচন

প্রতিদ্বন্দ্বী প্রার্থী ও তাঁহাদের সমর্থকসহ সংশ্লিষ্ট সকলের জন্য অনুসরণীয়

আচরণ নীতিমালা :

ইউনিয়ন পরিষদ নির্বাচন অবাধ, সুষ্ঠু, নিরপেক্ষ এবং সুচার ও সুশৃঙ্খলভাবে সম্পাদন করিবার লক্ষ্যে প্রতিদ্বন্দ্বী প্রার্থী ও তাঁহাদের কর্মীদের গণতান্ত্রিক মূল্যবোধ ও পরমত সহিষ্ণুতা চর্চা অত্যাাবশ্যিক। এই উদ্দেশ্য সাধনকল্পে নির্বাচন কমিশন সকল প্রার্থী এবং তাঁহাদের কর্মী ও সমর্থকদের জন্য নিম্নরূপ একটি অনুসরণীয় আচরণ নীতিমালা প্রণয়ন করিয়াছেন। নির্বাচন অবাধ, সুষ্ঠু, নিরপেক্ষ ও সুশৃঙ্খলভাবে সম্পাদন করিবার লক্ষ্যে এই নীতিমালা অনুসরণ করা অত্যাাবশ্যিক।

১। সংজ্ঞা : বিষয় ও প্রসঙ্গের পরিপন্থী কিছু না থাকিলে এই আচরণ নীতিমালা,

(ক) “নির্বাচন পূর্ব সময়” বলিতে নির্বাচনের তফসিল ঘোষণার তারিখ হইতে নির্বাচনের ফলাফল ঘোষণার তারিখ পর্যন্ত সময়কে বুঝাইবে;

(খ) “প্রার্থী বলিতে ইউনিয়ন পরিষদ নির্বাচনে চেয়ারম্যান বা মেম্বার পদে প্রতিদ্বন্দ্বী প্রার্থীগণকে বুঝাইবে।

- ২। নির্বাচন সংক্রান্ত বিভিন্ন আইনকানুন ও বিধি-বিধান অবশ্যই মানিয়া চলিতে হইবে।
- ৩। স্বাভাবিক এবং শান্তিপূর্ণ আইন শৃংখলা পরিস্থিতি একটি অবাধ ও নিরপেক্ষ নির্বাচনের পূর্বশর্ত। কিন্তু কেবলমাত্র আইন শৃংখলা নিয়ন্ত্রনকারী কর্তৃপক্ষের একক প্রচেষ্টা একটি সুশৃংখল নির্বাচনের জন্য যথেষ্ট নয়। সুতরাং সকল প্রার্থী ও তাঁহাকে সমর্থকসহ সংশ্লিষ্ট সকলকে এই ব্যাপারে আইন শৃংখলা রক্ষাকারী কর্তৃপক্ষকে প্রয়োজনীয় সহায়তা ও সহযোগিতা প্রদান করিতে হইবে।
- ৪। কোন প্রতিষ্ঠানে চাঁদা, অনুদান ইত্যাদি সংক্রান্ত : নির্বাচনী তফসিল ঘোষণার পর হইতে ভোট গ্রহণের দিন পর্যন্ত কোন প্রার্থী কিংবা তাঁহার পক্ষ হইতে কেহ সংশ্লিষ্ট নির্বাচনী এলাকায় অবস্থিত কোন প্রতিষ্ঠানে প্রকাশ্যে বা গোপনে কোন প্রকার চাঁদা বা অনুদান প্রদান বা প্রদানের অঙ্গীকার করিতে পারিবেন না।
- ৫। ডাক-বাংলো, রেষ্ট হাউস ইত্যাদির ব্যবহার : কোন প্রার্থী বা তাঁহার কোন সমর্থক নির্বাচন পূর্ব সময়ে সরকারী, আধা-সরকারী ডাক-বাংলো, রেষ্ট হাউস-এ অবস্থান করা হইতে বিরত থাকিবেন এবং এ জাতীয় ভবনে নির্বাচনী প্রচারণামূলক অথবা কোন কর্মী সভা অনুষ্ঠান করিতে পারিবেন না।
- ৬। নির্বাচনী প্রচারণা :
 - (ক) প্রার্থী নির্বিশেষে প্রচারণার ক্ষেত্রে সমান অধিকার থাকিবে। কোন প্রতিপক্ষের সভা, শোভাযাত্রা এবং অন্যান্য প্রচারণাভিযান পন্দ করা বা উহাতে বাধা প্রদান করা যাইবে না।
 - (খ) কোন প্রার্থীর পক্ষে আয়োজিত সনসভা বা মিছিলের দিন, সময় ও স্থান সম্পর্কে সাধারণভাবে পূর্বেই স্থানীয় পুলিশ কর্তৃপক্ষ এবং প্রতিপক্ষকে অবহিত করিতে হইবে।
 - (গ) জনগণের চলাচলের বিঘ্ন সৃষ্টি করিয়া কোন সড়কে উপযুক্ত কর্তৃপক্ষের অনুমতি ব্যতিরেকে কোন জনসভা করা যাইবে না।

- (ঘ) কোন সভা অনুষ্ঠানে বাধাদানকারী বা অন্য কোনভাবে গোলযোগ সৃষ্টিকারীদের বিরুদ্ধে ব্যবস্থা গ্রহণের জন্য সভার আয়োজকদের অবশ্যই পুলিশের শরণাপন্ন হইতে হইবে এই ধরনের ব্যক্তিদের বিরুদ্ধে তাঁহারা নিজেরা ব্যবস্থা গ্রহণ করিতে পারিবেন না।
- (ঙ) কোন প্রার্থীর পোস্টার, লিফলেট ও হ্যান্ডবিলের উপর অন্য কোন প্রার্থীর পোস্টার, লিফলেট ও হ্যান্ডবিল ইত্যাদি লাগানো যাইবে না।
- (চ) কোন সড়ক কিংবা জনগণের চলাচল ও সাধারণ ব্যবহারের জন্য নির্ধারিত স্থান নির্বাচনী ক্যাম্প স্থাপন করা যাইবে না। নির্বাচনী ক্যাম্প অনাড়ম্বর হইতে হইবে। নির্বাচনী ক্যাম্প ভোটরগণকে কোনরূপ খাদ্য ও পানীয় পরিবেশন করা যাইবে না।
- (ছ) নির্বাচনী প্রচারণায় ব্যবহৃতব্য পোস্টার দেশী কাগজে সাদা কালো রং এর হইতে হইবে এবং উহার আয়তন কোন অবস্থাতেই ২৩" × ১৮" এর অধিক হইতে পারিবে না। কাপড়ের ব্যানার ব্যবহার, তোরণ নির্মাণ বা অন্য কোন প্রকার জাঁক জমকপূর্ণ প্রচারণা হইতে বিরত থাকিতে হইবে।
- (জ) কোন প্রার্থী একই সঙ্গে একটির বেশী মাইক ব্যবহার করিবেন না এবং উক্ত মাইকের ব্যবহার দুপুর ২.৩০ ঘটিকা হইতে রাত ৮.০০ ঘটিকার মধ্যে সীমাবদ্ধ রাখিবেন।
- (ঝ) নির্বাচনী প্রচারণা হিসাবে সকল প্রকার দেওয়াল লিখন হইতে সকলকে বিরত থাকিতে হইবে।
- (ঞ) কোন প্রার্থীর পক্ষে ট্রাক, বাস কিংবা অন্য কোন যানবাহন মিছিল কিংবা মশাল মিছিল বাহির করা যাইবে না।
- (ট) কোন প্রার্থী তাঁহার সমর্থক নির্বাচনী প্রচারণাকালে কোন ধরনের তিক্ত, উচ্ছানীমূলক এবং ধর্মানুভূতিতে আঘাত লাগে এমন কোন বক্তব্য প্রদান করিবেন না।

- ৭। নির্বাচন উপলক্ষে কোন নাগরিকের জমি, ভবন বা অন্য কোন স্থাবর বা অস্থাবর সম্পত্তির কোনরূপ ক্ষতিসাধন করা যাইবে না এবং গোলযোগ ও উশৃংখল আচরণ দ্বারা কাহারো শান্তি ভংগ করা যাইবে না।
- ৮। নির্বাচনে শান্তি শৃংখলা রক্ষার সুবিধার্থে ভোটারদের নির্ধারিত চৌহদ্দির মধ্যে মোটর সাইকেল বা অন্য কোন যান্ত্রিক যানবাহন চালানো এবং আগ্নেয়াস্ত্র বা বিস্ফোরক দ্রব্য বহন করা যাইবে না।
- ৯। শান্তিপূর্ণ ও সুশৃংখল ভোট গ্রহণ এবং কোন প্রকার বাধা-বিপত্তি ছাড়া স্বাধীনভাবে ভোটারদের ভোট প্রদান নিশ্চিত করার লক্ষ্যে সকল প্রার্থী নির্বাচনী কাজে নিয়োজিত কর্মকর্তা কর্মচারীদের সহযোগিতা করিবেন।
- ১০। নির্বাচন প্রভাবমুক্ত রাখা : অর্থ, অস্ত্র, পেশী শক্তি কিংবা স্থানীয় ক্ষমতা দ্বারা নির্বাচন প্রভাবিত করা যাইবে না।
- ১১। ভোট কেন্দ্রে প্রবেশাধিকার : ভোটকেন্দ্রে নির্বাচনী কর্মকর্তা-কর্মচারী, প্রার্থী নির্বাচনী এজেন্ট এবং কেবল ভোটারদেরই প্রবেশাধিকার থাকিবে। কোন প্রার্থীর কর্মী বা সমর্থক ভোট কেন্দ্রের অভ্যন্তরে ঘোরাফেরা করিতে পারিবেন না। প্রার্থী পোলিং এজেন্টগণ তাহাদের জন্য নির্ধারিত উপবিষ্ট থাকিয়া তাহাদের নির্দিষ্ট দায়িত্ব পালন করিয়া যাইবেন।
- ১২। ইউনিয়ন পরিষদ নির্বাচন রাজনৈতিক দল ভিত্তিক নহে। কাজেই নির্বাচনী প্রচারণায় কোন রাজনৈতিক দলের নাম, প্রতীক অথবা কোন রাজনৈতিক ব্যক্তিত্বের নাম বা ছবি ব্যবহার করা যাইবে না।

নির্বাচন কমিশনের আদেশক্রমে,

(এম, এম, রেজা)

সচিব।

**Appendix VII : Relevant articles relating to Corrupt
Practices Offences, Punishment
and Procedure under the Representation of
the
People order 1972 of Bangladesh.**

Chapter VI - OFFENCES, PENALTY AND PROCEDURE

73. A person is guilty of corrupt practice punishable with [rigorous imprisonment for a term which may extend to seven years and shall not be less than two years, and also with fine] if he-

[(2) has met any election expenses from any source other than sources specified by the contesting candidate in the statement or the supplementary statement submitted under Article 44AA;

(2A) Contravenes the provisions of Article 44B;

(2b) is guilty of bribery, personation or under influence;]

(3) makes or publishes a false statement-

(a) concerning the personal character of a candidate or any of his relations calculated to adversely affect the election of such candidate or for the purpose of promoting or procuring the election of another candidate unless he proves that he had reasonable grounds for believing and did believe, the statement to be true;

(b) relating to the symbol of a candidate, or not such symbol has been allocated to such candidate; or

(c) regarding the withdrawal of a candidate.

(4) calls upon or persuades any person to vote, or to refrain from voting for any candidate on the ground that he belongs to a particular religion, community, race, caste, sect or tribe;

(5) Knowingly, in order to support or oppose a candidate, lets, lends, employs, hires, borrows or uses any vehicle or vessel for the purpose of conveying to or from the polling station any elector except himself and members of his immediate family; or

(6) causes or attempts to cause any person present and waiting to vote at the polling station to depart without voting.

74. A person is guilty of illegal practice [punishable with rigorous imprisonment for a term which may extend to seven years and shall not be less than two years, and also with fine] if he-

[(2) fails to comply with the provisions of article [44AA or 44C;

(2A) obtains or procures, or attempt to obtain or procure, the assistance of any person in the service of Bangladesh to further or hinder the election of a candidate;]

(3) votes or applies for a ballot paper for voting at an election knowing that he is not qualified for, or is disqualified from, voting;

(4) votes or applies for a ballot paper for voting more than once in the same polling station;

(5) votes or applies for a ballot paper for voting in more than one polling station for the same election;

(6) removes a ballot paper from a polling station during the poll; or

(7) Knowingly induces or procures any person to do any of the aforesaid acts.

75. A person is guilty of bribery, if he, directly or indirectly, by himself or by any other person on his behalf,

(1) receives or agrees to receive or contracts for any gratification for voting or refraining from voting, or for being or refraining from being a candidate at, or for withdrawing from an election;

(2) gives, offers or promises any gratification to any person-

(3) (a) for the purpose of inducing -

(i) a person to be, or to refrain from being, a candidate at an election;

(ii) an elector to vote, or refrain from voting, at an election; or

(iii) a candidate to withdraw an election; or

(b) for the purpose of rewarding-

(i) a person for having been, or for having refrained from being, a candidate at an election;

(ii) an elector for having voted or refrained from voting at an election; or

(iii) a candidate for having withdrawn from an election.

Explanation.- In this article, "gratification" includes a gratification in money or estimable in money and all forms of entertainment of employment.

- 76. A person is guilty of personation, if he votes or applies for a ballot paper for voting, as some other person whether that other person is living or dead or fictitious.**
- 77. A person is guilty of undue influence, if he,**
- (1) in order to induce or compel any person to vote or refrain from voting, or to offer himself as a candidate, or to withdraw his candidature, at an election, directly or indirectly by himself or by any other person on his behalf,-**
- (a) makes or threatens to make use of any force, violence or restraint;**
 - (b) inflicts or threatens to inflict any injury, damage, harm or loss;**
 - (c) Calls down or threatens to call down displeasure or the displeasure of any Saint or Pir;**
 - (d) gives or threatens to give any religious sentence; or**
 - (e) uses any official influence or governmental patronage; or**
- (2) on account of any person having voted refrained from voting or having offered himself as a candidate, or having withdrawn his candidature does any of the acts specified in sub-clause(1);**
- (3) by abduction, duress or a fraudulent device or contrivance,"**

- (a) impedes or prevents the free exercise of the franchise by an elector; or
- (b) Comples, induces or prevails upon any elector to vote or refrain in from voting, Explanation- In this article “harm” includes social ostracism or excommunication or expulsion from any caste or community.

78. (1) No person shall convene, hold or attend any public meeting, and no person shall promote or join in any procession within the area of any constituency during a period of forty-eight hour ending a midnight following the conclusion of the poll for any election in that constituency.

[1A) During the time mentioned in Article 78 (1) no person shall-

- (a) resort to an act of violence or unruly behaviour,
- (b) hold threats or intimidate voters or persons connected with election activities or duties,
- (c) show or use any arms or force.]

(2) Any person who contravenes the provisions of clause (1) shall be punishable with [rigorous imprisonment for a term which may extend to seven years and shall not be less than two years, and also with fine].

79. A person is guilty of any offence [punishable with imprisonment for a term which may extend to three years and shall not be less than six months, also

with fine], if he, within a radius of four hundred yards of the polling station, on the polling day-

- (1) canvasses for votes;
- (2) solicits the vote of any elector;
- (3) persuades any elector not to vote at the election or for a particular candidate; or
- (4) exhibits, except with the permission of the Returning Officer and at a place reserved for the candidate or his election agent beyond the radius of one hundred yards of the polling station, any notice, sign, banner or flag designed to encourage the electors to vote, or discourage the electors from voting, for any contesting candidate.

80. A person is guilty of an offence punishable with imprisonment for a term which may extend to [three years and shall not be less than six months. and also with fine], if he, on the polling day-

- (1) uses, in such manner as to be audible within the polling station, any gramophone, megaphone, loudspeaker or other apparatus for reproducing or amplifying sounds;
- (2) persistently shouts in such manners as to be audible within the polling station;
- (3) does any act which -
 - (a) disturbs or causes annoyance to any elector visiting a polling station for the purpose of voting; or

- (b) interferes with the performance of the duty of a Presiding Officer, Assistant Presiding Officer, Polling Officer or any other person performing any duty at a polling station; or
- (4) abets the doing of any of the aforesaid acts.

81. (1) except as provided in clause (2) a person is guilty of an offence punishable with (rigorous imprisonment for a term which may extend to ten years and shall not be less than three years, and also with fine), if he -

- (a) intentionally defaces or destroys any nomination paper, ballot paper or official mark on a ballot paper;
- (b) intentionally takes out of the polling station any ballot paper or puts into any ballot box any ballot paper other than the ballot paper he is authorised by law to put in;
- (c) without due authority -
 - (i) supplies any ballot paper to any person;
 - (ii) destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers in use for the purpose of election; or
 - (iii) breaks any seal affixed in accordance with the provisions of this Order;
- (d) forges any ballot paper or official mark;
- (e) causes any delay or interruption in the beginning, conduct or completion of the procedure required to be immediately carried out on the close of the poll.

(2) A returning Officer, Assistant Returning Officer, Presiding Officer, Assistant Presiding Officer, or any other officer or clerk on duty in connection with the election, who is guilty of an offence under clause (1) shall be punishable with [rigorous imprisonment for a term which may extend to ten years and shall not be less than three years, and also with fine.]

82. A person is guilty of an offence punishable with imprisonment for a term which may extend to [five years and shall not be less than one year, and also with fine], if he-

(1) interferes or attempts to interfere with an elector when he records his vote;

(2) in any manner obtains or attempts to obtain in a polling station information as to the candidate for whom an elector is about to vote or has voted; or

(3) communicates at any time any information obtained in a polling station as to the candidate for whom an elector is about to vote or has voted.

83. A Returning Officer, Assistant Returning Officer, Presiding Officer, Assistant Presiding Officer, or Polling Officer, or any candidate, election agent or polling agent attending a polling station or any person attending at the counting of votes is guilty of an offence punishable with imprisonment for a term which may

extend to [five years and shall not be less than one year and also with fine] if he-

- (1) fail to maintain or aid in maintaining the secrecy of voting;
- (2) communicates, except for any purpose authorised by any law, to any person before the poll is closed any information as to the official mark; or
- (3) Communicates any information obtained at the counting of votes as to the candidate for whom any vote is given by any particular ballot paper.

84. A Returning Officer, Assistant Returning Officer, Presiding Officer, Assistant Presiding Officer, Polling Officer or any other officer or clerk performing any duty in connection with an election, or any member of a police force, is guilty of an offence punishable with imprisonment for a term which may extend to ²[five years and shall not be less than one year, and also with fine], if he, in the conduct or management of an election or maintenance of order at a polling station,-

- (1) persuades any person to give his vote;
- (2) dissuades any person from giving his vote;
- (3) influences in any manner the voting of any person; or
- (4) does any other act calculated to influence the result of the election.

85. A Returning Officer, A Assistant Returning Officer, Presiding Officer, Assistant Presiding Officer, or any other person employed by any such officer in connection with his

official duties imposed by or under this Order, is guilty of an offence punishable ³[with imprisonment for a term which may extend to one year, or with fine which may extend to Take five thousand, or with both], if he wilfully and without reasonable cause, commits breach of any such official duty by act or omission.

86. A person in the service of Bangladesh is guilty of any offence punishable with imprisonment for a term which may extend to ¹[five years and shall not be less than one year, and also with fine], if he, misuses his official position in a manner calculated to influence the result of the election.

87. A police officer may -

- (1) arrest without warrant, notwithstanding anything contained in the Code of Criminal Procedure, 1898 any person-
 - (a) who commits ²[* *] an offence under Article 80 if the Presiding Officer directs him to arrest such person;
 - (b) who, being removed from the polling station by the Presiding Officer under Article 30, commits any offence at the polling station;
- (2) remove any notice, sign, banner or flag used in contravention of Article 79; and
- (3) seize any instrument or apparatus used in contravention of Article 80 and take such steps, including use of force, as may be reasonably necessary for prevention of such contravention.

3* * * * *

89. (1) No court shall take cognizance of an offence under clause (2) of Article 81, Article 83, Article 84, Article 85 or Article 86, except upon a complaint in writing made by order of, under authority from, the Commission.
- (2) The commission shall, if it has reason to believe that any offence specified in clause (1) has been committed, cause such enquiries to be made or prosecution to be instituted as it may think fit.
90. No prosecution for an offence under Article 73 or Article 74 shall be commenced except—
- (a) within six months of commission of the offence;
 - or
 - (b) if the election at which the offence was committed is subject to an election petition and a tribunal has made an order in respect of such offence, within three months of the date of such order.

Appendix VIII : Relevant Sections Relating to Corrupt Practices and Electoral Offences under the Indian Representation of the People Act, 1951

PART VII : CHAPTER I. Corrupt Practices

123. Corrupt practices - The following shall be deemed to be corrupt practices for the purposes of this Act:—

[(1) " Bribery", that is to say :—

- (A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing -
 - (a) a person to stand or not to stand as, or [to withdraw or not to withdraw] from being a candidate at an election, or
 - (b) an election to vote or refrain from voting at an election, or as a reward to-
 - (i) a person for having so stood or not stood, or for [having withdrawn or not having withdrawn] his candidature; or
 - (ii) an elector for having voted or refrained from voting;
- (B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward-
 - (a) by a person for standing or not standing as, or for [withdrawing or not withdrawing] from being, a candidate; or

- (b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any election to vote or refrain from voting, or any candidate [to withdraw or not to withdraw] his candidature.

Explanation — For the purposes of this clause the term 'gratification' is not restricted to pecuniary gratification or gratification estimable in moment and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of any expenses bona fide incurred at, or for the purpose of, any election and duly entered in the account of election expenses to in section 78]

(2) **Undue influence**, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person [with the consent of the candidate or his election agent], with the free exercise of any electoral right:

Provided that-

(a) without prejudice to the generality of the provisions of this clause any such person as is referred to there in who-

(i) threatens any candidate or any elector, or any person in whom a candidate or an elector interested, with injury of any kind including social ostracism and excommunication or expulsion from any caste or community; or

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause.

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intend to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

¹[(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate;

²[Provided that no symbol allotted under this Act to a candidate shall be deemed to be a religious symbol or a national symbol for the purposes of this clause.]

(3A) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the

furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.]

³[3B] The propagation of the practice or the commission of sati or its glorification by a candidate or his agent or any other person with the consent of the candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

Explanation.- For the purposes of this clause, "sati" and "glorification" in relation to sati shall have the meanings respectively assigned to them in the Commission of Sati (Prevention) Act, 1987.]

(4) The publication by a candidate or his agent or by any other person ⁴[with the consent of a candidate or his election agent.] of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal, ^{5***} of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(5) The hiring or procuring, whether or payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person ⁶[with the consent of a candidate or his election agent], ⁷[for the use of such vehicle or vessel for the free conveyance] of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station provided under section 25 or a place fixed under sub-section (1) of section 29 for the poll:

Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport vehicle or vessel or any tramcar or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation.- In this clause, the expression "vehicle" means any vehicle used or capable of being used for the purposes of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise and whether used for drawing other vehicles or otherwise.

(6) The incurring or authorizing of expenditure in contravention of section 77

(7) The obtaining or procuring or a betting or attempting to obtain or procure by a candidate or his agent or, by any other person ¹[with the consent of a candidate or his election agent], any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of the Government and belonging to any of the following classes, namely :—

- (a) gazetted offices ;**
- (b) stipendiary judges and magistrates ;**
- (c) members of the armed forces of the Union**
- (d) members of the police forces ;**
- (e) excise officers ;**

[(f) revenue officers others than village revenue officers known as lambardars, malguzars, patels, desh mukhs or by any other name, whose duty is to collect land revenue and who are remunerated by a share of, or commission on, the amount of land revenue collected by them but who do not discharge any police functions ; and]

(g) such other class of persons in the service of the Government as may be prescribed ;

3[Provided that where any person, in the service of the Government and belonging to any of the classes aforesaid in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities or does any other act or thing, for, to, or in relation, to, any candidate or his agent or any other person acting with the consent of the candidate or his election agent (whether by reason of the office held by the candidate or for any other reason), such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidate's election.]

4[(8) Booth capturing by a candidate or his agent or other person.]

Explanation.— (1) In this section the expression "agent" includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate.

(2) For the purposes of clause of clause (7), a person shall be deemed to assist in the furtherance of the prospects of a candidate's election if he acts as an election agent^{1***} of that candidate.]

2[(3) For the purposes of clause (7). Notwithstanding anything contained in any other law, the publication in the Official Gazette of the appointment, resignation, termination of service, dismissal or removal from service of a person in the service of the Central Government (including a person serving in connection with the administration of a Union territory) or of a State Government shall be conclusive proof—

(i) of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, and

(ii) where the date of taking effect of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, is stated in such publication, also of the fact that such person was appointed with effect from the said date, or in the case of resignation, termination of service, dismissal or removal from service such person ceased to be in such service with effect from the said date.]

3[(4) For the purposes of clause (8), "booth capturing" shall have the same meaning as an section 135A.]

Chapter III. Electoral Offences

125 Promoting enmity between classes in connection with election.- Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both]

126 Prohibition of public meetings on the day preceding the election day and on the election day. — 5(1) No person shall convene, hold or attend any public meeting in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area]
(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

127 Disturbances at election meetings — (1) Any person who at a public meeting to which this section applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, 6[shall be punishable with a imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both.]

(2) This section applies to any public meeting of a political character held in any constituency between the date of the issue of a notification under this Act calling upon the constituency to elect a member or members and the date on which such election is held.

(3) If any police officer reasonably suspects any person of committing an offence under sub-section (1), he may, if requested so to do by the chairman of the meeting, require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address, or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

1[127A Restrictions on the printing of pamphlets, posters, etc.- (1) No person shall print or publish, or cause to be printed or published, any election pamphlet or poster which does not bear on its face the names and addresses of the printer and the publisher thereof.

(2) No person shall print or cause to be printed any election pamphlet or poster—

(a) unless a declaration as to the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and

(b) unless, within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document,—

- (i) where it is printed in the capital of the State, to the Chief Electoral Officer; and
- (ii) in any other case, to the district magistrate of the district in which it is printed.

(3) For the purposes of this section —

- (a) any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression "Printer" shall be construed accordingly; and
- (b) "election pamphlet or poster" means any printed pamphlet, hand-bill or other document distributed for the purpose of promoting or prejudicing the election, but does not include any hand-bill, placard or poster merely announcing of an election meeting of routine instructions to election agents or workers.

(4) Any person who contravenes any of the provisions of sub-section (1) or sub-section (2) shall be punishable with

imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.]

128 **Maintenance of secrecy of voting .—** (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorized by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of subsection (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

129 **Officers, etc, at elections not to act for candidates or to influence voting.—** (1) No person who is 1[a district election officer or a returning officer], or an assistant returning officer, or a presiding or polling officer at an election, or an officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

(2) No such person as aforesaid, and no member of a police force, shall endeavour—

- (a) to persuade any person to give his vote at an election, or
- (b) to dissuade any person from giving his vote at an election, or
- (c) to influence the voting of any person at an election in any manner.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment which may extend to six months or with fine or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.]

130. **Prohibition of canvassing in or near polling stations.**—(1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of 3 [one hundred meters] of the polling station, namely :-

- (a) canvassing for votes; or
- (b) soliciting the vote of any elector; or
- (c) persuading any elector not to vote for any particular candidate; or
- (d) persuading any elector not to vote at the election; or
- (e) exhibiting any notice or sign (other than an

official notice) relating to the election.

- (2) Any person who contravenes the provisions of sub-section(1) shall be punishable with fine which may extend to two hundred and fifty rupees.
- (3) An offence punishable under this section shall be cognizable.

131. Penalty for disorderly conduct in or near polling station.—

(1) No person shall, on the date or dates on which a poll is taken at any polling station-

- (a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as megaphone or a loudspeaker, or
- (b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof, so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

(2) Any person who contravenes, or wilfully aids or abets the contravention of, the provisions of sub-section (1)

shall be punishable with imprisonment which may extend to three months or with fine or with both.

(3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1), and may seize any apparatus used for such contravention.

132. Penalty for misconduct at the polling station.— (1)

Any person who during the hours flexed for the poll at any polling station misconducts himself or fails to obey the lawful direction of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorized in this behalf by such presiding officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise

entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

[132A. **Penalty for failure to observe procedure for voting.**— It any elector to whom a ballot paper has been issued, refuses to observe the procedure prescribed for voting the ballot paper issued to him shall be liable for cancellation.]

133. Penalty for illegal hiring or procuring of conveyances at selections.— If any person is guilty of any such corrupt practice as is specified in 2[clause (5) or section 123 at or in connection with an election, he shall be punishable with fine which may extend to ³[one thousand rupees].

134. Breaches of official duty in connection with elections.- (1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall be punishable with fine which may extend to five hundred

rupees.

4[(IA) An offence punishable under sub-section (1) shall be cognizable.]

(2) No suit or other legal proceedings shall lie against any such person for damages in aspect of any such act or omission as aforesaid.

(3) The persons to whom this section applies are the **5**^{***} **6**[district election officers, returning officers], assistant returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with **7**^{***} the receipt of nominations or withdrawal of candidures or the recording or counting of votes at an election; and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act **5**^{***}.

1[**134A. Penalty for Government servants for acting as election agent, polling agent or counting agent.—**

If any person in the service of the Government acts as an election agent or polling agent or a counting agent of a candidate at an election, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.]

135. Removal of ballot papers from polling station to be an offence.— (1) Any person who at any election fraudulently takes, or attempts to take, a ballot paper out

of a polling station, or wilfully aids the doing of any such act, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station, arrest or direct a police officer:

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another women with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

[135A. Offence of booth capturing.—Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine, and where such offence is committed by a person in the service of the government, he shall be punishable with imprisonment for a term which shall not be less than one year out which may extend to three years and with fine.

Explanation,- [For the purposes of this section. "booth capturing: includes, among other things, all or any of the following activities, namely:-

- (a) seizure of a polling station or a place fixed for the poll by any person or persons making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections :
- (b) taking possession of a polling station or a place fixed for the poll by any person or persons allowing only his or their own supporters to exercise their right to vote and prevent others from voting.
- (c) threatening any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;
- (d) seizure of a place for counting of votes by any persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes;
- (e) doing by any person in the service of Government of all or any of the aforesaid activities or aiding or conniving at, any such activity in the furtherance of the prospects of the election of a candidate.]

136. Other offence and penalties therefor.—(1) A person shall be guilty of an electoral offence if at any election he—

- (a) fraudulently defaces or fraudulently destroys any nomination paper; or**
- (b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under authority of a returning officer; or**
- (c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on an a ballot paper or any declaration of identity or official envelop used in connection with voting by postal ballot; or**
- (d) without due authority supplies any ballot paper to any person 1[or receives any ballot paper from any person or is in possession of any ballot paper]; or**
- (e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or**
- (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or**
- (g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wishfully aids or abets the doing of any such acts.**

(2) Any person guilty of an electoral offence under this section shall,—

- (a) if he is a returning officer or an assistant returning officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years or with fine or with both,
- (b) if he is any other person, be punishable with imprisonment for term which may extend to six months or with fine or with both.

(3) For the purpose of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression “official duty” shall not include any duty imposed otherwise than by or under this Act ***.

3[(4) An offence punishable under sub-section (2) shall be cognizable.]

137. [Prosecution regarding certain offences.] Rep. by the Representation of the People (Amendment) Act, 1966 (47 of 1966), s. 61

138. [Amendment of Act 5 of 1898.] Rep. by the Repealing and Amending Act, 1957 (36 of 1957, s. 2 and the First Schedule.

Appendix IX : ELECTION (OFFENCES AND PUNISHMENT) ACT, 2047 (1991) of Nepal

The following Act was published in the Nepal Gazette, Part II. Vol.40 Extra-ordinary Number 54, dated 2047/11/2 (February 14, 1991) and was amended by "Certain Nepal Laws Relating to Election and Local Bodies Amending Act, (2053), published in the Nepal Gazette, Part II. Vol. 46, Extra-ordinary Number 41, 2053 Marga 12(27 November, 1996)

An Act Made To Provide For Electoral Offences and Punishment.

Preamble :

WHEREAS it is expedient to make provisions for the electoral offences and punishment;

Now, THEREFORE, **HIS MAJESTY KING BIRENDRA BIR BIKRAM SHAH DEVA** has, with the advice and consent of the Council of Ministers, made this Act pursuant to Article 129 of the Constitution of the Kingdom of Nepal.

CHAPTER-1

Preliminary

1. Short Title and Commencement :

- (1) This Act may be cited as “Election (Offences and Punishment) Act. 2047
- (2) This Act shall come into force immediately.

2. Definitions :

Unless repugnant to subject or context, in this Act-

- (a) “Constitution” shall mean the Constitution of the Kingdom of Nepal. 2047 (1990)
- (b)¹ “Election” means election or by-election of members of the House of Representatives to be constituted pursuant to Article 45 of the Constitution, or of the National Assembly to be constituted pursuant to Article 46 thereof, or of the Village Development Committee, Municipality or District Development Committee to be constituted pursuant to existing laws.
- (c) “Election Period” shall mean the period commencing from the date of filing of nomination paper till the date of declaration of election result.

- (d)² “Candidate” means a person whose nomination papers as candidate in the election to be conducted pursuant to existing laws have been filed and his name has been included in the list of candidates.
- (e) “Voter” shall mean a voter who has been registered as a voter in the Electoral Roll for election to be held in pursuance of the existing laws.
- (f) “Right to Vote” shall mean the right of a person to vote in the concerned election pursuant to the existing laws.
- (g) “Commission” means the Election Commission as provided in Article 103 of the Constitution,
- (h) “Constituency” shall mean electoral constituency delimited for the purpose of electing a member in any concerned election pursuant to the existing laws.
- (i) “Polling Center” shall mean the Polling Center established for the purpose of casting the votes in any concerned election pursuant to the existing laws, and shall also include the sub-center.
- (j)⁴ “Election Officer” means Chief Election Officer, Election Officer and Assistant Election Officer appointed by the Commission in accordance with the existing laws.
- (k) “Polling Officer” shall mean the Polling Officer appointed by the Commission pursuant to the provisions of the existing laws, and the term shall also include the Assistant Polling Officer.
- (l)⁵ “Electoral Roll” means the electoral roll prepared pursuant to Voters' Registration Act, 2052.

- (m)⁶ "Ballot Paper" means the ballot paper in the format prescribed by the Commission to be used by the voters in an election to cast his vote.
- (n)⁷ "Election Tribunal" means the tribunal as provided in Section 23.
- (o)⁸ "Voters' Identity Card" means the Voters Identity Card as provided pursuant to Voters' Registration Act, 2052.

CHAPTER - II

Election Offences

3.⁹ Prohibition on Proxy Voting :

No one shall procure through false impersonation (proxy) the ballot paper to cast vote in other's name, nor shall he cast vote in such a manner, or assist or attempt or abet to commit such act.

4. Undue Influence :

No one, either acting on behalf of any political organisation or party, or any candidate or his representative or any other person, shall in connection with and during any election, unduly influence, or abet or attempt to do so, to any candidate or a voter or to any person having any privy or interest on such candidate or voter, by performing any of the following acts :

- (a) Causing any kind of damage;
- (b) Threatening to excommunicate socially;

- (c) Coercing through any curse of unnatural calamity or of impiety;
- (d) Causing to swear or promise; or
- (e) Portending any kind of threat, boast or intimidation.

5. **Character Assassination** :

No person acting on behalf of any political organization or party, or any candidate or his representative or any other person, shall with an intention to prejudice the result of any election, wreck the character of any candidate or of his family member by making any accusation on the character or conduct in a manner so as to appear as true which he himself knows or believes to be false, or which is likely to make others believe that such accusations is true.

6. **Prohibition on Campaign** :

No person acting on behalf of any political organization or party, or any candidate or his representative or any other person, while campaigning on his own or on any candidate's policies and programs in connection with any election, shall not campaign or cause to campaign, with any of the following intentions;

- (a) Which affects the independence, sovereignty or territorial integrity of the Kingdom of Nepal; or
- (b) Which promotes or causes hatred, enmity or contempt on the basis of religion,

community, cast, creed, language or territorial region; or

- (c) Which appeals to or causes such appeal to vote or refrain from voting on the basis of religion, community, caste, creed, language or territorial region.

7. Prohibition on Gratification in Cash or Kind :

No person acting on behalf on any political organisation or party, or any candidate or his representative or any other person shall during election period, give or agree to give a voter any gift, reward, prize, contribution or donation in cash or kind with a view to induce him to vote or refrain from voting. The voters shall also not accept or agree to accept such gratification for himself or on behalf of the person.

8. Prohibition on Employees to cause any Influence :

The Election Officer, Polling Officer or any other Officer or employees deputed at the polling center, security guards or the Observer deputed by the Commission or any other official or employee while performing his functions, shall not conduct himself in a manner which may promote or prejudice the winning of a candidate in any election or cause others to do so except for exercising his right to cast vote.

9. **Breach of Tranquillity :**

No person shall, with a view to creating nuisance or causing obstruction in the performance of the duty of any person or official engaged in the polling center, disturb the peace by performing any of the following acts in any building, house or premises occupied by the polling station or in any private or public house or building or premises around thereof on the election day, within the period from three hours prior to the commencement of polling till the completion thereof :

- (a) Use loud speaker, megaphone or similar other device; or
- (b) Play musical instruments, organize group dance, organize any kind of assembly or function, make noise or create disturbance.

10 **Prohibition on Carriage of Arms and Ammunition :**

No person, except the Government employee deputed on security functions, shall carry or use or fire or explode any arms or poisonous or explosive material in the Polling Center or Vote Counting Center and around these places.

11. **Prohibited Behaviours :**

No person shall perform or cause others to perform or attempt or assist or abet the performance of any of the followings acts :

- (a) (Deleted)¹⁰
- (b) Insert, delete, correct or remove any list, notice or any document affixed or caused to be affixed by any person or employee engaged in the election work or tear, deface in any manner, destroy or damage such document :
- (c) Deface, delete, alter, forge, damage or tear the Ballot Paper or any signature appearing therein of the Election Officer or Polling Officer, or any official stamp or mark therein:
- (d) Handover his Ballot Paper obtained by him in accordance with law for the purpose of exercising his right to vote, to another person, or place inside the Ballot Box anything other than the Ballot Paper obtained for casting his vote;
- (e) Take in possession with or without the use of force, grab, steal, tear or deface in any manner or destroy or damage Ballot Paper or any document to be used or which has been used in the election work;
- (f) Take in possession with or without use of force, grab, steal, damage or destroy any Ballot Box to be used or which has been used in the election work;

- (g) Take out of the polling station or to any other place, without approval of the Polling Officer, any Ballot Paper, stamp for use in Ballot Paper, stamp pad, ink or any other material used or to be used in the election.
- (h) Obstruct in any manner any employee engaged in the election work in the performance of his functions.
- (i)¹¹ Alter or change, or obliterate, or modify by any means in the Voters' Identity Card issued for the purpose of election, or tear it off, or destroy it, or abuse in any manner, or use other's Identity Card or let one's Identity Card be used by others.
- (j)¹² Contravene the Code of Conduct relating to election framed by the Commission.

12. Illegal Transactions of Ballot Paper :

- (1) No person shall, for the purpose of casting vote, illegally receive from any person or make arrangement for such procurement, or attempt or cause such attempt to be made for such procurement or abet or cause abatement for the procurement of the Ballot Paper to be used in any election by giving or agreeing to give gratification in the form of cash, kind, service or benefit of any kind, or by applying coercion, fear or undue influence, or by the use of or without force.

- (2) No official, who is duly authorised to keep in his custody the Ballot Papers for use in the election, shall supply any Ballot Paper to any unauthorized person by accepting any gratification in the form of cash, kind, service, or any benefit of any kind, or even without accepting any gratification.

Restriction on Election Campaign :

- (1) Posters, pamphlets, bills, advertisements etc, printed for the purpose of publicity in relation to any election shall bear the name and address of the printing press and the political organisation or party or the person concerned.
- (2) No poster, pamphlet, bill, advertisement or similar document shall be affixed, or nothing shall be written or caused to be written on any religious, archaeological, historical building, memorial or structure for the purpose of publicity in relation to any election.
- (3) No poster, pamphlet, bill, advertisement or similar document shall be affixed, or caused to be affixed, or nothing shall be written or caused to be written on the private residential building, shop or other structures for the purpose of publicity in relation to any election without the approval of their owner.

- (4) No person for the purpose of getting or persuading to vote for or against any candidate convene or organize meetings, processions or raise slogans or make any kind of publicity within a period commencing forty eight hours prior to the day of polling and until its completion.

14. Obstruction during Polling or Counting of Votes :

No Candidate or his representative or any other person shall during the counting of votes in any election shall snatch, loot, damage or destroy in any manner the Ballot Box, Ballot Papers or any document relating to election work by use of or without force. Neither shall any person remove, attempt to remove or abet such removal from the place where the votes are being counted, the Ballot Box, Ballot Paper or any document relating to the election work without the approval of Election Officer or any employee engaged in election work, nor anyone shall cause obstructing in any manner in the vote counting or other works relating to the election.

15. Maintenance of Secrecy :

No Election Officer, Polling Officer, Observer deputed by the Commission or any other official or employee engaged in the election work,

candidate or his representative, or any voter or any other person shall communicate or write or express to any one by any means, or cause or abet to do so, in respect of any information pertaining to whether any person has voted or not, or to which candidate such person has voted, or which candidate has polled how much, or any other fact relating to the counting of votes. Nor shall he tell, write or publish by any means in respect of any writing or symbol or any inscription of similar nature contained in the Ballot Paper which may reveal the identity of the voter.

Provided that nothing mentioned herein shall be deemed to prohibit the Election Officer or any official duly authorised by him, to announce publicly during the counting of votes, the number of votes received by the candidates in any election.

16. **Power to Arrest** :

- (1) The Election Officer or the Polling Officer shall have the power to issue order to any person, whosoever causes any obstruction during polling or the counting of votes or on any election work, or attempts or abets to do so to prohibit him from doing so and to expel him from such place.
- (2) The Election Officer or the Polling Officer shall have the power to order the Security

Personnel deputed therein to arrest any person committing any act in contravention of the provisions of Section 3(2), Section 9, Section 10 or Section 14, or any person defying the order issued by the Election Officer or the Polling Officer under Sub-Section (1).

- (3) It shall be the duty of the security personnel deputed therein to execute the orders of the Election Officer or the Polling Officer issued pursuant to Sub-section (2).

17.13 **Election Expenses**

- (1) Any person who is required by the existing laws to submit the details of election expenses shall submit within the period prescribed by law such details in the format prescribed by law.
- (2) The details of election expenses submitted pursuant to Sub-section (1) may be subject to audit by an auditor designated by the Commission.

CHAPTER-III

Penalty

18. (1) Any person committing any act in contravention of the provisions of Section 6, Clauses (e) and (f) of Section 11 or Section 14 shall be liable to punishment with a fine upto two thousand rupees or an imprisonment upto two years or both.
- (2) Any person committing any act in contravention of the provisions of section 4. Section 5. Section 7. Section 8. Clauses¹⁴ (b), (c), (d), (g), and (h) of Section 11. Section 12 or Section 15 shall be liable to punishment with a fine upto one thousand rupees or an imprisonment upto one year or both.
- (3) Any person committing any act in contravention of the provisions of Section 10 shall be liable, in addition to the confiscation of the arms, poisonous or explosive material found in possession, to the punishment with a fine upto one thousand rupees or an imprisonment upto six months or both.
- (4) Any person committing any act in contravention of the provisions of Section 3, Section 9 or section 13 shall be liable to punishment with a fine upto one

thousand rupees or an imprisonment upto three months or both.

(5)¹⁵ In case of failure to submit the details pursuant to Sub-section (1) of Section 17, the Commission may impose upon such person a fine up to an amount equal to the ceiling of expense prescribed for the election. Prior to passing an Order imposing the fine, the Commission shall offer an opportunity to the concerned person to defend himself.

(6)¹⁶ If the report of the audit performed pursuant to Sub-section (2) of Section 17 reveals that the details of expenses submitted pursuant to Sub-section (1) of the same Section to be unusual or being contrary to the fairness of election or the expenses have been incurred on improper or illegal purposes, the Commission may decide disqualifying such person, with immediate effect, for a maximum period of six years from contesting any election. Where the Commission has so decided, if such person happens to be an elected member, his election also becomes void. Prior to making such decision, the Commission shall provide an opportunity to the concerned person to defend himself.

CHAPTER - IV

Voidness of Elections

19. Election to be void :

(1) If any concerned candidate files and election petition on any of the following grounds and, if such allegation is proved, the election shall be declared void :

(a) That the election has not been fair due to rampant violation of the provisions of Section 3, Section 4, Section 5, Section 6, Section 7, Section 8, Section 10, Clauses (c), (d), (e), (f) or (j)¹⁷ of Section 11, Section 12 or of Section 14;

(b) That the election result has actually been altered due to the rejection of a valid nomination paper submitted by any person for candidacy or due to wrongful acceptance or non-rejection of an invalid nomination paper : or

(c)¹⁸ That the elected candidate had in election expended in excess of the ceiling of expense prescribed by the existing law or had received income through unusual or illegal sources or he had incurred expenses in a manner which is contrary to the fairness of election or such expenses were incurred on illegal purposes or in an improper or illegal manner.

- (2) Notwithstanding anything mentioned in Sub-section (1) above, the election of an elected candidate shall not be annulled, if the following facts are proved-
- (a) that the acts mentioned in Section 4, Section 5, Section 6, Section 7, or in Clause (c) of Sub-section (1) were carried out without the knowledge of the elected candidate or his representative, or without his approval or despite his orders against such act, or that he had done his best to prevent occurrence of such act.
 - (b) that such act as mentioned in Clause (a) of Sub-section (1) has not actually prejudiced the election result.

20. **Recounting of Poll :**

- 1) If any concerned candidate files a petition for the declaration of an election as void on any of the following grounds, the Election Tribunal may order recounting of votes :
- (a) That the petitioner candidate or any other candidate has validly obtained the majority of votes; or
 - (b) That the invalid votes were not invalidated or the votes required to be presumed valid in accordance with law were not declared valid.
- (2) During the recounting of votes pursuant of subsection (1), if the petitioner or other

candidate is proved to have lawfully obtained majority of votes, the result of the elected candidate shall be declared void and the Election Tribunal shall in such case declare the petitioner or any other person obtaining majority as the duly elected candidate.

21. Tie of Votes :

- (1) While recounting the votes in connection with the petition filed pursuant to Section-20, the Election tribunal shall recount all the votes obtained by all the candidates of the concerned constituency.**
- (2) During the recounting of votes pursuant to Sub-section (1) above, if the votes obtained validly by two or more candidates in the concerned election appears to be in equal number, the Election Tribunal shall decide by drawing lots amongst the candidates obtaining such equal number of votes. The candidate in whose favour the lot is drawn shall be deemed to have obtained one more vote and declared elected.**

CHAPTER - V

Miscellaneous

22. Jurisdiction in respect of Cases :

- (1) The Election Tribunal shall have the jurisdiction to try and decide under this Act.**
- (2) An appeal may be filed against the decisions of the Election Tribunal in the Court prescribed by His Majesty's Government in the notice published in the Nepal Gazette. The decision of the prescribed Court shall be final.**
- (3) Notwithstanding any penalty imposed pursuant to the provisions of Clauses (e) and (f) of Section 11 or Section 14 after having been convicted for the offence, such conviction shall not affect the election held in the constituency or polling station in pursuance of a decision of the Commission.**
- (4) The Election Tribunal, while deciding on election petitions filed with itself, shall also have powers to try and decide according to the existing laws on the issue of forgery or fraud involved in the concerned case.**

23. **Constitution of Election Tribunal :**

His Majesty's Government shall, on the recommendation of the Commission constitute Election Tribunal by notice published in the Nepal Gazette.

24.¹⁹ **Powers to Conduct Investigation :**

- (1) The powers to conduct investigation in respect of offence punishable under this Act shall be upon the official or chief of the office designated in the Orders of the Commission.
- (2) If the investigating officer, designated pursuant to Sub-section (1), in the course of investigation of the offence, considers necessary to keep any person, who is suspected as the offender or any person involved in committing the offence, under police custody for the purposes of collecting evidence against such person under its custody. The Police Office, upon receipt of such Order, shall keep such person under police custody in accordance with the existing laws.

25.²⁰ **Filing of complaint :**

- (1) Where, in respect of any election it is decided to file a case against person committing any

offence under this Act, the investigating officer as mentioned in Section-24, may file a charge sheet in the Election Tribunal.

- (2) If any person or candidate has to file any case or complaint according to this Act. Such person may file a complaint in the Election Tribunal through the officer designated for the purpose by the Commission. Upon receipt of such complaint, the concerned officer also shall forward such complaint and other papers relating thereto, excepting the confidential papers, to the Election Tribunal.

26.²¹ Period of Limitation to File Complaint :

- (1) Where any case has to be instituted pursuant to Sub-section (1) of Section 25 in respect of an offence committed by any person under this Act, the charge sheet should have to be filed within ninety days from the date of having cause to file such case.
- (2) If any person has to file a case or complaint pursuant to Sub-section (2) of Section 25, such complaint should have been filed with the officer designated by the Commission within thirty-five days from the date of having cause to file such complaint.

27. Submission of Deposits :

- (1) Any person intending to file a complaint pursuant to the provision of this Act shall in respect of election to Parliament, submit a deposit of one thousand rupees and in respect of election to Local Authorities a sum of two hundred rupees.
- (2) If the complaint is found to be false, the amount thus deposited shall be forfeited.

28. Petition to be Rejected :

If a complaint filed pursuant to the provisions of this Act is found not to have complied with the required procedure, or is filed after the expiry of the limitation period such complaint shall be rejected.

29. Time Limitation for Decision and Procedure :

- (1) The Election Tribunal shall complete the trial and decide the cases within one year from the date of filing of complaint.
- (2) In respect of the trial and decision on the complaint under this Act, the procedure as laid down in the Summary Procedures Act, 2028 shall be applied.

30. Power to dismiss Petitions :

In the event of death of complainant or the defendant, complaints filed pursuant to section 19 and 20 of this Act may be dismissed.

31. Withdrawal of Petitions :

Complaint filed pursuant to Sections 19 and 20 of this Act may be withdrawn by the Complainant with the approval of the Election Tribunal Provided that if the Election Tribunal considers that the withdrawal is motivated by some ulterior benefit, the Tribunal may refuse permission for such withdrawal.

32. Obligation to notify :

The Judicial authority trying cases pursuant to this Act shall notify its decision thereon to the Commission, Parliament Secretariat and all other concerned offices within fifteen days from the date of its decision. The notification shall be accompanied by a copy of the decision.

33. Prosecution by His Majesty's Government :

His Majesty's Government prosecute the cases punishable under this Act.

34. Evidence to be Inadmissible :

(1) Notwithstanding anything mentioned in this Act or the existing law, no witness or any other person shall, in connection with any suit or proceedings in pursuance of this Act, be compelled to disclose the name of the person to whom he has given his vote.

- (2) No statement made by any witness in response to the question asked by the Election Tribunal in connection with the proceedings in pursuance of this Act shall be admissible against such witness in other cases in which he is a party. Such statement shall not be produced as evidence against the said witness.

35. Decision on the Question of Disqualification :

In petition filed pursuant to the provisions of this Act if a question arises involving Article 48 of the Constitution, the Authority or the Official hearing the complaint shall, after making the required investigation, submit the concerned file to the Chief Justice of the Supreme Court for final decisions. Cases thus received by the Chief Justice shall be decided in accordance with the provisions of the same Article of the Constitution.

36. Savings:

The provisions of this Act shall prevail on matters provided herein, and in all other matters the prevailing Nepal laws shall apply.

ROYAL SEAL OF ENACTMENT AFFIXED ON - 2047/11/2

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