

Election Commission of India

Nirvachan sadan, Ashoka Road, New Delhi-110001

No. ECI/PN/68/2015

Date: 17th December, 2015

PRESS NOTE

Regional Conference on ‘The Use of Money in Politics and Its Effects on People’s Representation’

Adoption of the New Delhi Declaration 2015

New Delhi – The two day Regional Conference on ‘The Use of Money in Politics and Its Effects on People’s Representation’ culminated in the New Delhi Declaration 2015 on Political Finance Regulation in South Asia unveiled on Wednesday, 16th December 2015, in New Delhi by the Hon’ble Chief Election Commissioner of India Dr. Nasim Zaidi along with Ms. Leena Rikkila Tamang, Regional Director for Asia and the Pacific, International IDEA.



Photo (L to R): Mr. Vivek Khare (Director, IIIDEM), Mr. Sudeep Jain (Director General, IIIDEM), Mr. O.P. Rawat (Hon. Election Commissioner of India), Dr. Nasim Zaidi (Hon. Chief Election Commissioner of India), Mr. A.K. Joti (Hon. Election Commissioner of India), Dr. S.Y. Quraishi (Former Chief Election Commissioner of India), Ms. Leena Rikkila Tamang, Regional Director for Asia and the Pacific, International IDEA

The Conference was jointly organized by the Election Commission of India, International IDEA (an intergovernmental body wherein India is one of the founding members) & India International Institute of Democracy and Election Management (IIIDEM). A first time for stakeholders to discuss issues and solutions on political finance regulation at a regional level, the Conference was attended by nearly 100 participants, across the region, that included Mr. Ahmad Sulaiman Chairman, Maldives Election Commission, Dr. Ayodhi Prasad Yadav, Chief Election Commissioner of Nepal, Dasho Kunzang Wangdi former Chief Election Commissioner of Bhutan, Mr. Ahmad Bilal Mehboob President Pakistan Institute of Legislative Development and

Transparency (PILDAT), Mr. Ibrahim Ghafoori Director, Democracy & Human Rights, SAARC Secretariat, Nepal, and Dr. Samuel Ratnajeewan Herbert Hoole, Sri Lanka Election Commission. Other participants included various stakeholders chief among them representatives of recognized National Political Parties of India namely Bharatiya Janata Party (BJP), Communist Party of India (CPI), Communist Party of India-Marxist (CPI-M), and Indian National Congress (INC), civil society organisations, academicians, journalists (from the rest of Asia, in particular from Bangladesh, Malaysia, Maldives, as well as from Europe) representatives of election management bodies of South Asia, former Chief Election Commissioners of India Mr. Navin Chawla, Dr. S.Y. Quraishi, Mr. V.S Sampath, Mr. H.S. Brahma.

The New Delhi Declaration on Political Finance Regulation in South Asia, 2015, unanimously adopted by the house, is in response to the needs for strengthening the regulation of political finance (uneven access or use of money) across the South Asian region and elsewhere in the world which adequately ensures level playing among all political parties and ultimately serves the welfare of public rather than special interests.

It contains nine overarching principles including adoption of a holistic approach to regulation, comprehensive coverage, closing of monitoring gaps, coordinates efforts with stakeholders and agencies along with facilitating participation of women in electoral democracy.

The overarching principles look at a holistic and integrated approach to regulation of political finance by closing gaps and loopholes in the implementation of the existing procedures and regulations. It also underscores the need to create uniformity for all political parties and candidates by creating an improved architecture for monitoring of expenditures and contributions.

The declaration also has nine regulations and implementing guidelines on maintaining reasonable levels of spending, regulation of private contributions, and provision of public funding for political parties, prevention of abuse of state resources public disclosure of political finance, the regulatory authority, compliance, and enforcement among others.

The regulation and implementation guidelines looked at limiting campaign spending of candidates, political parties and third parties. It also looked at regulating contributions including public and private along with corporate funding and anonymous donations. Curbing the abuse of state resources and encouragement of public disclosure of political finance with incentives also forms a part of the guidelines. An organized and system readable format of reporting of financial statements along with stress on compliance via enforcement of laws for enhanced transparency is also contained in the guidelines.

These overarching principles and guidelines which are recommendation of the Declarations will be disseminated to Election Management Bodies (EMBs) in South Asian region and elsewhere for appropriate use as per local contexts in their jurisdictions.

Dhirendra Ojha
Director

New Delhi – Declaration on Political Finance Regulation in South Asia

Wednesday, December 16, 2015

NARRATION AND BACKGROUND

In today's dynamic world, democracy has come to be recognized as the best form of governance. Various forms of democratic structures across the globe govern lives of the governed. Irrespective of the electoral system that a country may have adopted suitable to its felt-needs and aspirations of its citizenry, free and fair elections are the corner stone of all democratic elections.

It cannot however be gainsaid that no system is perfect and all electoral systems suffer from one or the other form of malpractices. Money power and its pernicious effects on electoral outcomes is one such malpractice, universally affecting all countries. Hence, a strong need is being felt all around for regulating the use, or rather abuse of money power in electoral frays.

With the avowed object of deliberating on this disturbing phenomenon, a two-day Regional Conference on "The Money in Politics and its effects on Peoples' Representations" was held jointly by the international IDEA and IIIDEM at New Delhi (India) on 15th and 16th December 2015. This conference followed a series of similar conferences held by International IDEA at Paris in December 2014, at Brasilia in June 2015 and at Mexico in September 2015 as well as a conference on "Regulating Campaign Finance: Ensuring Free and Fair Elections" held by FEMBoSA (Forum of Election Management Bodies of South Asia) on 29th - 30th November, 2014 at Kathmandu, Nepal.

After detailed in-depth discussions on all aspects of the problems, the conference unanimously endorsed the following declaration as New Delhi Declaration on Political Finance Regulation.

PREAMBLE

Representatives of Political Parties, Elections Management Bodies, Civil Society Organizations, Media and representatives from International and Regional organizations, who gathered in a two-day Regional Conference on the Use of Money in Politics and its Effects on People's Representation, held in New Delhi on 15-16 December 2015, having recognized the importance of effective regulation of financing of the activities of political parties and elections, hereby recommend the following guiding principles:

A. Overarching Principles

A.1 Adopt a holistic approach to regulations

- i. A holistic and integrated approach to the regulation of political finance that takes into account how regulations work in combination with each other is more likely to deliver the intended results than a piecemeal one.

A.2. Uniform Coverage

- i. Regulations will be undermined if loopholes are allowed to exist. Regulations should cover both routine party activity and the campaign period, and apply to both parties and candidates. Both central and local levels of political parties including all elections should be subject to regulations.

A.3. Close Monitoring Gaps

- i. Regulations will be undermined if loopholes are allowed to exist. It is also important to ensure that no gaps exist in monitoring the implementation of regulations.

A.4. Recognize the limitations

- i. A healthy relationship between money and politics also depends on other elements and stakeholders/agencies, such as a vibrant civil society and media, protected by rule of law and an independent judiciary.

A.5. Design constructive interventions

- i. While designing political finance regulations, constructive interventions to address the existing challenges are needed. The required ingredients for the regulatory framework should be tailored to the particular context.

A.6. Coordinate efforts with other stakeholders/agencies

- i. Political finance regulations should be designed and implemented to work in synergy and coordination with political parties and other stakeholders and institutions, such as the tax authorities, banking sector and anti-corruption agencies etc.

A.7. Facilitate /provide equal opportunities for participating in political life

- i. Creating a level playing field in elections is widely recognized as a priority of the highest order for political finance regulation. This implies appropriate regulation and facilitation giving each party, candidate, citizen an adequate opportunity to participate in political life and put across its message.
- ii. Political parties and candidates need access to funds in order to play their essential role in a democracy. Maintaining a party office and membership base, informing voters of policies and running a campaign all require funds. The flow of party and candidate funds should only be regulated where it is necessary to prevent money from adversely impacting upon the underpinning principles of democracy such as a level playing field, equality of the vote and representation of the people.

A.8. Facilitate the participation of Women in electoral democracy

- i. Recognizing the differential access to, and impact of money which limit women's participation in politics , gender sensitive regulations should be put in place to facilitate women's participation.

A.9. Be Reasonable

- i. Regulations should be realistic and implementable and not unnecessarily stifle or hamper competitive multi-party politics, or place unreasonable burdens on parties or candidates.

B. Regulation and Implementing Guidelines

B.1. Maintain Reasonable Levels of Spending

- i. In order to strike a balance between the need for a healthy competition and the level playing field, the financial regulations should be realistic, protecting every legitimate need of political parties, candidates and the citizens. These should take into account the realistic costs of campaign materials, services and advertising.
- ii. While designing the limit, local context needs to be accounted for.
- iii. The maximum spending limit usually consists of an absolute or relative sum determined by factors such as the voting population in a particular constituency and the costs for campaign materials and services. Limits can be fixed annually and based on the number of registered voters.
- iv. Capping and limiting paid electoral and advertising in the electronic and print media is one measure to reduce spending that is both effective and enforceable. Such a ban has been effective in keeping campaign costs down.
- v. Spending limits should also be balanced with the equally legitimate need to protect other rights, such as those of free association and expression.
- vi. Limits on campaign spending should cover expenditure by different party branches; apply to parties and candidates alike, and ideally also to third parties.
- vii. Funds from candidates' own private finances should also be included in overall campaign spending limits.
- viii. In order to be able to effectively regulate spending, there needs to be a clear distinction between the different types of expenditure and the rules applicable to them, e.g. campaign expenses and general party expenses; third party spending; spending of public funds, etc.

B.2. Regulate private contributions in order to protect the integrity of electoral democracy

- i. To ensure that the citizen remains at the heart of a democracy and not the interests of large donors, it is reasonable to limit the amount of private funding that an individual or corporation may donate.
- ii. Anonymous donations should be strictly regulated and if not banned outright, then should be limited to an amount that is considered acceptable and not at risk of unduly influencing the political process. Many established democracies have in place such a threshold. There should be a cap on individual and total donations.
- iii. Donations should not be allowed from foreign citizens and foreign entities. Donations from dual citizens may be allowed wherever applicable.
- iv. Strict vigilance must be exercised on the possibility of quid-pro-quo between donors and political parties.
- v. Any limits should apply to both financial and in-kind contributions.

B.3. Provide Public Funding for Political Parties

- i. The provision of public funding (both monetary and in-kind) can reduce the dependency of political parties on large, private donors and make funding more transparent and accountable. Public funding is most effective, however, when it is introduced in conjunction with other regulatory measures, such as spending caps, decriminalization of politics, internal democracy and financial transparency of political parties, and compliance of anti-corruption laws. The risk otherwise is that public funding merely adds to the overall amount of money already being spent.
- ii. Public funding should not be disbursed unconditionally. Its provision can be an effective tool to further improve the role of money in politics and influence the behavior of political parties and or candidates.
- iii. Ear-marking of public funding for certain activities should be considered.
- iv. For any conditions to be effective the amount of public funding must be meaningful.
- v. Conscious efforts should be made to support political pluralism. For example, it is good practice that the eligibility threshold for public funding is set at a lower level

than that for entering parliament, although a minimum level of support should be required.

- vi. The provision of free time or space in media channels to parties/candidates can complement a ban on paid media advertising.

B.4. The Abuse of State Resources

- i. A clear distinction should exist between the State and political parties.
- ii. Measures should be taken against the abuse of state resources. It is unacceptable for parties to use state funds, resources or positions of power to their undue advantage.
- iii. Banning donations from state-owned or partially state-owned companies can also help prevent the indirect abuse of state resources.
- iv. Election campaign coverage from public-owned media sources should be conducted in an objective, impartial and balanced manner.
- v. A General Code of Conduct for print and electronic media (including social media) should be formulated to streamline the campaign coverage by them, of all political parties, candidates and others during election period, so as to provide and maintain a level playing field for all stakeholders.
- vi. Public employees should not be coerced into activities or making financial contributions for any political party.
- vii. The use of state resources by parties and candidates during election time should be monitored by an appropriate and independent body.

B.5. Transparency guidelines and public disclosure of political finance

- i. Transparency of party and candidate finances is crucial to a healthy relationship between money and politics. It helps fight corruption and assists voters in making informed

choices. The effectiveness of many political finance regulatory measures is dependent on transparent disclosure of information and the possible scrutiny it engenders.

- ii. Transparency requires that campaign financing information is disclosed to the public as soon as possible, with sufficient detail, and in an accessible format. Both campaign and non-campaign political party finance data should be made available to the public via the oversight agency's website in a searchable and machine-readable format.
- iii. In this way, non-state actors can help to identify inaccuracies or violations, use the data to raise awareness and recommend reforms, thereby changing the expectations of voters and, hopefully, as a result, the behavior of politicians.
- iv. During non-campaign periods, political parties should be required to submit disclosure reports to the oversight body on at least an annual basis. Reports should contain both itemized and summary information and should be made available on the oversight agency's website.
- v. Appropriate technology should be used for ensuring greater transparency.

B.6. Reporting requirements

- i. Reports should include both routine political party finance and campaign finance of both political parties and candidates. Any expenditure incurred by third parties should also be covered.
- ii. Reports should include all contributions and expenses - financial, in-kind and service. Reports should contain itemized as well as summary information.
- iii. Reporting templates for parties and candidates (and any other stakeholders/agencies required to report) should be in a standardized format so that data is comparable.
- iv. All parties and candidates should file a public disclosure of assets and liabilities.
- v. Financial reporting should include consolidated audited accounts of a political party.
- vi. Where appropriate, reporting should be done online or via dedicated software to reduce the administrative burden and facilitate the verification of data.

- vii. Campaign reports for both parties and individual candidates should be submitted to the proper authorities within reasonable and stipulated timeframe.

B.7. The Regulatory Authority

- i. The authority(-ies) charged with overseeing and enforcing political finance regulations should be granted the mandate, independence, and resources required to fulfil their role. The regulatory authority should be non-political in nature and independent of both political parties and government. The law should clearly specify which institution(s) is responsible for the receipt of political finance reports and the monitoring and enforcement of political finance regulations.

B.8. Compliance

- i. Steps should be taken and measures should be in place to adequately monitor and verify the accuracy of party and candidate financial information submitted. The designated authority should have the power to audit party and candidate financial reports. Clear and unbiased procedures should be established for auditing.
- ii. The oversight agency should facilitate compliance, by providing parties and candidates with information, advice and assistance on how best to implement and comply with political finance regulations. There are instances of Electoral Commissions providing a range of such assistance and advice, online, offline, onsite and through telephone helplines.

B.9. Enforcement

- i. In the event that regulations are violated there needs to be in place a clear and proportionate system of sanctions that can be imposed in practice within a reasonable time frame. A range of sanctions should exist to reflect the seriousness of the particular violation, sanctions should be dissuasive in nature and issued in a timely manner to be of relevance.
- ii. Appropriate civil and criminal sanctions as per law should be put in place to ensure the enforcement effectively.

