



# **Tracking the National Election Process**

## **Executive Summary**

**Shahzada M Akram  
Shadhan Kumar Das**

**April 2009**

# **Tracking National Election Process**

## **Adviser**

Professor Muzaffer Ahmad

*Chair, Board of Trustee, Transparency International Bangladesh*

Dr. Iftekharuzzaman

*Executive Director, Transparency International Bangladesh*

## **Researcher**

Shahzada M Akram, *Senior Research Fellow*

Shadhan Kumar Das, *Research Fellow*

## **Research Assistant**

Sharfuddin M. Abu Yusuf, M. Abed Ali, Sanjoy Kumar Ghose, M. Abdul Matin

## **Acknowledgements**

All Convenors and Members of CCCs, research assistants involved in this study, all research colleagues, and all colleagues of Civic Engagement Division of TIB

© Transparency International Bangladesh 2009

## **Contact**

Transparency International Bangladesh

Progress Tower

House # 1, Road # 23

Gulshan 1, Dhaka 1212

Tel.: 880-2-8826306

Fax: 880-2-9884811

E-mail: [akram@ti-bangladesh.org](mailto:akram@ti-bangladesh.org) or [shadhan@ti-bangladesh.org](mailto:shadhan@ti-bangladesh.org)

Website: [www.ti-bangladesh.org](http://www.ti-bangladesh.org)

## **1. Background and Rationale**

A system of a non-party caretaker government was introduced in 1996 with the perception that an elected party government cannot hold an election free and fair. The following elections of June 1996 and 2001 under caretaker governments were accepted as free and fair. However, questions were still raised on the role played by the Election Commission (EC) and the level of integrity of the candidates. The EC so far could not ensure a level-playing field for all parties and candidates, implement electoral laws, take necessary steps against parties or candidates for violating electoral rules and regulations, and reduce influence of money in elections. Political parties nominated owners of black money, terrorists, and industrialists to ensure victory in the parliamentary and other elections.

In a study conducted by Transparency International Bangladesh (TIB), it was revealed that in the 9<sup>th</sup> Parliamentary Election scheduled on 22 January 2007 (later postponed), candidates seeking nominations spent three times higher than the permissible spending limit even before the date of withdrawal of nominations, during when spending for election is illegal. However, the EC neither took any measure to prevent it, nor took any action against the perpetrators for such violations. It was observed in that study that the EC did not have any mechanism to monitor the expenditure of the candidates, despite there is a law stipulating a ceiling of electoral expenses.

The then caretaker government and the EC were heavily criticized by all for such failure of creating a congenial environment for the national election. At this backdrop the election was postponed and a new caretaker government took charge on 11 January 2007. The new government took some initiatives for institutional and political reform so that an election, free from corruption and black money, could be conducted.

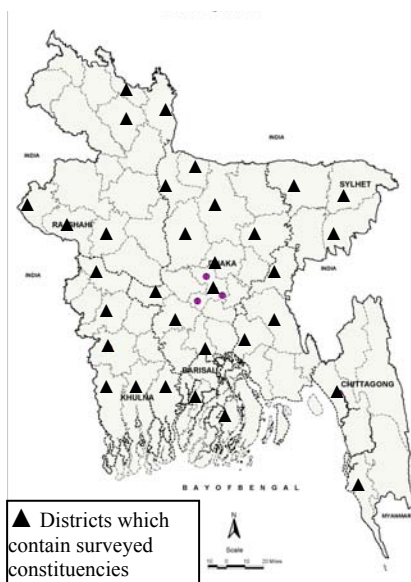
TIB has, therefore, undertook this study to assess to what extent the reform initiatives have made impact on the electoral practice by the candidates as well as the parties. In order to ensure the transparency and accountability of the key stakeholders of the electoral process, it is imperative that information have to be collected at different phases and be disseminated. Therefore, the main objective of this study was to identify the nature, extent and cost of electoral campaign incurred by the candidates, so that the common people have an understanding of their representatives.

### **1.1 Objective of the Study**

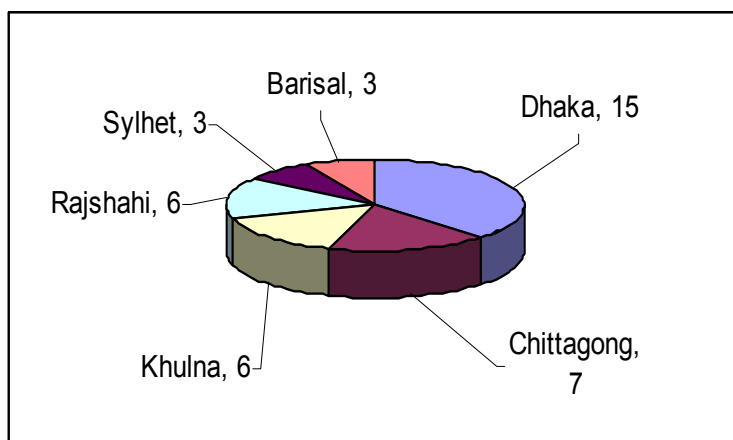
1. To identify to what extent the electoral laws and codes of conduct the candidates abide by in the parliamentary election;
2. To audit the types of violations of electoral code of conduct by candidates during electoral campaign;
3. To develop an effective mechanism to track electoral expenses; and
4. To review roles of different stakeholders related to elections.

### **1.2 Research Methodology**

In this study, information was collected from both primary and secondary sources. Secondary sources of information include election related laws and rules, books, reports, websites and newspaper reports and articles. Primary sources of information include observation and investigation in 40 constituencies. These constituencies were selected through a purposive sampling based on the lowest difference of vote cast between the top two contestants in the eighth national election held in 2001. The constituencies are located in 32 districts as shown in the map while their divisional distribution is shown in the chart below.



**Chart 1: Divisional Distribution of Selected Constituencies**



### 1.3 Data Collection Period

Information on the electoral campaign of the candidates was collected from 1 October to 29 December 2008. For analyzing post-election political events and incidents, information was collected till 31 January 2009.

## 2. Legal Framework on Electoral Campaign

Major laws and rules to conduct elections in our country are the *Representation of the People Order 1972 (amended in 2008)*, *Conduct of Election Rules, 2008*, *Political Party Registration Rules 2008* and *Political Party and Candidates in Parliamentary Election Rules, 2008*.

Major changes made in the *Representation of the People Order 1972 (amended in 2008)* are as follows:

1. Bill and loan defaulters, and war criminals declared by any national and international court or tribunal are disqualified to contest in the election;
2. 'No' vote was introduced. If 'No' votes will be cast above 50% of the total votes in any constituency, re-election must be arranged;
3. Retired government and military officials cannot become candidates in any national election within three years after retirement;
4. One candidate is allowed to compete from maximum three constituencies;
5. One candidate must be listed in the electoral roll of a constituency.
6. Submission of eight-point affidavit is mandatory for all candidates; and
7. The EC has the authority to cancel candidature of any candidate on the ground of violating electoral laws and/or the code of conduct.

Some of the key activities made banned under the *Electoral Code of Conduct for Political Parties and Candidates 2008* are as follows:

- Any electoral campaign three weeks prior to the date of election;
- Any donation or promise thereof to any organization or commitment for particular local developmental scheme located in the constituency by the concerned candidate;
- Using any government establishment such as government bungalows or offices for the campaign by any candidate;

- Organizing public meetings on any road obstructing public movement;
- Printing multi-color posters and posters larger than 23"x 18";
- Using pictures of any person other than the candidate and his/her party leader in the poster;
- Posting posters, leaflets and other printed material on any installation including walls, trees, electric or telephone polls, transports, government or privately owned buildings;
- Using graffiti as a tool of campaign;
- Displaying symbols larger than 3 meters;
- Organizing processions using any sort of motorized vehicle such as motor-cycles, trucks, buses, trains, water vehicles or air-borne vehicles;
- Show-down during submission of nomination paper;
- Erecting gates;
- Using shirts or jackets as campaign material;
- Decorative-lighting for campaign using electricity;
- Electoral campaign in any place of prayer of any religion; and
- Crossing the upper limit of expenditure as determined by the EC (i.e., maximum Tk 1.5 million for any constituency).

### **3. Overview of the Candidates**

#### **3.1 Election Result in the Surveyed Constituencies**

A total number of 209 candidates (5.2 on an average) including four female candidates contested in the surveyed 40 constituencies. Almost 87% of the voters cast their votes in these constituencies. Total caste votes are 9,529,598. The winning candidates got an average of 140,601 votes, while the nearest contesting candidates got an average of 86,869 votes. The newly introduced 'No' votes were cast only 0.38% of the total votes. In most of the surveyed constituencies (34) candidates nominated from *Awami League* (AL) were elected, followed by *Jatiyo Party (Ershad)* (JP) (4 constituencies). It is worth mentioned that all four female candidates were elected.

#### **3.2 Personal Information of the Candidates**

Considering the fact that collecting information on campaign costs on all contesting candidates in the surveyed areas was difficult, data was collected on the campaign costs by only the two or three candidates from the major two coalitions, based on their possibility of winning. According to this, 88 candidates were studied. These candidates include 36 from AL, 36 from Bangladesh Nationalist Party (BNP), 5 from JP (Ershad), 3 from *Bangladesh Jamaat-e-Islami* (JI), 1 from *Jaker Party* and 7 independent candidates. The average age of the candidates is 55.5 years; the minimum age 34 years and maximum age 75 years. Almost 78% candidates have graduate or post-graduate degrees. Most of the candidates (62.5%) are business-persons, followed by lawyers (11.4%) and farmers (8%). According to the affidavits submitted by the candidates, the average annual income is Tk 317,283 – the highest income Tk 66,984,578 and the lowest income Tk 120,000. The value of the property of the candidates is Tk 43,111,164 on an average – the lowest Tk 340,000, while the highest Tk 43111,164. Three candidates whitened black money in the last fiscal year (2007-08).

#### **3.3 Political Background of the Candidates**

Among the candidates, almost 47% have been involved in politics since student life. 30.4% of the candidates have 10 years' experience of politics. Among the candidates 27.5% participated for the first time in any parliamentary election.

### **3.4 Criminal Cases**

According to the affidavits, criminal cases were lodged against 54.5% of the candidates. Cases are going on in courts against 50% of them. It was found that at least one case is going on against 14 candidates; while a highest 15 criminal cases were lodged against a candidate.

### **3.5 Loan and Bill Default related Information**

According to the Bangladesh Bank, 7.9% of the surveyed candidates are loan defaulters, and one of them is alleged to be a bill defaulter. However, all of them retained candidature through court orders.

### **3.6 Allegation as War Criminals**

Under this study, three candidates are alleged to be war criminals. They are from BNP, JI and JP (Ershad).

## **4. Key Findings**

### **4.1 Expenditure Incurred for Electoral Campaign till Withdrawal of Nomination**

TIB study reveals that up to the last date of withdrawal of nomination (11 December 2008), i.e., before commencement of legally permissible campaign and spending for the same, the candidates spent on an average Tk 304,418. This expenditure was incurred for campaign in religious gatherings, gifts and grants, public relations and public meetings, rallies, party workers and leaders, and transport.

A total amount of Tk 17,135,400 (Tk 389,441 on an average) was spent by the 44 BNP candidates, whereas Tk 15,779,200 (Tk 309,396 on average) was spent by 51 AL candidates. Among the BNP candidates, the highest amount spent by one candidate was Tk 1,978,000, while the highest amount spent by an AL candidate was Tk 1,602,500. However, the highest amount (Tk 3,850,000) spent by any individual was by one independent candidate. It is mentionable that before finalization of candidature, any kind of electoral campaign and the cost incurred for such purpose are illegal.

### **4.2 Expenditure Incurred for Election Campaign: From Withdrawal of Nomination till the Election Day**

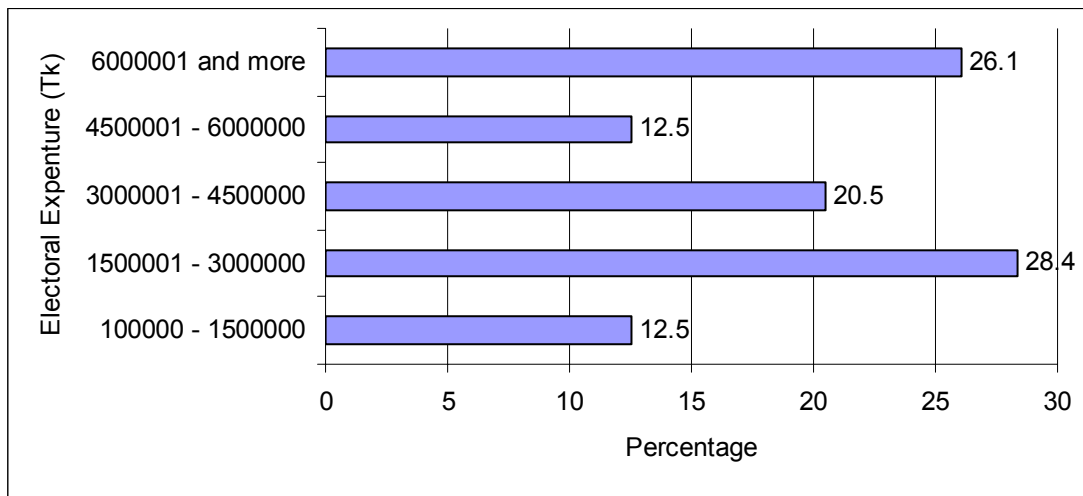
For the first time the maximum limit of electoral expenditure was set by the EC based on the number of voters in a constituency. Accordingly, each candidate can spend Tk 5.00 per voter but cannot cross the limit of Tk 1.5 million. Among the constituencies surveyed, the average upper limit of expenditure was Tk 1,315,120 – the lowest Tk 910,795 in a constituency while Tk 1.5 million in another.

It is observed that 88 candidates spent Tk 4,420,979 on an average during the legal time frame for election campaign. The highest amount spent by a candidate was Tk 28,100,000, while the lowest amount spent by another was Tk 434,000. Keeping in mind the average expenditure limit, the candidates overspent Tk 3,105,859 on an average. The elected candidates (40) spent Tk 4,569,804 on an average, whereas the defeated candidates (48) spent on an average Tk 5,865,783.

Considering party affiliation, it was observed that the candidates of BNP, JI and JP (Ershad) spent over Tk 5 million, whereas the candidates of AL spent Tk 3,567,321 on an average. Only 12.5% of the 88 candidates spent within the upper limit as determined by the EC. Among them six were from AL, while four from BNP and one independent candidate. The four female candidates spent

Tk 2,635,262 on an average, whereas the rest 84 male candidates spent an average amount of Tk 5,064,537. However, the highest amount spent by a female candidate was Tk 4,852,000 whereas the highest amount spent by a male candidate was Tk 28.1 million.

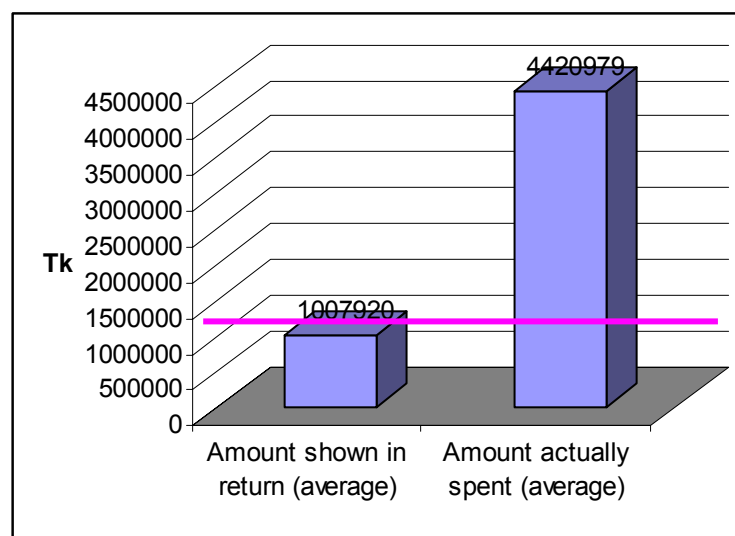
**Chart 2: Electoral Expenditure by the Candidates (in range)**



The candidates spent the most for maintaining public relations. For this purpose they spent Tk 1,801,989 on an average. These activities included organizing rallies, processions, and public meetings. After this they spent (on average) for workers (Tk 1,380,311), camp installation and maintenance (Tk 853,960), poster and sticker printing (Tk 521,425), and entertaining with refreshments (Tk 263,833). However, seven candidates spent an average amount of Tk 1,027,000 for development activities.

A number of candidates started spending even before the declaration of election schedule. Adding this amount the candidates spent an average amount of Tk 4,751,068.

**Chart 3: A comparison between Average Expenses found in Research and Amount Shown as Return**



#### **4.3 Submission of the Return of Electoral Expenditure**

According to the law, every candidate must submit the return of electoral expenses within a month from the date of election. It was observed that 95.45% of the candidates under this study submitted the return. Among the four who did not submit the return in time, the EC issued a written complaint against one, and till 11 February 2009, no step was taken against the rest three. Assessing the returns submitted to the EC, it is observed that all the candidates showed their expenses within the allowed expenditure limit set by the EC. The average expenditure as shown in their returns is Tk 1,007,920. Among these, the highest was Tk 1,499,450, while the lowest Tk 45,000.

#### **4.4 Violation of Electoral Code of Conduct**

Apart from spending over the allowed limit, the highest number of candidates violated the Code of Conduct by using more microphones than the allowed number and for long hours (29.55%). Posting posters on walls, pillars and trees, printing multi-colored posters and of a size larger than the allowed size (19.32%), rallies using motor-cycles and buses (15.91%), and distributing money among voters (12.5%) were other violations by the candidates.

#### **4.5 Post-poll Violence**

After the election, the incidence of violence was observed up to 20 January 2009 in the survey areas. Among these the highest number of incidences was of beating the political rivals, which took place in areas located in Barisal and Khulna divisions. Three people got killed in three areas. In most cases the leaders and workers of the defeated candidates suffered. However, against 79 incidences only 12 were reported and cases were lodged at the police station.

### **5. Electoral Conduct and the Role of the Stakeholders**

#### **5.1 Caretaker Government**

The Caretaker Government took some steps for institutional and political reforms to hold an election free from corruption and black money. The separation of the Judiciary, reconstitution of the Anti-corruption Commission (ACC), Public Service Commission (PSC) and the Election Commission (EC), accession to the UN Convention against Corruption, and over all the effort to make corruption a punishable offense created a new scope for the institutionalization of democracy. The Government made the registration of the political parties mandatory as a precondition of participating in the election through amending the Representation of the People Order 1972 (RPO) to ensure the transparency of the political parties and bring them under an accountability structure. Besides these, the Government put its highest effort to create a level-playing field for all parties, gave the loan and bill defaulters opportunities to take part in the election, and maintained the pre-election environment peaceful than any other time.

#### **5.2 Election Commission**

**Positive Role:** The highest effort from the EC to ensure participation of all parties in the election was observed. The EC launched a series of dialogues with all the parties. The election schedule was revised a number of times in response to the demands made by different parties and coalitions. The EC performed the tasks of developing a flawless voter list, delimitation of constituencies, registration of parties, endorsed a code of conduct for the parties and candidates, printing the voter list, providing with transparent ballot boxes, and allocating symbols for parties and candidates in due time. Even after the finalization of candidature 119 candidates retained their candidature from the court, and for that the EC had to make necessary changes in the ballot paper and candidate list. The EC was successful in finalizing the candidature by verifying the



information provided by the applicants. The EC also arrested and detained the government employees against whom allegations were raised for having political affiliation.

**Constraints/Failures:** Throughout the country 72,275 voters could not cast their votes as their names were not found in the voter list. In some voting centers the voters faced difficulty in finding out the voting booth due to some management failures. The EC did not take any measure against some candidates who did not provide all the information in the affidavit. The EC also did not have any role in implementing the law of keeping the electoral expenditure within the limit of Tk 1.5 million. The EC made delay in taking decisions with regard to sending the Judicial Magistrates to the field to oversee the violence of electoral codes. In the last moment the EC decided not to send them to the field level. According to Article 44D (3) of the RPO 1972, the EC was supposed to upload all the information of electoral expenditures of the candidates on the website, which has not been done till the release of this report.

### **5.3 Political Parties**

For the first time in the history of Bangladesh elections, the leading political parties submitted the return of electoral expenses within the stipulated time. This is an indicator of positive changes in the political culture of our country. However, the parties opposed from time to time different decisions of the EC such as reviewing party constitutions for registering with the EC, and giving the EC authority to cancel candidature. The leading parties nominated a number of candidates against whom there were allegations of loan and bill default, avoiding payment of income tax, and for some allegation of war crime. A large coalition put a demand for withdrawing the bar on retired government officials and loan defaulters to take part in the election. Later the same coalition demanded that the electoral Code of Conduct be relaxed. Some electoral codes were violated by the large political parties, such as organizing public meetings blocking the roads, and using religion in electoral campaign.

### **5.4 Candidate**

**Positive Role:** In this election a tendency to abide by the electoral code of conduct in general by the candidates was observed. Apart from a few exceptions the candidates organized public meetings peacefully. They also showed tolerance towards their opponents.

**Negative Role:** A few candidates did not provide all the information in their affidavits, although it was mandatory for them. Most of the candidates spent more than the allowed limit, although all of them showed their expenditure within limit. In six areas some of the candidates violated the Code of Conduct. Apart from the visible expenses, some candidates spent for buying candidature, buying votes, and influencing the administration. Few candidates did not submit the return of expenditure within the deadline of one month after the election.

### **5.5 Civil Society**

The members of the civil society and different civil society organizations continued their demand to bring in changes in the political culture for a long period. During the ninth parliamentary election a few civil society organizations including TIB organized a number of public meetings where the candidates in an area appeared together before the public. These organizations launched a wide range of campaign on electing the right candidate. Some of these organizations also played a crucial role in creating public opinion against the war criminals.

## 5.6 Election Observing Institutions

According to the EC, the highest number of national and international election observing institutions observed on the Election Day. Under the Election Working Group (EWG) around 178,000 local observers and around 500 foreign observers observed the election. However, allegations were raised against a number of such organizations for appointing observers by violating the election observation codes.

## 5.7 The Media

**Positive Role:** During this election the role of the electronic and print media was more positive than in any other previous election. For the first time the media focused on the information provided by the candidates in their affidavits. Almost in all the private television channels, live talk shows were telecast on election, which played a crucial role in raising awareness among the voters. All these channels covered the Election Day and followed up with latest news on election results.

**Limitations:** However, the media did not pay adequate attention to the candidates alleged to be corrupt. Few channels also telecast biased news with regard to violation of the electoral codes.

## 6.1 Reasons behind the Violation by Candidates

In the RPO 1972 there is no provision of verifying the return submitted by the candidates and parties. There are also some inconsistencies in the RPO and the Code of Conduct rules with regard to the punishment for similar violations. Apart from this, some candidates do not provide with proper information on their educational qualification or sources of income. Although the electoral expenditure has been limited to Tk 1.5 million by any candidate, the EC does not have any system to monitor the expenses by the candidates. In the last election the EC did not apply few provisions of the RPO (such as Article 91 E on canceling candidature), whereas in few cases it failed to implement the law equally against all.

## 6.2 Recommendations

1. **Observing the Electoral Campaign of Candidates:** The EC should regularly observe the electoral expenses and violation of electoral codes of conduct, and take measures according to the law and rules. In this respect, TIB proposes the following method for consideration of the EC:
  - a. **Collecting information on aspiring candidates:** The EC will take initiative to collect information on the potential candidates and the political parties in every constituency six months prior to the election. If any candidate violates any code of conduct and tries to influence the voters, the EC will consult with the concerning political party and resolve the issue. The EC should take legal measures if the candidate does not refrain from his/her activities.
  - b. **Consultation on Electoral Code of Conduct:** The EC will arrange consultations on electoral code of conduct and the results of their violations with the local and central level journalists from both print and electronic media. These journalists will write on these issues in their newspapers which will help create the awareness among the people.
  - c. **Development of a Data Collection Chart and data collection:** A data collection chart should be developed identifying different campaign method and heads of expenditure (such as poster, sticker printing, public relations such as rally, procession, meeting, refreshment, using loud-speakers, camp installation, and development expenses) for each candidate three months prior to the election. The data collection may be done by either the local level election officer or the EWG member organization as approved by the EC. This can be done on experimental basis. The data on such expenses will have to be collected

daily, and a weekly report should be prepared for the EC.

- d. **Database on the candidates:** The EC will form a unit which will develop a database based on the data received from local level and reports published in the dailies.
  - e. **Publication of the information:** Based on the above-mentioned database, the EC will prepare a constituency-wise report and will circulate through media and website.
  - f. **Measures based on the information:** The unit will recommend necessary actions based on the database report to the concerned returning officer, who will bring it to notice to the concerned candidate. If the candidate continues to violate the law, the EC will take legal steps against the candidate. Moreover, the EC will consult the information with the top leadership of the political parties.
2. **Publication of Information on Electoral Expenses:** The EC should take effective measures to publish all information with regard to the electoral expenses of candidates and political parties.
  3. **Incorporating Provisions for Verification of Expenditure Return in the Law:** The provision of verifying the information provided through the expenditure return by candidates and political parties should be incorporated in the electoral laws.
  4. **Amending the Law regarding Punitive Measures:** The inconsistencies in the electoral law with regard to punitive measures should be corrected through necessary amendments in the law.
  5. **Ensuring Punishment for Violating Code of Conduct:** The laws and rules regarding the punishment for violating electoral laws must be implemented. The EC should take steps to raise awareness among the people in this regard.

\*\*\*\*\*