

Federal and Provincial Elections in Nepal Nov. 26 and Dec. 7, 2017

Final Report



THE
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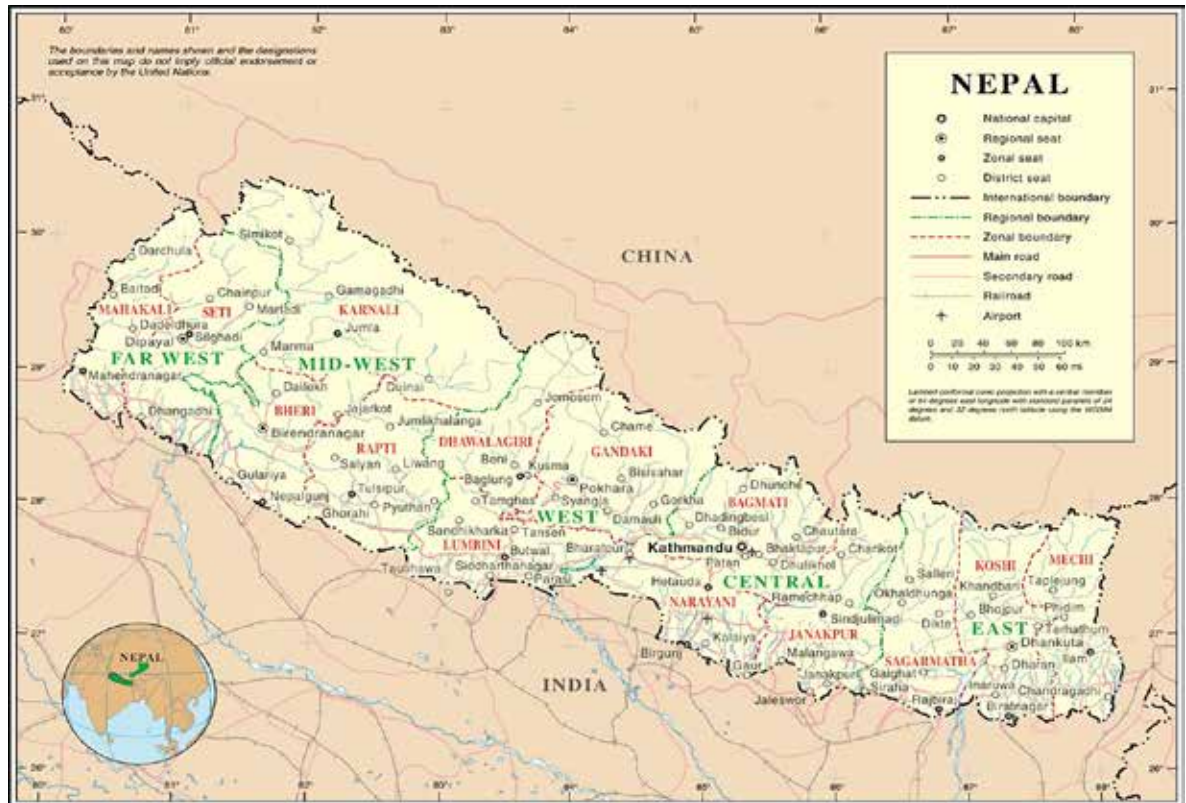
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Maps of Nepal



Executive Summary

Nepal held the first federal and provincial elections under its 2015 Constitution in late 2017. The Carter Center congratulates the people of Nepal on this historic achievement. The elections were a positive step toward implementing the new charter and further consolidating the country's political transition that began when the 2006 peace agreement ended a long-running civil conflict.

The Carter Center received an official invitation from the Election Commission of Nepal (ECN) on Sept. 20, 2017, to observe the elections that occurred simultaneously but in two phases: on Nov. 26 and Dec. 7. The Center subsequently deployed a core team to Kathmandu in October and 14 long-term observers across Nepal in early November. The core team and long-term observers were joined by 45 short-term observers and Carter Center Atlanta staff for Phase 2, election day.

In total, the Center deployed 64 observers from 34 countries and observed election-day procedures in 32 districts and 282 polling centers. The mission was co-led by Dr. Surakiart Sathirathai, former deputy prime minister and former foreign minister of Thailand, and by Ambassador (ret.) Peter Burleigh, former U.S. ambassador to Sri Lanka, the Maldives, and India. The Center continued observation in the postelection period, including during the tabulation of results and election dispute resolution. The mission was conducted in accordance with the Declaration of Principles for International Election Observation.¹

After a protracted results process, in part due to the delayed election of the National Assembly (upper house) caused by political deadlock over the election system to be used, the federal bicameral Parliament was sworn in on March 4, 2018. Of the 275 seats in the House of Representatives, the Communist Party of Nepal-Unified Marxist-Leninist (CPN-UML) and the Communist Party of Nepal-Maoist Center (CPN-MC) won a near two-thirds majority with 174 seats, followed by Nepali Congress (NC) with 63 seats and the Rastriya Janata Party Nepal (RJPN) and Federal Socialist Forum, Nepal (SSF-N) alliance with 33 seats. After the elections there were nine parties represented in the federal Parliament.

The National Assembly results mirrored those of the House of Representatives, with the CPN-UML and CPN-MC alliance winning a clear majority of seats, followed by Nepali Congress and then the Rastriya Janata Party Nepal and Federal Socialist Forum, Nepal.

In the unicameral provincial assemblies, the largest number of seats also was won by the CPN-UML and CPN-MC alliance, except in Province 2, where the Rastriya Janata Party Nepal and Federal Socialist Forum, Nepal alliance was most successful. The Communist Party of Nepal-Unified Marxist-Leninist won the most seats in all assemblies, except Province 2, and was followed by either Nepali Congress or the Communist Party of Nepal-Maoist Center.

¹ The Declaration of Principles for International Observation and Code of Conduct was adopted at the United Nations in 2005. The Carter Center is one of more than 40 intergovernmental and international nongovernmental organizations that are signatories to the Declaration of Principles.

Key Findings and Recommendations

Despite the polls being held amid political tensions, in an unstable legal environment, and on tight timelines, the authorities, in particular the ECN, were able to hold the elections within the constitutional deadline.² The Carter Center’s observation mission for Nepal’s 2017 elections found that in the face of these difficulties the elections were generally well-conducted. The largely peaceful nature of the polls, considerable voter turnout,³ and the acceptance of the final results were evidence of general public confidence in the process.

Notwithstanding these achievements, parts of the electoral process could be improved to ensure that it fully meets Nepal’s international obligations for democratic elections.

Notwithstanding these achievements, parts of the electoral process could be improved to ensure that it fully meets Nepal’s international obligations for democratic elections. In this report, the Center assesses the conduct of the election against the country’s legal framework and obligations for democratic elections. The Center hopes that electoral stakeholders will consider the findings and recommendations in this report when discussing electoral reform. The key findings and recommendations of the Carter Center’s mission are as follows:

Ensure the Transition from Extraordinary to Ordinary Elections

Introduce clear timing and sequencing of elections, with medium-term operational planning.

The 2017 election was transitional, as it was the first held under the new constitution and while

key parts of the electoral framework were still being decided upon after the election was called. Conducting the election under these exceptional circumstances, characterized by uncertainties and political and operational challenges, meant that processes were often rushed and conducted on tight timelines, resulting in inconsistencies and, in some circumstances, deficiencies.

Future elections should be much more “ordinary,” as the transitional nature of the process will no longer apply. For future electoral cycles, the procedure for setting election dates should be reviewed, with the goals of clarity for all stakeholders and respect for the minimum time requirements of the ECN for effective management of the electoral process. There also should be more clarity about the overall timing and sequencing of the elections, so that stakeholders have sufficient time to prepare for the polls. Due to the late deadline for the finalization of the party and candidate lists in 2017, parties and candidates were not provided adequate time to campaign and to give voters an opportunity to become familiar with their platforms.

Improved operational planning within the ECN would help improve the overall administration of the elections, including helping to schedule adequate time and sufficient resources to implement all parts of the electoral process effectively, such as conducting more extensive civic and voter education efforts, an area that was observed to have fallen short in these elections.

Enhance Transparency at the Election Commission

Encourage a more open style of electoral administration.

Credible election management bodies need to be independent and impartial in their actions and in the ways they are perceived by stakeholders. The ECN delivered the 2017 elections on a tight timeline, often having to make and implement critical decisions “on the fly,” creating circumstances

² The 2015 Constitution states that elections to the national Parliament must be held by Jan. 22, 2018. Authorities were rushed to hold the elections prior to this constitutional deadline.

³ The ECN announced a total voter turnout of 67.24%. First phase voter turnout was 64.81% (32 districts with 20.7% of registered voters), and second phase turnout was 69.67% (45 districts with 79.3% of registered voters).

in which there was little time to implement or communicate these decisions. The Carter Center's observation mission noted that these circumstances meant that decisions were often made without explanation and that the data necessary to fully understand and assess the decision process was not available.

Through future election cycles, the ECN should work to enhance transparency to increase stakeholder confidence in its actions. This could be achieved by adopting a more open and accessible style of electoral administration, including establishing a more systematic approach to stakeholder relations; ensuring public access to electoral information at all stages of the process, including the detailed presentation of results and ballot invalidation rates; and guaranteeing unrestricted access to electoral observers at all levels and stages of the process.

Move Beyond Common Practice to Established Operational Procedures

Reduce inconsistency and diminish the risk of electoral disputes.

The existing gap between official directives and common practice exercised by election officials and other electoral stakeholders should be narrowed to reduce levels of inconsistency and to diminish the risk of electoral disputes in future elections. This can be achieved through the development and adoption of specific and detailed operational regulations and procedures for various aspects of the electoral process, strengthening the role and operational capacities of local electoral staff, and better training for electoral officers.

The active participation of political parties in the formulation of directives can and should be maintained—but at the national rather than local level. The role of political party agents should be to monitor electoral officials, not to create consensus about the procedures for vote counting and other issues or to take on the role of polling staff. Strengthening the managerial role of polling officers to protect them from being overwhelmed by the signing of ballot papers and other logistical tasks, including through the delegation of tasks to other

staff, would help to ensure official directives are properly followed by all.

Audit and Expand the Voter Register

Increase quality control and make the register more inclusive.

Nepal's voter register was improved substantially with the introduction of biometric registration. However, concerns about the quality of the voter lists remained in 2017. Similar to the Carter Center's recommendation made during observation of the 2013 elections, an audit of the register should be considered. Steps also should be taken to add eligible voters who are not included in the roll; for example, citizens who turned 18 between the registration deadline and the election days and individuals who were unable to register or vote because they lacked citizenship certificates. The voter register could also be expanded by introducing out-of-country registration and voting. This would enhance the inclusiveness of the voter register and the overall electoral process.

With the constitution and the legal framework in place, consideration should be given to making civic and voter education a permanent activity.

Intensify Civic and Voter Education Efforts

Move from short-term to continuous.

In the 2017 elections, civic and voter education efforts were limited, only focusing on instructions for ballot marking. With the constitution and the legal framework in place, consideration should be given to making civic and voter education a permanent activity. The ECN should have a leading role in coordinating voter education efforts to ensure that all electoral messages are accurate. However, voter education activities should not be the exclusive responsibility of the electoral authorities. More comprehensive and longer-term civic and voter education activities should be launched in broad

partnership with civil society and government agencies.

Strengthen Electoral Processes and Operations

Take opportunities to increase access, inclusiveness, and quality of voting.

There are a number of process- and operation-oriented improvements that if made could contribute to higher quality and more inclusive elections in future electoral cycles. These are highlighted throughout this report and addressed in the Recommendations section. These include reducing

the high ballot invalidation rate observed in 2017 in future elections by introducing more user-friendly ballot papers and increasing voter education.

Another process improvement involves ensuring the right of election workers to vote by acting on existing provisions in the law. An estimated 400,000 election officials and security personnel were unable to vote in the 2017 election because the legal provisions that provide for a temporary electoral roll to facilitate their participation in the proportional representation component of elections were not implemented.

The Carter Center in Nepal

The Carter Center has worked in Nepal since 2003, when it received a request from the government of Nepal to explore ways of providing assistance in ending Nepal's then-ongoing conflict. The Center sent several assessment missions and engaged key actors in Nepal in an effort to support a peaceful transition.

At the invitation of the government of Nepal, the major political parties, and the Election Commission of Nepal, the Center established a field presence in January 2007 to observe the first constituent assembly election process, held in April 2008. Following the 2008 election, the Center continued its field presence as a long-term political transition monitoring mission, with international and national observers deployed on a permanent basis in the five development regions. Between January 2007 and September 2013, the Center observed in all 75 districts of Nepal and released a total of 25 reports on the constitution drafting process; political and peace process monitoring; and key electoral preparations, including voter registration.

The Carter Center was invited by the government of Nepal and the ECN to observe the second constituent assembly election held in November 2013. On Sept. 25, 2013, the political transition monitoring mission officially transformed into an international election observation mission for the Nov. 19, 2013, elections. The Carter Center's observation team released its preliminary statement on

the elections on Nov. 21, 2013, and the final report was released in May 2014.

The Carter Center closed its field office after the 2013 elections but continued to follow the constitution drafting and peace processes, including sending several assessment missions. The Center also began to assist the Nepali civil society organization Democracy Resource Center Nepal (DRCN), which works to strengthen Nepal's democratic processes. In July 2016, the Center redeployed a staff member to Kathmandu and, in July 2017, sent an assessment mission to prepare for a potential election observation mission for the 2017 elections.

In September 2017, The Carter Center received an official invitation from the ECN to observe the first federal and provincial elections under the new constitution (see Appendix G). The Center decided to send a full observation team, with a core team of electoral experts as well as long-term and short-term observers. The team began in October with the deployment of the core team, followed by long-term observers in early November. The team observed the first phase of elections on Nov. 26, 2017, and the second phase of elections on Dec. 7, 2017. The Carter Center released its preliminary statement on the elections on Dec. 9 and released an interim statement concerning counting and other postelection processes on Dec. 21.

A man reads the newspaper in Basantapur Durbar Square.



Kishor Sharma

Election Observation Methodology

Since 1989, The Carter Center has observed more than 40 elections in more than 100 countries.⁴ The Center conducts election observation missions in accordance with the Declaration of Principles for International Election Observation and Code of Conduct for International Election Observation adopted in October 2005.⁵ Endorsing organizations pledge their commitment to assuring the integrity and transparency of their election observation missions and look to this document to guide the purpose, scope, and conduct of their missions. The Center also conducted its mission in accordance with the Code of Conduct issued by the ECN.

The Carter Center believes that international observers can play an important supporting role in emerging democracies by providing a credible and impartial assessment of the electoral process, thereby increasing confidence in the results, where

warranted, as well as providing recommendations on areas in which the process can be improved; thus assisting in strengthening and improving the democratic process.

The purpose of the Carter Center long-term international election observation mission in Nepal was to provide a credible and impartial assessment of the electoral process against both domestic law and international standards. Additionally, the Center aimed, through its presence, to reinforce the credibility of domestic observer groups, to support other democratization initiatives in the country, and to demonstrate the international community's interest in and support for democratic elections in Nepal. Based on the information gathered by its long-term and short-term observers, the Center released public statements on the election process that were widely distributed and covered by the local and international media.

⁴ For past Carter Center election observation mission reports, including Nepal's 2008 and 2013 constituent assembly elections, visit <https://www.cartercenter.org/countries/nepal.html>.

⁵ The Carter Center was one of the originators of the Declaration of Principles, which has been endorsed by more than 50 intergovernmental and international nongovernmental organizations.

Treaty/Declaration	Status	Date
U.N., Convention on the Political Rights of Women	Ratified/Acceded	April 26, 1966
U.N., International Convention of the Elimination of All Forms of Racial Discrimination	Ratified/Acceded	Jan. 30, 1971
U.N., Convention on the Rights of the Child	Ratified/Acceded	Sept. 14, 1990
U.N., Convention on the Elimination of All Forms of Discrimination Against Women	Ratified/Acceded	April 22, 1991
U.N., International Covenant on Civil and Political Rights	Ratified/Acceded	May 14, 1991
U.N., International Covenant on Economic, Social and Cultural Rights	Ratified/Acceded	May 14, 1991
U.N., Optional Protocol to the International Covenant on Civil and Political Rights	Ratified/Acceded	May 14, 1991
U.N., Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	Ratified/Acceded	Jan. 20, 2006
U.N., Optional Protocol on the Involvement of Children in Armed Conflict	Ratified/Acceded	Jan. 3, 2007
U.N., Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	Ratified	May 15, 2007
U.N., Indigenous and Tribal Peoples Convention	Ratified	Aug. 22, 2007
U.N., Convention on the Rights of Persons with Disabilities	Ratified	May 7, 2010
Optional Protocol to the Convention on the Rights of Persons With Disabilities	Ratified	May 7, 2010
U.N., Convention Against Corruption	Ratified	March 31, 2011
U.N., Universal Declaration of Human Rights	Party To	

Carter Center observers conducted some 400 interviews at the national, district, and local levels with government and election officials, party leaders, and the international community. The Center exchanged information regularly with domestic observers and other civil society groups, among them Democracy Resource Center Nepal, the National Election Observation Committee, the General Election Observation Committee, and Sankalpa. The Center also coordinated with other international observer groups, including the Asia Network for Free Elections and the European Union Election Observation Mission, and with international election technical assistance providers, including the United Nations Development

Programme Electoral Support Project, the International Foundation for Electoral Systems, and International IDEA.

The Center assessed Nepal's electoral process based on the country's legal framework and obligations for democratic elections contained in ratified international treaties and other international documents. The major sources of Nepal's international obligations are above.⁶ The structure of this report reflects the fundamental rights/obligations related to democratic elections contained in international documents, including interpretative documents, especially the General Comments of the U.N. Human Rights Committee (UNHRC).

⁶ Art. 51, b,3 of the constitution states that one of the State's policies shall be "Implementing international treaties and agreements to which Nepal is a State party."

Deployment of Long-Term Observers

Following the official invitation from the ECN on Sept. 20, 2017, to observe the federal and provincial elections, The Carter Center deployed five core team members in October, and 14 long-term observers arrived in Nepal in early November. The core team and long-term observers came from 14 countries. After a briefing in Kathmandu by members of the core team, national stakeholders, and representatives from international organizations, the Center deployed the observers in multinational teams of two to Nepal's seven provinces (see Appendix E).

In total, the Center deployed 64 observers from 34 countries and observed election-day procedures in 282 polling stations in 32 districts.

Long-term observer teams traveled throughout their respective provinces during the preelection period, meeting with election officials, political party leaders, security forces, representatives of marginalized groups, civil society activists, domestic observers, journalists, and voters. During meetings they interviewed interlocutors on four key subjects: (1) preelection preparations, including election administration, candidate registration, and voter education; (2) political parties, the electoral campaign, media, and codes of conduct; (3) participation of civil society, marginalized groups, and election observers; and (4) election security. Long-term teams also observed public events such as mass meetings and campaign rallies and prepared for the deployment of short-term observers. Long-term observers submitted written weekly reports as well as reports on rallies, incidents, and other issues as necessary.

Long-term teams observed on election day during both phases of polling. Following the first phase of elections, they observed ballot security in first-phase districts and preparation for polls in second-phase

districts. After the second-phase election day, they and the core team observed counting and monitored the complaints and appeals process. After conducting a debriefing with the core team, long-term observers departed Nepal on Dec. 16.

Deployment of Short-Term Observers

The core team and long-term observers were joined by 45 short-term observers and Carter Center Atlanta staff just prior to Phase 2 election day. In total, the Center deployed a 64 observers from 34 countries and observed election-day procedures in 282 polling stations in 32 districts.

Before deployment, all short-term observers received a briefing on the political situation in Nepal, the electoral framework and preparations, security guidelines, deployment logistics, election day procedures, codes of conduct, and reporting requirements. They also received training on using ELMO, the Center's election monitoring technology, which was used to electronically submit observation checklists in real time via handheld tablets.

Short-term observers were deployed to their assigned areas three days prior to election day and conducted meetings with local stakeholders to gain a better understanding of the local election environment (see Appendix E). The areas to be observed were selected after a thorough assessment based on previous observation missions, historical context, level of sensitivity, ECN requirements, political environment, and the presence of marginalized groups. The mission attempted to ensure a balanced representation of urban and rural areas and geographic locations in developing the deployment plan.

For Nov. 26, Phase 1 election day, 16 observers visited 68 polling centers in the six provinces where voting took place to observe voting and the transport of sensitive materials to storage locations. For Dec. 7, Phase 2 polling, 64 observers were mobilized across all seven provinces, visiting 214 polling centers. The majority of the short-term observer teams remained in their deployment area for three days after Phase 2 election day to observe the counting process. Teams observed the counting of ballot papers in 24 of the 77 counting centers, including in both Phase one and Phase two locations. Short-term observers were debriefed

in Kathmandu before departing the country on Dec. 13.

Leadership Team

The short-term observer delegation was co-led by Dr. Surakiart Sathirathai, former deputy prime minister and former foreign minister of Thailand, and by Ambassador (ret.) Peter Burleigh, former U.S. ambassador to Sri Lanka, the Maldives, and India. They were supported by Dr. Carlos Valenzuela, the international observation mission field office director; Mr. Elijah Lewien, the deputy field office

director; and by Mr. Jonathan Stonestreet, associate director of the Democracy Program in Atlanta.

Throughout the election period, the leadership team met with political leaders, election commissioners, civil society leaders, and representatives of domestic and international observation delegations. On election day, members of the leadership team visited polling locations throughout the Kathmandu valley. On Dec. 9, the leadership team presented the Carter Center's statement of preliminary findings and conclusions at a press conference in Kathmandu (see Appendix D).

Historical and Political Background

Nepal became a nation-state in 1768 after Prithvi Narayan Shah conquered the Kathmandu valley and its surrounding areas. His descendants ruled as hereditary monarchs until they were replaced by the Rana family in 1846. The end of Rana rule in 1951 opened space for discussion about the election of a constituent assembly to draft a new constitution. The first election after the Ranas—delayed until 1959 because of political instability—was for a Parliament rather than a constituent assembly. Soon after the election, King Mahendra staged a coup, seizing control of the government and most state affairs in 1960. The system established by the king—direct governance by the monarch and a number of advisory councils—was called the Panchayat (assembly of five elders) and lasted until 1990.

In 1990, a mass popular uprising against the Panchayat regime, known as Jana Andolan (People's Movement), took place. It was led by a coalition of parties, which ultimately succeeded in obtaining from King Birendra Bir Bikram Shah Dev an agreement to dismantle the Panchayat system, draft a new constitution, and install a political system patterned on the British model. The new constitution was enacted in 1990. The king remained as a constitutional monarch, and elections were to be held every five years to select a new civilian government. Inter- and intra-party disputes led to frequent changes in leadership: Nine governments were formed in the decade between 1990–2000. Consequently, implementation of policy was largely put on hold, resulting in widespread disillusionment with the new democratic leaders of Nepal.

The Maoist Conflict

In 1996, a small leftist party, the Communist Party of Nepal-Maoist (CPN-M), left mainstream parliamentary politics and undertook an armed rebellion. Initially based in the western hills, the insurgency expanded throughout Nepal over the next decade. Police posts and other seats of power in rural areas became frequent targets of CPN-M attacks.

In June 2001, nine members of the royal family were killed in the royal palace, allegedly by Crown Prince Dipendra. This resulted in the coronation of his uncle Gyanendra Bir Bikram Shah Dev, who quickly reasserted the authority of the monarchy. Widespread public skepticism regarding the official version of events called into question the legitimacy of King Gyanendra's reign.

In 2001, a state of emergency was declared, and the army was mobilized in an unsuccessful effort to subdue the Maoist insurgency. In 2005, King Gyanendra staged a coup with the backing of the army, placing many political leaders under house arrest. The failure of the political class to stop the insurgency provided the pretext for him to assume direct rule.

The Peace Process

Peace talks between the government and the Maoists in 2001 and 2003 failed to resolve the conflict. In November 2005, a group of parliamentary parties called the Seven Party Alliance (SPA) signed a memorandum of understanding with the Maoists in which they pledged to create a nationwide democratic movement against the autocratic monarchy.

King Gyanendra's direct rule came to an end as the result of a 19-day popular uprising in April 2006 known as Jana Andolan II (People's Movement II), in which both the Maoists and the SPA took part.

The state embarked upon a period of transformation to become a secular, federal republic in which all citizens would have political representation. In November 2006, the Comprehensive Peace Accords were concluded between the Maoist party and the SPA government. In January 2007, the House of Representatives was dissolved and replaced by an interim legislature, which included the Maoists. The Maoists joined the interim government in April 2007, setting in motion steps to elect a constituent assembly that would draft a new constitution based on a federal system.

First Constituent Assembly

Throughout 2007, many historically disadvantaged groups, including Madhesi, women, Dalits, and Janajatis (indigenous peoples), took part in protests demanding changes to state structures, increased guarantees of representation in government bodies, and adjustments to the electoral system. Turmoil in the Tarai (the southern plains of Nepal), along with a lack of preparation and other factors, delayed the constituent assembly election that was initially scheduled for June 2007. The government signed agreements with Madhesi and Janajati groups promising to meet demands for greater inclusion of marginalized groups in order to pave the way for elections.

The Constituent Assembly election took place on April 10, 2008, in what was seen as a major step in the peace process. The CPN-M became the largest party in the constituent assembly. At its first session, the assembly declared Nepal a federal democratic republic and ended the monarchy. The assembly had a two-year time frame in which to draft a new constitution, but after this date was extended four times without agreeing to a constitution, the assembly was dissolved in May 2012.

Second Constituent Assembly

After a prolonged political crisis, a second constituent assembly election was called for Nov. 19, 2013. The election was well-conducted and reflected a

serious effort to respect international obligations for democratic elections, particularly in view of the months of political crisis that followed the dissolution of the first assembly and the attempts of some boycotting political parties to derail the electoral process. The elections led to a significant change in the composition of the assembly, with Nepali Congress and Communist Party of Nepal-Unified Marxist-Leninist emerging as the largest party, followed by the Maoists.

The second constituent assembly formed in December 2013 and quickly entered a political deadlock much like the one that led to the demise of the first assembly. A major part of the impasse was disagreement regarding the structure of the federal system, including the number and boundaries of the provinces.

The new constitution radically changed the administrative structure of Nepal, mandating the formation of seven provinces and local government restructuring.

In April 2015, a devastating earthquake struck Nepal. The quake, and a strong aftershock in May, killed nearly 10,000 people and left an estimated 3.5 million homeless. The three major political parties moved quickly after the earthquake to produce a draft constitution. Although these parties hailed their agreement as a major step forward, the Madhesi parties in the Tarai strongly objected to aspects of the draft constitution—most notably the delineation of state boundaries, electoral provisions, and lack of affirmative action policy—and launched protests in July 2015. Smaller ethnic and minority groups, including the Tharu in western Tarai, also demonstrated against the constitution's failure to represent their people, while women's rights organizations condemned provisions that treated women and men differently in terms of conferring citizenship to a foreign spouse and to the children they had with a foreign spouse.

Lalit Prajapati, 73, makes a clay pot in the famous pottery square in Bhaktapur.



Kishor Sharma

Despite the protests, the new constitution was adopted on Sept. 20, 2015. It was celebrated by many as the culmination of a decade of work to advance liberal democracy. The constitution was, however, passed without addressing protesters' demands and via a fast-track process that circumvented procedural rules in the assembly. This led to intensified protests by Madhesi parties and others who demanded amendments to honor past assurances. In September 2015, a blockade was organized to obstruct the flow of goods from India at several strategic border points, which severely disrupted normal life as well as earthquake recovery. By February 2016, the protests weakened and the blockade was lifted with little resolution. Outstanding demands were not addressed, impacting implementation of the new constitution, including elections.

The new constitution radically changed the administrative structure of Nepal, mandating the formation of seven provinces and local government restructuring. The government moved quickly to implement the new constitution, particularly in

light of the constitutional requirement to hold local, provincial, and federal elections by January 2018. Provincial boundaries were drawn, and 753 new local bodies were formed to replace the Village Development Council structure that had consisted of 3,157 local-level units. The constituent assembly became a federal Parliament until elections could be held.

Local Elections

On Feb. 20, 2017, the local elections were called for May 14. The announcement sparked protests across the Tarai. Madhesh-based parties and other groups demanded changes to the constitution before holding the elections. Six of the largest Madhesh-based parties united to form the Rastriya Janata Party Nepal (RJPN) and announced they would boycott the election and disrupt the polls.

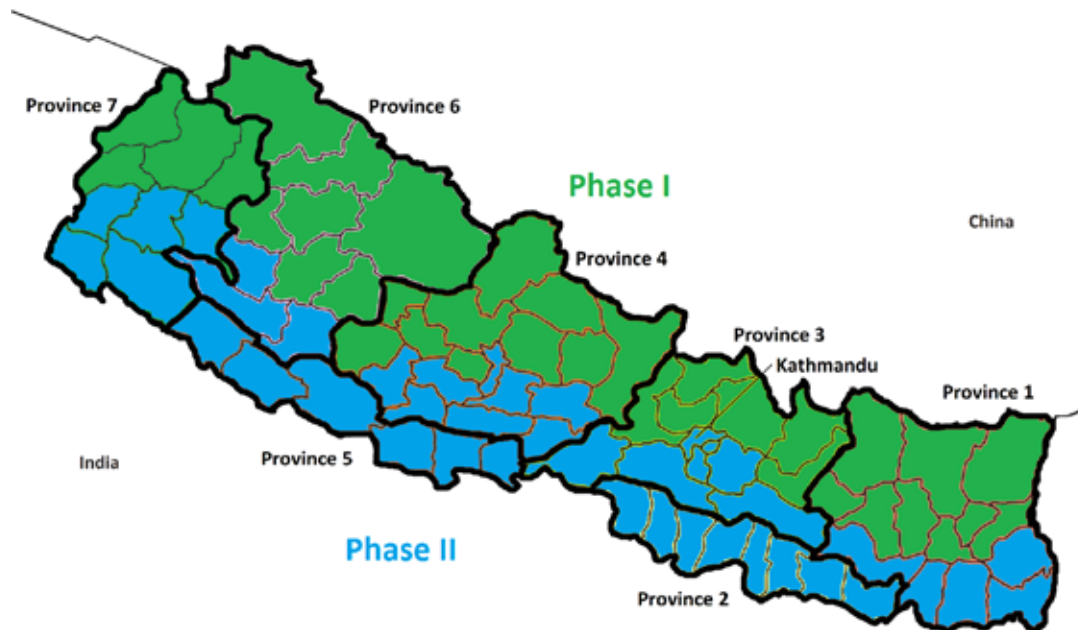
Reacting to the protests, the government held the local elections in phases, which eventually resulted in local elections being held over several months. First-phase elections took place in Provinces 3, 4, and 6 on May 14. After several date changes,

second-phase elections took place in Provinces 1, 5, and 7 on June 28. Third-phase elections in Province 2—the only province located fully in the Tarai—were held only following negotiations that led to RJPN agreeing to participate once its proposed constitutional amendment was voted on by Parliament. The amendment was brought to a vote but did not obtain the qualified majority needed for adoption. The third phase of elections was eventually held on Sept. 18 amid tight security.

Calling of Federal and Provincial Elections

On Aug. 21, 2017, as a result of the compromise with RJPN and while preparations for the

third phase of local elections were ongoing, the government announced that provincial and federal elections would be held on Nov. 26. This was revised to Nov. 26 and Dec. 7 after the ECN requested that the elections be held in two phases due to the limited time available to organize the elections. The ECN announced that the first phase would be held in the 32 northern hill and mountain districts, and that the second phase would be held in the remaining 45 hill and Tarai districts. The geographical division of the election phases reflected climatic and logistical considerations. Every province except Province 2 held elections during both phases.



Electoral Institutions and the Framework for the Elections

The 2017 elections for the House of Representatives and the provincial assemblies were the first to be conducted under the provisions of the new constitution. Although the 2015 Constitution drew on the interim constitution and retained the institutional structure for conducting elections, many important changes affected the 2017 election process. This section presents and evaluates the constitutional, legal, and institutional framework that served as the basis for the preparation and conduct of the 2017 Nepalese federal and provincial elections, assessing them against international standards and good international practice.⁷

The 2015 Constitution

The basic framework governing elections is contained in the Constitution of Nepal. The new constitution, which came into effect on Sept. 20, 2015, (replacing the 2007 interim constitution), restructured Nepal into a federal republic and completed the legal transition of Nepal from a unitary system to a federal system. This substantially modified Nepal's administration: The country was divided into seven provinces within a federal structure, with many of the central powers of government decentralized to provinces and local-level units.

At the federal level, the constitution established a bicameral parliamentary system with two

federal houses: the House of Representatives—or lower house, elected through popular vote—and the National Assembly—or upper house, elected indirectly.⁸ Unicameral, directly elected assemblies were created for each of the seven provinces. The local government was restructured into urban and rural municipalities, each run by a directly elected assembly and an executive formed from within the assembly.⁹ The new constitution also required that all levels of direct elections be completed prior to the expiration of the term of the existing federal Parliament (transformed from the second Constituent Assembly) in January 2018.

Nepal is signatory to a number of international legal obligations regarding democratic elections, and the 2015 Constitution mandates the state to pursue policies related to “implementing international treaties and agreements to which Nepal is a state party.” The Nepal Treaty Act, 1990 states that “[i]n case of the provisions of a treaty, to which Nepal or Government of Nepal is a party upon its ratification accession, acceptance or approval by the Parliament, inconsistent with the provisions of prevailing laws, the inconsistent provision of the law shall be void for the purpose of that treaty, and the provisions of the treaty shall be enforceable as good as Nepalese laws.”¹⁰

7 In this document, the term “federal elections” refers solely to the election of the members of the House of Representatives.

8 See Electoral System section.

9 The previous local government structure was composed of more than 3,000 village development committees and municipalities. Restructuring reduced the number of local government units to 753 municipalities and rural municipalities.

10 Nepal Treaty Act, 2047 (1990), Art. 9(1), www.lawcommission.gov.np/en/wp-content/uploads/2018/10/treaty-act-2047-1990.pdf



Overall, the constitutional provisions related to elections and fundamental rights are largely in accordance with international standards and obligations, although they needed to be made operational through the corresponding laws and regulations to ensure that democratic principles are guaranteed in the preparation and conduct of the electoral process. However, an important provision in need of reform concerns the equality of women and men with respect to citizenship. Article 11 of the constitution treats women and men differently in terms of conferring citizenship to a foreign spouse and to the children they have with a foreign spouse. This is not in line with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and appears to contradict

nondiscrimination provisions in the constitution. The provision denies both the right of citizenship and the right to vote to those impacted.¹¹

Legal Framework

A sound legal electoral framework is essential for the effective administration of democratic elections that adhere to national law and international obligations.¹² It should address all components of an electoral system necessary to ensure democratic elections. At the same time, it should provide clarity, predictability, and consistency with other laws, while assuring their impartial application and enforcement.

Women stand in line to cast their ballots at a polling station in Bungamati, Lalitpur.

11 Concluding Observations of the CEDAW Committee on the Sixth Periodic Report of Nepal, 2021, <https://nepal.un.org/en/138291-concluding-observations-cedaw-committee-sixth-periodic-report-nepal-2021>

12 ICCPR, Article 2; U.N. Human Rights Committee, General Comment 25, paras. 5, 7, 9, 19, 20

Electoral Legislation for the Federal and Provincial Elections

Following the enactment of the constitution, it became necessary to adopt new electoral laws. Legislators chose to retain a fragmented legal framework, with a number of different legal acts, rather than develop an integrated model. Besides the 2015 Constitution, the federal and provincial assembly elections in Nepal are governed by the House of Representatives Elections Act (2017), the Provincial Assembly Elections Act (2017), the Election Commission Act (2017), the Electoral Rolls Act (2017), the Act Relating to Political Parties (2017), and the Election Offense and Punishment Act (2017) as well as a number of regulations, directives, and the code of conduct issued by the Electoral Commission of Nepal.

The adoption of election legislation close to the election period reduces the time needed by all stakeholders, in particular the electoral authorities, to prepare adequately.

The Nepali electoral legal framework is largely in compliance with Nepal's international commitments to respect human rights and administer democratic elections. With a few important exceptions, the legal framework safeguards the right of qualified citizens to register and vote, form political organizations, seek political office as an independent candidate or as a member of a political party, campaign subject to reasonable regulations, and file election-related complaints to protect or enforce rights as a voter or a candidate before, during, and after the elections. It guarantees geographical and political representation

and seeks to increase the participation of women and indigenous and minority groups in the federal Parliament and provincial assemblies.

Electoral Legal Framework: Delayed and Fragmented

Approval of a new constitution necessitated that a comprehensive legal framework adapted to the new constitutional provisions be put into place well in advance of planned elections.¹³ The adoption of election legislation close to the election period reduces the time needed by all stakeholders, in particular the electoral authorities, to prepare adequately.

Although the constitutional deadlines were clear in 2015 and the ECN had prepared draft legislation well in advance, the discussion of draft laws was not completed until 2017, due in part to the political crisis over proposed amendments to the constitution. As a result, adoption of the laws was rushed to meet the constitutional deadline. Some of the laws required for conducting the federal and provincial elections were promulgated only after a political compromise had been reached, after the dates of the polls were announced, and after the ECN had started its own operational preparations.

Many of the difficulties experienced by the ECN can be attributed to the late passage of laws.¹⁴ The belated finalization of the legal framework adversely affected the ECN's logistics, voter education, drafting and issuance of regulations, polling and counting directives, and training of polling officials, among others. One of the proposed electoral laws, the act that governed the modalities for indirect election of the National Assembly, was not adopted prior to the federal and provincial elections, creating subsequent legal and political problems for forming the National Assembly and provincial bodies.¹⁵

The electoral legal framework is contained in different legal instruments consisting of acts, regulations, directives, and codes of conduct. This

¹³ Venice Commission of the Council of Europe, Code of Good Practice in Electoral Matters (CDL-AD(2002)023rev2-cor), II,2,b, "The fundamental elements of electoral law, in particular the electoral system proper, membership of electoral commissions and the drawing of constituency boundaries, should not be open to amendment less than one year before an election, or should be written in the constitution or at a level higher than ordinary law."

¹⁴ Two important laws, the Election of Members of the House of Representatives Act, 2017, and the Election of the Members of the Provincial Assemblies Act, 2017, were adopted on Sept. 4, 2017. The late adoption of the laws caused a number of the respective regulations and directives to be adopted late.

¹⁵ See Election Results and Formation of Elected Bodies section.

can be confusing to the public, political parties, and candidates and can be difficult for the authorities to interpret and enforce. Regulations relating to campaign finance, for example, can be found in different provisions of the House of Representatives Election Act,¹⁶ the Provincial Assembly Elections Act,¹⁷ the Election Offences and Punishment Act,¹⁸ and the Code of Conduct.¹⁹ This is also the case regarding the rules and mechanisms for resolving pre- and postelection disputes, as discussed in the section on election dispute resolution.

Gaps in the Legal Framework

Although the legal framework is generally adequate for conducting elections in accordance with international standards, there are some important gaps that should be addressed to further align it with international standards and mitigate challenges encountered by the ECN and other stakeholders during the 2017 elections. Gaps identified during the Carter Center’s electoral-legal assessment include:

- Current laws do not fully ensure the right to vote for polling staff and security personnel deputized by the ECN. The Electoral Roll Act provides that the ECN “may establish” a temporary electoral roll to facilitate the participation of government employees and security personnel involved in election duties (as well as other government officials deployed for other reasons, prisoners, and others) in the proportional representation component of the elections.²⁰ This provision appears to give discretion to the ECN to allow these people to vote and, in addition, only provides for partial voting rights because first-past-the-post elections are not included. Moreover, the absence of a clear framework for exercising voting rights for election workers and others may cause their

disenfranchisement. In these elections, around 200,000 civil servants were assigned as polling staff during the elections, while about 100,000 temporary police and more than 100,000 regular police were deployed for poll security duties. For the most part, these citizens were not able to vote.²¹

- The Election Commission Act states that the government sets the polling date in consultation with the ECN. However, no minimum time is required between the calling of elections and election day to allow the ECN to comply with all legal provisions and carry out all operational requirements. Electoral good practice suggests that electoral calendars must allow for all aspects of an election to be carried out effectively, including providing sufficient time for all necessary administrative, legal, training, and logistical arrangements to be made.²²

Although the legal framework is generally adequate for conducting elections in accordance with international standards, there are some important gaps that should be addressed to further align it with international standards and mitigate challenges encountered by the ECN and other stakeholders during the 2017 elections.

- The Election of the Members to the House of Representatives Act requires that candidates not be employed by the state. This provision could be considered as unduly restricting the right to be elected, as it applies to all positions, including lower-level positions such as teachers and postal employees, rather than only to positions that

16 Sec. 72

17 Sec. 72

18 Primarily Chapter 6, Sec. 27–31

19 Sec. 5 c.

20 Section 30, Electoral Rolls Act

21 The ICCPR, Art 2, obligates states to give effect to human rights, including voting rights as established in Art 25(b). U.N. General Comment 25 on Article 25 of the ICCPR, para 11, “States must take effective measures to ensure that all persons entitled to vote are able to exercise that right.”

22 U.N., Human Rights and Elections: A Handbook on the Legal, Technical, and Human Rights Aspects of Elections, 1994, para 75

could create a conflict of interest.²³ The Carter Center recommended in its final report on the 2013 constituent assembly elections that legal requirements for candidate registration should be amended to limit restrictions on people employed by the state only to those in positions with a potential conflict of interest.

- Although the ECN registers citizens aged 16 and older, only those aged 18 and over on the day the election were called were placed on the voter rolls. This led to the disenfranchisement of thousands of voters who turned 18 before election day but after the election was called. International standards suggest that voters who turn 18 on or before election day should be allowed to vote.²⁴ (See the Voter Registration section for further detail.)

Although allowed by law, electoral observation is not guaranteed by the legal framework, and the ECN has full discretion to allow or deny observer access to the different phases of the electoral process.

- Although allowed by law, electoral observation is not guaranteed by the legal framework, and the ECN has full discretion to allow or deny observer access to the different phases of the electoral process.²⁵ International obligations for democratic elections mandate the right of citizens to participate in the public affairs of their country, including through election observation.²⁶

- The Code of Conduct was overly restrictive and detailed in its regulation of the campaign activities of the candidates and political parties.²⁷ With too many restrictions and prohibitions, the ECN found it more difficult to act on violations of the more important provisions of the Code of Conduct.

Electoral System

International law does not prescribe any specific electoral system, but it does require that the electoral system ensure compliance with international obligations and guarantee and give effect to the free expression of the will of the electors.²⁸

For elections to the House of Representatives, Nepal used a mixed “parallel” electoral system similar to that used for previous constituent assembly elections, albeit with significant modifications. A substantial change from the electoral system used for the previous constituent assembly elections was the reduction the number of members of the legislature.²⁹ Also, candidates were not allowed to run in more than one constituency, as was the case during the 2013 election.³⁰

In a significant improvement over the previous system, all members of the House of Representatives were directly elected. Under the interim constitution, some of the constituent assembly members had been appointed. This change was a key Carter Center recommendation following the 2013 election.

Of the 59 members of the National Assembly, 56 were indirectly elected and three were appointed by the president. The indirect elections took place through an electoral college formed in each province, with each province electing eight members.

23 U.N. General Comment 25, para 16, “If there are reasonable grounds for regarding certain elective offices as incompatible with tenure of specific positions, (e.g., the judiciary, high-ranking military office, public service), measures to avoid any conflicts of interest should not unduly limit the rights protected by [ICCPR, article 25] paragraph (b).”

24 Op. cit. U.N., Human Rights and Elections, para 106. “Procedures should accommodate broad participation and should not create unnecessary technical barriers to participation by otherwise qualified persons. For instance, advance registration should be allowed for those who will reach the minimum voting age by election day, but after the close of registration.”

25 Chapter 2, Sec. 6, Election Commission Act

26 ICCPR, Art. 25(a); UNHRC, General Comment 25, paras. 8 and 20

27 Such as placing excessive limitations on the use of media and electoral advertising, including the use of t-shirts and caps

28 UDHR, Article 21(3); ICCPR, Article 25. See also UNHRC, General Comment 25, para. 21

29 The Constituent Assemblies were unicameral, with 601 seats. The 2015 constitution stipulated a bicameral Parliament: the directly elected House of Representatives (275 members) and the National Assembly (59 indirectly elected or appointed members).

30 Candidates could not be nominated for more than one first-past-the-post constituency. Candidates could not run for both a first-past-the-post and a proportional representation seat and could not run for both the House of Representatives and a provincial assembly seat.

In total, 2,056 elected local and provincial officials served as electors in the electoral colleges formed across the provinces.

Members of the provincial assemblies, which did not exist prior to the 2015 Constitution, were elected by popular vote. The number of seats for each provincial assembly is based on the delimitation of electoral constituencies for the House of Representatives, with a combined total of 550 seats for the whole country. The largest provincial assembly is in Province 3 with 110 members and the smallest in Province 6 with 40 members.

A Modified Mixed 'Parallel' System

The 2015 Constitution maintained the mixed “parallel” system used for constituent assembly elections, whereby members of the House of Representatives and the provincial assemblies are elected through a combination of first-past-the-post and proportional representation formulas. However, it introduced a significant change by modifying the proportions between the two systems. The 2015 Constitution stipulated that 60% of seats be elected under first-past-the-post and 40% of seats under proportional representation. The proportions used for the constituent assembly elections were the opposite, with 60% under proportional representation and 40% under first-past-the-post. Article 84 of the constitution states that of the 275 members in the House of Representatives, 165 members are to be elected through first-past-the-post

and the remaining 110 members elected through proportional representation. The total number of seats in all the provincial assemblies together was set at twice the number of seats in the House of Representatives. The distribution of seats among the provincial assemblies followed the distribution of first-past-the-post seats in the House of Representatives.

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Given these provisions, there were a total of 825 posts to be directly elected during the federal and provincial elections: 275 for the House of Representatives (165 first-past-the-post and 110 proportional representation-elected members) and 550 for the seven provincial assemblies combined (330 first-past-the-post and 550 proportional representation-elected members). The distribution per province was as follows:

Provinces	House of Representatives		Provincial Assemblies		
	First-Past-the-Post Seats	Proportional Representation Seats	First-Past-the-Post Seats	Proportional Representation Seats	Total Seats
1	28	110	56	37	93
2	32		64	43	107
3	33		66	44	110
4	18		36	24	60
5	26		52	35	87
6	12		24	16	40
7	16		32	21	56
Totals	165	110	330	220	550
	275				

The constitution states that in the PR system voters will make a choice for a political party list, which shall be a “closed list.” During the constituent assembly elections of 2008 and 2013, the PR component was chosen through a system in which political parties chose candidates from unranked lists to fill the winning spots. Although the law termed these “closed lists,” this was understood to mean that no supplementary candidate could be added, not that candidates’ positions in the lists were ranked. Following the 2013 election, The Carter Center had recommended that candidates in political party lists should be ranked and that this ranking be respected when assigning winning seats. This recommendation was implemented in the legal and regulatory framework for the 2017 election, with the exception that the detailed quota system allows some scope for parties to choose candidates to meet those requirements.

Following the 2013 election, The Carter Center had recommended that candidates in political party lists should be ranked and that this ranking be respected when assigning winning seats.

Additional considerations regarding the PR race for both the federal and provincial elections are that 1) the 2017 electoral laws established a 3% threshold for the PR component of the House of Representatives race (for the 2013 elections no threshold was used) and a 1.5% threshold was established for the PR provincial race; and 2) the formula to be used for seat allocation is a Sainte-Lagüe method, where the “first divisor” is 1.³¹

Representation Requirements

To ensure gender equity and social inclusiveness, the 2015 Constitution provides “representation requirements” (essentially quotas) for women and for a number of population groups (called “clusters”).³² The constitution requires that at least one-third of the total number of members elected to the federal Parliament and to provincial assemblies from each political party must be women. At the federal level, if this requirement is not met through the results of the first-past-the-post vote for the House of Representatives and through the indirect National Assembly election, the party must fulfill the remainder of the one-third requirement through the PR list.

The clusters used for the representation requirements include various ethnic groups but also other groups, such as Dalit (caste category), Muslims, and geographically remote “backward areas.” Representation of these various communities is ensured through the PR system. Toward this end, the closed candidate lists that the political parties submit to the ECN must ensure inclusive representation of women; Dalits; Adibasi Janajati (indigenous/ethnic communities); Khas Arya (Chhetri, Brahmin, Thakuri, and Sannyasi/Dasnami communities); Madhesi; Tharu; Muslims; and to the extent possible, individuals who are disabled or are from geographically remote (“backward”) regions.³³ The legal framework also stipulates the need to balance candidate selection in terms of geography and provinces. In addition, parties must consider people with disabilities in their selection of candidates. For the House of Representatives, parties winning less than 10% of seats elected under the PR system are not required to implement the cluster representation requirements fully.

Carter Center calculations found that PR seats were allocated to each cluster in line with representation percentages specified in the House of Representatives election law. The use of quotas resulted in the Adibasi Janajati, Dalit, Muslim,

³¹ In 2013, a modified Sainte-Lagüe method was used.

³² This was also the case during the 2008 and 2013 Constituent Assembly elections.

³³ House of Representatives Election Act, Art. 28. Women must comprise 50% of each party’s PR list candidates, while Annex 1 of the law sets out the specific percentage of candidates required for each cluster. At provincial level, women must comprise 50% of each party’s PR list candidates, and parties must ensure inclusion of population clusters “to the extent possible.”

and Tharu clusters each receiving a significantly higher level of representation in the House of Representatives than they would likely have received without quotas. This was a positive step toward implementing “the principles of proportional inclusion and participation” as expressed in the preamble to the constitution.³⁴

While the quotas were designed to promote inclusiveness in elected bodies, the representation requirements were criticized by several interlocutors for also including population groups that are not historically underrepresented (for example, the Khas Arya). Internationally, quota systems are generally used in election systems to increase representation of historically underrepresented groups.

The move to a system in which the majority of House of Representatives members are elected under single-member first-past-the-post constituencies—and in which the number of seats has been significantly reduced—further complicated the implementation of quotas. Reconciling the requirement for quotas with the limited possibilities that the choice of electoral systems offers for their implementation constituted a major challenge for electoral authorities and for political parties.

Boundary Delimitation

International and regional treaties state that elections must respect equal suffrage.³⁵ Interpretive sources add that equal suffrage and the “one person, one vote” rule require that constituency boundaries be drawn so that voters or residents are represented in the legislature on a (roughly) equal basis.³⁶ While true equality in delimitation may not always be possible, international good practice indicates that variances should rarely exceed 10%.³⁷

Nepal’s legal framework on constituency delimitation can be found in its constitution and the Election Constituency Delimitation Act, 2017. Under the constitution, an independent temporary

body is responsible for delimitation of constituencies for the purpose of electing the members of the House of Representatives and the provincial assemblies. The constitution and the law mandate that constituency delimitation must be based on population as the primary criterion, with geographic conditions secondary. Access to government services, transportation proximity, and community and cultural characteristics of the people living in the districts are additional considerations for constituency delineation. Nepal’s Constitution also requires that there be at least one electoral constituency in each of the existing 77 districts, regardless of population.³⁸

The ECDC had a difficult task, as it was initially charged with delimiting the constituencies for the federal and provincial elections in only 21 days.

On July 19, 2017, the government of Nepal formed the Electoral Constituency Delineation Commission (ECDC) for the purpose of delimiting the boundaries for the 165 first-past-the-post House of Representatives races and for the 330 first-past-the-post provincial races. The ECDC had a difficult task, as it was initially charged with delimiting the constituencies for the federal and provincial elections in only 21 days. The reason for the extremely tight time frame was that the definition of the constituency boundaries was an essential element in allowing the commission to commence its operational preparations.

Despite the tight timetable, the ECDC was able to finalize its work, although it did require a short extension of its mandate and released its report to

³⁴ However, the level of representation of each of these clusters in the House of Representatives and Parliament is lower than their respective shares of the population as per the 2011 census.

³⁵ UN, ICCPR, Art. 25; U.N., UDHR, Art. 21(3)

³⁶ UN HRC General Comment 25, para. 21

³⁷ Council of Europe (Venice Commission), Code of Good Practice, sec. I.2.2.15

³⁸ The fact that the two districts through which provincial boundaries ran should be considered four separate districts was only settled during the delimitation process.

the government on Aug. 30, shortly after the call for provincial and federal elections had been made. The commission consulted widely with different stakeholders during its deliberations, including the political parties. Some parties and civil society organizations expressed their belief that because of the rushed nature of the work the constituency delimitation included several inconsistencies and was politically driven.

Although the result of the delimitation process did not leave everyone satisfied, all parties agreed to go ahead with the constituencies established for the elections, so as not to risk a delay in the electoral timetable. Most political actors told the Carter Center's election mission team that the 2017 boundary delimitation was sufficient for the 2017 provincial and federal elections but that there should be a review of constituency boundaries well before the 20 years mandated in the constitution.³⁹ International good practice is that electoral constituencies be reviewed at least every 10 years, preferably outside election periods.⁴⁰

The combination of the overly broad guidelines, the short time frame available to the ECDC, and the quality of population data was not conducive to a constituency delimitation exercise that would ensure equal suffrage, which was a Carter Center recommendation following the 2013 election. Going forward, provisions on constituency delimitation should be reviewed to ensure equality of the vote, and future delimitation exercises should be conducted on a more reasonable timeline and done well in advance of the election.

Election Management

An independent and impartial election management body that functions transparently and professionally is recognized as an effective means of ensuring that citizens can participate in a genuinely democratic electoral process. It is the responsibility of an

election management body to take necessary steps to ensure respect for fundamental electoral rights as defined in international and national law.⁴¹

The Election Commission of Nepal is a constitutional body mandated to conduct, supervise, direct, and control the election for the positions of the president, vice president, members of the federal Parliament, provincial assemblies, and local-level executives. The commission also is charged with establishing the necessary electoral registers.

Legal Mandate, Structure, and Independence

The Election Commission Act and the Election Commission Regulation, promulgated respectively on Feb. 2 and March 27, 2017—as well as the regulations, directives, and the Electoral Code of Conduct issued by the ECN—supplement the constitutional provisions regarding election management. The ECN has broad powers and functions, including deciding on the qualifications of candidates and disqualifying candidates; monitoring the election campaign, polling, counting, and other election-related matters; allowing observers; seeking the assistance of other agencies; canceling elections; and other powers it may need to conduct elections.⁴²

The ECN is composed of a chief commissioner and four commissioners and is supported by a secretariat. For these elections, there were 164 full-time staff based in Kathmandu and 569 field staff in 72 district electoral offices and five regional electoral offices, for a total of 733 staff members across the country. Supporting the operations in the field were 77 chief returning officers and 88 returning officers. While only appointed on a temporary basis, the returning officers were the key officials ensuring the preparation and conduct of the major electoral operations in the field, including voter registration, candidate nomination, polling, and counting.

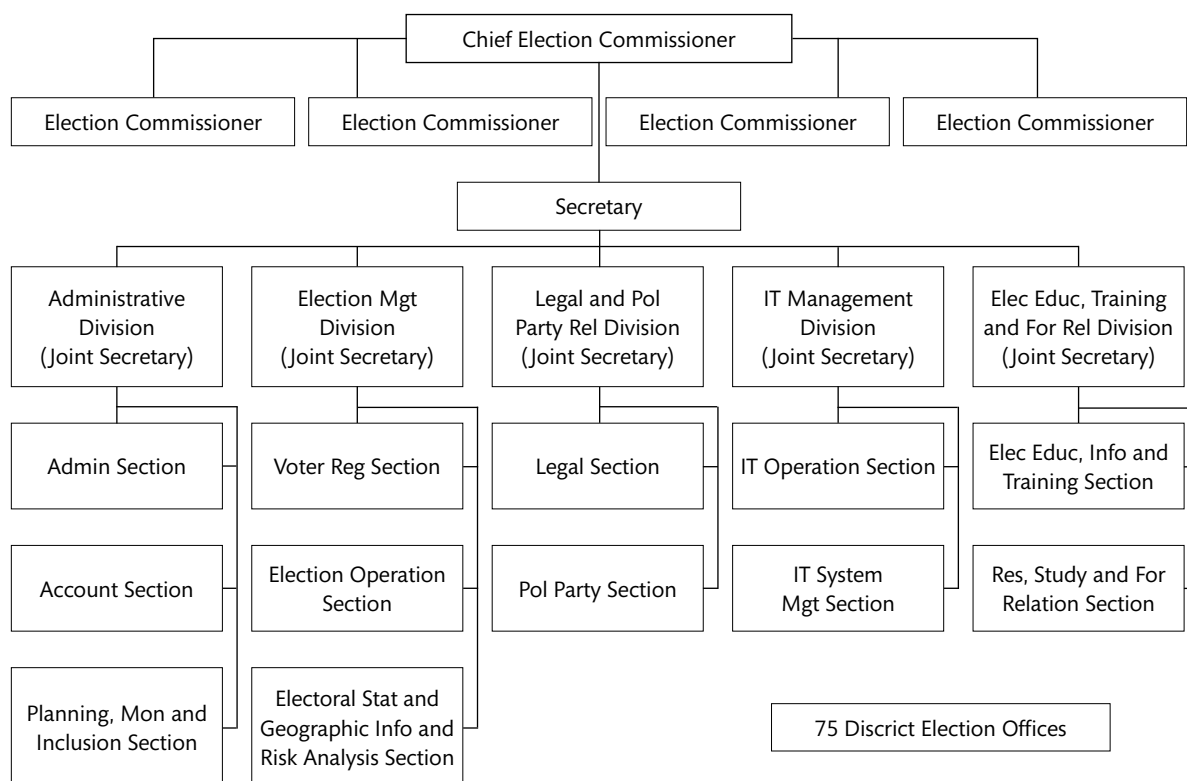
³⁹ The responsibility of the ECDC was to define the constituency boundaries for the 2017 provincial and federal elections, but the stakes were higher as the constitution provides that no challenge can be raised in court regarding the constituencies determined or reviewed by the ECDC, which will be reviewed only every 20 years.

⁴⁰ Council of Europe (Venice Commission), Code of Good Practice, sec. I.2.2.16

⁴¹ UNHRC, General Comment 25, para. 20, specifies that "an independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant."

⁴² Constitution and the Election Commission Act (Chapter 2 – Sec. 3[11])

Election Commission, Nepal



Source: ECN Website,
http://election.gov.np/ecn/uploads/userfiles/ECN_Organogram_English.pdf

While the law does not specifically state the independence of the ECN, the Supreme Court has affirmed its independence in a number of decisions. Commission members have six-year terms of office from the date of appointment, giving them security of tenure and protecting them from arbitrary removal. The qualifications, the process for the appointment, and grounds for removal from service are specified in the constitution.

Operationally, the Election Commission of Nepal can draft and propose regulations, which when approved by the government have the force and effect of law. The Election Commission Act and the Election Commission Regulation direct the government to provide necessary staff to the commission to enable it to carry out its functions; allow it to create offices at the provincial level; establish necessary positions as it may deem necessary; and deputize employees from other branches of government to help in preparation and conduct of the elections.

The commission also exercises some degree of financial autonomy through the Federal Consolidated Fund, which bears the costs of the commission for conducting, monitoring, directing, and controlling elections. Because of the Federal Consolidated Fund, the commission does not have to seek Ministry of Finance approval for expenditures that fall under the budget.

Public Perception and Transparency

The Election Commission of Nepal has wide experience and appears to have enjoyed public support throughout the election process. Throughout the electoral process, political parties across the board indicated that they were generally very satisfied with the commission's work. In its post-election preliminary statement, The Carter Center commended the ECN for its performance in organizing and conducting the provincial and federal elections,

especially given the time constraints and political and legal uncertainties.

Despite the overwhelming approval of the operational work of the commission, there are some additional steps that can be taken to consolidate the ECN's role and reinforce its independence. These include increasing transparency, stabilizing the cost of elections, increasing the quality of the voter registry, and improving enforcement of the Code of Conduct, particularly the regulations regarding campaign financing. These steps are discussed in more detail throughout this report.

In its post-election preliminary statement, The Carter Center commended the ECN for its performance in organizing and conducting the provincial and federal elections, especially given the time constraints and political and legal uncertainties.

Transparency is a key principle of sound electoral administration. During the preelection period, the election commission was criticized for making some important decisions on a strictly technical basis without acknowledging the political nature of those decisions or holding widespread discussions with political stakeholders about the rationale for them. An important case in point was the ECN's initial decision to have two ballots (one for PR and one for first-past-the-post) with two choices on each ballot, one for the House of Representatives and one for the provincial assemblies.⁴³ While the decision made sense from an operational and logistical standpoint, some political forces strongly opposed this approach, and the decision was challenged in court. The challenge resulted in a Supreme Court decision

late in the process to split the first-past-the-post ballots, which negatively impacted the commission's operational preparations and voter education efforts.

During the federal and provincial elections, there were unfortunate restrictions on transparency throughout the electoral administration. This was reflected in the closed way commission meetings and decision making took place (without the presence of party agents or observers); the lack of presentation of complete data on turnout rates per polling center, full results, and invalid ballots; and restrictive regulations concerning domestic and international observation. Additionally, internal rules of procedure and voter registration data by administrative unit and constituency were not made public. This limited transparency was compounded by a lack of public explanation of many decisions made.

Transparency was also limited in the commission's approach to election observation. While the commission initially welcomed Carter Center observers and met with the mission regularly, the regulations concerning domestic and international observation were overly constraining. Ballot printing was not opened to observation, and there were several instances of polling and counting officials limiting or refusing access to observers. These restrictions on access to independent observers ran counter to the principle of electoral transparency and hindered the effectiveness of both domestic citizen and international election observers. In addition, it was unfortunate that, despite having invited international observers, the chief election commissioner questioned the presence of international observers at a public forum just prior to the first phase of elections, stating, "There is no need for the international observers to certify Nepal's elections as long as Nepali people accept the electoral process and the results."

⁴³ In order to comply with legal provisions, ECN always stated that there were "four ballots on two sheets."

I Preelection Developments

Preparations for Polling

The federal and provincial elections were prepared under a number of constraints. The Election Commission of Nepal was still engaged in organizing local elections when the call for federal and provincial elections was made. Because provinces had not previously existed, provincial elections had never taken place, and the framework for the House of Representatives election was new, the electoral process had novel aspects. Timing and sequencing of the elections had been uncertain throughout, and the legal framework was late in being finalized. Importantly, the period following the enactment of the new constitution was characterized by political tension, including protests, demands, and continual threats of boycott by some parties. The electoral preparations were launched in a context characterized by uncertainties regarding the possibilities of respecting the constitutional deadlines.

Timing and Sequencing

Before the federal and provincial elections, the ECN conducted the local elections, the first ones in over 20 years, in three phases: May 14, June 28, and Sept. 18, 2017. Preparations for the provincial and federal elections began before the end of the third phase of the local elections.

All direct elections were constitutionally mandated to be finalized before the end of the term of the existing Parliament in January 2018. In practice, climatic conditions in the mountains created pressure to conclude elections by the end of November 2017.

Throughout 2017, there had been skepticism that the electoral timetable requirements would be respected. Even after the completion of the three phases of local elections and despite the reiterated commitment expressed by electoral authorities, government and major political parties to the timely conduct of the elections believed that elections were unlikely to be conducted within the constitutional timeline. The ECN had always insisted that it needed 120 days from the call of the election in order to carry out the necessary preparations.

The sequencing of the elections was an important issue. While the commission repeatedly indicated that the preferred option would be to conduct provincial and federal elections separately due to operational issues, the possibility of holding them concurrently became the preferred alternative due to time constraints. To resolve the problem posed by the constitutional deadline, the commission's operational needs and climatic considerations, phasing the provincial and federal elections was proposed, so that elections in higher-elevation areas could be held prior to those in the lower-elevation parts of the country, including much of the Tarai. Phasing provincial and particularly federal elections was a sensitive matter, especially as partial results from one phase could negatively affect the holding of further phases. Additionally, most of the provinces (with the exception of Province 2) have districts in both the hills and the Tarai, which would imply holding elections without respecting the geographical integrity of provinces, which some stakeholders found unacceptable.



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same day, the option of concurrent and staggered provincial and federal elections was retained: Phase 1 (to be conducted on Nov. 26, 2017) was to cover 32 districts in the northern half of the country, whereas Phase 2 (to be held on Dec. 7) was to cover the remaining 45 districts. All provinces would have polling in both phases, with the exception of Province 2, which would have elections only during Phase 2. Counting in all districts was to be conducted only after the conclusion of Phase 2 voting.

Operational Preparations

Phase 1 elections included 32 districts, 37 federal constituencies (out of 165) and 74 provincial constituencies (out of 330). An estimated 3,191,945 registered voters (approximately 20% of total registered voters) were eligible to vote in Phase 1. Phase 2 included 45 districts, 128 federal constituencies, and 256 provincial constituencies. An estimated 12,235,936 registered voters were eligible to cast their ballots during Phase 2 (approximately 80% of the voter register).

Because of the increased number of registered voters for the federal and provincial elections over the local elections, the election commission augmented the number of polling locations and polling centers. For both phases combined, there were 10,761 polling locations (198 more than during the local elections) and 19,801 polling centers (1,228 more than during the local elections).

Despite the tight time frames, the Election Commission of Nepal was able to undertake the operational and logistical preparations necessary to ensure that as many voters as possible could exercise their electoral rights. Training for field electoral staff was conducted, although the late Supreme Court decision regarding ballot design created last-minute operational challenges. Sensitive materials were delivered on time despite harsh weather conditions in many Phase 1 constituencies, and there were no major operational difficulties for either phase of the elections.

Nevertheless, a major concern during these elections was the lack of systematic operational planning that created unnecessary risks and allowed for local electoral offices to sort out operational issues at their own discretion, which compromised

On the day before elections, a Nepali man searches for his name on a polling center's voting list to confirm his voting location.

As a further complication, there were two additional conditions for conducting the elections: delimitation of electoral boundaries and completion of the legal framework. Nevertheless, early determination of the date of elections was vital to allow the ECN to move to full-fledged electoral mode. On Aug. 20, the provincial and federal elections were called, almost a month before the conduct of the third phase of local elections and before the complete legal framework, including before the report of the Electoral Constituency Delineation Commission, was finalized. The initial call for elections stated that the provincial and federal elections would be held on Nov. 26.

After the ECN insisted that it was not operationally possible to hold all elections on the

a systematic and consistent approach to the holding of elections. This was reflected in inconsistencies in implementation of directives and procedures, notably regarding the access of observers to polling and counting centers. Improving central-level ECN oversight and control over district-level operations would be an important step in moving the election process from the transitional phase to a more normalized state of affairs. Other issues of administrative and operational nature during the electoral preparation period included ballot design and the issuing of party symbols.

Ballot design. Following the decision to conduct concurrent federal and provincial elections, the ECN decided on a single ballot for the proportional representation component (for both House of Representatives and provincial assemblies) and another corresponding single ballot for the first-past-the-post component (again for both House of Representatives and provincial assemblies). While the ECN proposal included two separate ballot papers, the voter would have had two different choices on each ballot paper, each choice clearly identified as a) for the provincial race and b) for the federal race. Nonetheless, the choice of a single ballot paper was contested in court, and the case came to the Supreme Court late in the process, near the end of October. The court decided to maintain the single ballot paper for the PR race, as the ballots had already been printed, but to require separate ballots for the federal and provincial first-past-the-post races. In practical terms, this meant that each voter would be given three ballot papers at the polling station: one ballot which contained both PR elections (provincial and federal races), one ballot for the provincial first-past-the-post race, and one ballot for the federal first-past-the-post race.

The Supreme Court decision required major changes to ballot printing and distribution processes. There were additional operational consequences to the decision: Voting and counting procedures as well as polling station layout (an additional ballot box per polling station was required), had to be redesigned at a late stage to

reflect the new situation regarding the ballot papers, and training of polling staff had to be delayed. Additionally, the ECN had to destroy voter education material, and new voter education material had to be developed and printed. Voter education efforts had to be adapted (and therefore delayed) to reflect the court's order, and this ultimately impacted the quality and reach of voter education.

Despite the operational challenges, the election commission was able to print, pack, and deliver all ballot papers in time for both phases: Phase 1 ballot papers were printed by Nov. 5, and Phase 2 ballots were ready by Nov. 19.

Despite the operational challenges, the election commission was able to print, pack, and deliver all ballot papers in time for both phases.

Issuing of symbols. Related to ballot design was the question of the issuing of symbols for parties and candidates. In Nepal's system, only symbols are printed on the ballots, not candidate and party names. The electoral commission decision during local elections to allow parties already in Parliament to use their established symbols and to assign random, preprinted symbols to other candidates just a few days before polling day led to a great deal of anger and resentment. This situation was not significantly improved for the federal and provincial elections, due, in part, to time constraints. Additionally, as the PR ballots needed to be printed before the nomination process was completed, a great number of symbols without corresponding party lists were included in the ballots.⁴⁴

An additional issue with ballot design is the order in which symbols appear. The accepted practice in Nepal is that symbols on the ballot are ordered in accordance with the number of seats

⁴⁴ Early in the process, parties were asked to declare whether they would field PR candidates and ballots were printed on that basis. Over time, many changed their mind, leaving their symbols without candidates.

the party received in the previous parliamentary elections: In the case of the 2017 elections, it was based on the number of seats parties received in the 2013 Constituent Assembly election. Other parties and/or candidates receive their placement on the ballot either on a first-come, first-served basis or by alphabetical order. This arrangement clearly gave an advantage to the major established parties, in terms of being listed at or near the top of the ballot.

Voter Registration

Ensuring universal suffrage and the enjoyment of the fundamental right to vote for all eligible people is essential to credible elections, and this, in most cases, requires an efficient and credible electoral register. If voter registration is required, it should be facilitated with no obstacles imposed.⁴⁵

A citizenship certificate was required to register to vote for these elections. Carter Center observers heard concerns that this prevented many who did not have a certificate – but who otherwise should qualify as citizens – from registering and voting.

Legal Provisions for Voter Eligibility and Registration

The constitution provides that citizens 18 and older are eligible to vote in any one election constituency for the House of Representatives. In the case of the provincial assemblies, it adds a provincial residency requirement. The legal provisions for voter registration and the electoral roll are in the Act Relating to Electoral Rolls 2073 (2017), which amended and consolidated the laws relating to the electoral register. Under the law, the Election Commission of Nepal is given the responsibility of collecting and updating the electoral register. Preliminary voter lists from the districts are centrally integrated and

duplicate names removed by the commission. Once the revised preliminary voter lists have been verified at the local level (claims and objections process), the final voter list is prepared and printed.

According to ECN directives, only those registered and whose names are on the voter list on polling day are allowed to vote. Voter registration is conducted continuously throughout the year until an election is announced, and registration is required to stop on the eve of the call for the elections. Nepali citizens aged 16 and above can register to vote at any district electoral office, district administration office, or area administration office as well as with any ECN mobile voter registration team. However, only those who are already 18 years of age on the day the elections are called are put in the electoral roll and allowed to vote.

Disenfranchisement Issues

Prior to the second constituent assembly elections in 2013, the ECN conducted a new, stand-alone voter registration drive introducing biometric technology. This effort followed the 2008 elections in which many weaknesses in the voter register were identified. The drive resulted in a significant improvement over the previous register, but some concerns about disenfranchisement remained, including the inability of some Nepalis to obtain a citizenship certificate in order to register and constraints on proving residency.

A citizenship certificate was required to register to vote for these elections. Carter Center observers heard concerns that this prevented many who did not have a certificate – but who otherwise should qualify as citizens – from registering and voting. This included people who lacked the documents required to obtain a certificate, particularly married women, individuals from historically marginalized communities, and the landless. Of note, a court decision in 2013 allowed for other forms of official documentation to satisfy the proof of citizenship requirement, but this decision was interpreted as applying only to the 2013 election.

A similar situation concerns the residency requirement. While proving residency is a standard

⁴⁵ ICCPR, Article 25(b); and UNHRC, General Comment 25, para. 11



Kishor Sharma

Before the election, Nepal Election Commission staff distribute voter ID cards in the city of Bhaktapur.

and valid requirement internationally, in Nepal it can be difficult for some voters, particularly internal migrants, to obtain official proof of permanent residency in their actual place of residence. Therefore, many internal migrants could only register for their location of origin,⁴⁶ meaning that they were faced with the choice of returning to their municipality of origin for the election day period to vote or not voting at all.

As noted, registration directives do not allow for young people who turn 18 between the date the election is called and election day to be on the voter list. In the provincial and federal elections, this meant that approximately 170,000 potential young

voters were not allowed to register.⁴⁷ Carter Center long-term observers also heard concerns from civil society representatives and from candidates in some districts in the Tarai about a low percentage of minorities and marginalized group members being registered as well as obstacles for these groups to register.⁴⁸

Also as noted, approximately 400,000 electoral and security staff deployed for the provincial and federal elections were not able to vote, despite the law providing for the establishment of a temporary electoral roll to facilitate their participation in the proportional representation component of the elections.

46 They can register where they reside, but in the absence of proof that they live there, they must register for the location on their citizenship certificate and go to vote there.

47 U.N., Human Rights and Elections, 1994, para 106. "Procedures should accommodate broad participation and should not create unnecessary technical barriers to participation by otherwise qualified persons. For instance, advance registration should be allowed for those who will reach the minimum voting age by election day, but after the close of registration."

48 Bara, Kailali, Saptari, and Siraha

Voter Registration Efforts for the Federal and Provincial Elections

For the 2017 electoral cycle, the ECN updated the 2013 registration database. In 2013, the final voter register included 12,147,865 voters, while the register used for the 2017 local elections had 14,054,482 voters. Registration was reopened following the second phase of local elections, but only for provincial and federal elections. This exercise, which lasted from mid-July to mid-August,⁴⁹ represented an intense effort by the commission and showed impressive results, adding close to 1.4 million voters to the register. The final number was 15,427,938 voters eligible for the provincial and federal elections: 7,776,628 men, 7,651,143 women, and 167 third gender.⁵⁰

Domestic observers reported that in some cases voters with voter IDs were not included in the voter list and that there were technical issues with the serial numbers in the list.

The Carter Center's final report on the 2013 constituent assembly elections commended the biometric voter register but indicated areas of concern and recommended an audit.⁵¹ The audit did not materialize, and many of these concerns continued to be relevant during the 2017 elections.

While no major technical issues that would compromise the overall validity of the voter register were highlighted during these elections, a number of data control issues continued to be reported, including the mismatch of voters' data (pictures attached to somebody else's information, for example); names missing from the voter lists; and

the mismatch of serial numbers between voter ID cards and the new lists issued for the provincial and federal elections. These technical issues should be addressed in a timely manner to avoid diminished trust in the voter register.

Following the introduction of biometrics in the development of the voter roll for the 2013 elections, voter identity cards with photos were included as part of the new procedures. Directives stipulated that in order to vote the voter needed to be in the voter roll and have a voter identity card. Printing and distributing voter cards have been problematic from the outset. In many countries where biometric registration was introduced and voter cards are used, the general practice is to print and issue the voter card at the time of registration. In Nepal, the decision was made to print and then distribute voter cards after further validation of the voter lists and after voters are assigned their polling centers.⁵²

Voter IDs are permanent documents and are generally printed with a voter's polling location and a serial number corresponding to a serial number printed on the voter list. For these elections, approximately 2.2 million new voter IDs were issued for newly registered voters, transferred voters, or to replace damaged or lost cards. However, because the serial numbers and polling locations can change from election to election, the use of old voter IDs created some difficulties on election day. Domestic observers reported that in some cases voters with voter IDs were not included in the voter list and that there were technical issues with the serial numbers in the list.⁵³

Carter Center observers also heard concerns about the late distribution of voter cards. Distribution was a massive logistical effort, as the 2.2 million new voter identity cards were to be distributed at the polling centers during the two days prior to polling for each phase. Given the logistical issues, the ECN decided pragmatically that any other government-issued identity card would

49 Voter registration for federal and provincial elections was closed on Aug. 19, 2017, as the elections were called on Aug. 20.

50 On Dec. 21, 2007, the Supreme Court established a gender category called "third gender." The Supreme Court stated that the criteria for identifying as "third gender" was based upon the individual's self-identification.

51 "An independent audit of the voter register should be conducted as soon as possible to better understand the reasons more citizens have not registered as well as the nature and extent of any technical problems with the register." (p. 69)

52 Voter identity cards are produced based on the final voter list, following claims and objections, and distributed at polling centers.

53 See final reports from Democracy Resource Center Nepal and National Election Observation Committee.

be allowed for voting purposes. Printing and distribution of voter identity cards remains an issue of concern for future elections.

Finally, labor migration is significant in Nepal, with hundreds of thousands of Nepalis traveling abroad each year for work.⁵⁴ However, there were no provisions for out-of-country registration and voting in the election legislation. A case was filed with the Supreme Court in April 2017 on this issue, and in March 2018, the Supreme Court issued a directive to the government to draft a law to enable Nepalis abroad to vote. The Carter Center welcomes this initiative to expand voting rights.

Voter and Civic Education

Comprehensive and effective voter education is essential to inform the electorate of their rights and to clarify procedures ahead of election day, thus ensuring that citizens can exercise their electoral rights.⁵⁵ International comparisons show that voter education is more effective and efficient if conducted in a multipartner approach, with guidance from the electoral authorities but implemented jointly with other government agencies and civil society.

Voter education was a weak link in the 2017 electoral cycle. The ECN acknowledged that voter education efforts were insufficient, in part because of the late adoption of legislation and the Supreme Court decision on the number of ballot papers. Given the major constitutional and electoral changes, more substantive efforts were necessary to ensure voters understood the purpose of the various electoral processes and what their representatives would be elected to do.

The term “voter education” was used in these elections in a narrow sense, referring almost exclusively to voter information efforts and directed almost entirely at informing voters how to mark

the ballot paper. Carter Center long-term observers reported that the election commission made some efforts to guide and support voter education and took steps to broaden its partnerships with civil society.⁵⁶ These efforts were important, given the changes in the voting process, and were appreciated by local stakeholders where undertaken. However, observers noted very few efforts to explain the nature and scope of the electoral process.

Voter education was a weak link in the 2017 electoral cycle. The ECN acknowledged that voter education efforts were insufficient, in part because of the late adoption of legislation and the Supreme Court decision on the number of ballot papers.

Even within the limited voter education that was conducted, Carter Center observers reported that the activities were at times insufficient, particularly in rural areas and for less educated voters, and that voter education in many places seemed to be left to political party activists or was not visible at all. Observers were often told that social mobilizers had been trained and deployed from the district level to provide voter education, but interviewees regularly expressed skepticism about the capacity and reach of mobilizers. For example, in Salyan political parties said that they had initiated their own education programs because they did not believe the number of mobilizers deployed could reach the voting population before the election.⁵⁷ In Dhanusha, the district election officer told observers that he had encouraged the political parties to provide voter education during their door-to-door campaigns because education across the district would otherwise be insufficient.

⁵⁴ According to the Ministry of Labor and Employment's report “Labour Migration for Employment, A Status Report for Nepal: 2015/2016–2016/2017,” the Department of Foreign Employment issued 786,564 permits for foreign employment to over 100 destination countries in the consecutive fiscal years 2015/2016 and 2016/2017.

⁵⁵ ICCPR, Article 25(b); and UNHRC, General Comment 25, para. 11

⁵⁶ For instance, mock ballots used for voter education efforts were printed at 10 times the number they were for the local elections; 19,500 voter educators were mobilized to conduct household and community visits; voter education materials were translated into 16 different languages; and a comprehensive range of media, including social media, were used to reach voters.

⁵⁷ Observers were told by the district election officer that 180 social mobilizers were expected to provide door-to-door voter education for about 135,000 voters in the district.

Overall, the Carter Center found that more extensive voter education was needed as well as more wide-ranging partnerships for distribution of materials. While political party engagement was a positive, their activities in an election period are by nature related to campaigning and should not replace the responsibility of the electoral authorities.

Candidates, Parties, and Campaigns

Candidates and political parties are key protagonists in the electoral process. For elections to be meaningful and credible, the basic rights to be elected and to participate in public affairs must be respected in the legal framework and in implementation by the electoral authorities.⁵⁸ The effective implementation of the right to stand for elective office ensures that voters have a free choice of candidates.⁵⁹ Therefore, any conditions placed on political party and candidate registration processes should be reasonable and nondiscriminatory.⁶⁰ In addition to being inclusive and transparent, a genuinely democratic election requires a campaign period in which rights such as freedom of opinion and expression, freedom of association, freedom of movement, security of the person, and access to information are respected and upheld by all stakeholders of the election.⁶¹

Registration of Political Parties and Nomination of Candidates: Legal Basis

The legal framework concerning political parties can be found in Part 29 of the Nepal Constitution (Provisions Relating to Political Parties) and the Act Relating to Political Party (2016). The constitution recognizes the right of the people of common political ideology, philosophy, and program to form, register, and operate political parties. It provides the basic procedure for registering, which starts with the filing of a petition to register with the Election Commission of Nepal and the conditions that must

be fulfilled by the party (i.e., its constitution and rules must be democratic; regular election of party officials must take place at least once every five years; and there must be inclusive representation in executive committees). The constitution requires that parties submit an additional registration to the ECN to compete in elections, and the procedure is prescribed by the Act Relating to Political Parties.

There are several restrictions on political party membership, including being at least 18 years old; not having been convicted of serious crimes; not having held a position of a professor, teacher, or employee of an autonomous entity under the ownership or control of government of Nepal, provincial government, or local level; and not having been declared ineligible to become a member of a political party as per the constitution and law for holding a public office. The Carter Center mission observation team found that the prohibition against professors, teachers, and employees of government being political party members overly restricts the right to freedom of association.⁶²

The nomination of candidates for the House of Representatives is governed by the House of Representatives Election Act and House of Representatives Election Regulation and for the provincial (state) assemblies by the State Assembly Election Act and Election Regulation. Nepali citizens who are at least 25 years old on the date of candidate registration, registered to vote, not disqualified by any law (e.g., not a government employee at any level) and have registered with the election commission as a candidate may contest the election. While candidates for the PR component must be nominated by political parties (following the “representation requirements”), both independent and party-nominated candidates can contest first-past-the-post seats. As noted in the Legal Framework section of this report, the prohibition of candidacy of anyone who is employed by the state unduly restricts the right to be elected.⁶³

58 U.N., ICCPR, Art. 22 and 25; and UNHRC, General Comment 25

59 U.N., ICCPR, Art. 25 (a). UNHRC, General Comment 25, para. 15

60 UNHRC, General Comment 25, para. 15–17

61 U.N., ICCPR, Articles 9, 12, 19 and 22; and UNRC, General Comment 24, para. 25

62 U.N., ICCPR, Art 22(2). International standards allow restrictions on freedom of association only under certain circumstances “necessary in a democratic society,” for instance, restrictions on police and armed forces may be permissible.

63 U.N., ICCPR, Article 25(b); and UNHRC, General Comment 25, para. 11



The Carter Center

Nepalis attend a political rally.

The law requires a fee for a candidate to run under the first-past-the-post system and for a candidate list to be entered under the proportional representation system. For House of Representatives first-past-the-post candidates, the fee was 10,000 NPR (approximately \$90) and 5,000 NPR for provincial first-past-the-post candidates. For women, Dalit or minority communities, and candidates with limited financial means, the fee was decreased by 50%. The fee for submitting a PR candidate list for the House of Representatives was 50,000 NPR and at the provincial level 25,000 NPR. If a first-past-the-post candidate received less than 10% of the total valid votes cast in the constituency, or if the party failed to secure a seat under the PR system, the fee was forfeited.

Candidate Registration

The candidate registration process for the federal and provincial elections was inclusive and well-run,

allowing voters to have a wide range of choice. Nevertheless, the extremely short period between the end of candidate nomination and polling day created a significant challenge for administrators, particularly during Phase 1. The proportional representation lists were only finalized following publication of the final first-past-the-post and PR lists, five days prior to election day. This disadvantaged smaller parties, which did not have adequate time to inform voters about the party symbols assigned to them and for the voters to become familiar with them. (Parties that had seats in Parliament used their established ballot symbols.) This is particularly important considering that only symbols are included in the ballots for both first-past-the-post and PR races.

According to information provided to The Carter Center by the election commission, there were 1,798 first-past-the-post candidates for the House of Representatives and 2,999 first-past-the-post

candidates in total for the provincial assemblies.⁶⁴ The nomination process was dominated by male candidates. Of the House of Representatives first-past-the-post candidates, 92% were men and 8% were women, and of the first-past-the-post candidates for the provincial assemblies, 93% were male and 7% were female. Although 88 parties had expressed interest in running for the PR races, only 49 submitted lists, partly due to the numerous alliances that were formed during the period immediately before nomination, i.e., political alliances by the big parties and alliances of small parties fueled by the threshold requirements. After publishing the preliminary closed PR lists on Nov. 3, 2017, the ECN accepted claims and objections Nov. 4-10.⁶⁵ The final lists of all candidates were published on Nov. 19.

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Electoral Campaign

International standards call for the legal framework to ensure fair conditions for exercising the right to seek to be elected and provide the electorate with information that is relevant to making electoral choices. A genuinely democratic election requires a campaign period in which rights such as freedom of opinion and expression, freedom of association, freedom of movement, security of the person, and access to information are respected.⁶⁶ The effective implementation of the right to stand for elective office ensures that voters have a free choice of candidates.⁶⁷ The laws and regulations should be able to

guarantee that citizens are able to learn about those who are running for public office free from intimidation, violence, or other forms of coercion.

In Nepal, the conduct of the campaign is regulated by the House of Representatives Election Act, corresponding regulations and directives, and the Code of Conduct issued by the Election Commission of Nepal. The legal and regulatory framework respects the basic rights to participate in public affairs and ensures that each political party and candidate enjoys the rights to freedom of expression and association and has access to the electorate.

The announcement by the CPN-UML and CPN-MC that they would run as a “leftist” alliance and merge after the elections was a major and unexpected development. These parties coordinated to ensure that they would not put forward competing first-past-the-post candidates. Other parties also moved to form alliances, including what was called a “democratic alliance” consisting of Nepali Congress and smaller parties. Several other smaller parties also merged in order to overcome the introduction of PR thresholds.

Carter Center observers reported that political parties actively campaigned through both phases of election, with activity increasing in the Phase 2 districts during the last days before the silence period. The most active parties were the largest three: CPN-UML, CPN-MC, and Nepali Congress. Rastriya Janata Party Nepal and Federal Socialist Forum, Nepal (FSFN) were reported by Carter Center observers as very active in Province 2, and as active in Province 5. Some other smaller parties (e.g., Rastriya Prajatantra Party Nepal and Rastriya Prajatantra Party) were reported as active across most of the country, but to a lesser extent than the larger, better-resourced parties. Other parties were observed as active only in specific districts or strongholds (e.g., Bibeksheel Sajha Party and Naya Shakti Nepal).

⁶⁴ The numbers of candidates were provided by the ECN during the conduct of the election mission but may not be final. Other domestic and international observers have published slightly different numbers.

⁶⁵ The list of first-past-the-post candidates for Phase 1 was published on Oct. 25 and for Phase 2 on Nov 5.

⁶⁶ ICCPR, Articles 9, 12, 19, and 22; and UNHRC, General Comment 25, para. 25

⁶⁷ ICCPR, Article 25 (a). UNHRC, General Comment 25, para. 15

Most parties and candidates conducted door-to-door campaigns, with the three largest parties holding rallies in urban centers. Carter Center observers attended several larger rallies and reported them to be peaceful. Observers reported that the issues commonly discussed during campaigning and rallies were development, political stability, and the future location of provincial capitals. Reconstruction was a prominent issue discussed in earthquake-impacted districts. Recent flooding and recovery also became a key campaign issue in several Tarai and hill districts. In Jhapa district, a Nepali Congress candidate had to end aid distribution to flood victims after the district returning officer ruled it as being in violation of the Code of Conduct.

The campaign period was marred by incidents of election-related violence in many districts, often through use of improvised explosive devices (IED). Throughout the campaign period, there were reports of over 70 attacks directed at political party and independent candidates, party offices, or campaign events, and dozens of other IED attacks on polling locations or other places. While the attacks seemed primarily designed to intimidate, a number of candidates, supporters, and others suffered injuries, and one temporary policeman was killed by an IED in Dang district. Despite the attacks, most parties and candidates continued to exercise their fundamental rights of freedom of expression, association, and assembly (see the Election-Related Violence section). Nonetheless, many stakeholders expressed dissatisfaction with government actions aimed at curbing violence, while others expressed concern about “preventive” detentions in different locations across the country in the weeks prior to both Phase 1 and Phase 2 polling.⁶⁸

Campaign Finance

International standards call for reasonable limitations on campaign expenditures and the need for transparency in the funding of candidatures for public elected office.⁶⁹ To be effective, a campaign finance system should comprise two important features: a robust and clear legal framework and enforcement mechanisms to hold electoral actors accountable. To achieve this, the campaign finance system should include regulations pertaining to the sources of funding, expenditures, reporting, and disclosure requirements as well as oversight and sanctioning mechanisms.

Despite the attacks, most parties and candidates continued to exercise their fundamental rights of freedom of expression, association, and assembly.

Campaign finance in Nepal is regulated by provisions scattered across different legislative acts.⁷⁰ The House of Representatives Election Act, the Election Commission Act, and the State Assemblies Election Act contain regulations pertaining to spending limits and reporting of campaign finances. The legislative framework does not contain any regulations regarding the sources of campaign funding and enforcement mechanisms.

The ECN published the spending limits for candidates running for different types of seats in the Nepal Gazette. The limits were the same as in 2013 (taking into account currency value changes). According to the House of Representatives Election

68 Carter Center observer teams reported that “preventative” detentions occurred prior to election day in Baitadi, Bhojpur, Khotang, Rolpa, and Surkhet districts. There were further reports by media outlets of additional arrests throughout the election period.

69 UNHRC, General Comment 25, para. 19: “Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined, or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party.” In addition, the UN Convention Against Corruption, Article 7.3: “Each state party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidates for elected public office and, where applicable, the funding of political parties.”

70 Political party financing is regulated by the Law on Political Parties. The law regulates party financing and funding, which can be sourced from membership fees, financial contributions, fundraising activities, proceeds of sale from publication and party assets, and interest from deposits. Voluntary financial contribution from a citizen or corporation is allowed but not from government offices, organizations, or individuals. Parties must maintain actual account of their income and expenditure records and have the same audited and submit audit reports to the election commission.

Act and the State Assemblies Election Act,⁷¹ the election period during which spending limits apply spans from the filing date for candidate registration until the announcement of the election results. Spending limits in first-past-the-post elections were capped at NPR 2,500,000 (\$24,250) per candidate for the House of Representatives and at NPR 1,500,000 (\$14,550) per candidate for provincial assemblies. For proportional representation elections, maximum spending limits for political parties are determined by the number of candidates endorsed by the party. Each political party could spend up to NPR 200,000 (\$1,940) per candidate for the House of Representatives and NPR 150,000 (\$1,455) per candidate for provincial assemblies.

More detailed campaign finance regulations are contained in the Code of Conduct issued by the ECN. While the Code of Conduct is legally binding, many of its provisions related to campaign finance would be better situated in legislation.

More detailed campaign finance regulations are contained in the Code of Conduct issued by the ECN.⁷² While the Code of Conduct is legally binding, many of its provisions related to campaign finance would be better situated in legislation. The code requires candidates and political parties to open a dedicated bank account through which all campaign finance-related financial transactions go

and requires that all donations above NPR 5000 be received through the bank account. The code also prohibits the use of public resources at the national and local level, in line with international good practice.⁷³ However, there were accusations that the ruling party misused state resources on occasion, including the use of government transport during the campaign. Carter Center observers also noted multiple cases in which candidates from various parties were reported to have taken advantage of their official positions during campaigning.⁷⁴

By law, candidates and political parties are required to submit a report on their campaign expenditures to the election commission within a month of the announcement of results.⁷⁵ The Code of Conduct states that candidates and political parties must maintain and keep records of the bills and receipts of campaign expenses as well as the statements of accounts maintained in a bank or financial institution. When reviewing reports from candidates and political parties, the ECN can require electoral actors to submit the originals of the supporting documents, i.e., bills, receipts, and bank statements.⁷⁶

However, the commission's oversight remit is limited, as it does not have clear legal authority and necessary resources to carry out comprehensive supervision of campaign financing. For example, the legislation does not appear to give the ECN the power to carry out a comprehensive review of financial reports. The commission also is not mandated to publish political party and candidate reports on campaign expenditures, which limits transparency and is contrary to international standards.⁷⁷ The legal framework does not require candidates and

71 Article 72 of both acts

72 The Code of Conduct is a comprehensive document that must be adhered to not only by the candidates but also by the government, local bodies, and public institutions; employees; and mass media, nongovernmental organizations, and observers.

73 See paragraph B.4 of the 2016 New Delhi Declaration on Political Finance Regulation in South Asia "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."

74 During a rally held in Lamaki of Kailali district of Province 7, the prime minister was reported to have used a Nepali army helicopter as a means of transportation to the rally and used a government vehicle to move between the rally point and the helicopter landing point. In Kalikot, there were reports of Nepali Congress candidates using government vehicles during campaigns. In Kailali district, the Bibeksheel Sajha party candidate alleged that public officials and servants (like the mayor) worked to support Nepali Congress candidates, including the prime minister's wife, who was running for Parliament from the district.

75 There appears to be a discrepancy between Art 25 of the Election Commission Act (30 days) and Art 72 of the House of Representatives Election Act and the State Assemblies Election Act (35 days).

76 Code of Conduct available at <https://nepal.ec-undp-electoralassistance.org/wp-content/uploads/sites/16/2018/12/ec-undp-jtf-nepal-resources-publications-election-code-of-conduct-2015.pdf>

77 See Article e7.3 of the U.N. Convention Against Corruption.

political parties to report on their sources of funding, which is at odds with international good practice.⁷⁸

The Election Commission of Nepal is vested with sanctioning power that ranges from issuing a fine in case of overspending or late submission of the report to ineligibility to run in elections for a period of up to six years in case of absence of payment of fines. The commission issues sanctions after giving the concerned candidate/political party time to respond.

Overall, the information on political party and candidate campaign income and spending lacked transparency. The role of money in the electoral process was highlighted by many stakeholders, including by the ECN. There was much public criticism of gaps in enforcement—or uneven enforcement—of the Code of Conduct, particularly in terms of campaign expenditures that clearly exceeded the prescribed ceiling.⁷⁹ The commission failed to establish efficient monitoring mechanisms of campaign spending and to deal in a consistent manner with violations.

There are several aspects of the legislative framework relating to campaign finance and its implementation that should be reformed to increase transparency and bring campaign finance regulation fully in line with international commitments and good practice. Moreover, the dispersion of rules across various legal instruments makes enforcement more difficult and creates some room for circumvention of regulations. The absence of a principal (and unified) law for regulating campaign finance is a major gap in the legal framework.

The Media

International obligations related to the media and elections included freedom of expression and

opinion and the right to seek, receive, and impart information through a range of media.⁸⁰

While the Carter Center observation mission did not conduct comprehensive media monitoring, it found that the media were generally able to offer voters access to competing points of view. The Center, however, did receive more than a dozen reports of journalists being detained, threatened, and attacked over the course of the elections. These incidents undermined media freedom and were condemned by entities monitoring freedom of expression and representing journalists in Nepal.⁸¹

While the Carter Center observation mission did not conduct comprehensive media monitoring, it found that the media were generally able to offer voters access to competing points of view.

The constitution and several laws provide the overall regulatory framework for media in Nepal. Provisions of the ECN's Code of Conduct regulated the activities of mass media and social media directly related to the elections.⁸² As during 2013, one provision stated that the transmission of news, including on social media platforms, should be unbiased and based on facts, without giving special treatment to any one candidate or party. The code further required the media to provide equal opportunities for parties and candidates but did not require that time be allocated for parties to publicize their programs on government-owned TV and radio stations.

The Carter Center found there to be a high volume and wide variety of print, TV, and online

78 See paragraph B.7 of the 2016 New Delhi Declaration on Political Finance Regulation in South Asia “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.”

79 See the report of the Election Observation Committee on campaign finance:

www.eocnepal.org.np/wp-content/uploads/2018/08/Study-on-the-Election-Campaign-Finance-2017.pdf

80 ICCPR, Article 19. UNHRC, General Comment 25, para. 25

81 For example, Freedom Forum Nepal and the Federation of Nepali Journalists

82 Chapter 5, Section 14. “Code of Conduct to be followed by Mass Media,” is the main section in the Election Commission of Nepal’s Election Code of Conduct 2072 (2015) that directly pertains to the actions of media during the elections. <http://www.election.gov.np/ecn/uploads/userfiles/Election20CoC20-20English1.pdf>

news pertaining to the elections leading up to and during the campaign at the national level. Carter Center observers reported that political parties and candidates in general appeared to have good access to the local media in areas visited. However, in some remote locations, observers were told that citizens had little to no access to media and thus were largely unaware of the election campaign and, in some circumstances, of the election process. This was observed to be most acute in the very remote hill districts of Provinces 1, 6, and 7.

The Carter Center found there to be a high volume and wide variety of print, TV, and online news pertaining to the elections leading up to and during the campaign at the national level.

Observers for the most part noted that much of the local media was working to report in an accurate and impartial manner. However, and as in the 2013 elections, there were claims that local media were sometimes polarized and that local media outlets in certain communities were partisan due to their ownership or affiliation with a particular party or ideological group.

Carter Center observers noted that the media generally respected the 48-hour silence period in places visited. However, some infractions were committed by media houses and parties alike on the local and national levels.⁸³ The ECN asked for clarification in at least two cases of apparent violation, but no further actions were reported to have been taken.

Citizen Observation

The right of citizens to participate in the public affairs of their country, including through election observation, is a key international obligation for democratic elections.⁸⁴ Observation plays an

essential role in upholding an electoral process that is transparent and accountable and in which participants can have confidence.

Citizen observer groups were active throughout the 2017 provincial and federal elections, although in a somewhat different format than during previous elections. The ECN accredited 20 long-term and 16 short-term citizen observer groups. Some focused primarily on specific aspects of the process, such as gender or the rights of disadvantaged groups. There was a smaller number of citizen observers present than during previous elections, due in part to financial constraints and the tight time frame in which the elections were conducted but also because domestic observation networks decided to focus more on qualitative observation rather than trying to deploy large numbers of observers.

Many of the citizen observer groups participated in the Election Observation Coordination Group to better coordinate their efforts. These included the National Election Observation Committee, the General Election Observation Committee, Sankalpa, Democracy Resource Center Nepal, and News Club Nepal, among others. The pre- and postelection reporting of citizen observation groups, including analysis of election-related violence that DRCN provided on a regular basis, greatly contributed to the transparency of the process.

While observers were in practice able to observe many aspects of the electoral process, there were issues with the law, rules, and procedures for accreditation that limited their efforts. The legislation is silent on the presence of observers at ECN meetings and the printing of ballots, does not clearly define the rights of observers, and opens the possibility for election officials to deny access. Notably, the law does not require election officers to allow observers to be present in counting centers and does not require them to state the grounds for denying access. While Carter Center observers reported few issues with citizen observer access during the preelection period and during polling on election day, there was an increase in the number of citizen observer

⁸³ The Code of Conduct further required media outlets to respect the legal 48-hour silence period.

⁸⁴ ICCPR, Article 25(a); UNHRC, General Comment 25, paras. 8 and 20

teams denied entry at counting centers, often without receiving a justification.

Restrictive rules concerning the nomination of observers (which The Carter Center highlighted in 2013) also remained in place, including requirements that citizen observers be 21 years old and have specific educational qualifications. These requirements were more stringent than the requirements to become a voter and impinged upon the right of some citizens to take part in the public affairs of their country. Similarly, several citizen observer groups reported that the accreditation process was more bureaucratic and time-consuming than during previous elections, resulting in a substantial additional burden and delays in observer deployment.

While the international obligation to permit citizen observation was largely respected, some steps should be taken to increase transparency, including more clearly defining the rights of observers in legislation and including the right to be present during the counting process; easing restrictive rules for becoming an observer; and reviewing the accreditation process to ensure that it is not unnecessarily burdensome.

Electoral Dispute Resolution

International obligations require effective, clear, and fair procedures for resolving electoral disputes, including ensuring that everyone has the right to an effective remedy before a competent



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national tribunal for acts that violate their rights or freedoms.⁸⁵

Legal Provisions

Nepal's legal framework for dispute resolution allows pre- and postelection remedies—from voter registration to petitioning to annulling election results—and provides penalties for prohibited conduct. Although comprehensive, it is scattered in various laws, regulations, and directives that include the Election Commission Act,⁸⁶ Electoral Rolls Act,⁸⁷ Election of Members to the House of Representatives Regulation⁸⁸, Election of Members to the Provincial Assembly Regulation,⁸⁹ House of Representative and State Assemblies

Nepalis attend a pro-royal rally in Ason Chowk, one of the oldest and busiest marketplaces in Kathmandu.

85 U.N., ICCPR, Art. 2(3)

86 Sec. 9 and 10

87 Sec. 10, 11, 14–18 and 31

88 Sec. 49

89 Sec. 49

Election Dispute Resolution Directive,⁹⁰ Election (Offences and Punishment) Act,⁹¹ and the Code of Conduct. The Election (Offences and Punishment) Act enumerates a wide-ranging list of electoral offences that are punishable by fines and/or prison sentences, while the Code of Conduct also regulates the conduct, including penalties, of candidates, political parties, the government of Nepal, public bodies, the media, electoral staff, nongovernmental organizations, observers, and the public.

Most of the complaints received by the ECN before voting were for violation of the Code of Conduct.

Pre-election disputes can be resolved by the name registration officer, polling officer, or returning officer depending on the nature of the dispute or complaint. The ECN has jurisdiction over complaints pertaining to the eligibility of a candidate (i.e., when filed before declaration of results) and the power to cancel polling in a constituency or any polling center if it determines that the election is not free and impartial. It can also impose penalties, including the cancellation of candidacy, for major violations of the Code of Conduct. Aside from the ECN, the district courts, polling officers, and the commission's monitor and returning officer have authority to impose sanctions, depending on the nature of the violation. Decisions of the commission on the candidate's qualification or disqualification and imposition of penalties by district courts can be appealed to the High Court.

Post-election complaints can be filed with the Supreme Court for (1) invalidation of the candidacy or disqualification of a candidate after the announcement of election results; (2) the annulment of elections, and (3) petition for recount.

Prepolling Electoral Dispute Resolution

Most of the complaints received by the ECN before voting were for violation of the Code of Conduct. The commission did not provide an official number of complaints. Media accounts cited hundreds of complaints, but these were also difficult to verify since many of the cases were resolved informally with no formal records and reporting. As was the case in past elections, the commission often resolved complaints informally by giving warnings to candidates or parties and asking them to correct, or to desist from committing again, the reported violation.

A handful of complaints questioning the eligibility of nominated candidates for the House of Representatives and provincial assemblies were filed with the ECN before the elections. Of 10 complaints received, the commission invalidated three candidacies. Although the legal framework does not specify appellate remedies for reviewing the commission's decisions, the Supreme Court allowed and heard the appeals by the candidates pursuant to its plenary power of judicial review. The Supreme Court upheld the commission's decisions in all instances.

The disenfranchisement of polling staff and security personnel was challenged at the Supreme Court in the form of a writ petition.⁹² On Nov. 6, the Supreme Court decided not to issue an interim order in response to the petition and at the same time indicated that the ECN would consider ways to ensure polling staff and security personnel could exercise the right to vote. The ECN formed a committee to determine the feasibility of expanding franchise to these individuals but ultimately did not take measures to enable them to vote.

The election commission's decision to have two ballots (one for PR and one for first-past-the-post) with two choices on each ballot (one for the House of Representatives and one for the provincial assemblies) was also challenged in court. This resulted in a Supreme Court decision to split the first-past-the-post ballot into two separate ballots.

90 Sec. 5-7

91 Sec. 43, 44, 46, and 47

92 Filed by Deputy Attorney General Bharat Prasad Mainali, the writ sought to ensure that the ECN and other responsible government authorities facilitate the constitutionally guaranteed voting rights for polling staff and security personnel.

This late change impacted the ECN's operational preparations and voter education efforts.

At district level, the election dispute resolution mechanism often did not increase accountability. Carter Center long-term observers reported that in Kailali, Salayan, and Surkhet districts, some political parties and candidates did not trust that election officials would follow up on complaints about Code of Conduct violations. Similarly, in Nuwakot and Sindhupalchowk districts, political parties provided observers with examples of the Nepal police not addressing reported complaints. There were also allegations from political parties of incidents in which police discouraged the filing of complaints for Code of Conduct violations and, if complainants persisted, pressured them to accept a resolution that did not address the complaint.

Election-Related Violence

The right to security of the person includes the protection of voters, candidates, polling officials, and observers from coercion, intimidation, and violence.⁹³

The security situation across Nepal was impacted by a number of incidents of election-related violence, including clashes between supporters of rival parties and the use of improvised explosive devices and other violent activities by poll-boycotting parties and unidentified groups.

The government took preparations to provide security for the polls, including deploying additional security forces throughout the campaign period. As noted above, most parties and candidates generally had space to conduct their electoral campaigning and exercise their fundamental rights of freedom of expression, association, and assembly. Nevertheless,

throughout the campaign period there were reports of over 70 attacks directed at political party and independent candidates, party offices, or campaign events, and dozens of other IED attacks on polling locations or other places. While these attacks seemed primarily designed to intimidate, a number of candidates, supporters, and others suffered injuries, and the attacks resulted in one death.

The security situation across Nepal was impacted by a number of incidents of election-related violence, including clashes between supporters of rival parties and the use of improvised explosive devices and other violent activities by poll-boycotting parties and unidentified groups.

During the first phase election campaign period, local monitors tracking election-related violence recorded a substantial increase in the number of violent incidents as campaign activity intensified after candidate nominations were completed.⁹⁴ Incidents largely involved clashes between cadres of different parties, attempts by the Biplav-led CPN-M⁹⁵ to disrupt the elections, and unidentified individuals or groups staging attacks on individual candidates, many involving IEDs.⁹⁶

There was an increase in the number of incidents involving IEDs during the second phase campaign.⁹⁷ Multiple explosive devices targeting prominent candidates from the major political parties led to multiple injuries and the death of a temporary

93 54 ICCPR, Articles 9 and 25; UNHRC, General Comment 25: "People entitled to vote must be free to vote for any candidate for election and for or against any proposal submitted to referendum or plebiscite, and free to support or to oppose government, without undue influence or coercion of any kind which may distort or inhibit the free expression of the elector's will. Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement, or manipulative interference of any kind."

94 Democracy Resource Center Nepal (DRCN), Collective Campaign for Peace (COCAP) and Nepal Monitor worked closely together to track, analyze, and report on incidents of election-related violence through the local, provincial, and parliamentary elections. Reports can be found on the DRCN website: <http://democracyresource.org/political-violence-monitoring/>.

95 The CPN-M, led by Netra Bikram Chand (alias Biplav), splintered from the then-United Communist Party of Nepal-Maoist (UCPN-M) in 2014.

96 For more on incidents prior to the first phase of elections, see the Nov. 23, 2017 "Campaign Period Incidents Prior to First Phase Parliamentary and Provincial Elections" report released by DRCN, COCAP, and Nepal Monitor: <http://democracyresource.org/wp-content/uploads/2017/11/Analysis-Update-15.pdf>.

97 See the Dec. 4, 2017, "Campaign Period Incidents Prior to Second Phase Parliamentary and Provincial Elections" <http://democracyresource.org/wp-content/uploads/2017/12/Analysis-Update-16.pdf>.

policeman in Dang district.⁹⁸ Nepali Congress candidates Narayan Karki and Gagan Thapa were both injured by IEDs while campaigning. The incidents were prominently featured in national media and may have contributed to fears about safety on election day. After the second phase was completed, CPN-M issued a statement that its cadres had caused all election-related explosions.

Communist Party of Nepal- Maoist Boycott of Polls

CPN-M, one of several splinter groups from the main Maoist faction, announced prior to elections that it would boycott and seek to disrupt the polls. Cadres in different districts across the country actively aimed to prevent candidates from running for office and intimidated candidates and voters to prevent them from participating in the elections. The government identified the CPN-M as one of the main security threats to the elections and took steps to detain cadres prior to both polling days. There were multiple reports by Carter Center observers, domestic observers, and the media that local security forces were detaining CPN-M cadres prior to any infraction. Some concerns were expressed about mass “preventive” detentions in the weeks prior to

both phases of polling. In most places visited where CPN-M was active, Carter Center observers noted that local police and security forces felt confident that they could manage the presence of CPN-M cadres present in their areas of responsibility.

Unlike during the 2008 and 2013 elections, there was no active boycott or significant attempt to disrupt the polls by groups in the Tarai or eastern districts of the country. Province 2, which witnessed boycotts, protests, and a high number of incidents leading up to the local elections, had a much lower number of incidents during provincial and federal elections after parties decided to support the polls.

Interparty Clashes

There were multiple clashes between cadres of the main political parties that in several instances led to critical injuries. Dissatisfaction with the arrangements of the electoral alliance between CPN-MC and CPN-UML led to a clash between cadres of the two parties in at least two reported cases before campaigning was underway. However, most reported clashes took place between the cadres of one of the members of the “leftist alliance” and Nepali Congress.⁹⁹

⁹⁸ The Kathmandu Post reported that the incident happened when an IED targeting then-Prime Minister Sher Bahadur Deuba's election rally in the district was detonated. Eight others were reportedly injured by the explosion.

⁹⁹ Clashes that resulted in one or more injuries were reported as occurring in Gorkha, Nawalparasi, Nuwakot, Ramechhap, Rolpa, and Solukhumbu districts during the first and second phase campaign periods.

Election Day

The quality of voting operations on election day and respect for fundamental electoral rights are crucial in determining the extent to which a country has upheld its obligations to conduct democratic elections. In this respect, core obligations under international law require that elections be held by universal suffrage, by secret ballot, free of coercion, and in accordance with the principle of “one person, one vote.”¹⁰⁰ A free voting process in which a citizen can cast a secret ballot free of intimidation or coercion and in which each person’s vote has equal weight is a cornerstone of a democratic election process.

There were 10,671 polling locations and 19,809 polling centers across both phases of election.¹⁰¹ Each polling center had a maximum of 1,064 registered voters. Across both phases, The Carter Center observed at 282 polling centers in 32 of Nepal’s 77 districts. Forty-six percent of polling centers visited were rural and 54% urban.

Opening

Carter Center observers reported that only 22 of 32 polling centers visited for the opening across both phases of elections opened on time (7 a.m.) or by 7:15 a.m. Despite the delays in the remaining polling centers (in six cases over 30

minutes), observer teams positively assessed the conduct of opening procedures (31 of 32 polling centers observed). In most cases, the delays were not related to late arrival of materials but rather to organizational issues and, in a few instances, to late arrival of party and candidate agents. In no case did the delayed opening seem to deter voters from waiting to cast their votes. There were no reports of serious issues with access to opening for observers, although Carter Center observers at one center in Banke district noted that the small size of the room did not provide sufficient space for all international observers, citizen observers, and party agents present. Carter Center observers reported that party agents were present at all 32 polling centers visited and that domestic observers were present at 17 of the 32 centers visited.

Polling

Voters turned out in high numbers across both phases, despite harsh weather conditions in many Phase 1 districts. The ECN estimated voter turnout at 65% during Phase 1 and around 70% during Phase 2.

The conduct of voting generally went well in polling centers observed, with Carter Center observers assessing the overall process and

¹⁰⁰ UDHR, Article 21(3); ICCPR, Article 25(b); UNHRC, General Comment 25, paragraph 20: “...States should take measures to guarantee the requirement of the secrecy of the vote during elections This implies that voters should be protected from any form of coercion or compulsion to disclose how they intend to vote or how they voted and from any unlawful or arbitrary interference with the voting process. UNHRC, General Comment 25, para. 21: “...The principle of one person, one vote, must apply..”

¹⁰¹ A polling location is where each elector is registered to vote. There can be a number of polling centers within a polling location. The polling location assigned to each voter is printed on his/her voter ID card.



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impersonation and that voters have their thumbs marked with indelible ink to prevent multiple voting. There were some issues reported involving the serial numbers on the voter lists being different to those on the voter IDs, but this did not appear to cause significant problems. There was only one report from Carter Center observers of an apparently eligible voter being turned away. Inking was mostly done in accordance with procedures, but in some polling centers, ink was not applied to the correct finger. Observed violations of procedure were isolated and usually appeared to be the result of inexperienced polling staff and over-eager party agents and security staff rather than malfeasance.

As indicated in this report, voters were given three ballot papers, two separate ballots for the first-past-the-post race (one for the House of Representatives and one for the provincial assembly) and a ballot with two separate choices for the PR races (top for the federal race and bottom for the provincial assembly). The first-past-the-post ballots were printed in green for the federal race and black for the provincial race, while the PR ballot was printed in red.¹⁰² Voting was done sequentially: The voter first cast the first-past-the-post ballot for the House of Representatives, then the first-past-the-post ballot for the provincial assembly, and finally, the PR ballot.

The first step in the voting process was the verification by the polling staff that the details of a voter with a voter ID card matched those of the voter list. After signing the voter list, the details of each voter were entered onto the stub of each ballot paper, a practice that does not reflect international good practice as it can leave voters with the impression that their vote is not secret. After receiving their first ballot (House of Representatives first-past-the-post ballot), the voter proceeded to the voting privacy screen and marked the box containing the symbol of the candidate by using the ECN swastika stamp.¹⁰³ The voter cast this ballot in the appropriate ballot box. The voter then repeated this process for their second ballot (provincial assembly first-past-the-post

An election officer uses a voter's ID card to check her name on the polling center's voter registration list.

environment positively in 98% of visits. This assessment was based on the peaceful environment, the smooth conduct of voting, the impartiality of polling staff, and the presence of adequate materials in most polling centers. Voting procedures in most polling centers visited were largely followed: 97% of these activities were assessed positively.

Despite the added complication of the three-ballot decision, the voting procedures were straightforward and, according to Carter Center observers, appeared to be easy to follow. Although there were long queues in some locations, voter flow was generally good, particularly in the larger Phase 2 polling locations. This was facilitated by adequate polling center layout in most cases.

Key aspects of the electoral rules are that voters show photo identification to prevent voter

¹⁰² The color coding was done to reduce the likelihood that ballots would be placed in the wrong ballot box.

¹⁰³ The swastika is an ancient religious symbol common in Nepal.

ballot) and third ballot (PR ballot with both federal and provincial assembly races).

By law, polling staff must ensure secrecy of the vote, although people needing assistance can have someone help them. Secrecy was not always protected, as Carter Center observers reported incidents involving family voting (observed in 4% of polling centers visited), irregular assisted voting¹⁰⁴ (4% of polling centers visited), and other issues with secrecy of the vote (6% of polling centers visited).

Finally, given that regulations stated that the ballot papers had to be signed by the polling officer (the polling center manager), Carter Center observers noted throughout election day that much of the polling officers' efforts and attention went into fulfilling this task. Because of this, some important managerial responsibilities were assumed by junior staff or, in some cases, security staff.

Closing and Transport of Materials

After the close of polling, the polling officer was to seal the ballot boxes with security seals and complete a “recognizance deed” to be signed by the candidates, representatives, and polling agents present at the polling center. An inventory was taken of used and unused ballots, following which unused ballots and polling documents were sealed in separate envelopes. Thereafter, the polling officer was to secure the transport and handover of sensitive materials to their returning officer, including sealed ballot boxes and sealed envelopes containing the ballots and documents. In Phase 1 polling, materials were transported to the counting centers and securely stored until Dec. 7, the end of Phase 2 polling. For Phase 2 polling, materials were to be transported to the counting centers for immediate counting. There



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A Nepali voter places her ballot in the ballot box.

¹⁰⁴ Especially in Phase 1

Professor Dr. Surakiart Sathirathai (far right) and Ambassador Peter Burleigh (second from left), co-leaders of the Carter Center observation mission, talk with a polling station worker.



Kiran Man Chitrakar

were no reports of incidents regarding closing or transport of materials in either Phase 1 or Phase 2.

Closing procedures were assessed positively at 25 of the 27 locations observed by The Carter Center and were done according to the ECN procedures. At two locations visited, observers reported that closing was conducted prior to 5 p.m.; at the time of closing there were no voters remaining in line at either location. In Phase 1, the transport and storage of ballots was assessed positively in all seven instances observed (seven districts in six provinces). Phase 1 ballot boxes were placed under the responsibility of the returning officers, with protection provided by security forces. Equally important, storage remained under the scrutiny of political party agents. Carter Center observers assessed that the storage of Phase 1 ballots was done with adequate security arrangements and that the presence of political party and candidate agents was unhindered. Carter Center observers received no reports of incidents concerning Phase 1 ballot storage. Carter Center observers also did not report any access issues during closing in either phase.

Security

Polling day in both phases was mainly peaceful, with observers assessing the environment in and around polling locations as calm in 97% of visits. During both election days, Carter Center observers reported that a heavy security presence was deployed across the country, with security forces present at all polling locations visited. However, as during the period leading up to the elections, there were several IEDs that were discovered or that detonated in or around polling locations. During Phase 2 polling day, two IEDs were detonated at separate locations in Nawalparasi, injuring six people. There were also media reports of several smaller clashes between parties, including one between party cadres in Bhaktapur that led to at least three injuries.

Party Agent and Citizen Observer Access on Election Days

The high level of citizen engagement as observers and political party/candidate agents was positive and promoted the transparency of election day

processes. Party and candidate agents were present at 97% of polling locations visited by Carter Center observers, and citizen observers were present in 32% of polling centers visited.

Citizen observers and party/candidate agents were able to monitor most aspects of the election day process. Carter Center observers reported a small number of minor incidents involving insufficient access to polling centers (3% of polling centers visited), which in all cases was due to insufficient space at the centers to allow access for all observers and party agents present.

In some cases, Carter Center observers reported that party or candidate agents exceeded their authority and took over some of the responsibilities of the polling staff, particularly regarding the voter verification process. In 2013, the Center observed similar behavior at some locations visited and recommended that additional trainings be offered for party agents prior to election day so that processes are conducted uniformly nationwide.

Participation of Women and Disabled Voters on Election Days

Women turned out in high numbers for both phases of the election, but especially Phase 2. Some interlocutors stated that given the timing of the elections, particularly in the plains, many men had moved to different areas (mainly India) as temporary migrant agricultural workers, and

Carter Center observers noted that there was a high turnout of women at polling stations visited.¹⁰⁵ Women also worked as polling staff, and in some cases as polling officers, but in much lower numbers than men in polling centers observed (42% of polling staff were women, and only 15% of polling officers).

Despite some efforts by the ECN, much remains to be done to facilitate access for disabled voters. Many disabled voters were constrained to using external help for voting, curtailing their secrecy of the vote. Vehicle movement was restricted on election day in Nepal. Although vehicle permits could be obtained, many groups representing disabled people complained that the permits were difficult to obtain and that the movement restrictions hampered access for disabled people as well as elderly and women voters.

An election officer marks a voter's thumb, indicating she has cast her ballot.



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¹⁰⁵ The ECN did not release data on the number of women and men voters during the deployment period of the observation mission.

I Postelection Developments

Vote Counting and Tabulation

The counting and tabulation of results constitute a sensitive and crucial step of the electoral process. The accurate and transparent counting of votes plays an indispensable role in ensuring that the electoral process is genuinely democratic and reflects the will of the voters. International standards require that the vote-counting process be fair, impartial, and transparent.¹⁰⁶ Results should be recorded and reflected in the official announcements, and safeguards must be present to prevent fraud. The process should inspire public trust and confidence.

Nepal's counting process has historically been cumbersome and slow. For the 2017 provincial and parliamentary elections, additional challenges were expected because of the concurrent nature of the elections and the use of three ballot papers for the four elections held in each province.

Counting Context, Modalities, and Directives

The laws and regulations for counting and tabulating the votes are contained in the House of Representatives Election Act and corresponding ECN regulations and directives. According to the law and regulations, the returning officer must commence the counting of votes at the place, date, and time specified in the notice published by the commission, and in the presence of candidates,

representatives, and counting agents, although their absence is not a cause for stopping counting.

In Nepal, ballots are not counted in polling centers but instead are brought to counting centers at district level. As stipulated in the law, all ballots cast in a constituency were to be counted at the counting center for that constituency, which is located at the district headquarters.¹⁰⁷ Counting for both Phase 1 and Phase 2 ballots began only after the closing of the Phase 2 polls, at 5 p.m. on Dec. 7. Despite the ECN directives regarding counting, in many cases, counting was not started until party agents and the returning officer responsible for the constituency reached consensus on how to implement the procedures. Once counting began, rotating teams of officials conducted counting on a 24-hour basis for several days. Carter Center observers were present at 27 counting centers, including six districts where voting took place in Phase 1 and 21 districts where voting took place in Phase 2.

The decision of the ECN to delay the counting of Phase 1 ballots reflected good international practice. To avoid influencing voters' choices, no election results should be announced before all voters have had an opportunity to cast their ballots. The phasing of elections did create certain risks, as Phase 1 ballot boxes needed to be stored for 10 days before being opened for counting. However, as noted, Carter Center observers did not observe or

¹⁰⁶ Universal Declaration of Human Rights, Article 21; International Covenant on Civil and Political Rights (ICCPR), Article 25(b); U.N. Human Rights Committee General Comment 25, para. 20

¹⁰⁷ Therefore, there were 77 counting centers for the 165 constituencies.



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Authorities from the Election Commission of Nepal seal the ballot box at a polling station in Kathmandu Durbar Square.

hear reports of any incidents related to the storage of Phase 1 ballot boxes.

After Phase 1 polling, the ECN issued directives detailing the official counting procedures. There did not appear to be any substantial efforts on the part of the ECN to train counting staff on the implementation of the directives or to distribute the directives widely among stakeholders. The directives were detailed regarding certain aspects of the counting process, yet important gaps remained. These gaps, combined with previous commonly accepted practices and local-level agreements, meant that often the actual procedures in the counting centers diverged from the official directives and instead followed consensus established at the local level between political party agents and counting staff.

Access of Observers and Political Party Agents

International observers, including those from The Carter Center, encountered serious obstacles to access at some counting centers, despite repeated assurances of access from the ECN and despite ECN instructions sent to returning officers after Phase 2 election day to facilitate the presence of international observers. Ultimately, the decision of whether to allow access—and for how long—was left to the returning officers and, in some cases, to security forces.

The counting centers in 16 of the 27 districts in which Carter Center observers were present provided full access to observers.¹⁰⁸ The other 11 restricted Carter Center observer access. Seven observer teams experienced severe limitations, being permitted to observe for only a few minutes

¹⁰⁸ Carter Center observer teams were present in Baitadi, Banke, Bhaktapur, Chitwan, Dadeldhura, Dailekh, Dhanusha, Gulmi, Jhapa, Kailali, Kalikot, Kanchanpur, Kapilbastu, Kaski, Kathmandu, Kavrepalanchowk, Lalitpur, Lamjung, Morang, Nawalparasi, Nuwakot, Paachthar, Parsa, Rautahat, Rolpa, Siraha, and Surkhet.

Ballots are tallied at a district counting center.



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at a time or up to an hour.¹⁰⁹ Three teams reported mixed access, where observers were welcome to observe counting for one constituency but were denied access to observe the counting for another constituency in an adjacent room, or where observer access varied from day to day at the same counting center.¹¹⁰

In one district (Baitadi), the Carter Center team was treated aggressively and was refused access to observe the start of counting. Following ECN intervention, they were given access the following day, but the hostility of staff, party agents, and others led the mission to withdraw the observer team and redeploy it to another constituency.

The reasons for limiting access were not always clear. In several instances, returning officers cited space limitations. In other cases, however, election officials did not provide a reason or stated that

although ECN directives allowed access for international observers, no length of time was specified. In one case, Carter Center observers were asked to leave the counting center temporarily after a dispute arose between party agents.

The European Union electoral observation mission also reported access restrictions at many counting centers. Domestic observers appeared to have more liberal access to counting centers, although Democracy Resource Center Nepal reported the same difficulties as international observers, including that returning officers on several occasions asked them to leave the counting center after a certain period.

Limiting observer access to the counting process is contrary to international standards, to the expressed intent of the election commission directives, and to the terms of observer accreditation.

109 Chitwan, Gulmi, Jhapa, Kailali, Kanchanpur, Nuwakot, Siraha

110 Banke, Kaski, Surkhet

The presence of observers is integral to ensuring the transparency and integrity of an election, and provisions should always be in place to allow adequate access.

Despite limits on observers, party agents were consistently present in counting centers. Political party agents were present in all observed counting centers and were generally allowed to stay throughout the entire process. The Carter Center did not observe any restrictions placed on the work of party agents or hear reports of party agents making substantive complaints about the conduct of counting in any of the counting centers visited.

Despite relatively detailed ECN directives, counting staff and party agents agreed upon vote-counting procedures before counting started. The purpose was to reach consensus and address possible grievances in advance. While this ensured overall acceptance of the process and of the results at the local level, the practice led to inconsistencies from district to district (and sometimes within the same counting center), particularly regarding the validity of ballots.

Overall Assessment of Counting

In the counting centers where Carter Center observers had access, the counting process was generally assessed positively, even though the ECN directives were often not followed precisely or were not implemented in a consistent manner. Some 96% of reports from counting centers where Carter Center observers had access assessed the overall conduct of the count positively, particularly the integrity and accuracy of the count. However, the restricted access of observers undermined the overall transparency of the process. Taking into account the number of counting centers where Carter Center observers were denied access or had only limited access, the number of positive assessments dropped to 82%.

This is an unusually low level of positive assessments when compared with other generally credible elections throughout the world and is indicative of a need to review the counting process to ensure full transparency and consistency. The fact that party agents were unrestricted and that parties did not report significant concerns with the counting mitigates this finding; nevertheless, ensuring respect for

observer access and adherence to ECN procedures are key needs for future elections.

At counting centers where Carter Center observers had meaningful access, the process was generally transparent, although in a few cases observers were not positioned close enough to observe all aspects of the process. The opening of the boxes was done transparently in the presence of party agents. In most cases, ballots were shown to all party and candidate agents. Carter Center observers reported only minor incidents of disagreement on ballot validity, and these were quickly resolved. Each counting center publicly announced partial results at regular intervals.

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Counting Procedures and Operations

Layout and security of counting centers. Overall, the layout of counting centers complied with ECN directives. Carter Center observers confirmed that the layout was adequate in 98% of reports. In major urban areas (particularly in the Kathmandu Valley), counting center locations were spread over various government buildings to ensure better working space, given the high number of constituencies and polling centers involved. In smaller areas, multiple counting centers were in the same building or compound.

Security forces were extensively deployed in and around all counting centers visited. Physical barriers (chicken wire fences) were in place around the actual counting areas, apparently to prevent the destruction of ballots by party agents, which happened during counting in Chitwan district during the 2013 local elections. While the presence of security forces could be interpreted as overwhelming, Carter

Center observers found that the heavy security presence was reassuring to counting staff, political parties, and candidate agents. Nevertheless, security forces in some cases overstepped their role by limiting the access of observers.

In counting centers where Carter Center observers were given access, the deviations from the directives were made in good faith, based on pragmatic considerations to increase efficiency, and did not compromise the integrity or the transparency of the count.

Counting procedures. ECN directives mandated that counting start only after all the ballot boxes from the constituency arrived at the counting center. Following a check of the ballot box seals, each box was to be opened in the presence of party agents and the ballots counted face down to establish the number of ballots in the box. Subsequently, ballots were to be mixed with those from other polling centers as a secrecy safeguard. Only then were they separated into piles for each party/candidate, as well as for invalid ballots, and counted. The counting was to be conducted transparently, with each ballot shown to all observers. As counting was completed, party agents were to sign the counting sheets, and the results certified by the returning officers and made public. A certificate was then to be presented to the winning first-past-the-post candidate, and the results of the proportional representation election were to be transmitted electronically to the ECN for nationwide tabulation.

Throughout the counting process, ECN instructions were widely ignored, as most counting officers (supported by political party agents) found them overly cumbersome and slow.¹¹¹ As a result, the counting of votes advanced at a much quicker pace than foreseen, aided by additional staff in the counting teams. Carter Center observers reported that counting practices varied among constituencies

and counting officers. In counting centers where Carter Center observers were given access, the deviations from the directives were made in good faith, based on pragmatic considerations to increase efficiency, and did not compromise the integrity or the transparency of the count. One important exception involved the mixing of ballot papers: Observers reported that only in a minority of counting centers were the mixing instructions followed. In most instances, ballot reconciliation was not done because the counting teams did not determine the number of ballots in each box prior to mixing, as required by ECN directives. This made reconciliation of the ballots impossible in those cases, which was a serious transparency concern.

As the counting of first-past-the-post ballots was finalized and the process continued with the PR ballots, the proceedings became more informal in many centers, and the presence of party agents decreased in some centers. Partial results were announced at regular intervals, which increased the transparency of the process. In some cases, counting was not done continuously, as established in the directives, but breaks were taken of common accord between counting officials and agents.

Declaration of invalid votes. Determination of the validity of the vote is a sensitive moment in the counting process, with important consequences for compliance with international obligations regarding the universal right to vote. Consistent rules and procedures for the determination of ballot validity during the counting process help to protect the individual voter's right to equal suffrage as well as the overall integrity of the process. The law and the ECN directives were clear and detailed in this respect.¹¹² While most provisions met international standards, some seemed overly restrictive. In particular, a ballot was deemed valid only if the swastika stamp was used; no other mark was allowed. This means that a ballot could be declared invalid even if the intent of the voter was clear.

Although the ECN tried to make the determination of ballot validity more consistent by producing posters for counting center staff summarizing the

¹¹¹ Carter Center observers reported that counting procedures were not strictly adhered to in 52% of reports.

¹¹² Article 22 of the ECN counting directive listed 16 cases in which a ballot paper is considered invalid. It does not reference the intent of the voter.

criteria, determination of ballot validity was in practice often the result of consensus reached at the local level. This sometimes resulted in inconsistencies, even within a counting center. This is an area where regulation and practice should be improved to be more inclusive and consistent and to ensure that voter intent is respected.

End of counting. Counting for first-past-the-post was finalized on Dec. 13, 2017, ahead of schedule. PR ballot counting ended on Dec. 17. The ECN published online progressive and final constituency-wide results for all four elections. At the end of the counting of first-past-the-post ballots, party and candidate agents signed the counting sheets, and the results were certified by the returning officers and made public while certificates were presented to the winning first-past-the-post candidate. Results of the national and provincial PR elections were transmitted electronically to the ECN headquarters for tabulation.¹¹³

Invalid Votes

While there are no international standards for “acceptable” levels of ballot invalidation, voters whose ballots are deemed invalid are effectively disenfranchised. Therefore, it is incumbent on election legislation and authorities to maximize ballot validity.¹¹⁴

Throughout the federal and provincial electoral process, the potential for a high rate of invalid votes was a source of major concern given low levels of civic and voter education conducted around the new election system and voting procedures. Further, the significant changes to the ballot design in late October—switching from two to three ballots for the four races—further contributed to concern regarding invalidation rates.

In December, the election commission announced that the total number of invalid votes across both the first-past-the-post House of Representatives and provincial elections was 5.18%. The ECN did not officially release aggregated



Kishor Sharma

figures for invalidated ballots in the PR elections for the federal or provincial levels, but citizen observer reports provided insight into invalidation rates in these races. The National Election Observation Committee observed that 9.84% of House of Representatives PR votes were spoiled. The Democracy Resource Center Nepal observed that the highest levels of invalidation rates were at the provincial level under the PR system. The organization reported that about 10% of ballots in parliamentary PR races, and almost 15% of ballots in provincial PR races, were invalid across three constituencies in Dang district where observers were present.¹¹⁵

The Carter Center encourages the ECN to release data regarding invalid votes for all races. This

Security personnel collect the sealed ballot boxes from a polling station in Kathmandu Durbar Square.

¹¹³ There were two separate lines of transmission of results to ECN headquarters, one to the PR unit and one to the information technology division. The hard copies transmitted to the PR unit were generated locally on the basis of the electronic data entered into the central database, so the value of the separate double-blind data entry done at the tabulation center was unclear, as the source data was already available electronically.

¹¹⁴ Council of Europe (Venice Commission), Code of Good Practice, sec. 3.2.2.4, para 49

¹¹⁵ Democracy Resource Center, Observation of Nepal's Local Elections 2017 Final Report, November 2017. https://www.democracyresource.org/wp-content/uploads/2017/11/DRCN_Local-Election-Final-Observation-Report_Eng.pdf

Sealed ballot boxes from Phase 1 of the election are stored and guarded until counting begins after Phase 2.



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data would assist in forming a better understanding of invalidation and the development of strategies to reduce invalidation rates in future elections, including potentially through the reconsideration of ballot design, updated voting procedures, and increased voter education.

Tabulation and Announcement of Results

The tabulation of results plays a crucial role in ensuring that the electoral process reflects the will of the voters. International obligations require that the tabulation processes be fair, impartial, and transparent.¹¹⁶

Tabulation of results was the responsibility of the ECN secretary, in his function as chief returning officer, with the technical work being done by the “PR unit” of the ECN (at the Kathmandu headquarters). The PR unit also oversaw the aggregation of the first-past-the-post results, providing an overall national picture. The tabulation of results, *strictu sensu*, was reserved for the PR results for the House of Representatives and for each of the provincial

assemblies. The tabulation was done by a team of officers, most of them seconded from the Bureau of Statistics, where the data was double entered “blindly” by two officers. Positively, the ECN afforded the Carter Center observation mission ample access to the PR unit and the information technology management division to follow the tabulation process.

Determination of winning provisional representation candidates and implementation of quotas. According to ECN regulations, after the returning officer received the counting table from every constituency, valid votes for each party were to be summed. Based on the total votes for a party, the returning officer determined the number of seats to be received by the party as well as the number of seats to be allocated to women and other “clusters.” The determined number of seats was then submitted to the ECN commissioners for approval.

In a change from previous elections, when there was no threshold for representation, the new

¹¹⁶ UDHR, Article 21; ICCPR, Article 25(b); UNHRC General Comment 25, para. 20

electoral laws set a 3% threshold for the House of Representatives PR election, and a 1.5% threshold for the provincial assemblies. Additionally, for a political party to be recognized as a national party, it was required not just to reach the 3% threshold but also to win at least one first-past-the-post seat in the House of Representatives.¹¹⁷

The final announcement of results was done by the ECN secretary, in his capacity as chief returning officer, only after all 165 original results forms were delivered in hard copy to the tabulation center at ECN headquarters. The announcement of the number of PR seats won for each of the provincial assemblies was on Dec. 22, while the number of seats won by political parties for the House of Representatives was only formally announced Feb. 9, 2018.

Initially, these results reflected only the number of PR seats but not the names of the winning candidates. The new provisions to ensure representation of various population groups, including different quotas, delayed the determination of winning candidates for the PR race for both the House of Representatives and provincial assemblies. Similar provisions were also in place during the 2008 and 2013 constituent assembly elections; applying those provisions proved relatively uncomplicated then. Nevertheless, the situation became more problematic for the 2017 provincial and federal elections. The smaller number of members in the provincial assemblies made it more difficult to fulfill the various requirements. In addition, the fact that the proportion of first-past-the-post members in both the provincial assemblies and the House of Representatives had increased vis-a-vis those elected by PR also complicated the application of quotas. Although the ECN took measures to ensure that political parties designed their candidate lists in a manner as to ensure they would meet representation requirements, these measures were not able to completely avoid complications when deciding which candidate received a seat in the PR elections.

The complications arose from the fact the new constitution includes a variety of overlapping representation requirements for different groups (i.e., women, clusters, “backward regions,” and people with disabilities). These requirements apply to different parts of the assemblies (overall for women, only the PR component for clusters) and at different levels of obligation in the law (i.e., mandatory for women’s representation, but only “to the extent possible” for clusters, for parties winning less than 10% of PR seats, individuals with disabilities, and other specified disadvantaged areas).¹¹⁸ Much of the implementation of the representation requirements fell on the PR seats, to which the requirement of “closed lists” also applies, making this process even more complicated.¹¹⁹

Although the ECN took measures to ensure that political parties designed their candidate lists in a manner as to ensure they would meet representation requirements, these measures were not able to completely avoid complications when deciding which candidate received a seat in the PR elections.

The situation was made more difficult by the fact that the number of women candidates was lower than in the past (in some cases significantly lower). Combined with the low number of winning female candidates in the first-past-the-post races, PR lists became the main source of implementing the requirements that women comprised at least one-third of members elected to both the Federal Parliament (House of Representatives and National Assembly combined) and to each provincial assembly.

The ECN devised a system which sought to maximize implementation of the provisions as

117 Chapter 10, Sec. 52, Political Part Act, 2017

118 House of Representatives Election Act, Chapter 8, Sec. 60(8) and Sec. 60(6)

119 While the Constitution stipulated “closed lists” for the PR election, there was still some lack of clarity as to what “closed list” meant. In any case, while the lists were ranked, rigorous application of the listing when determining winners had to give way to mechanisms to ensure compliance with quotas, which in some cases proved problematic.

well as predictability by minimizing the margin for parties to send one candidate rather than another to the various assemblies after the election.¹²⁰ The resulting procedure, which took effect at the PR candidate nomination stage, was complex and not fully understood by everyone. The ECN stood firm when it came to its strict implementation. That led to some back-and-forth exchanges with some political parties, which created conflicts but did not delay the process.

The allocation of House of Representatives PR seats to candidates was delayed, however, because it was ultimately decided that the National Assembly results had to be known first, to comply with the quota for women for the federal Parliament.

The current system does not guarantee that the minimum women's representation requirement is met for all possible results. In fact, it was not met for several parties in the federal Parliament and fell short overall in the assembly of Province 6.

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In the end, the ECN announced the winning PR members of the provincial assemblies on Jan. 17, while the announcement of the winning PR members of the House of Representatives took place on Feb. 14.

Election Results and Formation of Elected Bodies

The ECN announced a total voter turnout of 67.24%. First phase voter turnout was 64.81% (32 districts with 20.7% of registered voters), and second phase turnout was 69.67% (45 districts with 79.3% of registered voters).

All results for the first-past-the-post races for the House of Representatives and provincial assemblies were finalized and released at the constituency level by mid-December 2017. Results for the PR elections for the House of Representatives and provincial assemblies took considerably longer. For the provincial assemblies, the ECN announced the number of seats won by each party in the PR races on Dec. 22, and the names of members elected via PR were released in mid-January 2018. The final number and names of representatives elected to the House of Representatives via PR were announced in the first half of February 2018, only after the National Assembly results were confirmed.

Of the 275 seats in the House of Representatives, the CPN-UML and CPN-MC won a near two-thirds majority with 174 seats, followed by Nepali Congress with 63 seats and the RJPN and SSF-N alliance with 33 seats. The largest number of seats in the House of Representatives first-past-the-post was won by the CPN-UML and CPN-MC alliance, followed in order by NC, RJPN, and SSF-N. Four other parties and one independent candidate secured a seat each through first-past-the-post.¹²¹ Five parties met the threshold to secure PR seats in the House of Representatives.¹²² The CPN-UML and CPN-MC alliance again won the most seats, running on separate party lists. CPN-UML won the highest percentage of the vote, followed closely by NC and then CPN-MC, and RJPN and SSF-N with nearly equal vote percentages.¹²³ After the elections there were nine parties represented in the federal Parliament.

120 Despite the closed lists, there was still some room for parties to maneuver, as parties got to choose which cluster the women representatives would come from. Also, the ECN conceded more margin of maneuver to parties winning less than 10% of seats after RJPN filed a case with the Supreme Court. Finally, the method of implementation of the provision for representation of people with disabilities was never resolved.

121 The CPN-UML won 80 seats through FPTP to the House of Representatives, which was followed by CPN-MC (36), Nepali Congress (23), RJPN (11), SSF-N (10), Naya Shakti (1), RPP (1), Rastriya Janamorcha (1), and Nepal Majdur Kisan Party (1). One independent candidate was elected from Humla.

122 The House of Representatives PR threshold is 3%.

123 CPN-UML (33.25%; 41 seats), NC (32.78%; 40 seats), CPN-MC (13.66%; 17 seats), RJPN (4.95%; 6 seats), and SSF-N (4.93%; 6 seats). There were 44 parties that received a percentage of votes but were below the threshold.



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Nepali citizens celebrate after the announcement of election results.

The largest number of seats in the unicameral provincial assemblies was also won by the CPN-UML and CPN-MC alliance, except in Province 2, where the RJP-N and SSF-N alliance were most successful. CPN-UML won the most seats in all assemblies, except Province 2, and was followed by either Nepali Congress or CPN-MC.

The indirect elections to the National Assembly (upper house) were held on Feb. 7, 2018, after significant delay. Political deadlock over the electoral system to be used held up the passage of the ordinance necessary to conduct the elections.¹²⁴ Of the 59 members, 56 were elected from the seven provinces, with each province electing eight members to the National Assembly via its own

electoral college consisting of elected representatives from the provincial and local levels. The remaining three members of the National Assembly were appointed by the president at the recommendation of the government.¹²⁵ In total, 2,056 elected local and provincial leaders participated in the electoral colleges. In 24 of 56 races, where candidates were unopposed, elections were not held, and winners were announced before the election date.¹²⁶ The elections results mirrored those of the House of Representatives, with the CPN-UML and CPN-MC alliance winning a clear majority of seats, followed by Nepali Congress, and then RJP-N and SSF-N.¹²⁷

The federal bicameral Parliament was sworn in on March 4, 2018. The formation and first meeting

¹²⁴ The major parties disagreed over whether a majoritarian or single transferable voting (STV) system should be used for the elections. Ultimately, a majoritarian system was used to elect the required Dalit and minority/people with disabilities representatives, and STV was used for the remaining six seats.

¹²⁵ The three members were appointed on March 10, 2018.

¹²⁶ In Province 2 there were no elections as all candidates ran unopposed.

¹²⁷ Number of seats per party in the National Assembly: CPN-UML (27), Nepal Congress (13), CPN-MC (12), RJP-N (2), FSF-N (2)

of the lower house of Parliament was delayed due to the ECN withholding final results until the number of women in the National Assembly from each party had been confirmed. Article 84 of the constitution mandates that one-third of all members in the federal Parliament be women, and the commission interpreted this article as meaning seats for the lower house could not be determined until after the National Assembly election results were finalized.

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Electoral Dispute Resolution

Postelectoral disputes generally deal with challenges seeking to contest the outcome of the elections and are typically lodged directly with the court within a specified period. The proceedings are essentially judicial in character, and the burden of proof is on the person who lodges the complaint to demonstrate that there were irregularities in the electoral process. The legal framework in Nepal provides for invalidation of an election or for a recount (both within 15 days of the date of cause of action) in the event of proven irregularities.

As with preelectoral challenges, it was difficult to track the number of complaints made following the declaration of the results. There were a handful of reports of challenges to first-past-the-post results immediately after the elections, all of which failed. For example, a candidate who lost a provincial first-past-the-post race in Province 4 by several votes unsuccessfully challenged the result. However, no major challenge to the federal electoral process or results was lodged. This overall acceptance of the results is a testimony to the credibility of the process.

Participation of Women, Minorities, and People With Disabilities

Participation of Women

International treaties make clear that women should enjoy equal rights to men and that states can and should take temporary special measures to achieve de facto equality for women.¹²⁸ In the 2006 Comprehensive Peace Accord, Nepal's political leadership committed to end all forms of discrimination. This was translated in several constitutional provisions, including as pertains to increased participation of women in politics, in particular the electoral process. This commitment has not yet been fully realized and should be the focus of continued reform efforts.

The constitution establishes that women should constitute at least one-third of the members in all assemblies. However, as there are no quotas for the first-past-the-post races for the House of Representatives and provincial assemblies, the PR component is the mechanism for ensuring minimum representation for women. While the ECN made sure that all political party lists contained at least 50% women as required, there were very few women candidates in the first-past-the-post races. Of the 1,945 first-past-the-post House of Representatives candidates, only 146 were women (7.45%), and of the 3,239 first-past-the-post provincial candidates, only 240 were women (7.4%). There was a strong perception among stakeholders interviewed by Carter Center observers that political parties did not feel women were “winnable”

candidates. Together, the three major parties (Nepali Congress, UML and Maoists) fielded only 24 women candidates for first-past-the-post House of Representatives seats, aiming to ensure women's representation through the PR quotas. Only six women were elected in the first-past-the-post race for the House of Representatives (out of 165 seats) and only 17 women were elected to first-past-the-post seats in the seven provincial assemblies combined (out of 330 seats). The increase in the proportion of first-past-the-post-elected members in the assemblies, the reduction of seats in the federal Parliament, the increased role of money in politics, and internal party policies are all factors that limited the participation of women candidates.

The number of registered male voters (7,776,627) was higher than that of female voters (7,651,140), even though the male population is smaller than the female population.¹²⁹ This disparity indicates a need to increase voter registration outreach to women. The ECN did not publish gender disaggregated data on voter turnout. This information would be helpful for understanding voter turnout and better targeting voter registration and voter information campaigns.

Election day observation indicated that the number of women polling staff—and particularly polling officers—was still considerably less than that of men (in polling centers observed, 42% of polling staff were women, but only 15% of polling officers).

128 U.N. ICCPR, Article 3; U.N. CEDAW, Art. 3

129 According to National Population and Housing Census 2011 data, Nepal has more women (51%) than men (49%).



Patti Daniels

A group of women wait in line to vote during the 2017 Nepal federal and provincial elections. Women constitute only 49.5% of Nepal's registered voters while representing over 50% of the population.

Similarly, 35% of observers and 14% of party agents were female at polling centers observed.

Participation of Minorities and People With Disabilities

International treaties state that temporary special measures for advancing ethnic minorities or groups that have suffered past discrimination may be taken and should not necessarily be considered discriminatory.¹³⁰ States should ensure and promote human rights and fundamental freedoms without any discrimination based on disability.¹³¹

Constitutional provisions for “representation requirements” ensure that, at least through the PR lists, indigenous and minority groups have a level of representation in both the House of Representatives and the provincial assemblies. However, spokespeople for these groups have complained that the quotas benefit already well-represented groups.

While the constitution promotes nondiscrimination, spokespeople for people with disabilities explained that access to the electoral process is still

a major unresolved issue, including access to voter registration, polling, and voter education. Some areas of concern include:

- Polling centers, particularly in more remote locations, remained inaccessible for people with disabilities, and the layout of centers also presented mobility-related challenges¹³².
- The voting process was not conducive to individuals with specific disabilities (for example, tactile voting devices for the blind).
- Limitations placed on who can provide assistance

to voters were overly restrictive: The law says only polling staff or family may provide assistance.

- While the ECN's instruction to returning officers to provide vehicle passes for people with disabilities was positive, in practice the passes were difficult to obtain because of the bureaucracy involved. The restriction on vehicle mobility during election day was often mentioned as hindering the voting rights of people with disabilities as well as the elderly.

Although the ECN made efforts, notably conducting voter awareness sessions with organizations representing people with disabilities, more efforts should be taken to ensure future elections are increasingly disability friendly.

¹³⁰ U.N., International Convention on the Elimination of All Forms of Racial Discrimination, Art. 1(4)

¹³¹ U.N., Convention on the Rights of Persons with Disabilities, Art. 4

¹³² Carter Center observers reported that 29.4% of polling centers visited during the first round of polls were not accessible to physically challenged people, including the elderly, and that 8.8% of polling centers visited during the second round of polling were not accessible. The higher rate of inaccessible centers visited during the first round of polling is likely due in part to the polls being held primarily in hilly and mountainous regions of the country, where accessibility is often reported to be particularly challenging.

Conclusions and Recommendations

Conclusions

The 2017 elections in Nepal were an important achievement, in compliance with the constitutional requirement for conducting elections before the end of January 2018. The implementation of the electoral provisions of the 2015 Constitution constitutes a historic step in the consolidation of the peace process and the new national pact. Amid uncertainties regarding electoral modalities and timetables, as well as continued political dissent by some political forces, the feasibility of respecting the constitutional deadlines was frequently questioned. Nevertheless, the national authorities, the Election Commission of Nepal, and political parties showed considerable commitment to ensuring the electoral time frames were respected. The Nepali people rose to the challenge by responding with enthusiasm to electoral imperatives. It is a significant achievement that despite the odds, Nepal responded positively to the electoral obligations as stipulated by the new constitution.

The ECN performed generally well in view of the major challenges it faced, and the electoral administration in the country continued to strengthen. The 2017 election was still a transitional process, and as a result there are several areas in which reform should be undertaken for Nepal to meet its international commitments for democratic elections. Future elections should take place in a more stable legal environment, allowing for greater advance planning, training of electoral officials, and increased civic and voter education. The Carter Center has identified several electoral practices that could be

strengthened, discussed generally as “considerations” below. Based on those points, recommendations for future electoral processes are outlined in the final section.

1. Overall Considerations

From transitional to ordinary elections: clear timing and sequencing of elections, with medium-term operational planning. The 2017 elections were still transitional in nature, implementing for the first time the electoral provisions in the 2015 Constitution. Therefore, they were conducted under exceptional circumstances, characterized by uncertainties and political and operational challenges, often accounting for the rushed nature of the process. The next elections should be much more “ordinary” in nature, as the transitional nature of the process will no longer apply. As such, for future electoral cycles:

- There should be clarity on setting the election dates, as well as the overall timing and sequencing of the elections, to allow all electoral stakeholders sufficient time to prepare.
- There should be adequate time for the finalization of candidate and party lists to ensure a sufficient time period for campaigning for all parties and candidates.
- There should be an improved operational planning approach within the ECN.

Increasing transparency: toward a more open style of electoral administration. To be a credible election management body, the ECN not only needs to be independent in action and impartial but

also it should appear to be so to stakeholders. The Carter Center’s observation mission noted several steps that the ECN could take in the future to increase transparency:

- Adopting a more open and accessible style of electoral administration
- Establishing a more systematic approach to relations with the electoral stakeholders
- Ensuring public access to electoral information at all stages of the electoral preparations, including detailed presentation of results
- Ensuring reconciliation of ballots at the counting level
- Enabling unrestricted access to electoral observers at all stages of the electoral process, as per international standards.

From “common practice” to established operational procedures: Party agents should monitor accepted procedures, not develop “consensus” at local level. There is currently a distinct disconnect between official directives and “common and accepted practice” in the implementation of the electoral procedures. The gap between official directives and common practice should be closed to reduce levels of inconsistency and diminish risks of electoral disputes. Active participation of political parties in the formulation of directives can and should be maintained but at the national rather than local level. In that context, The Carter Center notes that there is a need to:

- Encourage greater consistency in electoral procedures across the country.
- Clarify that the role of political party agents is to monitor and not to substitute electoral officers.
- Strengthen the role and operational capacities of local electoral staff, particularly strengthening the training of electoral officers. As recommended in the Carter Center’s 2013 report, political party agents should not verify voters at polling centers.
- Strengthen the managerial role of polling officers. Polling officers were often overwhelmed with the task of signing ballot papers, in some cases relinquishing their management role, including enforcement of procedures, to political party agents or security officers.

2. Voter Register

Quality control: consolidating the biometric voter register. While the integrity of the voter register has been substantially improved since the introduction of the biometric register, there are lingering concerns regarding the quality of the information in the voter lists. In this respect, the audit of the register recommended by The Carter Center in 2013 continues to be relevant.

Need to encourage inclusiveness: allowing all eligible citizens to enjoy their right to vote. While the ECN was able to add approximately 1.4 million eligible voters to the electoral roll between the 2017 local elections and the federal and provincial elections, a number of eligible voters were still not included in the roll. As an example, citizens who turned 18 between the registration deadline and the election days could not register to vote. Further, individuals who lacked citizenship certificates were not able to register nor vote. Finally, the introduction of out-of-country registration and voting would enhance the inclusiveness of the voter register and the overall electoral process.

3. Civic and Voter Education

Partnerships for effective and meaningful civic and voter education: from short-term to continuous. In the 2017 elections, civic and voter education efforts fell short of the need and were centered on instructions for ballot marking. With the constitution and the legal framework in place, consideration should be given to making civic and voter education a permanent activity.

4. Other Electoral and Operational Issues

Ballot design: Design user-friendly ballot papers to reduce the number of invalid votes. The number of invalid votes was high in the 2017 elections, in part due to inadequate voter education and complicated ballot design.

Location and method of vote counting: Increase transparency by counting at polling center level. Counting at locations different than the polling center complicates the process and diminishes transparency, besides creating trust issues, not least through the transportation of sensitive materials.

Enhancing the ECN capacities for vote tabulation: Decrease ECN’s dependence on other institutions. Tabulation of the proportional representation results relied exclusively on staff seconded from other state institutions, compromising the ECN’s independence.

Ensuring the universality of the vote: Take measures for electoral and security officials. An estimated 400,000 election officials and security personnel were unable to vote despite provisions in the law providing for the establishment of a temporary electoral roll to facilitate their participation in the PR component of the elections.

Enhancing inclusiveness in the electoral process, in particular people with disabilities: Strengthen current efforts. Despite efforts made to include voters with disabilities, there is still a great need to ensure their inclusion in the electoral process at all levels.

Ensuring greater access to polling: Liberalize movement during polling day for voters with access difficulties. Movement restrictions during polling day have a negative impact on access of people with disabilities, elderly voters, and pregnant women.

Presence and role of security forces: Ensure security without excess. Security was ever present during the 2017 elections, which created an environment of improved safety; nevertheless, in the future such overwhelming presence might be counterproductive, and ways to reduce the security footprint should be considered.

Code of Conduct: Make the code more realistic and more likely to be implemented. The Code of Conduct was overly restrictive and detailed in its regulation of the campaign activities of the candidates and political parties, making it difficult for the ECN to prioritize and act on violations of the more important provisions of the code.

Campaign Finance: Reform the legal framework to increase transparency. There are several aspects of the legislative framework relating to campaign finance and its implementation that should be reformed to increase transparency and bring campaign finance regulation fully in line with international commitments and good practice. Moreover, the dispersion of rules across various legal instruments makes enforcement more difficult and creates room for circumvention of regulations.

The absence of a principal (and unified) law for regulating campaign finance is a gap in the legal framework.

Review election dispute resolution mechanisms: Clarify and inform the public on complaints and appeals mechanisms. Nepal’s election dispute resolution mechanisms are complex and could benefit from review. Electoral stakeholders did not appear to be well-informed about the process for complaints and appeals.

Enhance gender-sensitive elections: Strengthen meaningful participation of women in the electoral process. The electoral administration should build on previous efforts to enhance women’s participation as voters and as election officials. Political parties should take steps to promote meaningful inclusion of women as candidates and party officials.

Recommendations

In a spirit of mutual respect and support, The Carter Center offers the following recommendations:

- 1. To ensure transition from “extraordinary” to “ordinary” elections and to avoid rushed preparations of the electoral processes:**
 - a. The procedure for setting election dates should be reviewed, with the goals of clarity for all stakeholders and respect for the minimum time requirements of the ECN for effective management of the electoral process.
 - b. A well-defined electoral calendar should be adopted early on, clearly indicating the sequencing of elections.
 - c. Phased elections are not ideal and should be avoided; a defined electoral calendar and clear sequencing of electoral events would prevent the need for phased elections.
 - d. Greater transparency in ECN decision making, including making the reasoning for decisions public;
 - e. The deadline for the finalization of the party and candidate lists should be set sufficiently early in the process to give all parties and candidates a reasonable period to campaign and give voters an

opportunity to become familiar with the candidates and with party platforms.

2. To enhance transparency in the electoral administration, the Election Commission of Nepal should:

- a. Consider developing a more explicit institutional policy to ensure systematic and timely communication with all stakeholders, including political parties, civil society, media, observers, and voters.
- b. Coordinate with relevant stakeholders and partners to make all electoral operations, including voter registration and voter education, more effective and accessible to voters in a timely manner. This should include establishing mechanisms for regular consultations with political parties, civil society, and observers at all levels.
- c. Increase the level of information provided in the publication of polling results, including turnout rates per polling center and rates of invalid votes, in a usable manner.
- d. Make public the official number of electoral complaints and their resolution as well as all relevant information regarding electoral complaints.
- e. Review and enforce ballot reconciliation procedures used during counting.
- f. Review regulations and policy to ensure that all aspects of the electoral process are observable, including meetings of electoral officials, the nomination process, the printing of ballots, transport of sensitive material, and tabulation of results, among others.
- g. Ensure that electoral observers, both domestic and international, have unrestricted access to all electoral operations. This can be achieved through specific guarantees for electoral observation within the legal framework as well as issuing clear procedures that ensure rights and responsibilities of observers, instead of leaving observer access to the discretion of local electoral staff.

3. To establish clear operational procedures, the Election Commission of Nepal should:

- a. Engage on mainstreaming work on development of specific and detailed operational regulations

and procedures for various aspects of the electoral process, particularly polling and counting.

- b. Clarify the role of political party agents at the local level, moving from establishing “consensus” at the local level to monitoring implementation of policy established at the national level.
- c. Place a much stronger emphasis on procedural training, particularly for polling and counting staff but also political party agents.
- d. Provide procedural training for all polling and counting staff, not just polling officers and returning officers.
- e. Ensure that identification of voters is done exclusively by polling staff; political party agents should not be allowed to fulfill that role.
- f. Strengthen the management role of polling officers not only through additional instructions and guidelines but also enhanced training.
- g. Delegate ballot paper validation through signatures, or any other modality, to ballot paper issuers.
- h. Clearly differentiate ECN-issued IDs for all stakeholders to ensure that polling staff are readily identifiable and differentiated from political party agents, observers, and media.

4. To enhance the quality of the voter register, the Election Commission of Nepal should:

- a. Conduct a comprehensive audit of the voter register with a view to identifying and correcting errors, including registered voters not on the roll, errors in voters’ information, and discrepancies between ID cards and the voter lists.
- b. Strengthen the technical capacities of electoral officers, including at the local level, such as registration officers and computer operators, through training on the upkeep and update of the voter register on a continuous basis.

5. To make the voter register more inclusive, the Election Commission of Nepal and other authorities should:

- a. When updating the voter register, give special consideration to facilitating registration of

-
- population groups that are underrepresented on the register.
- b. As per the Carter Center’s previous recommendation, review registration requirements to facilitate the registration of all eligible citizens, including married women, indigenous people, the landless, longtime residents who do not have proof of citizenship, and other vulnerable categories.
 - c. Include registered citizens who turn 18 between the registration deadline and election day in the voter rolls.
 - d. Consider exploring methods of making residency easier to prove for election purposes to avoid the need for migrants to travel back to their regions to vote or be disenfranchised. A review of registration regulations and procedures should be considered to allow in-country eligible voters to register and cast their ballot where they are temporarily living or working.
 - e. Consider allowing out-of-country registration (and voting).

6. To strengthen operations, the Election Commission of Nepal and other authorities could consider the following:

- a. Counting votes at polling centers to provide for increased transparency and a more rapid announcement of results.
- b. Transporting ballot boxes from polling centers to ensure maximum transparency if counting centers are used in the future. Ballots boxes should not be temporarily stored at intermediate locations en route but brought directly to the counting centers.
- c. Improving the design of ballot papers to make them more user-friendly.
- d. Training ECN staff on the tabulation process, including all technologies used.
- e. Ensuring that security personnel, civil servants, among others, are able to exercise their right to vote as per the legal provision concerning temporary voters.

- f. Mainstreaming efforts to include voters with disabilities, including increasing the number of polling stations accessible to people with disabilities and ensuring that all electoral procedures are disabled-friendly.
- g. Reducing and eliminating the presence of armed police inside polling stations as well as that of military personnel outside polling centers as security conditions improve.
- h. Reviewing the Code of Conduct to make it more realistic for parties and candidates to implement, ensure that serious violations are prioritized for enforcement action, and sufficiently empower the ECN to act on violations.
- i. Ensuring that a greater number of women are included on the commission itself and among ECN secretariat leadership positions, district election officials, and returning officers, with a goal of parity.

7. To improve civic and voter education efforts, the Election Commission of Nepal could consider:

- a. Launching more comprehensive and longer-term civic and voter education activities in broad partnership with civil society and government agencies.
- b. Implementing civic and voter education efforts continuously, intensifying before and during electoral periods.
- c. Increasing efforts to educate voters on how to mark their ballots, particularly in rural areas, well before election day, in order to reduce the rate of invalid ballots.
- d. Improving training of voter educators by increasing their duration of deployment and making education materials accessible and available to them in a timely manner.
- e. Making voter education resources available in local languages and dialects as well as providing materials designed to assist nonliterate and visually impaired voters.

8. To improve the campaign finance system, the Parliament should consider conducting a review of campaign and political party finance regulations, including the following:

- a. To bring the current legislation in line with international good practice¹³³ and to increase transparency, entrust the ECN with the power to adequately monitor and verify the accuracy of party and candidate financial information submitted and publish party and candidate finance reports as well as the results of the ECN's control findings.
- b. Parties and candidates should be required to identify the sources of funding above a specified amount.
- c. Consolidate campaign finance provisions, including those in the Code of Conduct, into a single law.

9. To improve the election dispute resolution system and candidate registration process, the Election Commission of Nepal and the Parliament should consider:

- a. Reviewing the complaints and appeals system for alleged election day and post-election day violations to clarify potential overlaps in the jurisdiction of the ECN and other courts.
- b. Amending legal requirements for candidate registration to limit restrictions on people employed by the state only to those in positions with a potential conflict of interest.

¹³³ See para. B.9 of the 2016 New Delhi Declaration on Political Finance Regulation in South Asia.

Acknowledgments

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Appendix C

Terms and Abbreviations

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women	FSFN	Federal Socialist Forum, Nepal
CPN-M	Communist Party of Nepal-Maoist	ICCPR	International Covenant on Civil and Political Rights
CPN-MC	Communist Party of Nepal-Maoist Center	IED	Improvised Explosive Device
CPN-UML	Communist Party of Nepal-Unified Marxist-Leninist	NC	Nepali Congress
DRCN	Democracy Resource Center Nepal	PR	Proportional Representation
ECDC	Electoral Constituency Delineation Commission	RJPN	Rastriya Janata Party Nepal
ECN	Election Commission of Nepal	SPA	Seven Party Alliance
		SSF-N	Federal Socialist Forum, Nepal
		UDHR	Universal Declaration of Human Rights
		UNHRC	United Nations Human Rights Committee

Press Releases and Statements



FOR IMMEDIATE RELEASE
Nov. 10, 2017

Carter Center Launches Election Observation Mission in Nepal

KATHMANDU, NEPAL — The Carter Center has launched an international election observation mission to Nepal's Nov. 26 and Dec. 7 parliamentary and provincial elections.

This week, 14 long-term observers will join a core team of five experts led by Field Office Director Carlos Valenzuela. Together, the Carter Center's observer team represent 13 countries. Observers will meet regularly with representatives of the Election Commission of Nepal, political parties and candidates, civil society organizations, domestic observers, the international community, and members of the media. They will assess electoral preparations and the pre-electoral environment, including election administration, campaigning, voter education, and other issues.

The long-term observation team will assess the first phase of elections on Nov. 26 and will be joined for the Dec. 7 second phase of elections by a larger delegation of observers, who will assess the voting, counting, and tabulation processes.

"The Carter Center has a long history in Nepal, and we are honored to be present for the first national-level elections since the adoption of the constitution," said Ambassador (ret.) Mary Ann Peters, the Carter Center's CEO. "We trust the elections will be peaceful and will help consolidate Nepal's democracy."

The Carter Center will assess the electoral process based on Nepal's national legal framework and its obligations for democratic elections contained in regional and international agreements. The Center previously observed Constituent Assembly elections in Nepal in 2008 and 2013. The Center has observed 105 elections in 39 countries and conducts its observation mission in accordance with the Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers.

###



Carter Center Election Delegation Arrives in Kathmandu

FOR IMMEDIATE RELEASE
Dec. 1, 2017

KATHMANDU — The Carter Center's election observation mission enters a new phase Saturday with the arrival of the short-term observer delegation in advance of phase two of Nepal's parliamentary and provincial elections, to be held on Dec. 7. The delegation will be co- led by His Excellency Dr. Surakiart Sathirathai, who formerly served as deputy prime minister and foreign minister of Thailand, and former U.S. Ambassador Peter Burleigh.

"This election is an important one in consolidating Nepal's democratic transition," said Burleigh. "As impartial observers, we're here to report on what we see before, during, and after election day, and the extent to which the process meets international standards for democratic elections. We're honored to be a part of this important moment in Nepal's history."

In September, The Carter Center was accredited to observe the elections by the Election Commission of Nepal. The Center began deploying its core team of five experts in October and 14 long-term observers in November. The team has observed the conduct of the campaign and electoral processes in all seven provinces. For phase one of the elections, on Nov. 26, The Carter Center observed in 77 polling centers in eight districts. With the arrival of the short-term observers, the team will include more than 60 accredited observers from 34 countries. After briefings in Kathmandu, observers will deploy to all provinces in multinational teams to assess the voting and counting processes.

The Carter Center is an independent organization and will inform the authorities and people of Nepal of its findings from both phases of the election through the release of a preliminary statement on Dec. 9. This will be followed by a comprehensive final report with recommendations in the months following the polls. The Center's observers will assess Nepal's electoral process against the domestic legal framework as well as obligations derived from international treaties and international election standards. The Carter Center conducts its election observation in accordance with the Declaration of Principles for International Election Observation and the accompanying code of conduct. This will be the 106th election observed by The Carter Center. The Center observed Nepal's Constituent Assembly elections in 2008 and 2013.

###



FOR IMMEDIATE RELEASE
Dec. 9, 2017

Carter Center Commends Nepal's Voting Process

KATHMANDU — In a preliminary statement released today, The Carter Center said that despite political tensions and logistical and operational challenges, the voting process in Nepal's 2017 federal and provincial elections has generally been well-conducted.

Today's statement is a preliminary one. Counting is still ongoing, and the final tabulation and publication of results will not be completed for several days. Because of this, The Carter Center cannot yet provide an assessment of several key processes or make an assessment of the conduct of the electoral process as a whole. The Center will continue to observe counting and vote tabulation and will remain in Nepal to observe the post-election environment, releasing its final report only after the entire electoral process is complete.

If the remaining stages of the process are completed successfully and transparently, the election will be a positive step in implementing the country's new constitution and consolidating its political transition.

The Carter Center observed both phases of Nepal's election. On Phase 1 election day, on Nov. 26, 16 observers visited 68 polling centers in the six provinces where voting took place. For Phase 2 polling on Dec. 7, a total of 64 observers from 34 countries were mobilized across all seven provinces, visiting 214 polling centers. In total, the Center observed election-day procedures in 32 districts and 282 polling centers.

Carter Center observers assessed the conduct of voting on both election days as positive in 97 percent of polling centers visited. Voting was conducted in a peaceful, orderly manner, although ongoing violence occasioned a heavy security presence at all polling locations. Some issues were observed in assuring the secrecy of the vote, family voting, and improper assisted voting, but these cases were relatively isolated. Observers reported that party and candidate agents were present in 97 percent of polling centers visited, and domestic observers were active in 32 percent of those centers.

Counting for both phases of elections began after polling closed on Dec. 7. At the time of this statement, many counting centers, especially in Phase 2 districts, had just begun their work. Carter Center teams are observing the counting of ballot papers in 24 of the 77 counting centers.

It is important to note that observers' access to the counting process has been restricted in several locations, which hinders the effectiveness of election observers. The Center urges the Election Commission of Nepal to ensure that all aspects of counting and tabulation of votes, including at the central level, are fully open to international and domestic citizen observers.

The Carter Center commended the authorities, particularly the ECN, for organizing the elections within the constitutional deadline despite political tensions, logistical and operational challenges, and tight timelines. It further commended the ECN for its efforts to ensure that as many citizens as possible were registered before the elections were called, allowing close to 1.4 million additional registrations. To ensure maximum participation, the ECN allowed registered voters without a voter ID to vote with any other ID.

However, the Center said, the fact that hundreds of thousands of polling staff and security personnel were unable to exercise their right to vote is a significant issue and not in accordance with previous Nepali practice or with international standards.

In addition, the Center expressed concern about the lack of representation for women and minorities and noted that voter education efforts were insufficient. The complete report is available [here](#).

Background:

The Carter Center election observation mission has been in Nepal since October 2017, following an invitation from the Elections Commission of Nepal. The elections were held simultaneously but in two phases: on Nov. 26 and Dec. 7. The Carter Center mission was led by former Deputy Prime Minister of Thailand Dr. Surakiart Sathirathai and former U.S. Ambassador Peter Burleigh. Following the arrival of five core team experts, 14 long-term observers were deployed throughout the country in November to assess the electoral preparations. They were joined by a short-term delegation for Phase 2, bringing the total number of observers on the ground on Phase 2 election day to 64. The Carter Center mission will continue to observe counting and vote tabulation and will remain in Nepal to observe the post-election environment. The Carter Center assesses elections against the national legal framework and international standards for democratic elections and conducts its observation missions in accordance with the Declaration of Principles for International Election Observation.

###

THE
CARTER CENTER



Waging Peace. Fighting Disease. Building Hope.

**ELECTION OBSERVATION MISSION
NEPAL, FEDERAL AND PROVINCIAL ELECTIONS, 2017**

PRELIMINARY STATEMENT

Kathmandu, December 9, 2017

The Carter Center election observation mission has been in Nepal since October 2017, following an invitation from the Election Commission of Nepal (ECN) to observe the election of the House of Representatives and provincial assemblies. The elections were held simultaneously but in two phases: on Nov. 26 and Dec. 7. The Carter Center mission was led by former Deputy Prime Minister of Thailand Dr. Surakiart Sathirathai and former U.S. Ambassador Peter Burleigh. Following the arrival of five core team experts, 14 long-term observers were deployed throughout the country in November to assess the electoral preparations. On Phase 1 election day, 16 observers visited 68 polling centers in the six provinces where voting took place to observe voting and the transport of sensitive materials. For Phase 2 polling, a total of 64 observers from 34 countries were mobilized across all seven provinces, visiting 214 polling centers. In total, The Carter Center observed election-day procedures in 32 districts and 282 polling centers. Teams are observing counting of ballot papers in 24 of the 77 counting centers. The Carter Center mission will continue to observe counting and vote tabulation and will remain in Nepal to observe the post-election environment. The Carter Center assesses elections against the national legal framework and international standards for democratic elections and conducts its observation missions in accordance with the Declaration of Principles for International Election Observation.

This statement is preliminary; a final report will be published after the end of the electoral process.

Executive Summary

With the important caveats that counting is still ongoing and that there are number of aspects of the election process that need further improvement, The Carter Center's observation mission for Nepal's 2017 federal and provincial elections has found that the process has been generally well-conducted thus far. Despite political tensions, logistical and operational challenges, and tight timelines, the authorities, in particular the Election Commission of Nepal (ECN), organized the elections within the constitutional deadline. Carter Center observers assessed the conduct of voting

in both phases of the elections positively. It is important to note, however, that at the time of this statement, many counting centers, especially in Phase 2 districts, had just begun their work. In addition, the final tabulation and publication of results will not be completed for several days. As a result, The Carter Center cannot provide an assessment of these processes yet, and therefore cannot make an overall assessment of the conduct of the electoral process.

Assuming the remaining stages of the process are completed successfully and transparently, Nepal's 2017 federal and provincial elections will be a positive step in implementing the new constitution and consolidating the political transition.

Political parties and candidates were generally able to campaign freely and get their messages to voters, despite violence carried out by militants opposing the elections. However, voter education efforts were insufficient, and a large number of civil servants and security personnel were disenfranchised, among other issues.

It is important to note that observers' access to the counting process has been restricted in several locations, and The Carter Center urges the ECN to ensure that all aspects of counting and tabulation of votes, including at the central level, are fully open to international and domestic civil society observers.

The 2015 Constitution significantly restructured the state administration, making it a federal system with seven provinces. This created a need for elections to the new federal parliament and new provincial assemblies. The election system was modified from the previous mixed "parallel" system used in 2008 and 2013. The majority of members are now elected under a first-past-the-post (FPTP) system, and the overall number of parliamentary members has been reduced. The Electoral Constituency Delimitation Commission was formed just prior to calling elections to determine new constituency boundaries for federal and provincial elections. The commission had very limited time to work, but nevertheless held widespread consultations, and its decision was accepted as the basis for these elections.

The existing legal framework offers the basic elements to ensure the preparation and conduct of credible elections. However, the finalization of the election legislation was rushed and came only after the elections had been called. Although this was understandable because of the political context and the constitutional deadline, international good practice is that major legislative changes be made well before an election is called.

The legal framework gives the Election Commission of Nepal sufficient power to undertake its mandate, and the ECN did a good job in preparing and conducting the electoral process in an orderly manner from a technical and operational perspective, despite a challenging security environment and multiple uncertainties regarding the electoral process. Nevertheless, the ECN could have performed better in some areas. It did not take full advantage of its authority to instruct and control lower-level election officials, who often implemented procedures inconsistently. The election administration as a whole did not, in some cases, demonstrate sufficient transparency. The Code of Conduct was not fully and equally enforced during the campaign.

The ECN is to be commended for its efforts to ensure as many citizens as possible were registered before the elections were called, allowing close to 1.4 million additional registrations. To ensure maximum participation, the ECN allowed registered voters without a voter ID to vote with any other ID. However, the fact that hundreds of thousands of polling staff and security personnel were unable to exercise their right to vote was a significant issue and was not in accordance with previous Nepali practice and with international standards. Concerns about difficulties in proving eligibility to register need resolution, as do lingering quality issues in the voter register.

In part because of the compressed timeframe and late decisions on ballot design, voter and civic education was poor. Even within the ECN's very limited concept of "vote education" – construed strictly as showing voters how to mark the ballot – efforts were insufficient, particularly in rural areas. There appeared to be little, if any, efforts to educate voters on the significance of the elections and the powers and responsibilities of the elected bodies under the new constitution. In particular, the role of the new provincial assemblies went largely unaddressed by both the ECN and by political parties.

The rights of freedom of assembly and to participate in public affairs are generally respected in the legal framework and practice. The nomination process was well-run and allowed a wide choice for voters. However, smaller parties and independent candidates felt that they were disadvantaged by the short nomination period, the issuing of ballot symbols, and the ordering of symbols on the ballots.

Parties and candidates campaigned actively throughout the country and had sufficient political space to conduct their campaigns. However, a large number of incidents involving improvised explosive devices (IEDs) marred the campaign period (and both election days). Although these incidents appeared to be designed to intimidate candidates and voters rather than to cause large numbers of casualties, one temporary policeman was killed and several candidates and supporters were injured. In addition to the impacts on those directly affected by the IED attacks, there may also have been some impact on the general environment and the ability of some candidates to get their messages to voters. In spite of the IED attacks, overall it appears that political parties and candidates were generally able to campaign freely and get out their messages.

Despite constitutional and legal quota provisions, women's participation in the electoral process continues to be limited. Political parties remain largely uncommitted to promoting women's participation. Very few female FPTP candidates were nominated (7.45 percent), leaving quotas to be met through the proportional lists. The participation of women as election officials, party agents and civil society election observers was lower than that of men. Although the ECN made efforts to facilitate voting by persons with disabilities, improvement of accessibility is necessary.

As a consequence of the changes to the electoral system, it is now more difficult to achieve minority and women's representation, given the fact that the quotas do not involve exclusively under-represented minority groups. This has created concern that groups that are not under-represented may be over-represented following the elections.

Civil society's role in the electoral process continued to be, as in the past, focused on domestic observation. While the number of observers decreased from previous elections, improvements in

both methodology – particularly in electoral violence monitoring – and coordination were evident. ECN regulations and procedures did not facilitate the task of domestic observation.

As noted above, the conduct of polling on both election days was assessed positively by Carter Center observers (97 percent of polling centers visited). Voting was conducted in a peaceful, orderly manner, although ongoing violence occasioned a heavy security presence at all polling locations. A few problems were observed regarding ensuring the secrecy of the vote, family voting, and improper assisted voting, but these cases were relatively isolated. Limited access of Carter Center observers was also an issue in a small number of polling centers. There was a high level of participation of party and candidate agents (97 percent of polling centers visited), and domestic observers were also active (32 percent of observations).

Counting for both phases of elections began in the 77 counting centers after polling closed on Dec. 7. At the time of writing, many counting centers, especially in Phase 2 districts, had just begun their work. The Carter Center cannot yet make any assessment of counting, and therefore cannot make an overall assessment of the conduct of the electoral process.

Preliminary Findings and Conclusions

BACKGROUND

Following the election of two Constituent Assemblies in 2008 and 2013, a new constitution was adopted in September 2015. The constitution substantially modified Nepal’s administrative and governance structure, introducing a federal system and a bicameral parliament. Implementation of the constitution became the priority of national policy, and holding elections constituted an important component of the implementation process. Elections for all levels – local, provincial, and national parliament – were mandated to be held prior to Jan. 21, 2018, the expiration of the term of the existing parliament.

The election process was organized and conducted under a number of constraints. Local elections had not happened in nearly 20 years and required a new municipal structure. Provincial elections had never taken place (as provinces did not previously exist). Importantly, the period following the enactment of the new constitution was characterized by significant political tension, changes of government, and an impasse over elections, as some parties representing minority groups threatened to boycott and disrupt any elections unless the constitution was amended. In this context, local elections were conducted in a phased manner. Two phases were held on May 14 and June 28, 2017, despite ongoing protest. Following a compromise that met some demands of the boycotting parties, the third and final phase of local elections was held on Sept. 18, 2017.

The resolution of the political crisis also allowed parliamentary and provincial elections to move forward. On Aug. 21, the government of Nepal called elections for Nov. 26. Several necessary steps had not yet been taken, such as the adoption of electoral legislation and the delimitation of constituency boundaries. This placed serious time constraints on the organization of the elections within the constitutional deadline. Following ECN requests, the dates of the elections were modified, and two phases were designated. Phase 1 was set for Nov. 26 in 32 districts in the

northern half of the country; Phase 2 was set for Dec. 7 to cover the remaining 45 districts in the southern half. All provinces were scheduled to have polling in both phases, with the exception of Province 2 in the south, which would only have elections during the second phase.

Following accreditation by the ECN, The Carter Center deployed an international election observation mission in October 2017 and began assessing the overall election process. All Carter Center election observation missions are conducted in accordance with the Declaration of Principles for International Election Observation and the Code of Conduct for International Election Observers. The Center’s assessment of the elections is based on benchmarks established in Nepal’s legal framework and its obligations for democratic elections contained in regional and international agreements. These include the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Indigenous and Tribal Peoples Convention, Convention on the Rights of Persons with Disabilities (CRPD), U.N. Human Rights Committee (UNHRC) General Comment 25, the U.N. Convention Against Corruption, and the South Asian Association for Regional Cooperation (SAARC) Charter of Democracy.

ELECTORAL SYSTEM AND LEGAL FRAMEWORK

Electoral system

Although no specific electoral system is prescribed by international law, establishing a clearly defined electoral system that ensures compliance with international obligations and addresses important national issues and aspirations is essential to allow for credible elections and credible governments.¹

For these elections, Nepal chose to maintain a system similar to that used for previous Constituent Assembly elections, albeit with significant modifications. The new federal parliament will have two houses: the National Assembly (upper house) and the House of Representatives (lower house). The National Assembly will have 56 of its members elected indirectly through an electoral college and three other members appointed by the president. Positively, all members of the House of Representatives (HoR) are elected directly through popular vote, a key Carter Center recommendation following the 2013 elections.²

The number of members of the HoR was reduced to 275 from 601 seats in the previous constituent assemblies. The seven provincial assemblies have a combined 550 seats.³ The constitution also mandates that provincial and federal elections be conducted under a mixed “parallel” system, with 60 percent of seats elected under first-past-the-post (FPTP) and 40 percent of seats under proportional representation (PR), a shift from the proportions used during the Constituent Assembly elections.⁴ For the PR part of the system, votes are cast for parties, with a threshold of 3 percent for the HoR and 1.5 percent for the provincial assemblies.

¹ UDHR, Article 21(3); ICCPR, Article 25. See also UNHRC, General Comment 25, para. 21

² The term “federal elections” in this statement refer exclusively to the election of the members of the HoR.

³ The size of each provincial assembly varies according to the number of constituencies in the province.

⁴ The constituent assemblies had 40 percent of seats elected under FPTP and 60 percent of seats elected under PR.

As was the case during the 2008 and 2013 Constituent Assembly elections, the 2015 Constitution provides quotas, including for women (“at least one third” of each parliament should be composed of women) and a number of population groups (or “clusters”). While the philosophy behind the quotas was to promote inclusiveness in the elected bodies, the quotas have been criticized for including many population groups, and not just those that are under-represented. The move to a system in which the majority of members are elected under FPTP, and in which the number of seats has been significantly reduced, further complicates the implementation of quotas.

New constituencies had to be delimited in order to hold elections, although the constitution is not very clear in defining the basis of representation. The constitution prescribes that there should be at least one representative in the HoR for each of the 77 new districts. It also mandates that the 165 federal constituencies and 330 provincial constituencies have to be defined primarily on the basis of population and geography, while taking into consideration other factors, such as transportation and access to government services. For the PR component, the nation is considered as a single constituency for the HoR, and each of the seven provinces serve as a single constituency for the provincial assemblies. The work of the Electoral Constituency Delimitation Commission, which held widespread consultations, was accepted as the basis for these elections.

Legal framework

A legal framework that allows for credible elections in compliance with international human rights is a major part of international obligations for genuinely democratic elections.⁵

An important element in the electoral process was the finalization of the legal framework adapted to the new constitutional provisions. Legislators chose to retain a fragmented legal framework, with a number of different legal acts, instead of a more integrated model.⁶ The ECN also issued a significant number of regulations and directives to implement the legislation.

Although constitutional deadlines were already clear in 2015, the drafting and discussion of the new laws was relatively rushed, which negatively affected electoral preparations. A substantial part of the necessary legal framework for the provincial and federal elections was only adopted after the call for elections, greatly reducing the time available to the ECN to prepare for the elections and to issue regulations. Although this rushed timetable was understandable given the political context and the constitutional deadline, international good practice is that major legislative changes should be made well before an election is called.

Nepal’s legal framework contains the basic elements for ensuring democratic elections. It ensures the right of qualified citizens to vote, form political organizations, seek political office as an independent candidate or as a member of a political party, campaign subject to reasonable regulations, and file election-related complaints to protect or enforce rights as a voter or a candidate

⁵ ICCPR, Article 2; UNHRC, General Comment 25, paras. 5, 7, 9, 19, 20.

⁶ In addition to the constitution, the primary laws that govern the conduct of the elections for the HoR and provincial assemblies are the House of Representatives Elections Act, Provincial Assembly Elections Act, Election Commission Act, and the regulations, directives, and Code of Conduct that were issued by the ECN. Other electoral laws include the Electoral Rolls Act, Act Relating to Political Parties, and the Election Offense and Punishment Act.

before, during, and after the elections. Nevertheless, the legislation has some aspects that will need to be addressed to better align it with international standards and to address challenges encountered by the ECN and other electoral participants. These include campaign finance regulation, the unnecessarily restrictive Code of Conduct, and observer access to the entire electoral process.

ELECTORAL ADMINISTRATION

An independent and impartial election management body that functions transparently and professionally is recognized as an effective means of ensuring that citizens can participate in a genuinely democratic electoral process. It is also the responsibility of an election management body to take necessary steps to ensure respect for fundamental electoral rights.⁷

The Election Commission of Nepal is empowered to “conduct, supervise, direct and control” the various elections stipulated by the constitution, including the preparation of the voter rolls. It is given sufficient powers and resources under the legal framework to undertake its mandate, as well as to ensure respect for fundamental electoral rights. The ECN is to be commended, given the timeline constraints and various uncertainties, for its performance in organizing and conducting the electoral cycle within the deadlines stipulated in the constitution. Political parties generally expressed satisfaction with the ECN’s work.

Nevertheless, the ECN did not fully exercise control of electoral operations in the field, stating that the local-level officials were independent. Thus, ECN directives and instructions were not always fully implemented at the local level (in particular by the returning officers), affecting the consistency of electoral operations in the field.

Decisions on ballot paper design indicate a lack of sufficient consultation with stakeholders. While the initial decision to have two ballots (one for PR and one for FPTP), with two choices on each ballot, made sense from a logistical perspective, it was challenged in court, resulting in a Supreme Court decision to split the FPTP ballots. This had negative consequences for operational preparations, not least the late launch of voter education efforts. Despite the operational difficulties derived from the late decision on ballot papers, the ECN was still able to print, pack, and deliver all ballot papers in time for both phases.

Throughout the process, the ECN publicly complained of a lack of capacity to enforce the Code of Conduct. Carter Center observers were consistently told that the ECN did not take action on issues such as candidates exceeding spending limits, the use of public resources by candidates, and the use of helicopters by major political leaders (which would very quickly absorb most of the allowed campaign funding), hampering the establishment of a level playing field.

The ECN did not ensure the right to vote for polling staff and security personnel that were deputized for polling duties. In these elections, around 200,000 civil servants were assigned as polling staff during the elections, while about 100,000 temporary police, over 100,000 regular police, and some 90,000 army personnel were deployed for poll security duties, the great majority of whom were not able to exercise their right to vote.

⁷ UNHRC, General Comment 25, para. 20.

There were unfortunate restrictions on transparency throughout the electoral administration, reflected in the closed manner in which ECN decision-making takes place, the lack of presentation of complete data (such as turn-out rates per polling center and full results data), and restrictive regulations concerning domestic and international observation. Ballot printing was not opened to observation, and there were several instances of polling and counting officials limiting or refusing access to observers. These restrictions on access to independent observers run counter to the principle of electoral transparency and hinder the effectiveness of both domestic citizen and international election observers. In addition, it was unfortunate that, despite having invited international observers, the ECN publicly declared that there was no need for international observation and that it should be phased out.

Finally, a growing concern is the apparent increase in the costs of the electoral administration since 2008. The 2017 provincial and federal elections were the costliest in Nepal's history, with a high cost per voter compared to international good practice.

VOTER REGISTRATION

Ensuring universal suffrage and the enjoyment of the fundamental right to vote for all eligible people is essential to credible elections, and this, in most cases, requires an efficient and credible electoral register. If voter registration is required, it should be facilitated with no obstacles imposed.⁸

According to ECN directives, only those registered and whose names are on the voter list on polling day are allowed to vote.⁹ Following the 2008 elections, the ECN conducted a voter registration drive introducing biometric technology. This resulted in a significant improvement over the previous register, but some concerns about disenfranchisement remain, including about the requirement that one have a citizenship card in order to register and those concerning constraints on proving residency. Carter Center observers also reported concerns in several districts about a low percentage of minorities and marginalized group members being registered, as well as obstacles for these groups to register.

For the 2017 electoral cycle, the ECN updated the 2013 registration database. In 2013, the final voter register included 12,147,865 voters, while the register used for the 2017 local elections had 14,054,482 voters. Registration was re-opened following the second phase of local elections, but only for provincial and federal elections. This exercise, which lasted from mid-July to mid-August, represented an intense effort by the ECN and showed impressive results, adding close to 1.4 million voters to the register, for a final number of 15,427,938 voters eligible for the provincial and federal elections (7,776,628 men, 7,651,143 women, and 167 third gender).

No major issues regarding the voter register were highlighted during these elections, although there were minor reports of voters with voter IDs not in the roll and of serial numbers on the voting roll not matching the voter IDs. Nevertheless, the printing and distribution of voter cards is still problematic, a massive logistical effort conducted on the two days prior to polling. Fortunately,

⁸ ICCPR, Article 25(b); and UNHRC, General Comment 25, para. 11

⁹ In order to be eligible to register as a voter, a person must be a Nepali citizen, having completed 18 years of age on the date prescribed by the ECN, and be a permanent resident in the ward of a municipality.

the ECN decided in a very pragmatic manner that any other government-issued ID card would also be allowed for voting purposes.

VOTER EDUCATION

Comprehensive and effective voter education is essential to inform the electorate of their rights and to clarify procedures ahead of election day, thus ensuring that citizens can exercise their electoral rights.¹⁰

The ECN has acknowledged that voter education efforts were insufficient, in part because of the late adoption of legislation and late decisions on ballot design. Given that elections were being organized for state structures newly developed by the 2015 Constitution, extensive voter education efforts would have been expected (and necessary) to ensure voters understood the purpose of the various electoral processes and better comprehended what their representatives would be elected to do. However, few efforts were made to conduct civic and voter education regarding the implementation of the new constitutional provisions. The term “voter education” has been used in Nepal in a narrow manner, directed almost entirely to informing voters how to mark the ballot paper. While there is no doubt that this was an important task given the changes in the voting process, it is regrettable that more substantive efforts in educating voters about the overall political and electoral process were not undertaken.

Even within this limited concept of voter education, the efforts were insufficient, particularly in rural areas and for less-educated voters. Efforts were made to increase voter education efforts following the local elections and following Phase 1 of the federal and provincial elections. For instance, mock ballots for voter education efforts were printed at 10 times the number they were for the local elections, and other initiatives were launched. Nevertheless, Carter Center observers reported that voter education in many districts frequently seemed to be left to party activists or were not visible at all.

CAMPAIGN ENVIRONMENT

In addition to being inclusive and transparent, a genuinely democratic election requires a campaign period in which rights such as freedom of opinion and expression, freedom of association, freedom of movement, security of the person, and access to information are respected and upheld by all stakeholders of the election.¹¹ The effective implementation of the right to stand for elective office ensures that voters have a free choice of candidates.¹²

In Nepal, the legal and regulatory framework respects the basic rights to participate in public affairs, and party and candidate registration was generally inclusive and conducted without undue obstacles, giving voters a wide choice of political options.

During the electoral period, the Communist Party of Nepal (Unified Marxist–Leninist) [CPN (UML)] and Communist Party of Nepal (Maoist Center) [CPN(MC)] announced that they would

¹⁰ ICCPR, Article 25(b); and UNHRC, General Comment 25, para. 11

¹¹ ICCPR, Articles 9, 12, 19, and 22; and UNHRC, General Comment 25, para. 25

¹² ICCPR, Article 25 (a). UNHRC, General Comment 25, para. 15

run as a “leftist” alliance and merge after the elections. This was a major and unexpected political shift. Other parties moved to form competing alliances, including what has been called a “democratic alliance” consisting of Nepali Congress and smaller parties. Several other smaller parties also merged in order to overcome the introduction of PR thresholds.

Political parties actively campaigned through both phases of elections. Carter Center observers reported increased activity in the second phase districts, particularly during the last days before the silence period. The most active parties were the largest three: CPN(UML), CPN(MC), and Nepali Congress. Rastriya Janata Party Nepal (RJPN) and Federal Socialist Forum, Nepal (FSFN) were reported as very active by Carter Center observers in Province 2 and active in Province 5. Other smaller parties were reported as active, but at a lower level across the country (e.g. Rastriya Prajatantra Party Nepal and Rastriya Prajatantra Party) or in specific districts or strongholds (e.g. Bibeksheel Sajha Party and Naya Shakti Nepal). Most parties and candidates conducted door-to-door campaigns, with the three largest parties holding rallies in urban centers. Carter Center observers attended several larger rallies and reported them to be peaceful.

The campaign period was marred by incidents of election-related violence in many districts, often through use of improvised explosive devices. Throughout the campaign period, there were reports of over 70 attacks directed at political party and independent candidates, party offices, or campaign events, and dozens of other IED attacks on polling locations or other places. While these attacks seemed primarily designed to intimidate, a number of candidates, supporters, and others suffered injuries, and one temporary policeman was killed in Dang district. Despite the attacks, most parties and candidates continued to exercise their fundamental rights of freedom of expression, association, and assembly. Nonetheless, many stakeholders expressed dissatisfaction with government actions aimed at curbing violence.

The short period between the end of candidate nomination and Phase 1 polling day was very challenging. The PR lists were only finalized five days prior, to the detriment of smaller parties, which did not have adequate time to inform voters about their assigned party symbols. This is particularly important because only symbols are included in the ballots. Also, the order of symbols in the ballot was made in accordance with the number of seats the party received in the latest parliamentary elections, giving clear advantage to the major established parties.

The role of money in the electoral process was highlighted by many stakeholders, not least by the ECN. There was much public criticism of the lack of enforcement – or uneven enforcement – of the Code of Conduct, particularly in terms of campaign expenditures that clearly exceeded the prescribed ceiling. There were accusations that the ruling party misused state resources, including the use of government transport during the campaign. Carter Center observers also noted multiple cases in which candidates from various parties took advantage of their official positions during campaigning. Finally, the Code of Conduct remains very restrictive regarding electoral campaigns (such as placing excessive limitations on the use of media and restrictions on electoral advertising, including the use of T-shirts, caps, etc.).

PARTICIPATION OF WOMEN

International treaties make clear that women should enjoy equal rights to men¹³ and that states can and should take temporary special measures to achieve de facto equality for women.¹⁴

In the 2006 Comprehensive Peace Accord, Nepal’s political leadership committed to end all forms of discrimination. This was translated in a number of constitutional provisions, including increased participation of women in politics and in the electoral process in particular. This commitment has not yet been fully realized and should be the focus of continued reform efforts.

The constitution establishes that, in all assemblies, women should constitute at least one-third of the members. However, there are no quotas for the FPTP races for the HoR and provincial assemblies, thus all the burden of “balanced” representation falls in the PR component. While the ECN made sure all party lists contained at least 50 percent women as required, there were very few women candidates in the FPTP races (only 7.45 percent). Parties have made it clear that they do not feel women are “winnable” candidates. The increase in the proportion of FPTP-elected members, the reduction of seats in the federal parliament, the increased role of money in politics, and internal party policies are all factors limiting the participation of women candidates.

Women comprise more than 50 percent of Nepal’s population, but they constitute only 49.5 percent of registered voters, reflecting a need to increase outreach to women. Election day observation indicated that the number of women polling staff – and particularly polling officers – was still considerably less than that of men (in polling centers observed, 42 percent of polling staff were women, but only 15 percent of polling officers). Similarly, 35 percent of observers and 14 percent of party agents were female at polling centers observed.

PARTICIPATION OF MINORITIES AND PEOPLE WITH DISABILITIES

International treaties state that temporary special measures for advancing ethnic minorities or groups that have suffered past discrimination may be taken and should not necessarily be considered discriminatory.¹⁵ States should ensure and promote human rights and fundamental freedoms without any discrimination on the basis of disability.¹⁶

Constitutional provisions for “representation requirements” ensure that, at least through the PR lists, indigenous and minority groups will have a level of representation in both the HoR and the provincial assemblies. However, spokespersons for these groups have complained that the quotas benefit even groups already well-represented and are, in fact, detrimental to the representation of minority groups.

While the constitution promotes non-discrimination, spokespersons for people with disabilities complained that this has not been the case for them. They feel access to the electoral process is still a major unresolved issue, including access to voter registration, polling, and voter education.

¹³ U.N., ICCPR, Article 3

¹⁴ U.N., CEDAW, art. 3

¹⁵ U.N., ICERD, art. 1(4)

¹⁶ U.N., CRPD, art. 4

Despite some efforts by the ECN, which conducted sessions of voter awareness with organizations representing people with disabilities, it is widely felt that efforts were insufficient and that the electoral procedures were not disability-friendly. For example, disability groups stated that the ECN's instruction to returning officers to provide vehicle passes for persons with disabilities could not be used by most because of the bureaucracy involved in obtaining the pass.

CIVIL SOCIETY AND DOMESTIC OBSERVATION

A key international obligation for democratic elections is the right of citizens to participate in the public affairs of their country, which includes allowing civil society to play an active role in electoral observation and participation in voter education activities.¹⁷

Some 20 long-term and 16 short-term domestic observer groups were accredited by the ECN to observe the elections. Some considered specific aspects of the process, such as gender or the rights of disadvantaged groups. Many observer groups participated in the Election Observation Coordination Group in an effort to better coordinate their efforts, including the National Election Observation Committee (NEOC), the General Election Observation Committee (GEOC), Sankalpa, Democracy Resource Center Nepal (DRCN), and News Club Nepal, among others. The pre-election statements of these groups, including analysis of election-related violence that DRCN provided on a regular basis, greatly contributed to the transparency of the process.¹⁸

There were a smaller number of domestic observers present than during previous elections because of financial constraints and the short time in which the elections were conducted. The Carter Center found that domestic observers were present in 32 percent of polling centers visited in both phases.

ELECTORAL DISPUTE RESOLUTION

Efficient electoral dispute-resolution mechanisms, including effective remedies, are an integral part of ensuring that the will of the people is upheld during an electoral process and that violations of fundamental rights can be redressed.¹⁹

Most of the complaints received by the ECN were for violation of the Code of Conduct. It was difficult to get the official number of complaints filed, but media accounts cited numbers in the hundreds. As in past elections, the ECN resolved complaints informally by giving warnings to candidates or parties and asking them to correct, or desist from committing again, the reported violation. Complaints questioning the eligibility of some candidates for the HoR and provincial assemblies were filed with the ECN. Of the nine complaints received, the ECN invalidated two candidacies, with a later complaint resulting in the revocation of the candidacy of another candidate. The Supreme Court upheld the ECN decision. The disenfranchisement of polling staff and security personnel was challenged in court. The Supreme Court indicated that their right to vote should be provided for, but the ECN did not take any measures to enable the affected people to vote.

¹⁷ ICCPR article 25; UNHRC, General Comment 25, para. 20.

¹⁸ Supported by The Carter Center.

¹⁹ ICCPR, Article 2(3).

The Carter Center will continue to follow election dispute resolution in the post-election period.

VOTING

A free voting process in which a citizen can cast a secret ballot free of intimidation or coercion and in which each person's vote has equal weight is a cornerstone of a democratic election process.²⁰

Key aspects of the Nepali electoral rules are that voters show photo identification in order to prevent voter impersonation and that voters have their thumbs marked with indelible ink in order to prevent multiple voting. By law, polling staff must ensure secrecy of the vote, although persons needing assistance can have someone help them.

Voters turned out in high numbers across both phases. The ECN estimated voter turnout at 65 percent during Phase 1 (32 districts and 20.7 percent of registered voters) and around 70 percent during Phase 2 (45 districts and 79.3 percent of registered voters). Across both phases, The Carter Center observed opening, polling, and closing procedures at 282 polling centers in 32 of Nepal's 77 districts (46 percent of polling centers visited were rural, 54 percent urban).

Polling day in both phases was mainly peaceful, with observers assessing the environment in and around polling locations as calm in 97 percent of visits. During both election days, Carter Center observers reported that a heavy security presence was deployed across the country, with security forces present at all polling locations visited. As during the period leading up to the elections, there were several IEDs that were discovered or that detonated in or around polling locations. During Phase 2 polling day, two IEDs were detonated at separate locations in Nawalparasi, injuring six people. There were also several smaller clashes between parties, including one between party cadres in Bhaktapur that led to at least three injuries.

There were 10,671 polling places and 19,809 polling centers across both phases of elections, each with a maximum of 1,064 registered voters. Carter Center observers reported that only 22 of 32 polling centers visited across both phases of elections opened on time (at 7 a.m.) or by 7:15 a.m. Despite the delays (in six cases of over 30 minutes) in the remaining polling centers, observer teams were positive in their assessments of the conduct of opening procedures (31 of 32 polling centers observed). In no case did the delayed opening seem to deter voters from waiting to cast their votes.

Polling went well overall in polling centers observed. Carter Center observers assessed the overall process and environment positively in 98 percent of visits. Voting procedures in most polling centers were generally followed; 97 percent of these activities were assessed positively. Inking was mostly done in accordance with procedures, but in some polling centers, ink was not applied to the correct finger. There were some issues reported regarding voters' serial numbers and voter IDs, but there was only one report of an eligible voter being turned away.

²⁰ UDHR, Article 21(3); ICCPR, Article 25(b); UNHRC, General Comment 25, para. 20; UNHRC, General Comment 25, para. 21.

Carter Center observers reported a few incidents concerning family voting (observed in 4 percent of polling center visited) and irregular assisted voting²¹ (4 percent of polling centers visited), issues with secrecy of the vote (6 percent of polling centers visited), and issues involving insufficient access for Carter Center observers (3 percent of polling centers visited). The engagement of party and candidate agents was positive; these were present at 97 percent of polling locations visited. Domestic observers were present at 32 percent of polling location visited.

Closing of polling centers was assessed positively at 25 of 27 closings visited. In Phase 1, the transport and storage of ballots was assessed positively in all seven instances (seven districts in six provinces).

COUNTING

Counting for both phases of elections began in the 77 counting centers after polling closed on Dec. 7. At the time of writing, many counting centers, especially in Phase 2 districts, had just begun their work. The Carter Center cannot yet make any assessment of counting, and therefore cannot make an overall assessment of the conduct of the electoral process.

The Carter Center conducts election observation in accordance with the Declaration of Principles of International Election Observation and Code of Conduct for International Election Observation adopted at the United Nations in 2005.

The Carter Center was founded in 1982 by former U.S. President Jimmy Carter and his wife, Rosalynn, in partnership with Emory University, to advance peace and health worldwide. A not-for-profit, nongovernmental organization, the Center has helped to improve life for people in more than 80 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; improving mental health care; and teaching farmers to increase crop production. Visit: www.cartercenter.org to learn more about The Carter Center.

²¹ Especially in the first phase



FOR IMMEDIATE RELEASE
Dec. 21, 2017

Carter Center Issues Statement on Nepal's Counting Process

KATHMANDU — The Carter Center today issued a [post-election statement](#) detailing its findings related to Nepal's vote-counting process.

These findings remain preliminary, pending the announcement of election results and the resolution of any disputes. A final report that includes recommendations to help strengthen the conduct of future elections in Nepal will be published in early 2018.

During the counting, Carter Center observer teams were present in 27 districts throughout Nepal, including Phase 1 and Phase 2 districts. In its statement, The Carter Center noted that in the counting centers where observers had sufficient access, counting took place in a manner that was generally consistent with international standards, despite widespread deviations from established procedures. However, a considerable number of counting centers restricted Carter Center observers' access, limiting the transparency of the process.

The decision to hold the elections in two phases meant that ballot boxes from Phase 1 needed to be stored for 10 days before being opened, creating the risk of ballot-tampering. But in Phase 1 districts where Carter Center observers were present, ballot boxes were safely secured and were under the close scrutiny of political party agents. Carter Center observers reported no incidents related to the storage of Phase 1 ballot boxes.

After Phase 1 polling, the Election Commission of Nepal issued directives outlining official counting instructions. These were widely ignored, however, as most returning officers chose instead to work with political party agents to reach consensus on vote-counting procedures. In counting centers where Carter Center observers were present, the deviations from the directives were intended to increase efficiency and avoid possible grievances and did not compromise the integrity of the count. While these local-level agreements ensured overall acceptance of the process and results, they also led to inconsistencies, particularly regarding the determination of the validity of ballots.

Party and candidate agents were consistently present in the counting centers and followed the process closely. Party agents did not make substantive complaints about the conduct of counting in the centers where Carter Center observers were present.

Sixteen of the 27 districts in which Carter Center observers were present provided full access to observers. The other 11 restricted access to varying degrees. Limiting observer access to this

crucial aspect of the process is contrary to international standards, to the expressed intent of the ECN directives, and to the terms of observer accreditation. The presence of observers is integral to ensuring the transparency and integrity of an election, and provisions should always be in place to allow them adequate access.

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Carter Center Post-Election Statement
International Election Observation Mission to Nepal’s 2017 Provincial and Federal
Elections
Dec. 21, 2017

Introduction

On Dec. 9, The Carter Center issued a preliminary statement on the conduct of Nepal’s federal and provincial elections, held in two phases (Nov. 26 and Dec. 7).¹ This post-election statement is an update following the completion of the counting process and the beginning of the tabulation of results. The Center’s findings and conclusions remain preliminary, pending the announcement of results and the resolution of any election-related disputes. A final report will be published in early 2018 and will include recommendations to help strengthen the conduct of future elections in Nepal.

Counting for both phases started only after the close of polls on Dec. 7 and was done in counting centers established in each of Nepal’s 77 districts. Carter Center observers were present at 27 counting centers, including six districts where voting took place in Phase 1 and 21 districts where voting took place in Phase 2.

The Carter Center conducts its observation in accordance with the Declaration of Principles for International Election Observation and the Code of Conduct for International Election Observers, as well as the Election Commission of Nepal’s Code of Conduct. The Center assesses elections based on Nepal’s national legal framework and its obligations for democratic elections contained in regional and international agreements.

Counting Context, Modalities, and Directives

The accurate and transparent counting of votes plays an indispensable role in ensuring that the electoral process is genuinely democratic and reflects the will of the voters. International standards require that the vote-counting process be fair, impartial, and transparent.²

¹ www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/nepal-prelim-120817.pdf

² Universal Declaration of Human Rights, Article 21; International Covenant on Civil and Political Rights (ICCPR), Article 25(b); U.N. Human Rights Committee General Comment 25, para. 20.

Nepal's counting process has historically been cumbersome and very slow. For the 2017 provincial and parliamentary elections, additional challenges were expected because of the concurrent nature of the elections and the use of three ballot papers for the four elections held in each province³ – one ballot paper for the first-past-the-post (FPTP) race for the federal House of Representatives, one ballot paper for the FPTP race for the provincial assembly, and a single ballot paper for the two proportional representation (PR) races for those bodies.

As in previous elections, all ballots cast in a constituency were counted at the counting center for that district, located at the district headquarters.⁴ Counting for both Phase 1 and Phase 2 ballots began only after the closing of the Phase 2 polls, at 5 p.m. on Dec. 7. In many cases, counting was not started until party agents and the returning officer responsible for the constituency reached consensus on how to implement the procedures (despite the existence of Election Commission of Nepal directives). Rotating teams conducted counting on a 24-hour basis for several days.

The decision of the Election Commission of Nepal (ECN) to delay the counting of Phase 1 ballots reflected good international practice. To avoid influencing voters' choices, no election results should be announced before all voters have had an opportunity to cast their ballots. However, the phasing of elections did create certain risks, as Phase 1 ballot boxes needed to be stored for 10 days before being opened for counting. In Phase 1 districts where Carter Center observers were present, ballot boxes were safely transported and secured. They were placed under the responsibility of the returning officers, with strict protection by security forces and, equally importantly, under the close scrutiny of political party agents. Carter Center observers reported no incidents related to the storage of Phase 1 ballot boxes.

After Phase 1 polling, the ECN issued directives detailing the official counting procedures. The Carter Center did not observe any substantial efforts on the part of the ECN to train counting staff on the implementation of the directives nor to distribute them widely among stakeholders. Although the directives provided details on certain aspects of the counting process, important gaps remained. These gaps, combined with previous common and accepted practices and local level agreements, meant that often the actual procedures in the counting centers diverged from the official directives.

Access of Observers

International observers, including those from The Carter Center, encountered serious obstacles to access at some counting centers, despite repeated assurances of access from the ECN and instructions sent to returning officers to facilitate the presence of international observers. Ultimately, the decision of whether to allow access – and for how long – was left to the returning officers and, in some cases, to security forces.

³ Both the federal House of Representatives and the provincial assemblies were selected through a mixed system, with some seats chosen through FPTP and some seats chosen through PR. See the Carter Center's preliminary statement.

⁴ Each district counting center was responsible for the counting for at least one federal HoR constituency (and at least two provincial assembly constituencies) – but populous districts had more constituencies.

Sixteen of the 27 districts in which Carter Center observers were present provided full access to observers.⁵ The other 11 restricted Carter Center observers' access. Seven observer teams experienced severe limitations – being permitted to observe for only a few minutes at a time, or up to an hour or so.⁶ Three teams reported mixed access, where observers were welcome to observe counting for one constituency but were denied access to observe the counting for another constituency in an adjacent room, or where observer access varied from day to day at the same counting center.⁷

In one district (Baitadi), the Carter Center team was treated aggressively and was refused access to observe the start of counting. Following ECN intervention, they were given access the following day, but the hostility of staff, party agents, and others led the mission to withdraw the observer team and redeploy it to another constituency.

The reasons for limiting access were not always clear. In several instances, returning officers cited space limitations. In other cases, however, election officials did not provide a reason or stated that ECN directives allowed access for international observers but did not specify a length of time. In one case, observers were asked to leave the counting temporarily after a dispute arose between party agents.

The European Union election observation mission also reported access restrictions at many counting centers. Domestic observers appeared to have more liberal access to counting centers; however, these groups have not yet reported on the level or quality of their access.

Limiting observer access to this crucial aspect of the process is contrary to international standards, to the expressed intent of the ECN directives, and to the terms of observer accreditation. The presence of observers is integral to ensuring the transparency and integrity of an election, and provisions should always be in place to allow them adequate access.

Despite limits on observers, party agents were consistently present in counting centers. The Carter Center did not observe that party agents were restricted in their work or hear reports of party agents making substantive complaints about the conduct of counting in any of the counting centers visited.

Counting Operations and Procedures

Layout of counting centers and organization of teams. Overall, the layout of the counting centers in the district headquarters complied with ECN directives. In urban areas (particularly in the Kathmandu Valley), counting center locations were spread over various government buildings to ensure better working space, given the high number of constituencies and polling centers involved.

⁵ Carter Center observer teams were present in Baitadi, Banke, Bhaktapur, Chitwan, Dadeldhura, Dailekh, Dhanusha, Gulmi, Jhapa, Kailali, Kalikot, Kanchanpur, Kapilbastu, Kaski, Kathmandu, Kavrepalanchowk, Lalitpur, Lamjung, Morang, Nawalparasi, Nuwakot, Paachthar, Parsa, Rautahat, Rolpa, Siraha, and Surkhet.

⁶ Chitwan, Gulmi, Jhapa, Kailali, Kanchanpur, Nuwakot, Siraha.

⁷ Banke, Kaski, Surkhet.

Security presence. Security forces were extensively deployed in all counting centers visited. Physical barriers also were in place, apparently to prevent the destruction of ballots by party agents, which took place during a dispute in Chitwan district during the local elections. While the heavy presence of security forces could be interpreted as overwhelming, observers found that the security presence was reassuring to counting staff, political parties, and candidate agents. Nevertheless, security forces in some cases overstepped their role by limiting the access of observers.

Presence of political party agents. Political party agents were present in all observed counting centers and were allowed to stay throughout the entire process. Despite relatively detailed ECN directives, counting staff and party agents agreed upon vote-counting procedures before counting started. The purpose was to reach consensus and address in advance possible grievances. While this ensured overall acceptance of the process and of the results at the local level, the practice led to inconsistencies from district to district, particularly regarding validity of ballots.

Counting procedures. In the counting centers where Carter Center observers had access, the counting process was generally assessed positively, even though the counting directives were often not followed precisely or implemented in a consistent manner. Some 96 percent of reports from counting centers where Carter Center observers had access assessed the overall conduct of the count positively, particularly the integrity and accuracy of the count. However, the restricted access of observers undermined the overall transparency of the process. Taking into account counting centers where Carter Center observers were denied access or had only limited access, the number of positive assessments dropped to 82 percent.

ECN directives mandated that counting start only after all the ballot boxes from the constituency were brought to the counting center. Following a check of the ballot box seals, each box was to be opened in the presence of party agents and the ballots counted face down in order to establish the number of ballots in the box. Subsequently, ballots were to be mixed with those from other polling centers and then separated into piles for each party/candidate as well as for invalid ballots. Then the piles were to be counted.

ECN instructions were widely ignored, as most counting officers (supported by political party agents) found them overly cumbersome and slow. Carter Center observers reported that counting practices, therefore, varied among constituencies and counting officers. In counting centers where Carter Center observers were given access, the deviations from the directives were made in good faith, based on pragmatic considerations to increase efficiency, and did not compromise the integrity or the transparency of the count. One exception involved the mixing of ballot papers: Observers reported that only in a minority of counting centers were the mixing instructions followed. In most of those instances, ballot reconciliation was not done because the counting teams did not determine the number of ballots in each box, as required by the directives, prior to mixing. This made reconciliation of the ballots impossible.

At counting centers where observers had meaningful access, the process was generally transparent, although in a few cases observers were not positioned close enough to observe all aspects of the process. The opening of the boxes was done transparently in the presence of party agents. In most cases, ballots were shown to all party and candidate agents. Carter Center

observers reported only minor incidents of disagreement on ballot validity, and these were quickly resolved. Each counting center publicly announced partial results at regular intervals. As the counting of FPTP ballots was completed and the process continued with PR ballots, the proceedings became more informal, and the presence of party agents decreased in some centers.

Declaration of invalid votes. Consistent rules and procedures for the determination of ballot-paper validity during the counting process help to protect the individual voter's right to equal suffrage. The law and the ECN directives are clear and detailed in this respect.⁸ While most provisions meet international standards, others seem overly restrictive. In particular, a ballot is deemed valid only if the swastika stamp is used; no other mark is allowed. This means that a ballot can be declared invalid even if the intent of the voter seems clear.

Although the ECN tried to make the determination of ballot validity more consistent by producing posters for counting center staff summarizing the criteria, determination of ballot validity was in practice often the result of consensus reached at the local level. This sometimes resulted in clear inconsistencies, even within a counting center. This is an area where regulations and practice should be improved to be more inclusive and to ensure that voter intent is respected.

Tabulation and Announcement of FPTP Results

Counting for FPTP was finalized on Dec. 13, ahead of schedule. PR ballot counting ended on Dec. 17. At the end of the counting of FPTP ballots, party and candidate agents signed the counting sheets, and the results were certified by the returning officers and made public. A certificate was presented to the winning FPTP candidate, and results of the PR elections were transmitted electronically, as stipulated, to the ECN for nationwide tabulation. Tabulation of PR results is the responsibility of the ECN Secretary, in his function as chief returning officer, with the technical work being done by the "PR unit" of the ECN. The Carter Center has had ample access to the ECN's PR unit and the information technology management division to follow the tabulation process, which is ongoing.

Conclusion of the Process and Final Announcement of Results

Although the counting of votes is finalized, and the winners of FPTP seats for both the House of Representatives and the provincial assemblies have been officially declared, the electoral process is not yet over. Following the end of the tabulation of results for the PR races, the ECN will declare how many seats each party has won. The political parties will then assign candidates to seats won, according to the ranking of lists but respecting the legal representation requirements for gender and ethnicity. Final announcement of results may be further delayed, as the ECN has indicated that it will likely wait to announce final winning candidates for the House of Representatives until the election of the members of the National Assembly, in order to ensure that constitutional and legal requirements are respected, in particular the one-third quota for women. The modalities for the indirect election of the National Assembly have not been yet determined. Additionally, the adjudication of electoral complaints and disputes must be finalized. The Carter Center election observation mission will continue to follow these processes and include relevant developments in the final report.

⁸ Article 22 of the ECN counting directive listed 16 cases in which a ballot paper is considered invalid. It does not reference the intent of the voter.

Appendix E

Deployment Plans for Short-Term Observers

Team	Observers	Province	District
LTO 1	Tadzrul Adha (Malaysia) Pipit Apriana (Indonesia)	1	Ilam Panchthar (I)
STO 1	Isabel Otero (Colombia) Nicolas Heyum (Sweden)	1	Morang
STO 2	Gideon Taboh (Cameroon) Rosa Mora (Spain)	1	Jhapa
LTO 2	Bidhayak Das (India) Agnes Alupo (Uganda)	2	Dhanusha
STO 3	Eva Jakobsson (Sweden) Elena Wasylew (Poland)	2	Parsa
STO 4	Adrenis Hooks (US) Andrei Krasnyansky (Belarus)	2	Rautahat
STO 5	Samuel Frantz (US) Sara Savino (Belgium)	2	Siraha
LTO 3	Karolis Butkevič (Lithuania) Mafalda Cruz Gomes (Portugal)	3	Kathmandu* Nuwakot (I)
STO 6	Maria Krause (Romania) Nicholas McLean (Australia)	3	Kavre
STO 7	Michael Baldassaro (US) Mya Nandar Thin (Myanmar)	3	Chitwan
STO 17	Stephan Guertin (France) Travis Linger (US)	3	Nuwakot
STO 18	George Carmona (Philippines) Carlos Valenzuela (Colombia)	3	Sindulpalchowk
LTO 4	Leonardo Silva (Portugal) Stella Hellier (UK)	4	Tanahu Lamjung (I)
STO 8	Dianna Aker (US) Nurul Rakhimbekov (Kazakhstan)	4	Kaski
STO 9	Sophie Khan (Canada) Glory Kakessa (DRC)	4	Nawalparasi
LTO 5	Emil Shakir Uulu (Kyrgyzstan) Alida Jay Boye (Norway)	5	Dang Rolpa (I)
STO 10	Nilesh Ekka (India) Jana Nolle (Germany)	5	Banke
STO 11	Samantha Draper (South Africa) Tommy Barrow (US)	5	Kapilvastu
STO 12	Emilie Bay-Scheidegger (Switzerland) Sundilyn Bedro (Philippines)	5	Gulmi
LTO 6	Alexander Folkes (UK) Gayelle Haddad (Canada)	6	Jumla (I)
STO 13	Munkhnaran Bayarlkhagva (Mongolia) Upekshi Fernando (Sri Lanka)	6	Surkhet
STO 14	Azura Mohd Noor (Malaysia) Sotheara Yoeurng (Cambodia)	6	Dailekh
LTO 7	Hans Knaevelsrud (Norway) Salma Sharif Abdel-Rahman (Egypt)	7	Dadeldhura Baidati (I)
STO 15	Stefan Krause (Germany) Marie Josee Veronese (Rwanda)	7	Kailali
STO 16	Stephan Guertin (France) Umut Mysylkanova (Kyrgyz Republic)	7	Kanshanpur

LTO=Long-term observer; STO=Short-term observer; (I)= Team observing count in Phase I district

* = Additional teams observed in Kathmandu (Province 3)

Appendix F

Forms

1/9/2018

ELMO: Form: 1. Nepal Pre-election

Published Version: 1 (agj)

1. Nepal Pre-election



Nepal 2017

User/Team

Observation Time

1. What is the date and time?

2. Electoral District:

Select the name of the district.

Achham	Arghakhaachi	Banke	Baglung
Baitadi	Bajhang	Bajura	Bara
Bhaktapur	Bhojpur	Chitwan	Dadeldhura
Dailekh	Dang	Darchula	Dhading
Dhankuta	Dhanusha	Dolakha	Dolpa
Doti	Gorkha	Gulmi	Humla
Jajarkot	Jhapa	Jumla	Kailali
Kanchanpur	Kapilbastu	Kaski	Kathmandu
Kavrepalanchowk	Khotang	Lalitpur	
Lamjung	Mahottari	Makwanpur	Manang
Morang	Mugu	Mustang	Myagdi
Nawalparasi (Bardaghat Sustaa Paschim)			
Nawalparasi (Bardaghat Sustaa Purwa)			Nuwakot
Okhaldhunga	Paachthar	Palpa	Parbat
Parsa	Pyuthan	Ramechhap	Rasuwa
Rautahat	Rolpa	Rukum Paschim	
Rukum Purwa	Rupandehi	Salyan	
Sankhuwasabha	Saptari	Sarlahi	Sindhuli
Sindhupalchowk	Siraha	Solukhumbhu	
Sunsari	Surkhet	Syangja	Tanahun
Taplejung	Tehrathum	Udaypur	

3. Province:

Select the province number for area of responsibility.

1	2	3	4	5	6	7
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5. Do preparations appear to be ready to hold elections in the district?

Yes No

ANSWER ONLY IF Question #5 is equal to "No"

6. If no, please describe:

7. Is the campaign silence period being respected by parties and others?

Yes No

ANSWER ONLY IF Question #7 is equal to "No"

8. If no, please describe:

9. Were there any election-related incidents reported to your team during the day?

Yes No

ANSWER ONLY IF Question #9 is equal to "Yes"

10. If yes, please describe:

11. Do you believe your team will have access and be able to observe the counting process in the district headquarters?

Yes No

ANSWER ONLY IF Question #11 is equal to "No"

12. If no, why not?

13. Did you observe any other important issues that the core team should know about?

Yes No

ANSWER ONLY IF Question #13 is equal to "Yes"

14. If yes, please describe:

2. Nepal Opening

Nepal 2017



User/Team

Observation Time

1. Start Time of Observation (please use 24 hour clock):

For example: 3:00 pm should be 15:00 hrs.

3. Province:

Select the province number for area of responsibility.

4. Electoral District:

Select the name of the district.

	1	2	3	4	5	6	7
Achham			Arghakhaachi		Banke		Baglung
Baitadi		Bajhang		Bajura		Bara	Bardiya
Bhaktapur			Bhojpur		Chitwan		Dadeldhura
Dailekh		Dang		Darchula		Dhadhing	
Dhankuta			Dhanusha		Dolakha		Dolpa
Doti	Gorkha		Gulmi		Humla		Ilam
Jajarkot		Jhapa		Jumla		Kailali	Kalikot
Kanchanpur			Kapilbastu		Kaski		Kathmandu
Kavrepalanchowk			Khotang		Lalitpur		
Lamjung		Mahottari		Makwanpur		Manang	
Morang		Mugu		Mustang		Myagdi	
Nawalparasi (Bardaghat Sustaa Paschim)							
Nawalparasi (Bardaghat Sustaa Purwa)						Nuwakot	
Okhaldhunga			Paachthar		Palpa		Parbat
Parsa	Pyuthan		Ramechhap		Rasuwa		
Rautahat		Rolpa		Rukum Paschim			
Rukum Purwa			Rupandehi		Salyan		
Sankhuwasabha			Saptari		Sarlahi		Sindhuli
Sindhupalchowk			Siraha		Solukhumbhu		
Sunsari		Surkhet		Syangja		Tanahun	
Taplejung			Tehrathum		Udaypur		

5. House of Representative Election Constituency Number:

1	2	3	4	5	6	7	8
9	10						

6. Polling Location Code:

Enter the numeric polling location code.

7. Locality name:

8. Is the polling location in an urban or rural area?

Urban Rural

9. Number of polling centers at the polling location:

*If the polling location and the polling center are the same, please answer "1."*10. Which, if any, of the following prohibited or disruptive circumstances did you observe OUTSIDE the polling location? *Select "None" if you did not observe any prohibited or disruptive circumstances.*

Prohibited campaigning	Prohibited campaign material
Ineffective queue management	Intimidation
Violence	Significant disorder
Security (beyond regulations)	Other None

ANSWER ONLY IF Question #9 is greater than 1

11. Which, if any, of the following prohibited or disruptive circumstances did you observe INSIDE the polling location (but outside the centers)?

Select "None" if you did not observe any prohibited or disruptive circumstances.

Prohibited campaigning	Prohibited campaign material
Ineffective queue management	Intimidation
Violence	Booth capture
Security (beyond regulations)	Significant disorder
Other	Unauthorized Person
None	

ANSWER ONLY IF Question #9 is greater than 1

12. Polling Center Code for observed polling center:

13. Which, if any, prohibited or disruptive circumstances did you observe in the polling center?
 Select "None" if you did not observe any prohibited or disruptive circumstances.

- Prohibited campaigning
- Ineffective queue management
- Violence
- Security (beyond regulations)
- Other
- Prohibited campaign material
- Intimidation
- Booth capture
- Significant disorder
- Unauthorized Person
- None

ANSWER ONLY IF Question #13 does not include "None"

14. Please describe:
 What were the prohibited/disruptive circumstances and how did they affect the process?

15. Were any of the following materials missing, insufficient, or incorrect?

- Electoral rolls (B/W and Colored)
- Permanent ink or marker
- Ink pad
- Ballot box(es)
- Swastika seal
- Other
- Polling compartments
- Forms
- None
- Ballot papers

ANSWER ONLY IF Question #15 includes "Other"

16. If 'other', please describe:

ANSWER ONLY IF Question #15 does not include "None"

17. If materials are missing, insufficient, or incorrect, please describe:

18. Did the polling center open during your observation? Yes No

ANSWER ONLY IF Question #18 is equal to "No"

19. If 'no', please describe:
 Why did the polling center fail to open on time?

ANSWER ONLY IF Question #18 is equal to "Yes"

20. At what time did the polling center open?
 21. If the polling center opened MORE THAN [15] MINUTES late, what are the reasons for delay?
 If the polling center opened on time or less than 15 minutes late, check not applicable.

- Missing materials
- Unrest
- Other
- Absent/incomplete polling staff
- Not applicable

ANSWER ONLY IF Question #21 includes "Other"

22. If 'other', please describe:
 23. Before moving ahead, please review the following definitions regarding assessment of PROCEDURES. Mark the selection below to indicate that you understand the definitions and refer back to this page if needed.
 FULLY - The procedure was always or almost always applied correctly. Any procedural errors observed were very minor. ADEQUATELY - The procedure was mostly applied correctly. Procedural errors observed did not appear to affect the integrity or transparency of the process. INADEQUATELY - The procedure was often not applied correctly; OR the procedural error may have compromised the integrity of the process (even if few instances were observed). NOT AT ALL - The procedure was omitted or was not followed meaningfully. NOT OBSERVED - Due to circumstances other than those described by the above, the observer was not able to assess the procedure.

I have read and understand the definitions.

24. How closely did BALLOT INVENTORY procedures adhere to regulations?
 Procedure requires the Polling officer, while receiving the ballot boxes, to confirm ballot boxes are provided in required number for each polling center and there is a separate ballot box each for HoR FPTP, Provincial Assembly FPTP and PR system.

- Fully
- Adequately
- Inadequately
- Not at all
- Not observed

ANSWER ONLY IF Question #24 is equal to "Inadequately"

25. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #24 is equal to "Not at all"

26. Please describe the reasons for not choosing Fully or Adequately:

27. How closely did EMPTY BALLOT BOX DEMONSTRATION adhere to regulations?

Procedure requires the the Polling Officer, prior to the commencement of polling, to open and show ballot boxes to candidates, representatives, and polling agents and allow them to examine whether the ballot boxes are in order and empty.

Fully	Adequately	Inadequately	Not at all
Not observed			

ANSWER ONLY IF Question #27 is equal to "Inadequately"

28. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #27 is equal to "Not at all"

29. Please describe the reasons for not choosing Fully or Adequately:

30. How closely did BALLOT BOX SEALING procedures adhere to regulations?

Procedure states that after the ballot box demonstration, the ballot box has to be sealed with lid being tightened and only the ballot slot unsealed.

Fully	Adequately	Inadequately	Not at all
Not observed			

ANSWER ONLY IF Question #30 is equal to "Inadequately"

31. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #30 is equal to "Not at all"

32. Please describe the reasons for not choosing Fully or Adequately:

33. How closely did the VERIFYING OF SEAL NUMBERS adhere to regulations?

Procedure states that after sealing the ballot, Polling Officer has to complete a deed of cognizance to be signed by him or her and the candidates, representatives, and polling agents present at the polling center. If they do not sign the deed, the Polling Officer can get two persons present at the polling center to sign it.

Fully	Adequately	Inadequately	Not at all
Not observed			

ANSWER ONLY IF Question #33 is equal to "Inadequately"

34. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #33 is equal to "Not at all"

35. Please describe the reasons for not choosing Fully or Adequately:

36. How closely did ROOM LAYOUT facilitate secrecy of the vote, orderly voting, and effective management by polling staff?
Please refer to the Quick Guide for the Room Layout.

Fully	Adequately	Inadequately	Not at all
Not observed			

ANSWER ONLY IF Question #36 is equal to "Inadequately"

37. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #36 is equal to "Not at all"

38. Please describe the reasons for not choosing Fully or Adequately:

39. Were party/candidate agents present?

Yes	No
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ANSWER ONLY IF Question #39 is equal to "Yes"

40. If yes, how many parties/candidates were represented?

41. Were observers from international election observation groups present?

Yes	No
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ANSWER ONLY IF Question #41 is equal to "Yes"

42. If "yes," which groups:

Select all that apply:

EU	ANFREL	Embassy Personnel	Other
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43. Were observers from domestic observation groups present?

Yes	No
-----	----

ANSWER ONLY IF Question #43 is equal to "Yes"

44. Which domestic observation groups were present?

National Election Observation Committee			
General Election Observation Committee		Sankalpa	
Democracy Resource Center Nepal		Other	

45. Which, if any, of the following groups did not have sufficient access to the process?

Candidate/Party agents	International observers
Domestic observers	Polling staff
Other	Media
None	

ANSWER ONLY IF Question #45 does not include "None"

46. If any, please describe:

How were groups denied access and what was the impact?

47. Did you observe any interference leading to negative impact on the election process? Yes No

ANSWER ONLY IF Question #47 is equal to "Yes"

48. If "yes", which of the following groups interfered (negatively)?
Select 'None' if no interference was observed.

Candidate/Party agents	International observers
Domestic observers	Polling staff
Voters	Security
Religious/traditional leaders	Local officials
	Other
	None

ANSWER ONLY IF Question #48 does not include "None"

49. If any interference, please describe:

How were groups causing interference and what was the impact?

50. Were there any officially lodged complaints?

If applicable, near the end of your observation, ask the Polling Officer if present or ask observers from other organizations or party/candidate agents. Yes No

ANSWER ONLY IF Question #50 is equal to "Yes"

51. If 'yes', please describe:

Who filed complaints? What were the reasons? How were they addressed?

52. Were there any problems reported to you by those present rather than those observed directly by you? Yes No
(e.g., agents, observers, voters)

ANSWER ONLY IF Question #52 is equal to "Yes"

53. If 'yes,' please describe:

Please note the actors involved, how it was resolved, the apparent impact and any supporting evidentiary corroboration.

54. Before moving ahead, please review the following definitions regarding the overall assessment of IMPLEMENTATION OF PROCEDURES BY STAFF. Mark the selection below to indicate that you understand the definitions and refer back to this page if needed.
VERY GOOD - Procedures were always or almost always applied correctly. Any procedural errors observed were very minor and did not affect the integrity or transparency of the process. **REASONABLE** - Procedures were mostly applied correctly. Procedural errors observed did not appear to affect the integrity or transparency of the process **POOR** - Procedures were not applied correctly; OR procedural errors significantly affected the transparency of the process and/or may have compromised the integrity of the process. **NOT CREDIBLE** - Important procedures were not followed correctly, and these problems likely compromised the integrity of the process.

I have read and understand the definitions.

55. What is your team's evaluation of the implementation of procedures by staff at this polling center?

This evaluation should be based upon the procedures evaluated earlier in the checklist as well as any procedural factors that may have been omitted from the checklist. Please refer back to the answers provided to questions about procedures as needed to inform the overall evaluation. Very Good Reasonable Poor Not Credible

ANSWER ONLY IF Question #55 is equal to "Poor"

56. What were the main reasons for not choosing Very Good or Reasonable?

ANSWER ONLY IF Question #55 is equal to "Not Credible"

57. What were the main reasons for not choosing Very Good or Reasonable?

58. Before moving ahead, please review the following definitions regarding the overall assessment of the OPENING ENVIRONMENT AND PROCESS. Mark the selection below to indicate that you understand the definitions and refer back to this page if needed.

VERY GOOD – No significant problems were observed with the implementation of procedures or environment. The process was fully transparent. *REASONABLE* - Observed problems did not affect significantly the integrity or transparency of the opening process, but there is room for improvement. *POOR* – Significant problems with any of the following may have compromised the integrity of the process: Errors in implementing opening procedures; Polling staff subject to intimidation or interference; Observers restricted. *NOT CREDIBLE* - Observed problems with the opening likely compromised the integrity of the process.

I have read and understand the definitions.

59. What is your team's overall assessment of the election environment and process at this polling center?

Very Good	Reasonable	Poor	Not Credible
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ANSWER ONLY IF Question #59 is equal to "Poor"

60. What were the main reasons for not choosing Very Good or Reasonable?

ANSWER ONLY IF Question #59 is equal to "Not Credible"

61. What were the main reasons for not choosing Very Good or Reasonable?

62. Any other comments?

63. End Time of Observation:

3. Nepal Polling

Nepal 2017



User/Team

Observation Time

1. Start Time of Observation (please use 24 hour clock):

For example: 3:00 pm should be 15:00 hrs.

3. Province:

Select the province number for area of responsibility.

4. Electoral District:

Select the name of the district.

	1	2	3	4	5	6	7
Achham			Arghakhaachi		Banke		Baglung
Baitadi		Bajhang		Bajura		Bara	Bardiya
Bhaktapur			Bhojpur		Chitwan		Dadeldhura
Dailekh		Dang		Darchula		Dhadhing	
Dhankuta			Dhanusha		Dolakha		Dolpa
Doti	Gorkha		Gulmi		Humla		Ilam
Jajarkot		Jhapa		Jumla		Kailali	Kalikot
Kanchanpur			Kapilbastu		Kaski		Kathmandu
Kavrepalanchowk			Khotang		Lalitpur		
Lamjung		Mahottari		Makwanpur		Manang	
Morang		Mugu		Mustang		Myagdi	
Nawalparasi (Bardaghat Sustaa Paschim)							Nuwakot
Nawalparasi (Bardaghat Sustaa Purwa)							
Okhaldhunga			Paachthar		Palpa		Parbat
Parsa	Pyuthan		Ramechhap		Rasuwa		
Rautahat		Rolpa		Rukum Paschim			
Rukum Purwa			Rupandehi		Salyan		
Sankhuwasabha			Saptari		Sarlahi		Sindhuli
Sindhupalchowk			Siraha		Solukhumbhu		
Sunsari		Surkhet		Syangja		Tanahun	
Taplejung			Tehrathum		Udaypur		

5. House of Representative Election Constituency Number:

1	2	3	4	5	6	7	8
	9	10					

6. Polling Location Code:

Enter the numeric polling location code.

7. Locality name:

8. Is the polling location in an urban or rural area? Urban Rural

9. Number of polling centers at the polling location:

If the polling location and the polling center are the same, please answer "1."

10. Were there obstacles or barriers on the way to the polling location that could have inhibited general access? Yes No

ANSWER ONLY IF Question #10 is equal to "Yes"

11. If 'yes', please describe:

Describe the barriers to public access and to what extent it affected voter franchise. Examples of barriers might include distance from villages or a dysfunctional bridge.

12. Which, if any, of the following prohibited or disruptive circumstances did you observe OUTSIDE the polling location?

*Select "None" if you did not observe any prohibited or disruptive circumstances.***ANSWER ONLY IF Question #9 is greater than 1**

Prohibited campaigning	Prohibited campaign material
Ineffective queue management	Intimidation
Violence	Significant disorder
Security (beyond regulations)	Other
	None

13. Which, if any, of the following prohibited or disruptive circumstances did you observe INSIDE the polling location (but outside the centers)?

Ineffective queue management	Intimidation
Violence	Booth capture
Security (beyond regulations)	Significant disorder
Other	None
	Unauthorized Person

Select "None" if you did not observe any prohibited or disruptive circumstances.

ANSWER ONLY IF Question #9 is greater than 1

14. Polling Center Code for observed polling center:

15. Number of staff working at the polling center:

Do not include Polling Officer.

16. Number of FEMALE staff working at the polling center:

Do not include Polling Officer.

17. Please indicate the Polling Officer's gender:

Female	Male
--------	------

If the Polling Officer appears before departure, please adjust this answer.

18. Number of registered voters:

19. Approximate number of voters who have voted by time of arrival:
If the number of voters is not directly recorded by the polling staff, it may be necessary to ask the presiding officer or other staff to estimate the number of voters or calculate by other means.

20. Which, if any, prohibited or disruptive circumstances did you observe in the polling center?

Prohibited campaigning	Prohibited campaign material
Ineffective queue management	Intimidation
Violence	Booth capture
Security (beyond regulations)	Significant disorder
Other	None
	Unauthorized Person

Select "None" if you did not observe any prohibited or disruptive circumstances.

ANSWER ONLY IF Question #20 does not include "None"

21. Please describe:

What were the prohibited/disruptive circumstances and how did they affect the process?

22. Were any of the following materials missing, insufficient, or incorrect?

Electoral rolls (B/W and Colored)	Polling compartments
Permanent ink or marker	Forms
Ink pad	Swastika seal
Ballot box(es)	Other
	None
	Ballot papers

ANSWER ONLY IF Question #22 includes "Other"

23. If 'other', please describe:

ANSWER ONLY IF Question #22 does not include "None"

24. If materials are missing, insufficient, or incorrect, please describe:

25. Does the polling center appear to be accessible to physically challenged persons, including the elderly?

Yes	No
-----	----

ANSWER ONLY IF Question #25 is equal to "No"

26. If 'no', describe the impediments as well as any efforts to overcome the impediments or assist the challenged persons:

27. Before moving ahead, please review the following definitions regarding assessment of PROCEDURES. Mark the selection below to indicate that you understand the definitions and refer back to this page if needed.

FULLY - The procedure was always or almost always applied correctly. Any procedural errors observed were very minor. ADEQUATELY - The procedure was mostly applied correctly. Procedural errors observed did not appear to affect the integrity or transparency of the process.

INADEQUATELY - The procedure was often not applied correctly; OR the procedural error may have compromised the integrity of the process (even if few instances were observed). NOT AT ALL - The procedure was omitted or was not followed meaningfully. NOT OBSERVED - Due to circumstances

I have read and understand the definitions.

other than those described by the above, the observer was not able to assess the procedure.

28. How closely did CHECKING FOR INK procedures adhere to regulations? Fully Adequately Inadequately Not at all
Not observed

Voters' fingers were checked to make sure they had not voted previously.

ANSWER ONLY IF Question #28 is equal to "Inadequately"

29. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #28 is equal to "Not at all"

30. Please describe the reasons for not choosing Fully or Adequately:

31. How closely did VOTER IDENTIFICATION procedures adhere to regulations?

Fully Adequately Inadequately Not at all
Not observed

Voter has to show his voters ID to the polling official; Polling Official will then verify details in the electoral roll; If there is positive identification, name of voter in the voters list has to be ticked.

ANSWER ONLY IF Question #31 is equal to "Inadequately"

32. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #31 is equal to "Not at all"

33. Please describe the reasons for not choosing Fully or Adequately:

34. How closely did BALLOT ISSUING adhere to procedures?

Fully Adequately Inadequately Not at all
Not observed

The procedure requires that the ballot is signed by the Polling Officer before it is provided to the voter and a checkmark is made beside the name of the voter on the electoral list once the ballot is given to the voter.

ANSWER ONLY IF Question #34 is equal to "Inadequately"

35. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #34 is equal to "Not at all"

36. Please describe the reasons for not choosing Fully or Adequately:

37. How closely did INKING FINGERS procedures adhere to regulations?

Fully Adequately Inadequately Not at all
Not observed

Once a voter is verified, ink is applied on the thumb of the left hand - between skin and nail. If without left thumb, then right thumb. If no right thumb, then on the other finger. After verification and inking, ballot should be given to him

ANSWER ONLY IF Question #37 is equal to "Inadequately"

38. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #37 is equal to "Not at all"

39. Please describe the reasons for not choosing Fully or Adequately:

40. How closely did BALLOT CASTING adhere to procedures?

Fully Adequately Inadequately Not at all
Not observed

Procedure is for the ballot issuing officer to give the voter the First Past the Post ballot for the HoR and after casting it he or she shall be given a FPTP ballot for the Provincial Assembly and after casting it, will be given PR ballot.

ANSWER ONLY IF Question #40 is equal to "Inadequately"

41. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #40 is equal to "Not at all"

42. Please describe the reasons for not choosing Fully or Adequately:

43. How closely did ASSISTED VOTING procedures adhere to regulations?

Fully Adequately Inadequately Not at all
Not observed

If any voter is unable to vote due to visual impairment or physical disability or unable to cast vote on his/her own, they can be assisted by an immediate family member or Polling Officer if requested by the voter.

ANSWER ONLY IF Question #43 is equal to "Inadequately"

44. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #43 is equal to "Not at all"

45. Please describe the reasons for not choosing Fully or Adequately:

46. How closely did ROOM LAYOUT facilitate secrecy of the vote, orderly voting, and effective management by polling staff? <i>Please refer to the Quick Guide for the Room Layout.</i>	Fully	Adequately	Inadequately	Not at all
	Not observed			

ANSWER ONLY IF Question #46 is equal to "Inadequately"

47. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #46 is equal to "Not at all"

48. Please describe the reasons for not choosing Fully or Adequately:

49. To what extent, were voters able to mark their ballot secretly?	Fully	Adequately	Inadequately	Not at all
	Not observed			

ANSWER ONLY IF Question #49 is equal to "Inadequately"

50. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #49 is equal to "Not at all"

51. Please describe the reasons for not choosing Fully or Adequately:

52. Was priority given to voter with disability, a woman with an infant baby/pregnant woman, elderly or sick?	Yes	No	Not observed
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53. Which, if any, of the following ineligible voters were allowed to vote?

Persons not on list	Persons with unauthorized ID
Persons without voters ID	Voters with spoiled ballots
Voters already crossed off list	Voters already inked
Underage persons	Security personnel - unauthorized
Proxy voters (e.g. relatives)	Voters improperly assisted
Other	None

ANSWER ONLY IF Question #53 does not include "None"

54. Please describe, including any 'others' noted

55. Which, if any, of the following eligible voters were NOT allowed to vote?

To be eligible, voters have to be on the list and must have voters ID.

Persons on list with ID	Polling staff	NEC members
Domestic observers	Party/candidate agents	
Security personnel - authorized	Journalists - national	
Other	None	

ANSWER ONLY IF Question #55 does not include "None"

56. Please describe, including any 'others' noted:

57. Are ballot boxes correctly sealed?

All seals should be correctly applied and ballot boxes should be secure from tampering. Procedures state the Polling Officer in the presence of agents close the hole for inserting ballot paper, put the security seals and note their numbers in the poll book. A deed of cognizance about it shall then be executed by the Polling Officer.

Yes	No
-----	----

ANSWER ONLY IF Question #57 is equal to "Yes"

58. For the ballot boxes, describe if 'no'

59. Are sensitive polling materials secured from potential theft or misuse?

Sensitive materials (i.e., ballots, voter lists, stamps, and forms) should be stored compactly and out of the way of traffic in the polling center. Disorganized or poorly stored materials are vulnerable to tampering. Procedures require that they be put in separate envelopes with seals issued by ECN and if agents/representatives wish, their own seals.

Yes	No
-----	----

ANSWER ONLY IF Question #59 is equal to "No"

60. For the sensitive polling materials, describe if 'no'

61. Is the polling center layout in accordance with regulations?

Yes	No
-----	----

ANSWER ONLY IF Question #61 is equal to "No"

62. For the polling center layout and regulations, describe if 'no'

63. Does the polling center layout effectively facilitate the flow of

voters? Yes No
The layout should allow voters to move through the process without skipping steps or crossing paths with other parts of the queue.

ANSWER ONLY IF Question #63 is equal to "No"

64. For the polling center layout and the flow of voters, describe if 'no'

65. Was the number of staff working in the polling center sufficient for a timely and orderly process? Yes No Not observed

ANSWER ONLY IF Question #65 is equal to "No"

66. For the number of staff, 'if 'no' describe

67. How long did a typical voter have to wait in the queue before entering the polling center?
If there is no queue, enter 0, otherwise, ask the second or third voter in line how long they have waited so far to inform your estimate. Provide your answer in minutes. For example, if a voter waited 1.5 hours, enter 90 (minutes).

68. How long did it take a typical voter to complete the voting process once they entered the polling center?
The voting process begins when the voter enters the polling center and ends when the voter has cast his or her ballot and is able to leave the polling center. Watch two or three voters carry out the voting process, and provide an estimate in minutes of how long the process took.

69. Which, if any, of the following irregular processes did you observe? Multiple voting Ballot stuffing
 Interruption of voting Voter intimidation
 Illicit assistance Booth capture Family voting
 Possible vote buying/selling
 Violation of secrecy of the ballot Other None

ANSWER ONLY IF Question #69 does not include "None"

70. If any irregularities, please describe:
Please comment on the frequency and severity of the irregularities, noting the extent of their impact on the voting process.

71. How many party/candidate agents were at the polling center?
Total count of agents at polling center.

72. How many party/candidate agents were female?
Total count of female agents at polling center.

73. Which parties were represented by agents?
Do not include candidate agents. Nepali Congress
 Communist Party (Unified Marxist–Leninist)
 Communist Party of Nepal (Maoist Centre)
 Communist Party of Nepal (Marxist–Leninist)
 Rastriya Prajatantra Party Rastriya Janata Party Nepal
 Nepal Loktantrik Forum Sanghiya Samajvadi Forum
 Nepal Mazdoor Kisan Party Rastriya Janamorcha
 Other

ANSWER ONLY IF Question #73 includes "Other"

74. If "other," please list other party agents present?

75. How many observers were at the polling center?
Include the count of international and domestic observers (do not include yourselves).

76. How many observers were female?

77. Which election observation groups were present? EU ANFREL Embassy Personnel
 National Election Observation Committee
 General Election Observation Committee Sankalpa
 Democracy Resource Center Nepal Other

ANSWER ONLY IF Question #77 includes "Other"

78. If "other," please list other observations groups present:

79. Which, if any, of the following groups did not have sufficient access to the process?	Candidate/Party agents	International observers
	Domestic observers	Polling staff
	Other	Media
	None	

ANSWER ONLY IF Question #79 does not include "None"

80. If any, please describe:

How were groups denied access and what was the impact?

81. Did you observe any interference leading to negative impact on the election process?	Yes	No
--	-----	----

ANSWER ONLY IF Question #81 is equal to "Yes"

82. If "yes", which of the following groups interfered (negatively)?

Select 'None' if no interference was observed.

Candidate/Party agents	International observers
Domestic observers	Polling staff
Voters	Security
Religious/traditional leaders	Local officials
	Other
	None

ANSWER ONLY IF Question #82 does not include "None"

83. If any interference, please describe:

How were groups causing interference and what was the impact?

84. Were there any officially lodged complaints?

If applicable, near the end of your observation, ask the Polling Officer if present or ask observers from other organizations or party/candidate agents.

Yes	No
-----	----

ANSWER ONLY IF Question #84 is equal to "Yes"

85. If 'yes', please describe:

Who filed complaints? What were the reasons? How were they addressed?

86. Were there any problems reported to you by those present rather than those observed directly by you?

(e.g., agents, observers, voters)

Yes	No
-----	----

ANSWER ONLY IF Question #86 is equal to "Yes"

87. If 'yes,' please describe:

Please note the actors involved, how it was resolved, the apparent impact and any supporting evidentiary corroboration.

88. How would you evaluate voters' understanding of voting procedures?

Adequate	Inadequate	Not observed/observable
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ANSWER ONLY IF Question #88 is equal to "Inadequate"

89. Please describe the reasons for not choosing Adequate:

90. How would you evaluate party/candidate agents' performance?

Adequate	Inadequate	Not observed/observable
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ANSWER ONLY IF Question #90 is equal to "Inadequate"

91. Please describe the reasons for not choosing Adequate:

92. Before moving ahead, please review the following definitions regarding the overall assessment of IMPLEMENTATION OF PROCEDURES BY STAFF. Mark the selection below to indicate that you understand the definitions and refer back to this page if needed.

VERY GOOD - Procedures were always or almost always applied correctly. Any procedural errors observed were very minor and did not affect the integrity or transparency of the process. **REASONABLE** - Procedures were mostly applied correctly. Procedural errors observed did not appear to affect the integrity or transparency of the process. **POOR** - Procedures were not applied correctly; OR procedural errors significantly affected the transparency of the process and/or may have compromised the integrity of the process. **NOT CREDIBLE** - Important procedures were not followed correctly, and these problems likely compromised the integrity of the process.

I have read and understand the definitions.

93. What is your team's evaluation of the implementation of procedures by staff at this polling center?
This evaluation should be based upon the procedures evaluated earlier in the checklist as well as any procedural factors that may have been omitted from the checklist. Please refer back to the answers provided to questions about procedures as needed to inform the overall evaluation.

Very Good Reasonable Poor Not Credible

ANSWER ONLY IF Question #93 is equal to "Poor"

94. What were the main reasons for not choosing Very Good or Reasonable?

ANSWER ONLY IF Question #93 is equal to "Not Credible"

95. What were the main reasons for not choosing Very Good or Reasonable?

96. Before moving ahead, please review the following definitions regarding the overall assessment of the ELECTION ENVIRONMENT AND PROCESS. Mark the selection below to indicate that you understand the definitions and refer back to this page if needed.
VERY GOOD - The environment and process fully allowed voters to exercise freely their right to vote. The process was fully transparent. REASONABLE - The environment and process were acceptable in ensuring that voters could freely exercise their right to vote. Any observed problems did not affect significantly the integrity or transparency of the process. POOR - For some voters, the environment or process was not conducive to the free exercise of the right to vote, equality, or transparency. Observed problems may have compromised the integrity of the process. NOT CREDIBLE - The environment or the process prevented voters from freely exercising their right to vote or affected the fairness of polling. Observed problems likely compromised the integrity of the polling process.

I have read and understand the definitions.

97. What is your team's overall assessment of the election environment and process at this polling center?

Very Good Reasonable Poor Not Credible

ANSWER ONLY IF Question #97 is equal to "Poor"

98. What were the main reasons for not choosing Very Good or Reasonable?

ANSWER ONLY IF Question #97 is equal to "Not Credible"

99. What were the main reasons for not choosing Very Good or Reasonable?

100. Any other comments?

101. End Time of Observation:

4. Nepal Closing

Nepal 2017



User/Team

Observation Time

1. Start Time of Observation (please use 24 hour clock):

For example: 3:00 pm should be 15:00 hrs.

3. Province:

Select the province number for area of responsibility.

4. Electoral District:

Select the name of the district.

	1	2	3	4	5	6	7
	Achham		Arghakhaachi		Banke		Baglung
	Baitadi	Bajhang		Bajura	Bara		Bardiya
	Bhaktapur		Bhojpur		Chitwan		Dadeldhura
	Dailekh	Dang		Darchula		Dhadhing	
	Dhankuta		Dhanusha		Dolakha		Dolpa
	Doti	Gorkha		Gulmi		Humla	Ilam
	Jajarkot		Jhapa	Jumla		Kailali	Kalikot
	Kanchanpur		Kapilbastu		Kaski		Kathmandu
	Kavrepalanchowk		Khotang		Lalitpur		
	Lamjung		Mahottari		Makwanpur		Manang
	Morang		Mugu		Mustang		Myagdi
	Nawalparasi (Bardaghat Sustaa Paschim)						
	Nawalparasi (Bardaghat Sustaa Purwa)						Nuwakot
	Okhaldhunga		Paachthar		Palpa		Parbat
	Parsa	Pyuthan		Ramechhap		Rasuwa	
	Rautahat		Rolpa		Rukum Paschim		
	Rukum Purwa		Rupandehi		Salyan		
	Sankhuwasabha		Saptari		Sarlahi		Sindhuli
	Sindhupalchowk		Siraha		Solukhumbhu		
	Sunsari		Surkhet		Syangja		Tanahun
	Taplejung		Tehrathum		Udaypur		

5. House of Representative Election Constituency Number:

1	2	3	4	5	6	7	8
9	10						

6. Polling Location Code:

Enter the numeric polling location code.

7. Locality name:

8. Is the polling location in an urban or rural area?

Urban Rural

9. Number of polling centers at the polling location:

*If the polling location and the polling center are the same, please answer "1."*10. Which, if any, of the following prohibited or disruptive circumstances did you observe OUTSIDE the polling location? *Select "None" if you did not observe any prohibited or disruptive circumstances.*

Prohibited campaigning	Prohibited campaign material
Ineffective queue management	Intimidation
Violence	Significant disorder
Security (beyond regulations)	Other
	None

ANSWER ONLY IF Question #9 is greater than 1

11. Which, if any, of the following prohibited or disruptive circumstances did you observe INSIDE the polling location (but outside the centers)?

Select "None" if you did not observe any prohibited or disruptive circumstances.

Prohibited campaigning	Prohibited campaign material
Ineffective queue management	Intimidation
Violence	Booth capture
Significant disorder	Unauthorized Person
Security (beyond regulations)	
Other	None

ANSWER ONLY IF Question #9 is greater than 1

12. Polling Center Code for observed polling center:

13. Number of registered voters:

14. Approximate number of voters who have voted by time of arrival:
If the number of voters is not directly recorded by the polling staff, it may be necessary to ask the presiding officer or other staff to estimate the number of voters or calculate by other means.

15. Which, if any, prohibited or disruptive circumstances did you observe in the polling center? <i>Select "None" if you did not observe any prohibited or disruptive circumstances.</i>	Prohibited campaigning	Prohibited campaign material
	Ineffective queue management	Intimidation
	Violence	Booth capture
	Security (beyond regulations)	Significant disorder
	Other	Unauthorized Person

ANSWER ONLY IF Question #15 does not include "None"

16. Please describe:
What were the prohibited/disruptive circumstances and how did they affect the process?

17. Were any of the following materials missing, insufficient, or incorrect?	Electoral rolls (B/W and Colored)	Polling compartments
	Permanent ink or marker	Forms
	Ink pad	Swastika seal
	Ballot box(es)	Other
		None

ANSWER ONLY IF Question #17 includes "Other"

18. If 'other', please describe:

ANSWER ONLY IF Question #17 does not include "None"

19. If materials are missing, insufficient, or incorrect, please describe:

20. Did you observe the official closing of the polling center? <i>Generally, a polling center is closed when announced following closing regulations. Poll closing time is 17:00 hrs.</i>	Yes	No
---	-----	----

ANSWER ONLY IF Question #20 is equal to "No"

21. If 'no', please describe:

22. At what time was the closing of the polling center announced?
The closing time should match the time in regulations unless an emergency change was made by the NEC.

23. Approximately how many voters were waiting in the queue at the time of closing?	0	1-10	11-25	26-50	51-100
	More than 100				

24. Did you observe the last vote at the polling center?	Yes	No
--	-----	----

ANSWER ONLY IF Question #24 is equal to "Yes"

25. If 'yes', at what time did the last voter vote?

ANSWER ONLY IF Question #23 is not equal to "0"

26. Were all eligible persons in the queue at the time of closing allowed to vote?	Yes	No	Not observed
--	-----	----	--------------

ANSWER ONLY IF Question #23 is not equal to "0"

27. Were any and all voters prevented from joining the queue after closing?	Yes	No	Not observed
---	-----	----	--------------

28. Before moving ahead, please review the following definitions regarding assessment of PROCEDURES. Mark the selection below to indicate that you understand the definitions and refer back to this page if needed.
FULLY - The procedure was always or almost always applied correctly. Any procedural errors observed were very minor. ADEQUATELY - The procedure was mostly applied correctly. Procedural errors observed did not appear to affect the integrity or transparency of the process. INADEQUATELY - The procedure was often not applied correctly; OR the procedural error may have compromised the integrity of the process (even if few instances were observed). NOT AT ALL - The procedure was omitted

I have read and understand the definitions.

or was not followed meaningfully. NOT OBSERVED - Due to circumstances other than those described by the above, the observer was not able to assess the procedure.

29. How closely did the CLOSING ANNOUNCEMENT procedures adhere to regulations?

Procedure states that 15 minutes before poll closing (16:45 hrs), polling officer or a designated polling staff shall make an announcement. Even if there are no voters present in the polling center, the polling officer shall not complete the polling process before 17:00 hrs.

Fully Adequately Inadequately Not at all
Not observed

ANSWER ONLY IF Question #29 is equal to "Inadequately"

30. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #29 is equal to "Not at all"

31. Please describe the reasons for not choosing Fully or Adequately:

32. How closely did the SEALING OF BALLOT BOXES (incl. SLOT) procedures adhere to regulations?

Procedure states that the polling officer in the presence of agents close the hole for inserting ballot paper and put the security seals from the Commission.

Fully Adequately Inadequately Not at all
Not observed

ANSWER ONLY IF Question #32 is equal to "Inadequately"

33. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #32 is equal to "Not at all"

34. Please describe the reasons for not choosing Fully or Adequately:

35. How closely did the RECORDING OF SEAL NUMBERS procedures adhere to regulations?

After sealing the ballot box, the Polling Officer has to note down the numbers of such security seals in the poll book.

Fully Adequately Inadequately Not at all
Not observed/observable

ANSWER ONLY IF Question #35 is equal to "Inadequately"

36. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #35 is equal to "Not at all"

37. Please describe the reasons for not choosing Fully or Adequately:

38. How closely did the SECURING OF SENSITIVE POLLING MATERIALS procedures adhere to regulations?

Fully Adequately Inadequately Not at all
Not observed

ANSWER ONLY IF Question #38 is equal to "Inadequately"

39. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #38 is equal to "Not at all"

40. Please describe the reasons for not choosing Fully or Adequately:

41. How closely did the TRANSFER OF MATERIALS adhere to regulations?

Procedure states that the polling officer should transfer the sealed ballot boxes and other documents to the office of the returning officer as soon as possible and should allow candidates and polling agents to come along if they desire. He shall get receipt upon delivery to the returning officer.

Fully Adequately Inadequately Not at all
Not observed

ANSWER ONLY IF Question #41 is equal to "Inadequately"

42. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #41 is equal to "Not at all"

43. Please describe the reasons for not choosing Fully or Adequately:

44. How many party/candidate agents were at the polling center?

Total count of agents at polling center.

45. Which parties were represented by agents?

Do not include candidate agents.

Nepali Congress
Communist Party (Unified Marxist-Leninist)
Communist Party of Nepal (Maoist Centre)
Communist Party of Nepal (Marxist-Leninist)

	Rastriya Prajatantra Party Nepal Loktantrik Forum Nepal Mazdoor Kisan Party Other	Rastriya Janata Party Nepal Sanghiya Samajvadi Forum Rastriya Janamorcha	
46. How many observers were at the polling center? <i>Include the count of international and domestic observers (do not include yourselves).</i>			
47. Which election observation groups were present?	EU ANFREL Embassy Personnel National Election Observation Committee General Election Observation Committee Democracy Resource Center Nepal	Sankalpa Other	
48. Which, if any, of the following groups did not have sufficient access to the process?	Candidate/Party agents Domestic observers Other	International observers Polling staff Media None	
ANSWER ONLY IF Question #48 does not include "None"			
49. If any, please describe: <i>How were groups denied access and what was the impact?</i>			
50. Did you observe any interference leading to negative impact on the election process?	Yes	No	
ANSWER ONLY IF Question #50 is equal to "Yes"			
51. If "yes", which of the following groups interfered (negatively)? <i>Select 'None' if no interference was observed.</i>	Candidate/Party agents Domestic observers Voters Religious/traditional leaders	International observers Polling staff Local officials Other Media None	
ANSWER ONLY IF Question #51 does not include "None"			
52. If any interference, please describe: <i>How were groups causing interference and what was the impact?</i>			
53. Were there any officially lodged complaints? <i>If applicable, near the end of your observation, ask the Polling Officer if present or ask observers from other organizations or party/candidate agents.</i>	Yes	No	
ANSWER ONLY IF Question #53 is equal to "Yes"			
54. If 'yes', please describe: <i>Who filed complaints? What were the reasons? How were they addressed?</i>			
55. Were there any problems reported to you by those present rather than those observed directly by you? <i>(e.g., agents, observers, voters)</i>	Yes	No	
ANSWER ONLY IF Question #55 is equal to "Yes"			
56. If 'yes,' please describe: <i>Please note the actors involved, how it was resolved, the apparent impact and any supporting evidentiary corroboration.</i>			
57. How would you evaluate party/candidate agents' performance?	Adequate	Inadequate	Not observed/observable
ANSWER ONLY IF Question #57 is equal to "Inadequate"			
58. Please describe the reasons for not choosing Adequate:			
59. Did you observe the transportation of sensitive materials (i.e. unused ballots, spoiled ballots, ballots, and forms)?	Yes	No	
60. Was security provided in the transfer of sensitive materials?	Yes	No	Not observed
61. Before moving ahead, please review the following definitions regarding the overall assessment of IMPLEMENTATION OF PROCEDURES BY STAFF. Mark the selection below to indicate that you understand the definitions and refer back to this page if needed. <i>VERY GOOD - Procedures were always or almost always applied correctly. Any procedural errors observed were very minor and did not affect the</i>			

integrity or transparency of the process. REASONABLE - Procedures were mostly applied correctly. Procedural errors observed did not appear to affect the integrity or transparency of the process POOR - Procedures were not applied correctly; OR procedural errors significantly affected the transparency of the process and/or may have compromised the integrity of the process. NOT CREDIBLE - Important procedures were not followed correctly, and these problems likely compromised the integrity of the process.

I have read and understand the definitions.

62. What is your team's evaluation of the implementation of procedures by staff at this polling center?
This evaluation should be based upon the procedures evaluated earlier in the checklist as well as any procedural factors that may have been omitted from the checklist. Please refer back to the answers provided to questions about procedures as needed to inform the overall evaluation.

Very Good Reasonable Poor Not Credible

ANSWER ONLY IF Question #62 is equal to "Poor"

63. What were the main reasons for not choosing Very Good or Reasonable?

ANSWER ONLY IF Question #62 is equal to "Not Credible"

64. What were the main reasons for not choosing Very Good or Reasonable?

65. Before moving ahead, please review the following definitions regarding the overall assessment of the CLOSING ENVIRONMENT AND PROCESS. Mark the selection below to indicate that you understand the definitions and refer back to this page if needed.

VERY GOOD - No significant problems were observed with the implementation of procedures or environment. The process was fully transparent. REASONABLE - Observed problems did not affect significantly the integrity or transparency of the closing process, but there is room for improvement. POOR - Significant problems with any of the following may have compromised the integrity of the results: Errors in implementing closing procedures; Polling staff subject to intimidation or interference; Observers restricted. NOT CREDIBLE - Observed problems with the closing likely compromised the integrity of the results.

I have read and understand the definitions.

66. What is your team's overall assessment of the closing environment and process at this center?

Very Good Reasonable Poor Not Credible

67. What is your team's overall assessment of the election environment and process at this polling center?

Very Good Reasonable Poor Not Credible

ANSWER ONLY IF Question #66 is equal to "Poor"

68. What were the main reasons for not choosing Very Good or Reasonable?

ANSWER ONLY IF Question #66 is equal to "Not Credible"

69. What were the main reasons for not choosing Very Good or Reasonable?

70. Any other comments?

71. End Time of Observation:

5. Nepal Counting

Nepal 2017



User/Team

Observation Time

1. Start Time of Observation (please use 24 hour clock):

For example: 3:00 pm should be 15:00 hrs.

2. Province:

Select the province number for area of responsibility.

3. Electoral District:

Select the name of the district.

	1	2	3	4	5	6	7
Achham			Arghakhaachi		Banke		Baglung
Baitadi		Bajhang		Bajura		Bara	Bardiya
Bhaktapur			Bhojpur		Chitwan		Dadeldhura
Dailekh		Dang		Darchula		Dhadhing	
Dhankuta			Dhanusha		Dolakha		Dolpa
Doti		Gorkha		Gulmi		Humla	Ilam
Jajarkot		Jhapa		Jumla		Kailali	Kalikot
Kanchanpur			Kapilbastu		Kaski		Kathmandu
Kavrepalanchowk			Khotang		Lalitpur		
Lamjung		Mahottari		Makwanpur		Manang	
Morang		Mugu		Mustang		Myagdi	
Nawalparasi (Bardaghat Sustaa Paschim)							
Nawalparasi (Bardaghat Sustaa Purwa)							Nuwakot
Okhaldhunga			Paachthar		Palpa		Parbat
Parsa		Pyuthan		Ramechhap		Rasuwa	
Rautahat		Rolpa		Rukum Paschim			
Rukum Purwa			Rupandehi		Salyan		
Sankhuwasabha			Saptari		Sarlahi		Sindhuli
Sindhupalchowk			Siraha		Solukhumbhu		
Sunsari		Surkhet		Syangja		Tanahun	
Taplejung		Tehrathum		Udaypur			
4. Which, if any, of the following prohibited or disruptive circumstances did you observe OUTSIDE the counting center?							
	Intimidation		Violence		Significant disorder		
	Security (beyond regulations)				Other		None
ANSWER ONLY IF Question #4 does not include "None"							
5. If any, please describe:							
6. Number of constituencies counted at the counting center?							
7. House of Representative Election Constituency Number:	1	2	3	4	5	6	7
	9	10					8
8. Number of counting teams for the observed constituency:							
9. Number of staff counting the constituency (do not include the Returning Officer):							
10. Number of FEMALE staff counting the constituency:							
11. Please indicate the Returning Officer's gender:	Female	Male					
12. Which, if any, of the following prohibited or disruptive circumstances did you observe INSIDE the counting center?							
	Intimidation		Violence		Significant disorder		
	Security (beyond regulations)				Other		None
ANSWER ONLY IF Question #12 does not include "None"							
13. If any, please describe:							
14. Which party agents are observing counting for the constituency?	Nepali Congress						
	Communist Party (Unified Marxist–Leninist)						
	Communist Party of Nepal (Maoist Centre)						
	Communist Party of Nepal (Marxist–Leninist)						
	Rastriya Prajatantra Party			Rastriya Janata Party Nepal			

Nepal Loktantrik Forum	Sanghiya Samajvadi Forum
Nepal Mazdoor Kisan Party	Rastriya Janamorcha
Other	

ANSWER ONLY IF Question #14 includes "Other"

15. If "other," please list other party agents present?

16. How many agents are observing the count for the constituency?

17. How many agents are female?

18. Which election observers are observing the Counting Center?

EU	ANFREL	Embassy Personnel
National Election Observation Committee		
General Election Observation Committee		Sankalpa
Democracy Resource Center Nepal	Other	

ANSWER ONLY IF Question #18 includes "Other"

19. If "other," please list other observations groups present:

20. How many observers are observing the count for the constituency?

21. How many observers are females?

22. Was counting for the constituency happening in one room?

Yes	No
-----	----

ANSWER ONLY IF Question #22 is equal to "Yes"

23. If yes, was the room big enough to accommodate at least 3 counting teams, political party agents, candidates or their representatives and accredited observers?

Yes	No
-----	----

ANSWER ONLY IF Question #22 is equal to "No"

24. Are the other rooms located in the same building?

Yes	No
-----	----

ANSWER ONLY IF Question #22 is equal to "No"

25. Is the counting also done in another building but at the same compound?

Yes	No
-----	----

26. Does the set up ensure the integrity of the ballots and counting process?

Set up refers to the layout of the counting tables, area to store ballots and ballot boxes. It should be well lighted and ensure that ballots cannot misplaced or destroyed.

Yes	No
-----	----

ANSWER ONLY IF Question #26 is equal to "No"

27. If no, please describe:

28. Which of the following materials are present?

Microphone/loud speaker	Information Board
Forms	Wax Seal
Rubber bands	Other
None	

29. Are there unauthorized persons where the constituency is counted?

Under the Directives, only the following should be allowed: candidates or representatives for HoR and PA FPTP and agent of political parties ("counting agents"); counting staff; security personnel; EC staff monitors; Observers.

Yes	No
-----	----

ANSWER ONLY IF Question #29 is equal to "Yes"

30. If yes, please describe:

31. Which ballots were the teams counting?

HoR FPTP	PA FPTP	PR
----------	---------	----

Select all that apply.

32. Which counting team did you observe?

HoR FPTP	PA FPTP	PR
----------	---------	----

33. Were you able to observe the INITIATION OF COUNTING procedure?

Yes	No
-----	----

ANSWER ONLY IF Question #33 is equal to "Yes"

34. How closely did the INITIATION OF COUNTING adhere to

directives?	Fully	Adequately	Inadequately	Not at all
<i>Directives mandate that after all ballot boxes are received, the RO has to publish the Notice of Commencement of Vote Counting specifying the place, time and date for counting.</i>	Not observed			
ANSWER ONLY IF Question #34 is equal to "Inadequately"				
35. Please describe the reasons for not choosing Fully or Adequately:				
ANSWER ONLY IF Question #34 is equal to "Not at all"				
36. Please describe the reasons for not choosing Fully or Adequately:				
37. Was the polling held in Phase 1 or Phase 2?	Phase 1	Phase 2		
ANSWER ONLY IF Question #37 is equal to "Phase 1"				
38. If polling was held in phase 1, what date and time did the counting process start?				
ANSWER ONLY IF Question #37 is equal to "Phase 1"				
39. If the counting process started after 5 pm on December 7, what was the reason for the delay?				
ANSWER ONLY IF Question #37 is equal to "Phase 1"				
40. If counting started before 5 pm on December 7, why did the counting begin early?				
ANSWER ONLY IF Question #37 is equal to "Phase 2"				
41. What date and time did the counting process start?				
<i>Directives mandate that after all ballot boxes are received, the RO has to publish the Notice of Commencement of Vote Counting specifying the place, time and date for counting</i>				
ANSWER ONLY IF Question #37 is equal to "Phase 2"				
42. Was there any delay in the start of the counting process? Please describe.				
ANSWER ONLY IF Question #37 is equal to "Phase 2"				
43. Did the counting process start before the receipt of all the ballot boxes from all polling stations in the District?	Yes	No		
44. Did you observe the checking of ballot boxes prior to counting?	Yes	No		
ANSWER ONLY IF Question #44 is equal to "Yes"				
45. If yes, how closely did the checking of ballot boxes adhere to directives?				
<i>Directives state that checking of ballot boxes must be done in the presence of the counting agents to check whether ballot box is open or broken; the name of polling center, serial number and security number is mentioned; and security seal is the same as before, all of which must be documented, including any remarks, through the Deed on Examination of Ballot Box</i>	Fully	Adequately	Inadequately	Not at all
	Not observed			
ANSWER ONLY IF Question #45 is equal to "Inadequately"				
46. Please describe the reasons for not choosing Fully or Adequately:				
ANSWER ONLY IF Question #45 is equal to "Not at all"				
47. Please describe the reasons for not choosing Fully or Adequately:				
ANSWER ONLY IF Question #44 is equal to "Yes"				
48. Were there any discrepancies observed during the process? <i>Select all that apply:</i>	Ballot box is open or broken			
	Polling center not mentioned			
	Serial number not mentioned			
	Number of ballot boxes not mentioned			
	Security seal not mentioned		Security seal is different	
	Other	None		
ANSWER ONLY IF Question #48 includes "Other"				
49. If other, please describe:				
ANSWER ONLY IF Question #44 is equal to "Yes"				
50. If discrepancies were discovered during the ballot boxes				

examination, how closely did the steps undertaken by the Returning Officer adhere to regulations?
Regulations state that the Returning Officer has to execute a Deed of Recognizance setting out that matter to be signed by the counting agents. The ballot boxes subject of the recognizance shall be set aside and kept in a safe place.

	Fully	Adequately	Inadequately	Not at all
	Not observed			

ANSWER ONLY IF Question #50 is equal to "Inadequately"
 51. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #50 is equal to "Not at all"
 52. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #44 is equal to "Yes"
 53. Were there any complaints raised by any counting agents?

	Yes	No	Not observed
--	-----	----	--------------

ANSWER ONLY IF Question #53 is equal to "Yes"
 54. If yes, please describe:
What were the issues? Were they resolved? Did they affect the counting process?

55. Did you observe the procedure for opening the ballot boxes to start the process for counting votes?

	Yes	No
--	-----	----

ANSWER ONLY IF Question #55 is equal to "Yes"
 56. How closely did the process adhere to the Directives?
Directives state that after seal is broken and ballot box is opened, all the ballot papers have to be placed/dropped on the counting table or place and the emptied ballot boxes to be shown to the counting agents.

	Fully	Adequately	Inadequately	Not at all
	Not observed			

ANSWER ONLY IF Question #56 is equal to "Inadequately"
 57. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #56 is equal to "Not at all"
 58. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #55 is equal to "Yes"
 59. Was there any complaint raised by any counting agent?

	Yes	No
--	-----	----

ANSWER ONLY IF Question #59 is equal to "Yes"
 60. If yes, please describe:
What was the complaint? How was the complaint resolved?

61. Did you observe the MIXING, UNFOLDING, and BUNDLING procedures after the ballot boxes were opened?

	Yes	No
--	-----	----

ANSWER ONLY IF Question #61 is equal to "Yes"
 62. How closely did start of the counting process after the opening of the ballot boxes adhere to Directives?
Directives state that the ballot papers from more than one polling centers of the concerned constituency shall be mixed, unfold the ballots, place upside down and divide them into bundles of 50 or 100 using rubber bands.

	Fully	Adequately	Inadequately	Not at all
	Not observed			

ANSWER ONLY IF Question #62 is equal to "Inadequately"
 63. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #62 is equal to "Not at all"
 64. Please describe the reasons for not choosing Fully or Adequately:

65. Did you observe the procedure for identifying and segregating the VALID from INVALID ballots?

	Yes	No
--	-----	----

ANSWER ONLY IF Question #65 is equal to "Yes"
 66. How closely did the procedures for identification of valid and invalid ballots adhere to the Directives?
Directives provide several grounds for invalidating a ballot. See list provided.

	Fully	Adequately	Inadequately	Not at all
	Not observed			

ANSWER ONLY IF Question #66 is equal to "Inadequately"

67. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #66 is equal to "Not at all"

68. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #65 is equal to "Yes"

69. How closely did the segregation of valid and invalid ballots adhere to Directives?

Directives state that for the FPTP election system, the invalid ballot papers should be counted by separating them from the bundles. For the PR system, the ballot paper should remain with the valid ballots even if one of the votes is invalid as long as the other is valid.

Fully	Adequately	Inadequately	Not at all
Not observed			

ANSWER ONLY IF Question #69 is equal to "Inadequately"

70. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #69 is equal to "Not at all"

71. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #65 is equal to "Yes"

72. Was the process of segregating valid from invalid ballots visible to the counting agents?

Yes	No
-----	----

ANSWER ONLY IF Question #65 is equal to "Yes"

73. Was there any complaint raised by any counting agent?

Yes	No
-----	----

ANSWER ONLY IF Question #73 is equal to "Yes"

74. If yes, please describe:

75. Did you observe the counting of ballots and the recording of the votes?

Yes	No
-----	----

ANSWER ONLY IF Question #75 is equal to "Yes"

76. How closely did the counting of the ballot papers adhere to Directives?

Directives state that the counting staff shall count in such a manner that it is visible to the counting agents and that if any of the counting agents wishes to see the ballot papers in the process of counting, such ballot paper shall be shown to him or her but cannot be touched by him or her.

Fully	Adequately	Inadequately	Not at all
Not observed			

ANSWER ONLY IF Question #76 is equal to "Inadequately"

77. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #76 is equal to "Not at all"

78. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #75 is equal to "Yes"

79. How closely did the Returning Officer adhere to the Directives with regard to the report of the progress of votes?

Directives state that the progress of the details of count of votes shall be sent to the Election Commission and thereafter the same information shall be given to the public through the information board or a loud speaker.

Fully	Adequately	Inadequately	Not at all
Not observed			

ANSWER ONLY IF Question #79 is equal to "Inadequately"

80. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #79 is equal to "Not at all"

81. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #75 is equal to "Yes"

82. Was the counting continuous?

Yes	No
-----	----

Directives state that counting should be continuous.

ANSWER ONLY IF Question #82 is equal to "No"

83. If not, why did the counting stop?

ANSWER ONLY IF Question #82 is equal to "No"

84. When the counting was stopped, how closely did it adhere to the

Directives?

Directives require the RO to sign and put wax seal in the counted and uncounted ballot papers, records of vote counting and records of uncounted ballot boxes in a separate envelope or bag or sack; counting agents can put their own wax seal if they wish). A deed about this should be prepared and signed by the counting agents.

Fully	Adequately	Inadequately	Not at all
Not observed			

ANSWER ONLY IF Question #84 is equal to "Inadequately"

85. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #84 is equal to "Not at all"

86. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #82 is equal to "No"

Yes	No
-----	----

ANSWER ONLY IF Question #87 is equal to "Yes"

88. If yes, how closely did the resumption of counting adhere to the Directives?

RO has to publish the notice of resumption and copies thereof are provided to the counting agents present.

Fully	Adequately	Inadequately	Not at all
Not observed			

ANSWER ONLY IF Question #88 is equal to "Inadequately"

89. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #88 is equal to "Not at all"

90. Please describe the reasons for not choosing Fully or Adequately:

91. Did you observe the preparation of counting tables/forms?

Yes	No
-----	----

ANSWER ONLY IF Question #91 is equal to "Yes"

92. How closely did the recording of the details of the vote received by each candidate adhere to the Directives?

Directives state that the details shall be recorded in the EC prescribed form indicating the HoR/PA election constituency number, the polling centers, total voters, total casted votes, total invalid votes, total valid votes and the votes received by each candidate or party.

Fully	Adequately	Inadequately	Not at all
Not observed			

ANSWER ONLY IF Question #92 is equal to "Inadequately"

93. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #92 is equal to "Not at all"

94. Please describe the reasons for not choosing Fully or Adequately:

95. Did you observe the completion of counting?

Yes	No
-----	----

ANSWER ONLY IF Question #95 is equal to "Yes"

96. How closely did the completion of the counting process adhere to the Directives?

Fully	Adequately	Inadequately	Not at all
Not observed			

ANSWER ONLY IF Question #96 is equal to "Inadequately"

97. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #96 is equal to "Not at all"

98. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #95 is equal to "Yes"

99. How closely did the Preparation of Counting Table/Form by the RO adhere to the Directives?

Directives state that the RO has to prepare 3 copies of counting table/form – one each for the HoR FPTP, PA FPTP and PR, each of which must be signed by him and by the counting agents.

Fully	Adequately	Inadequately	Not at all
Not observed			

ANSWER ONLY IF Question #99 is equal to "Inadequately"

100. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #99 is equal to "Not at all"

101. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #95 is equal to "Yes"

102. How closely did the Preparation of Deed of Completion of Counting adhere to the Directives? Fully Adequately Inadequately Not at all
Not observed

ANSWER ONLY IF Question #102 is equal to "Inadequately"

103. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #102 is equal to "Not at all"

104. Please describe the reasons for not choosing Fully or Adequately:

105. Did you observe the announcement of election results and issuance of Certificates to the winner? Yes No

ANSWER ONLY IF Question #105 is equal to "Yes"

106. How closely did the announcement of results adhere to the Directives?

Directives state that RO, after the completion of counting, has to execute the document announcing the results of the elections using the form prescribed the Commission, publish a copy and send another copy to the Commission. Fully Adequately Inadequately Not at all
Not observed

ANSWER ONLY IF Question #106 is equal to "Inadequately"

107. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #106 is equal to "Not at all"

108. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #105 is equal to "Yes"

109. How closely the did the Issuance of Certificate to the elected candidate adheres to regulations?

Directives state that the RO has to prepare two copies of the Certificate – one to be issued to the elected candidate and the other to be given to the Election Office, which must be kept safely. Fully Adequately Inadequately Not at all
Not observed

ANSWER ONLY IF Question #109 is equal to "Inadequately"

110. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #109 is equal to "Not at all"

111. Please describe the reasons for not choosing Fully or Adequately:

ANSWER ONLY IF Question #105 is equal to "Yes"

112. Was there any complaint filed by any counting agent with regard to the issuance of Certificate? Yes No

ANSWER ONLY IF Question #112 is equal to "Yes"

113. If yes, please describe:

114. Was there any application for recounting of votes? Yes No Not observed

ANSWER ONLY IF Question #114 is equal to "Yes"

115. If yes, what was the ground raised?

ANSWER ONLY IF Question #114 is equal to "Yes" Yes No

116. Was the application granted?

ANSWER ONLY IF Question #116 is equal to "No"

117. If not, please describe:

118. How would you assess the level of TRANSPARENCY of the counting process for the constituency? Very Good Reasonable Poor Not Credible
Assess for the observed constituency not only the team.

119. How would you assess the Adherence to Procedures of the counting process for the constituency? Very Good Reasonable Poor Not Credible
Assess for the observed constituency not only the team.

120. How would you assess SECURITY during the counting process for the constituency? Very Good Reasonable Poor Not Credible
Assess for the observed constituency not only the team.

121. How would you assess the INTEGRITY of the PROCESS during

counting for the constituency? <i>Assess for the observed constituency not only the team.</i>	Very Good	Reasonable	Poor	Not Credible
122. How would you assess the ACCURACY of the counting process for the constituency? <i>Assess for the observed constituency not only the team.</i>	Very Good	Reasonable	Poor	Not Credible
123. Before moving ahead, please review the following definitions regarding the overall assessment of the COUNTING ENVIRONMENT AND PROCESS. Mark the selection below to indicate that you understand the definitions and refer back to this page if needed. <i>VERY GOOD - No significant problems were observed with the implementation of procedures or environment. The counting process was fully transparent. REASONABLE - Observed problems did not affect significantly the integrity or transparency of the counting process, but there is room for improvement. POOR - Significant problems with any of the following may have compromised the integrity of the results: errors in implementing counting procedures; Counting staff subject to intimidation or interference; Observers restricted. NOT CREDIBLE - Observed problems with the counting likely compromised the integrity of the results.</i>	I have read and understand the definitions.			
124. What is your team's overall assessment of the counting environment and process for the constituency?	Very Good	Reasonable	Poor	Not Credible
125. What is your team's evaluation of the implementation of procedures by staff at the constituency?	Very Good	Reasonable	Poor	Not Credible
126. Any other comments?				
127. End Time of Observation:				

Not Published

6. Nepal Counting Center



Nepal 2017

User/Team

Observation Time

1. Province:

Select the province number for area of responsibility.

1 2 3 4 5 6 7

2. Electoral District:

Select the name of the district.

Achham	Arghakhaachi	Banke	Baglung
Baitadi	Bajhang	Bajura	Bara Bardiya
Bhaktapur	Bhojpur	Chitwan	Dadeldhura
Dailekh	Dang	Darchula	Dhadhing
Dhankuta	Dhanusha	Dolakha	Dolpa
Doti	Gorkha	Gulmi	Humla Ilam
Jajarkot	Jhapa	Jumla	Kailali Kalikot
Kanchanpur	Kapilbastu	Kaski	Kathmandu
Kavrepalanchowk	Khotang	Lalitpur	
Lamjung	Mahottari	Makwanpur	Manang
Morang	Mugu	Mustang	Myagdi
Nawalparasi (Bardaghat Sustaa Paschim)			
Nawalparasi (Bardaghat Sustaa Purwa)			Nuwakot
Okhaldhunga	Paachthar	Palpa	Parbat
Parsa	Pyuthan	Ramechhap	Rasuwa
Rautahat	Rolpa	Rukum Paschim	
Rukum Purwa	Rupandehi	Salyan	
Sankhuwasabha	Saptari	Sarlahi	Sindhuli
Sindhupalchowk	Siraha	Solukhumbhu	
Sunsari	Surkhet	Syangja	Tanahun
Taplejung	Tehrathum	Udaypur	

3. What is your team's assessment of the IMPLEMENTATION OF PROCEDURES at this Counting Center?

Please write several sentences or a few short paragraphs to answer the question.

4. How would you assess the level of TRANSPARENCY of the COUNTING PROCESS at this Counting Center?

Please write several sentences or a few short paragraphs to answer the question.

5. What is your team's assessment of the overall ENVIRONMENT and LEVEL OF SECURITY at this Counting Center?

Please write several sentences or a few short paragraphs to answer the question.

6. What is your team's OVERALL ASSESSMENT of this Counting Center?

Please write several sentences or a few short paragraphs to answer the question.

7. Any additional comments:

Published

Version: 2 (nho)

7. Overall Counting Checklist



Nepal 2017

User/Team

Observation Time

1. Level of Access to Counting Center on Dec 7:

No access	Restricted access	Mixed access
Full access	Not applicable	

ANSWER ONLY IF Question #1 is not equal to "Full access"

2. Please describe if not full access:

ANSWER ONLY IF Question #1 is not equal to "No access"

3. How would you assess the overall QUALITY OF ACCESS to counting center on Dec 7?

Poor	Inadequate	Reasonable	Very Good
Not applicable			

ANSWER ONLY IF Question #3 is not equal to "Very Good"

4. Please describe if not very good:

ANSWER ONLY IF Question #1 is not equal to "No access"

5. How would you ASSESS the QUALITY OF COUNT OVERALL for Dec 7?

Poor	Inadequate	Reasonable	Very Good
Not applicable			

ANSWER ONLY IF Question #5 is not equal to "Very Good"

6. Please describe if not very good:

ANSWER ONLY IF Question #1 is not equal to "No access"

7. How many times did you enter a counting center and observe without sending a Nepal Counting checklist on Dec 7?

8. Level of Access to Counting Center on Dec 8:

No access	Restricted access	Mixed access
Full access		

ANSWER ONLY IF Question #8 is not equal to "Full access"

9. Please describe if not full access:

ANSWER ONLY IF Question #8 is not equal to "No access"

10. How would you assess the overall QUALITY OF ACCESS to counting center on Dec 8?

Poor	Inadequate	Reasonable	Very Good
------	------------	------------	-----------

ANSWER ONLY IF Question #10 is not equal to "Very Good"

11. Please describe if not very good:

ANSWER ONLY IF Question #8 is equal to "No access"

12. How would you ASSESS the QUALITY OF COUNT OVERALL for Dec 8?

Poor	Inadequate	Reasonable	Very Good
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ANSWER ONLY IF Question #12 is not equal to "Very Good"

13. Please describe if not very good:

ANSWER ONLY IF Question #8 is not equal to "No access"

14. How many times did you enter a counting center and observe without sending a Nepal Counting checklist on Dec 8?

15. Level of Access to Counting Center on Dec 9:

No access
Full access Restricted access Mixed access

ANSWER ONLY IF Question #15 is not equal to "Full access"

16. Please describe if not full access:

ANSWER ONLY IF Question #15 is not equal to "No access"

17. How would you assess the overall QUALITY OF ACCESS to counting center on Dec 9? Poor Inadequate Reasonable Very Good

ANSWER ONLY IF Question #17 is not equal to "Very Good"

18. Please describe if not very good:

ANSWER ONLY IF Question #15 is not equal to "No access"

19. How would you ASSESS the QUALITY OF COUNT OVERALL for Dec 9? Poor Inadequate Reasonable Very Good

ANSWER ONLY IF Question #19 is not equal to "Very Good"

20. Please describe if not very good:

ANSWER ONLY IF Question #15 is not equal to "No access"

21. How many times did you enter a counting center and observe without sending a Nepal Counting checklist on Dec 9?

22. Level of Access to Counting Center on Dec 10:

No access
Full access Restricted access Mixed access

ANSWER ONLY IF Question #22 is not equal to "Full access"

23. Please describe if not full access:

ANSWER ONLY IF Question #22 is not equal to "No access"

24. How would you assess the overall QUALITY OF ACCESS to counting center on Dec 10? Poor Inadequate Reasonable Very Good

ANSWER ONLY IF Question #24 is not equal to "Very Good"

25. Please describe if not very good:

ANSWER ONLY IF Question #22 is not equal to "No access"

26. How would you ASSESS the QUALITY OF COUNT OVERALL for Dec 10? Poor Inadequate Reasonable Very Good

ANSWER ONLY IF Question #26 is not equal to "Very Good"

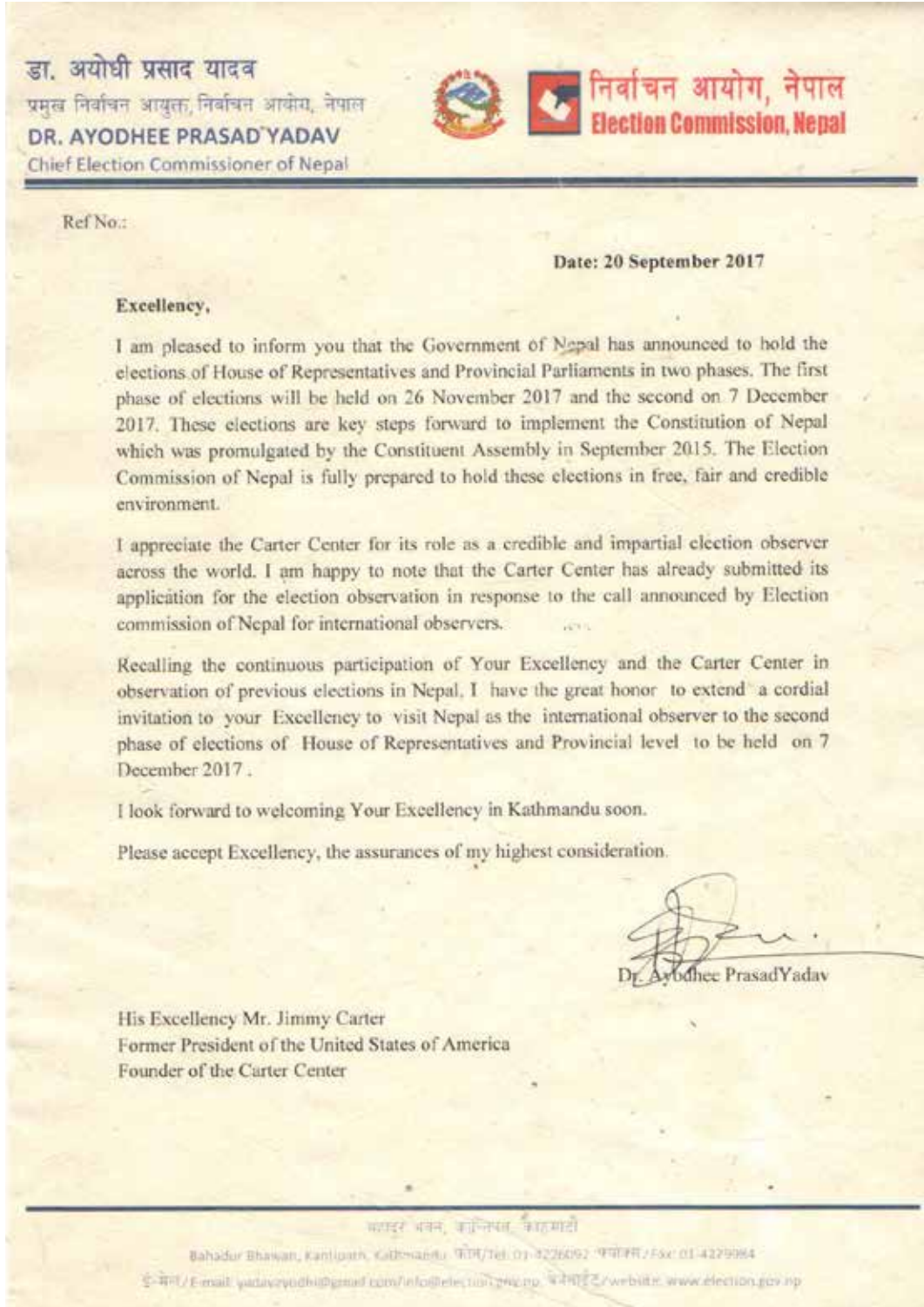
27. Please describe if not very good:

ANSWER ONLY IF Question #22 is not equal to "No access"

28. How many times did you enter a counting center and observe without sending a Nepal Counting checklist on Dec 10?

Appendix G

Invitation Letter for Nepal 2017



| The Carter Center at a Glance

The Carter Center was founded in 1982 by former U.S. President Jimmy Carter and his wife, Rosalynn, in partnership with Emory University, to advance peace and health worldwide. A not-for-profit, nongovernmental organization, the Center has helped to improve life for people in more than 80

countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; and improving mental health care. Please visit www.cartercenter.org to learn more about The Carter Center.



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