



NEPAL

FINAL REPORT

**CONSTITUENT ASSEMBLY ELECTIONS
19 NOVEMBER 2013**

EUROPEAN UNION ELECTION OBSERVATION MISSION

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ACRONYMS

ACORAB	Association of Community Radio Broadcasters
ANFRE	Asian Network for Free Elections
BAN	Broadcasting Association for Nepal
CAEOF	Constituent Assembly Election Observation Joint Forum
CPN-M	Communist Party of Nepal-Maoist
CPN-UML	Communist Party of Nepal-Unified Marxist Leninist
DEO	District Election Officers
ECN	Election Commission of Nepal
EOC	Election Observation Committee Nepal
EU EOM	European Union Election Observation Mission
FLSC	Federal Limbuwan State Council
FNCCI	Federation of Nepalese Chambers of Commerce and Industry
FNJ	Federation of Nepalese Journalists
FPTP	First-Past-The-Post
GEOC	General Election Observation Committee
HLPC	High-Level Political Committee
IECM	Interim Election Council of Ministers
JEOC	Joint Elections Operations Centre
MoHA	Ministry of Home Affairs
MORC	Media and Observers Resource Centre
MPRF-D	Madhesi People's Rights Forum-Democratic
NC	Nepali Congress
NDI-Nepal	National Democratic Institute
NEOC	National Coalition of Election Observation Committee
NPI	Nepal Press Institute
PR	Proportional Representation
RPP-N	Rastriya Prajatantra Party-Nepal
SAARC	South Asian Association for Regional Cooperation
TMDP	Tarai Madhes Democratic Party
UCPN-M	Unified Communist Party Nepal-Maoist
UDMF	United Democratic Madhesi Front
VEVs	Voter Education Volunteers

I. Executive Summary

- The 19 November elections were the second elections for the Constituent Assembly, mandated to adopt a new constitution for Nepal and to form a new government. Following an invitation from the Government of Nepal and the Election Commission, the European Union Election Observation Mission (EU EOM), led by Chief Observer Eva Joly, Member of the European Parliament, was present in Nepal from 4 October to 11 December. In total, the EU EOM deployed 112 observers, from 27 EU Member States, Norway and Switzerland, across the country to assess the whole electoral process in accordance with international and regional commitments for elections, as well as the laws of Nepal. A delegation of members of the European Parliament, headed by Daniel van der Stoep, Member of the European Parliament, also joined the mission to observe election day.
- After a period of political instability, the leaders of the main political parties agreed on the establishment of a High-Level Political Committee (HLPC) in March 2013, and on a care-taker government, the Interim Election Council of Ministers (IECM), whose sole mandate was to hold the 2013 Constituent Assembly elections. The fact that some important political forces did not take part in the HLPC constituted one of the biggest political challenges in the electoral process. The 33-party alliance led by the Communist Party of Nepal-Maoist (CPN-M) and the Federal Limbuwan State Council (FLSC) were the main opponents to the electoral process. Nonetheless, a total of 6,127 candidates competed for the FPTP elections, which included 1,115 independent candidates, while 122 parties contested the PR election, and together they nominated 10,709 candidates.
- The legal framework for the Constituent Assembly elections provides a good basis for the conduct of genuine elections in line with the international commitments undertaken by Nepal. There are, however, some deficiencies in the protection of the right of political representation and in the inclusiveness quotas to ensure representation for traditionally marginalised groups.
- The Election Commission of Nepal (ECN) enjoyed public confidence throughout the entire election process, and was perceived to be acting in an independent and impartial manner. Technical electoral preparations were completed in a timely manner despite considerable logistical challenges and time constraints. The ECN demonstrated competence in conducting key operations of the electoral process, such as the printing of ballot papers and the distribution of election material. The delivery of election material to the districts was concluded well in advance of election day, as were staff deployments. Temporary election staff generally acted in an impartial and independent manner.
- The Final Voters' List was comprised of 12,147,865 voters capturing an estimated figure of around 75 per cent of the potential Nepalese electorate. Eligibility to exercise the right to vote is reasonable, however, for this register, eligible voters could not register themselves without a citizenship certificate - except for the brief opportunity to register on the basis of having been registered in 2008 - the holding of which is low among marginalised communities. One of the main challenges faced by the electoral administration was the provision of voter ID cards. EU observers, however, reported that, on election day, voters did not generally face any difficulties regarding their identification. The few voters observed without ID cards were facilitated to vote upon production of other documents.

- Due to the failure to undertake a review of constituency boundaries, significant differences in the size of the electorate between constituencies existed, with the largest electorate having been 82,218 voters in one constituency in the Bhaktapur district, while the smallest had just 4,795 voters in Manang district. These discrepancies reveal some significant deviation from the core principle of equal representation, a principle expressed as equal suffrage, protected in Article 25 (b) of the International Covenant on Civil and Political Rights.
- The right to participate in the conduct of public affairs is well protected in the electoral law. Qualifications for eligibility to stand for election to public office are reasonable, and the law was applied in a reasonable manner, with all disqualifications being made in accordance with the law. There were 296 disqualifications from the PR election, on the grounds of being under age, not being registered as voters, being nominated twice in PR, being included among FPTP candidates, holding public office and having been convicted of murder. There were no objections made against any candidates for the FPTP seats, but the ECN made 21 disqualifications on its own initiative.
- The EU EOM observed 366 campaign events across the country. Freedoms of speech and assembly were respected as candidates campaigned actively across the country. Electoral campaign activities were largely manifest through small meetings at a local level with the exception of a week-long mass rally conducted by UCPN-M. Throughout the campaign period, several incidents of a violent nature took place, attributed variously to both participating parties as well as to those parties boycotting the elections. However, this did not have a significant impact on the unfolding of the campaign.
- The Code of Conduct for the Election conferred extensive monitoring and enforcement powers on the ECN. However, few sanctions were imposed on those who violated the code. While the code has legal weight, moral pressure has been used to enforce it rather than punitive measures. While the code includes campaign spending limits, supervision of expenditure extends only to requirement of a statement after the elections. A draft of the code had required disclosure of sources of party funding but this was not adopted missing the opportunity for greater transparency into campaign financing.
- Media, in general, provided a diverse platform for political parties to present their messages to voters in an environment of freedom of expression. Although electoral coverage focused mainly on campaign activities by UCPN-M, CPN-UML and NC, significant efforts were made to provide coverage to minor parties. Media monitoring conducted by the EU EOM revealed fair coverage by both public and private broadcasters and newspapers, with proportionate distribution of airtime and space, and reports generally presented in a neutral tone.
- On election day, voting was conducted in an orderly and generally calm atmosphere. Polling procedures were followed consistently in the polling stations observed by the EU EOM and the performance of polling staff was mostly assessed to be good. The integrity of the vote was sufficiently protected in 97 per cent of the polling stations observed as efficient processing of voters and appropriate use of controls and safeguards were implemented. Constituency counting centres started to receive sensitive material on election night immediately after closing was completed at polling stations. The process of transferring sensitive material was carried out according to procedures in most places observed. EU observers assessed the counting process as mostly good or very good in the 75 counting centres observed. However,

the procedures implemented for the counting process did not include a reconciliation step by polling station.

- The ECN announced the results of the FPTP seats on 25 November and the final results for the PR seats on 3 December. The political parties were given a period of one week after the announcement of allotted PR seats to submit their final list of candidates. The results announced by ECN afforded the highest number of votes to NC with 196 seats, followed closely by CPN-UML with 175 seats and 80 seats attributed to UCPN-M. Voter participation for the FPTP elections was 78.34 per cent and for the PR reached 79.82 per cent, as compared to 61.7 per cent and 63.29 per cent respectively in the 2008 elections. Invalid ballots reached 4.96 per cent for the FPTP elections and 3.2 per cent for the PR elections, registering a decrease in comparison to the 5.15 per cent for the FPTP and 3.66 per cent for PR in the 2008 elections.
- Election related matters were adjudicated on by the Supreme Court. Seven election-related cases were filed between the declaration of the date of the elections and election day. Almost all of these cases sought to postpone the elections due, variously, to alleged violations of the rights of women, of persons with disabilities and of the diaspora, as well as the omission of negative voting rights, and the severity of accreditation requirements for domestic observers. None of these actions succeeded in achieving their aim of halting or altering the electoral process.
- The Constituent Assembly Court, established after election day, received 16 petitions (as of 10 December 2013), all seeking invalidation of elections, with one additionally seeking a recount. All were individual applications. Of these cases, four were filed by unsuccessful UCPN-M candidates, four by unsuccessful Nepali Congress candidates, and two by unsuccessful CPN-UML candidates. The timeframes for submitting petitions challenging the validity of election results, as well as the period for the court to issue a decision, are reasonable, providing for a timely remedy for aggrieved parties.
- In 2008, Nepal took the lead in the region by electing 33.21 per cent of women to the Constituent Assembly, based on reserved seats and inclusiveness quotas in electoral law. These advances made by women in 2008 were not maintained in 2013, despite women have won a significant percentage of seats in these elections, due to the quota system established in the Interim Constitution. However, the exceptions to a strict imposition of the 50 per cent quota rule granted to political parties resulted in the undermining of it, with the outcome in this election being that fewer women won PR seats, rather than the 50 per cent envisaged in electoral law.
- While there are some legal loopholes which resulted in the election of less than 33 per cent of women, political parties have demonstrated greater political will to include other marginalised groups in their lists of candidates in both FPTP and PR elections. However, the long-standing discrimination and social exclusion associated with caste, class, ethnicity and geography continue to present obstacles to the full realisation of the human rights of such groups, and affirmative action will continue to be necessary to ensure their long-term empowerment in public and political life.

A comprehensive list of recommendations is offered at the end of this report (**section XV. Recommendations**) in order to promote further improvements in certain areas of the electoral process. A detailed table of recommendations can also be found in Annex I to this report.

Priority action should be given to the following recommendations:

1. The present PR system allows political parties to allocate seats to members of their choice after the election, disregarding the candidate order submitted in their closed lists prior to the election. Consideration should be given to adopt constitutionally guaranteed rules on allocation of political parties' elected PR seats, by binding political parties to respect the candidate's order established within their closed lists or through other measures aimed at guaranteeing that the voters can determine who is elected. This would give the voter some certainty as to who they are casting their vote for in the elections.
2. Although political parties and individual candidates were bound by spending limits laid down in the Code of Conduct for the Elections, adoption of provisions requiring the disclosure of sources of funding and the routing through bank accounts of donations reaching a certain amount would enhance the transparency of the electoral process and improve the level playing field between contestants.
3. The Interim Constitution and subsequent electoral law has provided for quotas to ensure inclusion of women and traditionally marginalised groups to membership of the Constituent Assembly. However, deficiencies in the application and implementation of the quotas persist. Amendment of the quota rules, as set out in Section 7 of the Election to the Members of the Constituent Assembly Act, 2007 would further the participation of women and other marginalised groups in political life.
4. The existence of a vast multiplicity of legal instruments applicable to the elections created some uncertainty on the part of electoral stakeholders as to the exact content of the law. Consolidation of the law, well in advance of elections, would create greater legal certainty in the future.
5. Consideration should be given to adopt higher specifications in the printing of ballot papers, to reduce the risk of damaged ballot papers and enhance their security. Additional information, such as the names and photos of candidates in the FPTP elections and of parties in the PR elections, would offer clearer information to the voter and likely reduce the number of invalid votes.
6. Adoption of procedures for reconciliation of all figures regarding the voting process - number of ballots received, used, spoiled, returned and cast, as well as the number of voters' names marked off in the voters' list - should be considered in order to increase the transparency and certainty of the voting and counting process.

7. Consideration could be given to the facilitation of voter registration on the production of other official documents which include photographic ID, instead of a citizenship certificate as used in many other countries to ensure enfranchisement of eligible voters. The lack of citizenship certificates could represent an obstacle to registration for many marginalised but potentially eligible voters.
8. A revision of the Press Council Act, and of its Code of Conduct, contemplating more effective sanctions to be applied by the Council in response to violations of the Code of Conduct by the media, would contribute to reinforcing the legal authority of the institution. Also, a proper and comprehensive implementation of the Right to Information Act, 2007, would contribute to a more free media environment, in line with international commitments.
9. Strengthening the implementation of rules and principles for accurate, balanced and responsible journalism, specifically on election coverage, is required. The conduct of proper and professional training programmes, coordinated and conducted by local media institutions like the Press Council or the Federation of Nepalese Journalists would contribute to improve the quality of journalism in Nepal.

II. Introduction

Following an invitation from the Government of Nepal and the Election Commission, the European Union Election Observation Mission (EU EOM) was present in Nepal from 4 October to 11 December. The Mission was led by Chief Observer, Eva Joly, Member of the European Parliament. In total, the EU EOM deployed 112 observers from 27 EU Member States, Norway and Switzerland, across the country to assess the whole electoral process in accordance with international and regional commitments for elections, as well as the laws of Nepal. A delegation of members of the European Parliament, headed by Daniel van der Stoep, Member of the European Parliament, also joined the mission to observe election day.

The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation signed at the United Nations in October 2005. This report seeks to present a detailed assessment of the Mission's findings on the various stages of the electoral process, as well as suggesting a number of recommendations based on these findings.

The EU EOM wishes to express its appreciation to the Government of Nepal, the Election Commission and other Nepalese authorities, political parties and civil society, as well as to the people of Nepal, for their cooperation and assistance in the course of the observation. The EU EOM is also grateful to the Delegation of the European Union to Nepal, and the European Union member states' diplomatic missions resident in Nepal, for their support throughout.

III. Political Background

The 19 November elections were the second elections for the Constituent Assembly mandated to adopt a new constitution for Nepal, and to form a new government. The previous Constituent Assembly was dissolved in May 2012 after members failed to reach a consensus on critical issues including the type of federalism to be adopted for the country.

After a period of political instability, the leaders of the main political parties agreed on the establishment of a High-Level Political Committee (HLPC) in March 2013, and on a care-taker government, the Interim Election Council of Ministers (IECM), under the leadership of Chief Justice, Khil Raj Regmi, whose sole mandate was to hold the 2013 Constituent Assembly elections. However, the fact that some important political forces did not take part in the HLPC constituted one of the biggest political challenges in the electoral process. The 33-party alliance led by the Communist Party of Nepal-Maoist (CPN-M) and the Federal Limbuwan State Council (FLSC) were the main opponents to the electoral process.

CPN-M proposed the deferral of the elections and resignation of Chief Justice as Chairman of the interim cabinet as it considered that the situation represented a violation of the separation of powers. In September 2013, after failing to secure an agreement during negotiations, CPN-M announced its intention to boycott the elections by preventing the registration of candidates as well as by disrupting the election campaign. Nevertheless, the nomination of candidates took place without the disturbances threatened by the parties opposing the electoral process.

Another challenge for election day was the fear of violence. As election campaigning intensified,

debates between the candidates became more confrontational. Also, the increase in election-related incidents, including targeting political leaders, created an insecure campaign environment. Consequently, Nepalese authorities deployed a high number of security forces, including army, police and temporary police, during the election period.

As demands for economic growth and progress in local governance were articulated, there was a widely shared understanding that the “interim situation” of the country could not remain for much longer and that the approval of the Constitution was imperative. There was a strong interest, therefore, from national stakeholders, including the government, civil society and most of the political parties, that elections went ahead on 19 November. From the side of the boycotting political parties, it was not clear which, apart from CPN-M, were, in reality, opposed to the elections, as seven of the 33-party alliance fielded candidates despite having claimed to support the boycott.

The main contenders for the 2013 elections were the Unified Communist Party Nepal-Maoist (UCPN-M), the Nepali Congress (NC), the Communist Party of Nepal-United Marxist Leninist (CPN-UML), the Madhes-based parties of the United Democratic Madhesi Front (UDMF), as well as the royalist Rastriya Prajatantra Party-Nepal (RPP-N).

All the political parties’ manifestoes, as published, included in their agendas models of governance, federalism and economic issues. All major political parties stood by their previous models for the system of governance. On the highly contentious issue of federalism, the main parties held the same positions as they had done at the time of the dissolution of the previous Constituent Assembly. Economic agendas in the manifestoes addressed employment, housing, education and the supply of electricity, amongst other issues. The dissemination of manifestoes was done through press conferences during which the highlights of agendas were communicated.

A Constituent Assembly Election Candidates’ Debate was organised by the National Democratic Institute (NDI-Nepal) and the Federation of Nepalese Chambers of Commerce and Industry (FNCCI) in Kathmandu. Nine political parties participated in the debate: NC, CPN-UML, UCPN-M, MPRF-N, MPRF-D, TMDP, SP, RPP and CPN-ML. Political agendas were presented followed by questions and answers, posed by the audience, as to how they would implement their manifestoes, where they would get the investment from, and how they would create employment, curb inflation and end the energy crisis. Even though federalism and models of governance were discussed, the main concerns remained economic development and local governance. EU observers’ campaign reports reflected the fact that political speeches were predominantly focused on local issues and the economic agenda, even if identity debates remained a key issue.

A total of 6,127 candidates competed for the FPTP seats, while 122 political parties submitted their lists of candidates for the PR seats.

IV. Legal Framework

A. Universal and Regional Principles and Commitments

Nepal has undertaken a broad range of international commitments that relate to the electoral

process, comprising both universal civil and political rights, as well as specific norms relating to indigenous peoples and persons with disabilities. The pertinent international commitments include the International Covenant on Civil and Political Rights, the Convention on the Elimination of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Political Rights of Women and the Convention on the Rights of Persons with Disabilities. In addition, Nepal has ratified the International Labour Organisation Convention 169, which is, the Indigenous and Tribal Peoples Convention. There is also a regional, non-treaty, commitment in this sphere, the South Asian Association for Regional Co-operation (SAARC) Charter of Democracy.

B. Legal Framework

The legal framework for the Constituent Assembly elections is to be found in the Interim Constitution of 2007, as amended, with greater detail in the Election to the Members of the Constituent Assembly Act, 2007, and in a plethora of other statutory instruments, namely the Election of the Members of Constituent Assembly Rules, 2013, the Directive on Election of Members of Constituent Assembly, 2013, the Constituent Assembly Member Election Ordinance, 2013 and the Election of Members of the Constituent Assembly Election Regulation, 2013. Further elaboration of the law has been set out in a large number of directives, as well as in a range of Codes of Conduct, all applying specifically to the 2013 elections. Some rules have also emanated, on an *ad hoc* basis, from board decisions of the ECN itself, while there was a Presidential Order, in March 2013, which established that constituency boundaries would remain as they had been for the last election. This vast proliferation of electoral law means that particular rules are scattered across a variety of legal instruments, which renders the law difficult both to ascertain authoritatively and to apply in practice.

The legal framework for the Constituent Assembly elections provides a good basis for the conduct of elections which is in line with the international commitments undertaken by Nepal. The Interim Constitution establishes that Nepal is an independent, indivisible, sovereign, secular, inclusive and federal, democratic, republican state. The Interim Constitution also expresses a commitment to democratic values including a competitive multi-party system of governance, fundamental rights, adult franchise, periodic elections and the rule of law.

There are, however, some deficiencies in the protection of the right of political representation, as set out in the International Covenant on Civil and Political Rights, Article 25 (a), which provides that every citizen has the right “to take part in the conduct of public affairs... through freely chosen representatives”. This right is not completely protected in the provisions governing either the PR or the FPTP elections. The procedures for selection of successful candidates within the PR closed list weaken the link between voters and their elected representatives. Political parties are able to allocate the seats won, after the elections, to candidates of their choice without respecting any pre-determined order within their closed lists. This, thus, limits the choice of the voter to the selection of the political party only, not of the candidate. In FPTP, the absence of a requirement that a candidate is registered to vote in the constituency where he is contesting the election weakens the connection between the voter and his elected representative. Furthermore, a candidate is permitted to contest in two constituencies simultaneously. This creates the possibility of a resignation and subsequent by-election, a process which can take up to one year to complete, should a candidate be successful in the two constituencies. This was the case in four

constituencies in these elections, disrespecting the real choice of the voter, and reducing the mandate of their elected representatives.

Only political parties may contest the PR election, with a minimum threshold of candidate numbers laid down by law. The PR lists are subject to inclusiveness quotas to ensure representation for traditionally marginalised groups. The parties, however, select their candidates from among their members, who may identify themselves as members of marginalised groups, but they are not directly chosen as “representatives” by the various groups themselves. It is arguable that this is in violation of ILO Convention 169 (to which Nepal has acceded) as it provides, in Article 6 (1) (b), that governments shall “establish means by which [indigenous] peoples can freely participate ... at all levels of decision-making in elective institutions”. While indigenous peoples have their own traditional leaders and representative organisations, there is no legal avenue available for these leaders to be included in the Constituent Assembly.

The Interim Constitution provides that voting is to be by secret ballot. However, secrecy was not afforded to voters with visual impairment, as no tactile ballot guides were made available, thus forcing them to use the services of a trusted companion or a polling officer. This is particularly egregious in light of the fact that 10,000 voter education leaflets were made available in Braille.

C. The Electoral System

The Constituent Assembly is composed of 601 members, of which 575 are elected, and 26 are appointed by the Council of Ministers on the basis of consensus. The Interim Constitution of Nepal establishes a Mixed Electoral System for the 575 elected seats: 240 members are elected through the First-Past-The-Post (FPTP) system while the remaining 335 are elected through a Proportional Representation (PR) system.

For the FPTP elections, Nepal is divided into 240 electoral constituencies, with each constituency electing a single candidate. In the PR elections, however, the 335 seats are elected in one single nationwide constituency. PR seats are allocated to the successful political parties according to the proportion of the votes obtained by each party, using a modified version *Saint Laguë* formula.¹

V. Election Administration

A. Structure and Composition

The Election Commission of Nepal (ECN) is established as a permanent and independent constitutional body responsible for organising all elections and referenda. The ECN is composed of a Chief Election Commissioner (CEC) and four further Commissioners appointed by the Prime Minister for a six-year period, upon recommendation of the Constitutional Council. The

¹ The modified *Sainte-Laguë* formula (which does not apply any threshold for winning a seat) distributes seats in List PR systems adopting the ‘highest average method’. The votes of a party are divided successively by 1.4, 3, 5... as seats are allocated to it. The actual formula applied is $\text{quot} = \frac{V}{2s+1}$, where ‘V’ is the total number of votes that the party received, and ‘s’ is the number of seats that the party has been allocated so far, initially 0 for all parties. Seats are allocated to parties from the quotient descending from the highest to the lowest level derived from such division, continuing until the last seat is allocated.

competence and structure of the ECN are established in the Interim Constitution, and further regulated by the Election Commission Act, 2007. There is a wide range of powers afforded to the ECN to manage the entire election process, include the development and enactment of regulations, rules and directives, preparation of the voters' lists, registration of political parties and candidates, and the conduct of voter education. Extensive powers to make decisions and adjudicate upon election-related complaints and disputes, as well as to impose sanctions, are also given to the Election Commission of Nepal.

The Election Commission's decisions are implemented by the ECN's central Secretariat and its 75 District Election Officers (DEO). District Election Offices were established to function as semi-permanent branches of the Election Commission in order to oversee its administrative, technical and logistical preparations at district level. For the Constituent Assembly elections, 240 Returning Officers were selected, from among judges and officers of the judiciary, to oversee the FPTP elections in each constituency and to establish preliminary PR election results.

In order to ensure efficient coordination regarding operational and security related measures, the ECN established, together with the Ministry of Home Affairs (MoHA) and the security apparatus, the Joint Elections Operations Centre (JEOC). The ECN also established a Media and Observers Resource Centre (MORC).

B. The Administration of Elections

The Election Commission of Nepal (ECN) enjoyed public confidence throughout the entire election process, and was perceived to be acting in an independent and impartial manner. The ECN held regular press conferences to update stakeholders on electoral preparations, bolstering the transparency of, and confidence in, the electoral process. Also, District Election Officers and Returning Officers liaised frequently with electoral stakeholders at district and constituency levels.²

Technical electoral preparations were completed in a timely manner despite considerable logistical challenges and time constraints. The ECN demonstrated competence in conducting key operations of the electoral process, such as the printing of ballot papers and the distribution of election material. The delivery of election material to the districts was concluded well in advance of election day, as were staff deployments.

Training-of-trainers activities were conducted countrywide and assessed by EU observers to be satisfactory. However, the adoption of a gender policy by the ECN, aspiring to the recruitment of 50 per cent female staff, did not translate into reality as there were fewer than 10 per cent women among participants in the training. Despite delays in delivering training materials in some districts, training of polling officials was assessed to have been carried out professionally at the sessions attended by EU observers. However, training in counting procedures was considered to be inadequate by EU observers as this was carried out through orientation sessions either in the days before election day or just before counting started.

Temporary election staff generally acted in an impartial and independent manner. Procedures

² Article 25 ICCPR, United Nations Human Rights Commission, General Comment No. 25, paragraph 20: "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."

provided sufficient safeguards to ensure the integrity and transparency of the voting process. Temporary voting was allowed for government and election officials and security personnel on election day for the single-constituency PR elections, reducing the level of disenfranchisement of these voters. The provision for temporary voting was also applicable to voters in care centres for elderly people with more than 50 registered voters resident there, and to prisoners.

As the electoral campaign and the anti-electoral campaigning carried out by some boycotting political parties increased, election officials and voter education volunteers (VEVs) became the subject of election related violence. In a few instances, such as in Parbat, Dailakh and Surkhet districts, voter education material was damaged or destroyed. As part of the ECN monitoring strategy for the Code of Conduct, monitoring teams were deployed to the districts, led mainly by the ECN's senior staff.

C. Voter Education

The ECN delivered an ambitious voter education programme. More than 14,000 VEVs worked on the programme, conducting public outreach in local communities. Although VEVs were, in a few cases, reported to be subject to intimidating practices, the programme was delivered in all 75 districts without any serious obstruction or incident. The official voter information campaign was complemented by broader civic education initiatives facilitated by civil society organisations.

Various formats for voter education were employed, including the distribution of leaflets and posters, door-to-door campaigns by VEVs, street dramas and the production and broadcast of television and radio programmes across national and local media. The implementation of the ECN's voter education and information strategy through the media focussed mainly on TV channels and radio stations with national coverage. Different elements, such as TV spots, jingles and radio dramas, were elaborated and distributed by the ECN for dissemination through the media. Community radio stations, however, which usually play a crucial role in providing information to the rural electorate, were generally omitted from this strategy and were only approached by the ECN during the very last phase of campaign period, principally in order to inform voters about the collection of voter ID cards.

Although the ECN produced materials in 24 languages for transmission on local FM radio stations, various civil society organisations expressed regret at the shortage of printed materials produced in local languages, particularly for those areas where marginalised groups predominantly reside.

Nepal benefits considerably from having a vibrant civil society. Reflecting the strong public interest in the 2013 Constituent Assembly elections, many civil society organisations undertook civic education activities to explain the role of the Constituent Assembly. These activities included the production of radio programmes and the convening of public debates. Adoption of an inclusive approach by these groups meant that they targeted women, *Janajati*, *Dalit* and other traditionally marginalised groups, in order to raise awareness amongst these communities of their political and electoral rights. Given the high number of first time voters in these elections, and the on-going gaps in public awareness on the role of the second Constituent Assembly and of voting procedures, these activities made valuable contributions to the elections.

VI. Voter Register

A. The Right to Vote

Eligibility to exercise the right to vote is reasonable. Voting facilities were extended both to convicted prisoners as well as to those on remand in the PR election, which represented at least a partial vindication of their franchise rights. The absence of access to the FPTP vote, however, undermines the full exercise of the right to vote. A case was taken to the Supreme Court challenging the absence of any voting opportunity for the Nepalese diaspora, which has grown to around 2 million in recent years. While the case was unsuccessful, and there is no international legal commitment applicable in this regard, the international trend to facilitate non-resident voting could be noted and considered in future electoral processes in Nepal.

B. Voter Registration Procedures

The Final Voters' List, as announced by the ECN, was comprised of 12,147,865 voters. Voter registration was conducted in several phases, with the last one ending in August 2013. There was a significant difference, amounting to circa 5.4 million people, between the number of voters registered for these elections as compared to those in the 2008 register. Also, based on the 2011 Census conducted in Nepal, it could be estimated that the voting population reaches 16 million. Based on these figures, voter registration captured the notable proportion of around 75 per cent of the potential Nepalese electorate.

The difference in numbers registered between 2008 and 2013 may be attributed to factors such as the voluntary nature of voter registration, the more rigorous approach to qualification for registration, the requirement to register in person, significant emigration, less likelihood of multiple entries due to the facility for out of district registration, and less population displacement. Absence of motivation to register might have also been a factor due to disillusionment on the part of eligible voters with the political stalemate. In addition, for this register, eligible voters could not register themselves without being in possession of a citizenship certificate (except for the brief opportunity to register on the basis of having been registered in 2008), the holding of which is low among marginalised communities. The requirement of the citizenship certificate for registration was based on a Supreme Court decision of 2011, which determined that citizenship certificates would be the sole document to certify eligibility to vote. Attempts were made to improve access to the citizenship certificate in the run-up to the elections through the deployment of mobile registration and distribution teams to each district to facilitate their acquisition. Eventually, the rules on voter registration were altered and people were afforded a brief, last minute, opportunity to register, based on having been registered in 2008, without the requirement to produce a citizenship certificate.

One of the main challenges faced by the electoral administration was the provision of voter ID cards. The ECN initially decided to issue only temporary voter cards in the form of a "letter of invitation/notification", which would list the voter's name, serial number, personal data and assigned polling centre location. However, at a later stage in the process, the ECN decided to produce and distribute voter ID cards itself, and purchased printing and lamination machines to do so. Timely delivery of the 12.2 million voter ID cards remained uncertain until election day, while some remained uncollected at the close of polling. EU observers, however, reported that, on election day, voters did not generally face any difficulties regarding their identification. The few

voters observed without ID cards were facilitated to vote upon production of other documents.

Constituency boundaries were not reviewed for the 2013 elections. The average size of the electorate per constituency was 50,616. Significant differences in the size of the electorate between constituencies existed, with the largest electorate having been 82,218 voters in one constituency in the Bhaktapur district, while the smallest had just 4,795 voters in Manang district. These discrepancies reveal some significant deviation from the core principle of equal representation, a principle expressed as equal suffrage, protected in Article 25 (b) of the International Covenant on Civil and Political Rights. Such equality was undermined by the failure to undertake a review of constituency boundaries, despite data from the census 2011 indicating changes in patterns of population distribution. A review and re-drawing of the boundaries would have allowed for a re-balancing of the numbers of voters per elected representative.

VII. Registration of Political Parties and Candidates

A. Registration of Political Parties

The Interim Constitution contains very strong provisions affirming the right of persons to form and operate political parties in order to generate support for their ideologies and philosophies³. It provides, in Article 12 (3) (c), that “every citizen shall have the freedom to form political parties.” This freedom is dependent upon the formation of the political party not serving to jeopardise harmony between the people of various castes, tribes, religions or communities. Parties must secure recognition from the Election Commission, which maintains a register of political parties, pursuant to the Political Party Registration Rule, 2007. Registration requirements in the Constitution include a petition with the signature of at least 10,000 voters in support of the party, details of resources and fundraising, as well as names and address of the party and office holders (the requirement of 10,000 signatures did not apply in these elections if a party was represented in the last Constituent Assembly). Beyond that, there are substantive requirements that the constitution and rules of the party must be democratic, and that the party must be inclusive (in executive committees at all levels) of women, Dalit and the excluded and oppressed sectors of society. Registration will not be permitted if the party discriminates on the basis of religion, caste, tribe, language or sex, or if it attempts to promote a party-less or single party system.

B. Registration of Candidates

The right to participate in the conduct of public affairs is well protected in the electoral law. Qualifications for eligibility to stand for election to public office are reasonable, and the law was applied in a reasonable manner, with all disqualifications being made in accordance with the law. There was not a single appeal against a decision of the ECN in this sphere. The only area where there is a possible deficiency in compliance with international principles, *de facto* not *de jure*, is in relation to the requirement of Nepalese citizenship, as, although the Nepal Citizenship Act 2007

³ In line with Articles 22 and 25 of the ICCPR, United Nations Human Rights Commission, General Comment No. 25, paragraph 26: “The right to freedom of association, including the right to form and join organizations and associations concerned with political and public affairs, is an essential adjunct to the rights protected by Article 25.”

and subsequent Supreme Court decisions, provide that a Nepalese may acquire citizenship from either their mother or father, there is a widespread administrative practice to deny citizenship based on descent from a Nepalese mother.

The requirements for a candidate to be nominated to contest the Constituent Assembly elections, as laid down in the Interim Constitution, include that a person shall be a citizen of Nepal, be registered as a voter, have attained at least twenty-five years of age, have not been convicted of a criminal offence involving moral turpitude, not be the holder of any remunerated public office nor be otherwise disqualified by law. Further elaboration is to be found in the Election Act, 2007. None of the requirements is unreasonable⁴. Where a party is submitting a closed list of candidates, it must include details of their voter registration as well as copies of their Nepalese citizenship certificates. Independent candidates may participate in the FPTP race. It is possible, according to the Election Act, for a person to file his candidacy in two constituencies, as ten candidates did in these elections. Then, if elected in both, he must submit his resignation, in writing, within 30 days, from one of the constituencies. Section 6 of the same law provides that no person can run in both PR and FPTP constituencies.

The requirements for qualification of candidates were strictly applied. Many of the requirements for qualification were not met by several putative candidates, resulting in many disqualifications by the ECN. Objections were received by the ECN in relation to nine candidates for the PR elections, while the ECN scrutinised all nominations for compliance with the law. There were 296 disqualifications from the PR election, on the grounds of being under age (148), not being registered as voters (76), being nominated twice in PR (48), being included among FPTP candidates (19), holding public office (4) and having been convicted of murder (1). There were no objections made against any candidates for the FPTP seats, but the ECN made 21 disqualifications on its own initiative. All decisions on disqualification were made in accordance with the law.

There were a total of 6,127 candidates in the FPTP elections, which included 1,115 independent candidates. A total of 122 parties contested the PR election, and together they nominated 10,709 candidates.

VIII. Election Campaign and Pre-Election Environment

A. Election Campaign

Freedoms of speech and assembly were respected as candidates campaigned actively across the country. There was an open political space for debate, and no campaign gatherings were prohibited. Local authorities cooperated well with political parties, and no complaints were made regarding bias in the granting of permission for rallies and processions⁵.

⁴ ICCPR, United Nations Human Rights Commission, General Comment no. 25: paragraph 15 “Any restrictions on the right to stand for election, such as minimum age, must be justifiable on objective and reasonable criteria. Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation”.

⁵ Article 25 ICCPR, United Nations Human Rights Commission, General Comment No. 25, Paragraph 12: “Freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected.”

Campaign rules were set out in the Code of Conduct for the Election to the Constituent Assembly Members 2013. These rules restricted the literature which could be distributed by candidates to small, single-colour, pamphlets, while graffiti painting and the use of posters was also prohibited. Pamphlets could be pasted on private buildings, with the consent of the owners. Rallies and processions could take place, with one day's prior notice to the authorities and compliance with public order. Small flags could be displayed during these events. Campaign activities were banned for a period of forty-eight hours prior to the commencement of polling, while campaign materials could not be displayed within two hundred metres of a polling station. A maximum ceiling for expenditure on the election was set at one million Rupees for FPTP candidates, while a political party in the PR contest could spend up to seventy-five thousand Rupees per candidate. Failure to comply with the rules on expenses could have led to the imposition of fines or to the ultimate sanction of invalidation of an election.

Electoral campaign activities were largely manifest through small meetings at a local level. Candidates and political parties focused on making close contact with voters through activities such as door-to-door campaigning, small corner meetings and small processions with flags and slogans. According to EU observers, in the campaign events observed, the principal topics discussed were the content of party manifestos, with significant emphasis given to decentralisation and issues of local governance, thus indicating the major concerns of voters.

UCPN-M clearly had greater financial resources at its disposal than did the other political parties. Indicators of this were helicopter use to participate in several campaign events and the mass campaign rally conducted from 6 to 13 November which moved across the country from east to west. It was the only party to engage in such a campaign activity. Both the CPN-UML and NC filed complaints with the ECN asserting that this event was in violation of the Code of Conduct, but the ECN dismissed the complaints.

In the absence of public campaign funding, candidates relied on their own financial resources. This proved difficult for independent candidates and candidates from political parties with scarce financial resources as they lacked financial support from their party's central offices, as compared to the main political parties which were able to offer more financial and material support to their candidates.

The EU EOM observed 366 campaign events across the country. The atmosphere in the campaign events observed was largely calm. Participation of women in these campaign activities was estimated to be extremely low, generally at less than 10 per cent. Security forces presence during campaigning, while observed to be very low, created a deterrent effect against violence, indicating that the Integrated Election Security Plan was adequate to its purpose.

B. Election Related Violence

Several incidents of a violent nature took place as campaigning intensified attributed variously both to parties participating in the elections as well as to those parties boycotting them. These ranged from assaults on individuals and acts of intimidation, to attacks on public transportation and destruction of party vehicles. Some obstructions of campaign activities were also due to the activities of rival candidates competing within the same constituency. Such actions were caused by individual rivalries rather than forming part of any political party strategy. Though these activities continued throughout the campaign period, this did not have a significant impact on the unfolding

of the campaign.

Incidents increased in the post nomination period and as campaigning intensified. The immediate post nomination period was marked by two violent attacks on candidates. A CPN-UML candidate for Bara, Mohammad Alam, was shot on 4 October, after filing his nomination, and died eight days later. Following the incident, the number of candidates demanding personal security officers increased, according to the Nepal Police. A second incident occurred on 10 October, during campaigning, when a UCPN-M candidate for the PR list, Puspha BK and his supporters were attacked in Myagdi district in Western Nepal. Other incidents throughout the campaign period included an attack against a candidate of the Madhesi People's Rights Forum-Democratic (MPRF-D) in Siraha-4; in the district of Sarlahi, 17 people were injured during clashes between supporters of Tarai Madhes Democratic Party (TMDP) and MPRF-D; the district leader of the UCPN-M, Harichandra Chaudhary, in Dang was shot and injured; clashes between CPN-M and Nepali Congress cadres in Mugu and Nuwakot districts, when CPN-M allegedly stopped the NC candidates from reaching their villages. Also, the Federal Limbuwan State Council (FLSC), a 33-party alliance member boycotting the elections, allegedly disrupted a campaign rally organised by Kamal Thapa-led Rastriya Prajatantra Party-Nepal (RPP-N) in the Eastern region on 19 October.

C. Campaign Finance

Campaign finance is loosely regulated. While spending limits were imposed by the Code of Conduct, supervision extends only to the requirement that a statement of expenditure be submitted after the elections. The current spending limits⁶ are one million NRP for each FPTP candidate and 75,000 NRP for each PR candidate. Each candidate is supposed to submit a report to the District Election Office for the FPTP system, and to ECN for PR, within 35 days of the declaration of election results. A draft of the Code of Conduct 2013, however, had included provisions requiring political parties to disclose their sources of funding, and to ensure that campaign contributions in excess of 25,000 NPR were made through a bank. This opportunity to introduce greater transparency into campaign financing was not adopted.

IX. Domestic and International Election Observation

The right of national organisations to participate in the public affairs of Nepal through election observation is laid down by law. However, one major obstacle for domestic observers was the requirement in the ECN Observation Directive for the Election of Members to the Constituent Assembly 2013 which stipulated that observers could not observe in the same Village District Committee in which they were registered to vote. Additionally, high educational qualifications were also demanded as a precondition to observation. A case was filed by the Election Observation Committee Nepal (EOC Nepal), a domestic observer network, before the Supreme Court in relation to the ECN's Directive alleging that these two rules were unconstitutional. It was claimed, firstly, that they breached the right to participate in the electoral process by means of observation. The second claim was that the educational qualifications required were excessive and

⁶ Code of Conduct Clause 96: Schedule 2 of the Election Code of Conduct.

were in violation of principles of equality and participation rights. Further, the fact that the Directive stipulated that observers must observe only outside their own constituency placed many burdens on observers, ranging from financial burdens of travel and subsistence, to deprivation of their right to vote. Although the Supreme Court did not grant the injunction sought by EOC, the ECN showed flexibility by reviewing the accreditation rules and loosening requirements on the geographical reach of observation, so that only observation within an observer's own polling station was prohibited. Also the requirement to deploy observers in all three ecological regions (High Mountains, Hills and Terai) was abandoned.

Out of the 54 national organisations accredited by the ECN, 52 deployed 23,443 domestic observers for election day. The presence of a significant number of domestic observer groups added to the transparency of the process. The National Coalition of Election Observation Committee (NEOC) deployed around 12,000 observers, followed by the Constituent Assembly Election Observation Joint Forum (CAEOF) with 2,500 observers and the General Election Observation Committee (GEOC) with some 2,300 observers. NEOC followed the voter registration exercise as the only domestic organisation accredited by the ECN for that purpose. NEOC was also the only domestic election observation organisation observing polling and counting in all five development regions, three ecological regions, 75 administrative districts and 240 FPTP constituencies.

The EU EOM was the largest long-term international observation mission with 112 observers present in Nepal for the 19 November Constituent Assembly elections. The Carter Center mission deployed 80 observers and the Asian Network for Free Elections (ANFREL) deployed over 60 observers. The Election Commission also invited as 'special guests' members of embassies based in Kathmandu, Chief Election Commissioners from the South Asian Association for Regional Cooperation (SAARC), Australia, Thailand and South Korea, as well as parliamentarians and government officials from Australia, Japan and the UK.

Domestic observer groups, as well as international observers from the EU EOM, the Carter Center and ANFREL, published post-election statements between 19 and 22 November. The elections were generally assessed as having been well-conducted, with high participation, and the performance of the ECN was praised.

X. Media and Elections

A. Media Environment

The media sector in Nepal is very active and diverse. After the enactment of the National Broadcasting Act in 1993, which allowed the private sector to invest in national media, a large proliferation of media houses were established around the country. This resulted in pluralism and an enhanced degree of freedom of expression. State oppression of journalists has reduced significantly in recent years, and the media currently operates in an environment generally considered to be free. Nevertheless, challenges such as political influence, self-censorship, low salaries, poor working conditions and threats still persist, especially in rural areas. The Federation of Nepalese Journalists (FNJ) registered a total of 206 violations of freedom of the press in the period May 2012-April 2013.

Radio remains the most widespread and effective means of communication nationwide. Over 68 per cent of the Nepalese population with access to any form of media listens to the radio. Although some 500 radio stations are officially registered with the Press Council of Nepal, only 357 (247 community radio stations and 110 commercial radio stations) are currently on air. Similarly, Nepal has a very high ratio of newspapers per capita, with some 3,000 publications registered with the Press Council (some 1,600 currently in circulation). Regular distribution of newspapers is restricted mainly to Kathmandu Valley, which accounts for more than 85 percent of the market, and the main urban areas. TV is also mostly viewed in the urban areas, principally due to scarcity of electricity. However, as a result of the new direct-to-home broadcasting system, commercial television is slowly expanding to rural areas. There are 16 TV channels currently operating in the country.

The government of Nepal controls a number of media outlets, including the state broadcasters, Radio Nepal and Nepal TV (channels 1 and 2), the newspaper company *Gorkhapatra Sansthan* (which prints both in Nepali –*Gorkhapatra*- and English –*The Rising Nepal*- newspapers), and the national news agency *Rashtriya Samachar Samiti*. Although in practice these media have become far more independent since the return to democracy, they still remain subject to government control.

On the private side, the main media group is Kantipur Publications, which operates six publications (including *Kantipur* –Nepali- and *Kathmandu Post* –English- daily newspapers), one FM radio station (Kantipur FM) and a national TV network (Kantipur TV). Other relevant private media groups in the country are International Media Network Nepal (*The Himalayan Times*); Himal Media (*Nepali Times*, *Himal Khabarpatrika*, *Himal South Asia*) and Nepal Republic Media (*Nagarik Dainik*, *Republica*). Although Nepal has several active news portals in operation, Nepalese social media is still in nascent stage compared to neighbouring countries, mainly due to lack of legislation in this area.

B. Legal Framework

The Interim Constitution of Nepal provides for freedom of expression and freedom of media. It guarantees the right to publish without prior censorship, provided that the publications are not defamatory or do not threaten national sovereignty and integrity. Right of information is also guaranteed in the Interim Constitution.

There are nine principal statutory laws⁷ regulating the media in Nepal, including on licensing and registration, programme standards and protection of reputation. However, most of this legal framework has not been amended, pending promulgation of the new Constitution. The main statutory law for broadcasters is the National Broadcasting Act (1993), which includes legal provisions on licensing and programme obligations, as well as requirements to provide accurate and impartial programming. A Right to Information Act was adopted in July 2007, providing for active disclosure of information by public bodies and the creation of an independent National Information Commission. The Act has, however, been poorly implemented in many areas, with public bodies still lacking information officers and the government continuing to refuse to disclose

⁷ Radio Act (1957), Libel and Slander Act (1959), National News Agency Act (1962), Gorkhapatra Corporation Act (1963), Press and Publication Act (1991), Press Council Act (1992), The National Broadcasting Act (1993), Working Journalists Act (1993, amended in 2007) and Right to Information Act (2007).

certain information. Provisions that do not meet international standards, such as penal sentences for libel and slander, still exist in the Nepalese media legislation, although sentencing for slander has considerably decreased.

The Press Council is the only regulatory body responsible for elaborating and enforcing the code of conduct for journalism in Nepal and for prohibiting interference with the freedom of press and journalism. Defined in the Act as an autonomous body, the members of the council are formally appointed by the government. Currently led by a senior chairperson advocate, the council consist of 12 members, including the Chairperson of the FNJ, the Director-General of the Department of Press and Information and nine representatives of the media sector, elected for a four-year term. According to its powers and duties, the council shall take necessary actions, upon receipt of a complaint, when contraventions of the code of conduct are detected. However, the Press Council is generally perceived among the media sector to be weak and ineffective in implementing such duties.

At the same time, the Federation of Nepalese Journalists (FNJ), an umbrella organisation representing journalists in Nepal, has the task of protecting freedom of the press and freedom of expression in the country, as well as the protection of the professional interests of Nepalese journalists. The FNJ has 9,000 members and branches in all 75 districts of Nepal.

In addition to the Press Council and the FNJ, there are also some non-governmental media institutions in Nepal, such as the Association of Community Radio Broadcasters (ACORAB), in charge of regulating all community radio stations operating in the country, and the Broadcasting Association for Nepal (BAN), which regulates commercial radio stations.

Besides the regulations mentioned above, the only regulation governing media coverage of the 19 November Constituent Assembly elections was the Code of Conduct issued by the ECN. According to this Code of Conduct, during the election campaign period, the media were expected to remain impartial, avoid using hate speech or language that could instigate violence or disturb social harmony, and give priority to news and information relating to voter education. Specific provisions for public media were included in the code as no editorials were to be written in favour of or in opposition to any political party or candidate. Reasonable opportunity was to be provided to contestants and priority was to be given to voter education materials. The Code of Conduct also included provisions for the allocation of free airtime in the government media (Radio Nepal and Nepal TV) in proportion to the number of candidates registered by each political party in the Proportional Representation system. According to the Code of Conduct, the ECN should allocate five to twenty minutes of free airtime on national radio to each political party to provide information about political programmes and manifestoes; two to five minutes of free airtime on Nepal TV to each political party for campaign publicity; and one minute of free airtime on Nepal TV to each political party for their final appeal to voters. According to the code of conduct, electronic media should record all election related information disseminated during the election period and keep the recordings until 35 days from the date of transmission. The ECN had the power ask any media found to be breaching the code of conduct to rectify the information concerned. Similarly, the code of conduct established that the ECN should regularly monitor the information and news related to the election campaign disseminated by the media. In case of violations of the code of conduct, the ECN should direct the concerned media to correct its information.

C. Electoral Coverage and EU EOM Media Monitoring

Overall, the Nepalese media provided for a diverse platform for political parties to present their messages to voters during the entire campaign period. Although electoral coverage focused mainly on campaign activities by UCPN-M, CPN-UML and NC⁸, the media in general made significant efforts to also provide coverage to minor parties. Radio and TV stations -both at national and local level- broadcast special programmes on elections including candidates and party representatives. Some national newspapers devoted space in their editions to analysis of political party manifestoes. A public debate organised by NDI-Nepal and the FNCCI, with representatives of nine political parties, was broadcast live by Nepal TV on 30 October 2013. Extensive coverage was also devoted by the media to the development of polling and counting, as well as to the dissemination of official results released by the ECN. No violations of freedom of expression were observed⁹.

In accordance with provisions in section 90 of the ECN Code of Conduct, free airtime was allocated to political parties on both Radio Nepal and Nepal TV in proportion to the number of candidates submitted to contest the Proportional Representation seats. A total of 13 hours and five minutes of free airtime was made available for political parties on the national radio, and four hours and 39 minutes on the national TV to present their political programmes and messages. This provision, however, was only implemented by the ECN during the last seven days and four days of the campaign on Radio Nepal and Nepal TV, respectively. Although both media managed to contact the 122 political parties contesting the Proportional Representation seats to inform them about this, the late notice on the availability of free airtime resulted in only 62 political parties taking advantage of this facility on Nepal TV and 84 on Radio Nepal.

As for provisions in section 95 of the Code of Conduct, the ECN also had the task of regularly monitoring information and election related news being disseminated, published and broadcast by the media. The ECN subcontracted the services of the Nepal Press Institute (NPI) to conduct this media monitoring. The late implementation of this provision by the ECN, however, resulted in the NPI being able to start media monitoring activities only from 11 November in different regions¹⁰ of the country, and from 12 November in Kathmandu Valley.

According to an amendment to the Code of Conduct published by the ECN on 23 October, media were not allowed to conduct live broadcasts of campaign activities by political parties. Although this measure seemed to be quite restrictive, media representatives felt comfortable with the provision and found it appropriate in order to avoid disadvantage to minor political parties with lower financial capacities. The relevant amendment also included instructions for media “*to avoid publicizing candidates*”. This provision, which referred to media themselves creating publicity for candidates, was not sufficiently clear and resulted in misinterpretation by many media, mainly local radio stations, who understood that media were not allowed to publish/broadcast advertisements paid for by political parties or candidates, and they therefore rejected requests by

⁸ UCPN-M, NC and CPN-UML gathered 75 per cent of the seats in the 2008 Constituent Assembly.

⁹ Article 25 ICCPR, United Nations Human Rights Commission, General Comment No. 25, paragraph 25: “the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion.”

¹⁰ The NPI has regional offices in Kathmandu, Biratnagar, Janakpur, Pokhara, Nepalganj and Dhangadhi.

contestants in this regard.

After several violations of the Code of Conduct and breach of campaign silence, the ECN issued an order on 18 November to temporarily halt the transmission of TV station ABC Channel until 5 pm of 19 November, considering the matter as an electoral offence and a violation of the Constitution and of prevailing law. The TV station had previously been warned four times by the ECN for conducting biased coverage and broadcasting live campaign activities by UCPN-M¹¹. ABC Channel, however, managed to elude the ECN's order by submitting an objection to the Ministry of Information and continued to transmit. The ECN also warned Star FM radio station and 15 different publications¹² for breaching the campaign silence period. According to managers and editors-in-chief of some of the publications warned, ECN instructions for newspapers regarding exact deadlines on the commencement of the campaign silence were not sufficiently clear.

An official complaint was also submitted by NC to the ECN against Filmy TV¹³ for violating the Code of Conduct through biased electoral coverage. EU observers reported breaches of the Code of Conduct in Udayapur¹⁴ and Parbat¹⁵ districts by private radio stations which, in contravention of ECN instructions, broadcast live coverage of campaign activities. Similarly, in Sindupalchok district the circulation of a local newspaper¹⁶ was temporarily halted after a complaint was submitted by UCPN-M.

From 19 October to 19 November 2013 the EU EOM conducted a media monitoring exercise in order to assess whether political parties and candidates obtained equitable access to the media and whether the media abided by the rules and regulations for media coverage during the election campaign period. A team of six local media monitors, trained in quantitative and qualitative analysis, monitored a representative sample of 15 national media in Nepal. The sample included the state-owned media Radio Nepal, Nepal TV 1 and *Gorkhapatra* newspaper, as well as the private media Kantipur TV, Sagarmatha TV, Image TV, Kantipur FM, Ujyaalo FM, Nepal FM, Image FM, *Kantipur Daily*, *Annapurna Post*, *Naya Patrika*, *The Himalayan Times* and *Nagarik*.

According to the EU EOM's media monitoring findings, both public and private broadcasters and newspapers provided, during the analysed period, a fairly balanced coverage to contestants with a proportionate distribution of airtime and space. News and election related information was generally presented in a neutral tone. In relation to the state-owned media, the current exceptional political context in Nepal, with an interim Government ruling the country, resulted in the public media being able to cover the electoral process free from any pressure or influence from any specific political party. This is clearly reflected in the media monitoring results obtained by the EU EOM, which show balanced electoral coverage by both Radio Nepal and Nepal TV, as well as by the public newspaper *Gorkhapatra*. During the monitoring period, state-owned Radio Nepal allocated 15.2 per cent of airtime in its news and election related programmes to UCPN-M,

¹¹ ABC Channel is directly financed by UCPN-M leader, Pushpa Kamal Dahal "Prachanda".

¹² *Gorkhapatra Corporation*, *Samacharpatra*, *Naya Patrika*, *Arthik Daily*, *Nagarik*, *Ragdhani*, *Karobar National Daily*, *Janamanch weekly*, *Chalpal weekly*, *Deshantar weekly*, *Janadesh weekly*, *The Himalaya Post*, *Republica*, *Kathmandu Post* and *Annapurna Post*.

¹³ Filmy TV is owned by RPP-N candidate Udab Pourel.

¹⁴ Amurta FM broadcast in live a rally by UCPN-M leader Pushpa Kamal Dahal "Prachanda".

¹⁵ Saligram FM broadcast live campaign activities by NC.

¹⁶ *Sindhukosurya* newspaper was considered to be openly biased in its electoral coverage.

while NC received 13.7 per cent of coverage and CPN-UML 11.1 per cent. On Nepal TV 1, UCPN-M received 21.3 per cent of the total electoral coverage, while NC was allocated 19.7 per cent of airtime and CPN-UML 17.6 per cent. The public daily newspaper *Gorkhapatra* allocated 19.9 per cent of the space in its election related news to UCPN-M and 19.1 per cent to CPN-UML, while NC received 17.8 per cent of coverage. The remaining parties also received coverage in the three state-owned media in proportion to their level of activity during campaign period and their relevance in the political arena. The tone of the electoral coverage in the public media was principally neutral. (See Annex II)

As for the 12 private media monitored by the EU EOM, media monitoring results showed also a significant degree of impartiality in the electoral coverage conducted by private radio stations, TV channels and newspapers during the relevant period, with the three main parties being widely and, in general, equitably represented in the news and election related programmes. Analysing the coverage as a whole, the four private radio stations monitored by the EU EOM (Kantipur FM, Ujyaalo FM, Nepal FM and Image FM) altogether allocated 26.2 per cent of airtime in their news and election related programmes to UCPN-M, while NC received 21.9 per cent of the overall coverage and CPN-UML 21.5 per cent of airtime. As for the coverage by private TV stations (Kantipur TV, Sagarmatha TV and Image TV), UCPN-M gained 23.3 per cent of the overall airtime, while NC was allocated 21.3 per cent of airtime and CPN-UML 20.3 per cent. Similar results are reflected in the analysis of the electoral coverage as a whole provided altogether by the five private newspapers monitored by the EU EOM (*Kantipur Daily*, *Annapurna Post*, *Naya Patrika*, *The Himalayan Times* and *Nagarik*). While UCPN-M received 22.3 per cent of space in the electoral news, NC gained 19.3 per cent of the total electoral coverage and CPN-UML 19.2 per cent (See Annex II).

XI. Gender Equality and Human Rights

A. Gender Equality

In 2008, Nepal took the lead in the region by electing 33.21 per cent of women to the Constituent Assembly, based on reserved seats and inclusiveness quotas in electoral law¹⁷. As a result, Nepal stood at joint 24th in the global Inter-Parliamentary Union ranking for the percentage of women in parliament prior to the 2013 elections to the Constituent Assembly. These advances made by women in 2008 were not maintained in 2013. Nonetheless, women have won a significant percentage of seats in these elections, due to the quota system established in the Interim Constitution. The Election Ordinance 2013 requires, in Section 7(5), that at least 33 per cent of the candidates nominated by political parties, across their PR and FPTP lists combined must be women, while 50 per cent of those nominated for their PR list must be women. The 50 per cent of reserved seats is apparently guaranteed in the PR election, but there are some legal loopholes

¹⁷ When the number of women within the 26 appointed seats (just 6) was taken into account, the percentage of women in the Constituent Assembly fell to 32.78 per cent.

which have reduced the quantity of women below this level. Political parties are bound¹⁸ by the mandatory quotas only when they field at least 30 per cent of candidates within the PR constituency (100 individuals). Therefore, of the 122 parties running in the PR elections, only 13 parties were subject to the quota rules. In addition, where parties won an uneven number of seats, there was no legal requirement that they had to allocate the “odd” seat in favour of women, as proposed by civil society organisations. Beyond that again, there is also a provision in electoral law¹⁹ which affords some flexibility to parties in making their final selection of PR Constituent Assembly members, allowing them to deviate by 10 per cent, above or below, from the quota laid down for inclusion. Read together, all of these exceptions to a strict imposition of the 50 per cent quota rule result in the undermining of it, with the outcome in this election being that fewer women won PR seats, rather than the 50 per cent envisaged in electoral law.

There were just 668 female candidates amongst the 6,128 FPTP contestants, and, amongst these, only 10 women won seats, compared to 30 women who secured FPTP seats in 2008. The main political parties nominated fewer women than in 2008, and also failed to place them in party strongholds with realistic opportunities to win. In 2008, the UCPN-M had 24 women elected from amongst 43 female candidates, as compared to just one woman elected this time from among 26 female candidates. CPN-UML elected 1 woman from amongst 27 in 2008, compared to three victories from 24 female candidates this time. While the Nepali Congress had two women elected in 2008 from among 26 candidates, this time six females obtained seats from among 21 female candidates. While the respective numbers of women elected within each party reflect overall party fortunes, it is important to note that the numbers of both female candidacies and victories have diminished significantly in these elections. This is clear testament to a lack of political will to promote women within political parties, a fact which is further evident in the low numbers of women within the executive structures of political parties. Affirmative action in candidate selection policies, and within party structures more broadly, could be promoted as a means to, eventually, enable more women to assume decision-making roles in public life in Nepal.

A women’s caucus was formed in the previous Constituent Assembly, which was comprised of 197 women from 19 political parties. This informal arrangement allowed women to make a significant contribution to constitution drafting, particularly in the areas of human rights and fundamental freedoms. Some targeted support²⁰ was put in place to enable these women to fulfill their dual roles of lawmaker and constitution drafter. However, beyond this advance in what might be perceived to be traditionally areas of female interest, party politics predominated over a shared feminist agenda. Much more such support is needed to allow women to participate fully in public life in Nepal.

The Committee on the Elimination of Discrimination against Women has expressed²¹ deep concern at the extremely low representation of women in high-level decision-making positions, public service, the judiciary and the diplomatic service, in the National Human Rights Commission, and at local level. The same concern can be expressed in relation to the staffing of the ECN where,

¹⁸ Section 7(15) of the Election Ordinance 2013.

¹⁹ Section 7(9) of the Election Ordinance 2013.

²⁰ International IDEA and National Democratic Institute offered support to women in the Constituent Assembly.

²¹ CEDAW/C/NPL/CO/4-5 Concluding Observations of the Committee on the Elimination of Discrimination against Women 49th Session 11-19 July 2011 (consideration of the combined fourth and fifth report of Nepal).

despite the recent promulgation of a gender policy with the aspiration of employing 50 per cent of women, numbers of women within the ECN are sparse, particularly in positions of authority. The ECN experienced practical difficulties in recruiting women due to the low number of women in the public service from whom polling staff were drawn. This reflects a wider social and cultural problem as women in Nepal face multiple forms of discrimination, including in areas such as health, employment, education, housing and land ownership. On a societal level, disparities in access to education for girls need to be addressed, in order that, in the long term, women will be empowered to participate in public life. The Committee on the Elimination of Discrimination against Women recommended the adoption of further temporary special measures to accelerate the full and equal participation of women in public life. In particular, it was suggested that concrete goals and timetables ought to be established in order to accelerate the increased representation of women, while training and mentoring programmes for female candidates and women already in public life could be implemented to enhance their leadership skills. Beyond that, implementation of awareness-raising activities on the importance of the participation of women in decision-making for society as a whole would also be valuable.

A decision of the Supreme Court in 2007 recognised the existence of a third gender, allowing people in Nepal to self-identify as male, female or “other”. The practice to date has been that all public authorities have accommodated this orientation in all engagements with the state, including recognition on the citizenship certificate. A total of 155 people identified as other when registering to vote. One candidate from the third gender unsuccessfully contested the FPTP election.

B. Persons with Disabilities

Ratification of the Convention on the Rights of Persons with Disabilities (CRPD) in May 2010 represented a significant milestone in the promotion of equality for persons with disabilities. Prior to this, the Disabled Welfare and Protection Act of 1982 had addressed disability purely through a welfare model. Election of two persons with disabilities to the Constituent Assembly in 2008 is credited, in some part, with the ratification of the Convention. While international treaty obligations are directly applicable in domestic law, draft legislation to give effect to the provisions of the CRPD has been languishing in the Ministry of Women, Children and Social Welfare, delayed, as is the case with much legislation, due to the political impasse.

While there are some provisions in the Interim Constitution which recognise the rights of persons with disabilities, there is no compulsion on political parties to include members of this community among their candidates. The Election Act instructs only that political parties must “pay attention” to the representation of certain marginalised groups, including persons with disabilities. While at least seven persons with disabilities ran for election within the PR closed lists, none participated in the FPTP elections. There was much disappointment that the major parties had not been more inclusive in their nomination practices, as was the case for all marginalised social groups in these elections.

The ECN collaborated with disabled persons’ organisations (DPOs) in the preparation of voter education materials for these elections. DPOs professed themselves to be pleased with the public service announcements which were prepared, which were both accessible, through use of sign

language, sub-titles, bright colours and other means, as well as extremely inclusive in their imagery. Voter education pamphlets were prepared in Braille. Accessibility guidelines were recently introduced for public buildings, but they allow for progressive implementation and so were not binding on the ECN for these elections. The ECN, however, provided ramps at 49 polling centres. While this seems to be a tiny number, it was widely recognised as a valuable initiative which can be enhanced in future elections. For voters with disabilities, however, problems in vindicating their right to vote were not due to the layout of polling stations, and the presence or absence of ramps, as the majority of polling stations were created on level ground out-of-doors and were quite accessible. Instead the obstacle for voters was that of travelling to the polling location, as there was a nation-wide restriction on vehicular movement on E-Day. While it was, theoretically, possible for “differently-abled persons who cannot commute by themselves”²² to obtain permits for use of their vehicles, most such voters did not have access to private transport, and only the provision of public transportation in the future will allow them to vote without impediment.

The ECN had, in advance of the election, undertaken to provide tactile ballot guides to protect the secrecy of the vote for voters with visual impairments. This undertaking was not realised and was instead abandoned in advance of the election. Voters who needed assistance were, instead, accompanied into the polling booth by a trusted companion or the polling officer. This circumscribed the secrecy of their ballot.

C. Other Traditionally-Marginalised Groups

The elections to the Constituent Assembly in 2008, based on the inclusion provisions of the Interim Constitution, resulted in an elected body which, for the first time in history, reflected the social and ethnic diversity of Nepal. This was evidence of a clear commitment to the protection and promotion of the rights of traditionally marginalised groups and minorities, such as indigenous peoples, the *Dalit*, landless people, bonded labourers, *Madhesi*, Muslims, backward regions and communities, and women, through positive discrimination. While, as noted in the discussion on the quota for women above, there are some legal loopholes which resulted in the election of less than 33 per cent of women, political parties have demonstrated greater political will to include other marginalised groups in their lists of candidates in both FPTP and PR elections. The result has been that, in the 2013 elections, advances have again been made towards the realisation of full political participation of historically marginalised groups. It is the case, however, that long-standing discrimination and social exclusion associated with caste, class, ethnicity and geography continue to present obstacles to the full realisation of the human rights of such groups²³, and that affirmative action will continue to be necessary to ensure their long-term empowerment as full actors in public and political life in Nepal.

XII. Electoral Justice

The legal rules governing the mechanisms for complaints and appeals relating to the Constituent

²² Code of Conduct for the Election to the Constituent Assembly Members 2013, Section 43.

²³ UN A/HRC/WG.6/10/NPL/2 Report of the Human Rights Council Working Group on the Universal Periodic Review Tenth Session 24 January- 4 February 2011.

Assembly elections are to be found across a plethora of legal instruments. These include the Constituent Assembly Election Act, 2007, the Election Commission Act, 2007, the Constituent Assembly Court Act, 2007, the Election (Offences and Punishment) Act, 2007, and the Election Code of Conduct, 2013.

A. Electoral Offences

The Election (Offences and Punishment) Act, 2007, sets out an extensive catalogue of election offences. These include impersonation, using undue influence, obstruction of the election in any way, showing or using weapons, causing any kind of damage, creating fear or threat or menace, or causing someone to swear or promise. There are also restraints on damaging someone's character, propagation of certain ideologies which would prejudice state authority, giving gifts of cash to voters, or seeking to influence election officials. Beyond that, there are also restrictions on the use of certain campaigning methods, such as the use of posters or flags. The law provides that minor offences may be dealt with summarily by polling staff, and fines, ranging from five hundred to ten thousand rupees, may be imposed immediately. These summary decisions may be appealed to the Appellate Court within 35 days. More serious offences may attract potential fines of between 10 and 15 thousand rupees, and a prison sentence of up to two years. The Election (Offences and Punishment) Act, 2007, provides that all of these offences fall within the jurisdiction of the Constituent Assembly Court. Accusations of the commission of these offences may also serve as the grounds for election petitions to void elections and have counts set aside. While many incidents of election-related violence and disorder, as well as attempts to obstruct the elections, took place, no crimes were charged as electoral offences, but rather as ordinary crimes under the penal code.

B. The Code of Conduct for the Election to the Constituent Assembly Members

The Code of Conduct for the Election to the Constituent Assembly Members, 2013, sets out rules which are to be observed by all stakeholders, including political parties and candidates, the Government of Nepal, NGOs and the media. This code has the essential purpose of creating fairness for all contestants during the campaign period. Many of the provisions in the Code of Conduct mirror the provisions which were applicable in 2008, but with a greater sphere of application than did the comparable code of 2008. The 2013 Code of Conduct now applies to the sister organisations of political parties, as well as to NGOs and IGOs, with the intention to restrain any possible use of public power, resource or authority to exert influence over voters in favour of a particular political party. A draft of the Code, however, had included provisions requiring political parties to disclose their sources of funding, and to ensure that campaign contributions in excess of 25,000 NPR were made through a bank, which are not included in the current law.

Notice of alleged violations of the Code of Conduct could be brought, by any person, to the attention of the Election Commission, to the Code of Conduct Monitoring Committee, to Returning Officers or District Election Officers, or to monitoring teams. The latter monitoring teams were comprised of members of the ECN and security forces which were deployed from the central level to monitor compliance with the code throughout the country. All of these concerned actors had the power to order that those responsible for violations of the code had to perform, or refrain

from performing, any act. The ECN also had the power to impose fines of up to 100,000 NRP and to impose the ultimate sanction of cancellation of candidacy in the case of egregious violations of the Code of Conduct.

While the Code of Conduct for the Election conferred extensive monitoring and enforcement powers on the ECN and its officials, enforcement of the Code was almost entirely informal. Very few formal complaints were registered with the ECN at either the local or central level. During the election period, from 22 July to 17 November, the ECN received a total of 187 complaints. Action was taken in response to 144 of these complaints, but not a single fine was imposed. The standard response of ECN officials, with the support of the local administration and the police, was quite informal, as they attempted to restrain the behaviour complained of, such as removal of unauthorised publicity materials, and to order those responsible not to repeat their actions. This practice was very much in line with a general tendency in Nepal of resorting to mediation rather than taking matters to court. While powers to sanction offenders are extensively detailed in the law, punishment has not been imposed on any person found to have violated the code. The code had legal weight, but moral pressure was used to enforce it rather than any other measure.

C. Complaints and Appeals

Challenges to the nomination of candidates could be submitted to the Election Commission within seven days of publication of the list of candidates, in the case of the PR election, and within two days for the FPTP elections. The latter period of just two days within which to enter FPTP objections was unrealistically short, given that such nominations were submitted at the district level, and such information would not have been readily accessible nation-wide. Sections 23 and 29 of the Elections Act, 2007, provide that the qualification of any candidate may be challenged or objected to by any other candidate or political party. The law is silent on the *locus standi* of individuals to make such a complaint, and it is clear that there is no individual legal standing offering the opportunity to make such a complaint. This is quite narrow, particularly given the increasingly popular civil society call for vetting for public office, with a view to excluding those responsible for human rights atrocities in the past from holding public office. The general public is deprived of the opportunity to object to their possible representatives. While election petitions to the Constituent Assembly Court are, in theory, possible, after the election, seeking to have the election declared void, based on the grounds that a candidate was invalidly nominated, this appears, *prima facie*, to be a denial of the right of individuals to seek a timely remedy in the case of a disputed nomination.

Election related matters were adjudicated on by the Supreme Court which has an extremely wide jurisdiction to deal with public interest litigation. Seven election-related cases were filed between the declaration of the date of the elections and election day. Almost all of these cases sought to postpone the elections due, variously, to alleged violations of the rights of women, of persons with disabilities and of the diaspora, as well as the omission of negative voting rights, and the severity of accreditation requirements for domestic observers. None of these actions succeeded in achieving their aim of halting or altering the electoral process.

The Election Observation Committee Nepal (EOC Nepal), filed a petition challenging ECN directives on accreditation of domestic observation, alleging that two of the rules related to domestic observers were unconstitutional. EOC Nepal requested a decision on the constitutionality of the

matter and sought an injunction from the court instructing the ECN to refrain from applying the directive. The Supreme Court refused to grant the injunction sought, as the ECN had relaxed the rules before the final determination of the matter by the court, rendering the matter largely moot, but the practical result was that the observation group achieved their aim.

Two cases sought an order to restrain the ECN from printing ballot papers, essentially seeking a halt to the electoral process. The first case was filed on the grounds that nationals of Nepal living outside of the country were not included on the voters' list. There is no provision in the law providing for out-of-country registration or voting. The second case was filed on the grounds that there was no facility for negative voting, or rejection of all of the candidates, contained in ballot papers. Again, there is no legal provision for negative voting in electoral law and international commitments do not require it either.

A fourth case initiated against the ECN was an attempt to obtain an order to annul all the nominations of candidates in the FPTP election. The claim asserted that the ECN has acted illegally in registering candidates without ensuring that there was one-third representation of women amongst them. Two further cases before the Supreme Court were both filed by the Forum for Women, Law and Development. In one case, the Forum challenged the lawfulness of the Election Ordinance 2013, namely the rules on representation of women. Their second case was against the ECN and 27 political parties, alleging that the parties should be de-registered for ignoring rules on inclusion in the Political Party Registration Rule.

An action by the National Federation of the Disabled – Nepal was also initiated before the Supreme Court challenging the actions of the ECN and the major political parties for their failure to include persons with disabilities amongst their candidates in sufficient numbers. An order was sought from the Supreme Court instructing the political parties to make the 26 appointed seats in the Constituent Assembly available to persons with disabilities as compensation for not having included them in sufficient numbers amongst candidates. None of these cases, with the exception of that relating to the rights of election observers, reached a full and final hearing before the elections.

D. Election Petitions

The Constituent Assembly Court, established on an *ad hoc* basis on 25 November under the Constituent Assembly Court Act, 2007, is comprised of three judges of the Supreme Court. It has jurisdiction to hear petitions to invalidate elections, to void counts, and to deal with electoral offences. Petitions challenging the validity of the election of a candidate must be filed within 35 days of the events complained of, and may be based on the grounds that either a candidate was not properly nominated for election, or that he spent in excess of the expenses permitted by law, or that he is guilty of other electoral malpractice as specified in the Election (Offences and Punishment) Act, 2007. The timeframes for submitting petitions challenging the validity of election results, as well as the period for the court to issue a decision, are reasonable, providing for a timely remedy for aggrieved parties²⁴. Regrettably, these petitions may be filed only by political parties and candidates, depriving the general public of the opportunity to challenge the

²⁴ Article 2 ICCPR, United Nations Human Rights Commission, General Comment No. 25, paragraph 20: "There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes".

qualifications of their possible representatives.

A petition seeking to have the counting of votes declared void must be brought within 15 days of the date on which the count took place. It may be based on grounds such as invalidity of ballot papers or the count not having been conducted in accordance with the law. The Constituent Assembly Court has a period of three months and one week (with some minor extension possible) in which to complete the determination of the case. Sixteen petitions were filed at the Constituent Assembly Court (as of 10 December 2013), all seeking invalidation of elections, with one additionally seeking a recount. All were individual applications. Four of the cases were filed by unsuccessful UCPN-M candidates, four by unsuccessful Nepali Congress candidates, and two by unsuccessful CPN-UML candidates. There was one petition filed against a successful independent candidate, while six cases were against victorious Nepali Congress candidates, four were against UCPN-M victors, and three were challenging the victories of CPN-UML candidates. While UCPN-M had made allegations of vote rigging on a nation-wide scale, at the time of writing no petition was filed based on these allegations.

XIII. Election Day

A. Voting and Closing

Voting procedures offered sufficient safeguards to ensure the integrity and transparency of polling. The conduct of voting operations was positively assessed in 94 per cent of the polling stations observed by the EU EOM. Of the polling stations observed, most opened on time or with a delay of less than one hour. Voting was conducted in an orderly and generally calm atmosphere. Political party representatives were present in 96 per cent of the polling stations observed while at least one national observer was present in 64 per cent of these stations. A few instances of political party representatives acting in excess of their mandate were, however, observed. Polling procedures were followed consistently in the polling stations visited by EU observers and the performance of polling staff was mostly assessed to be good. The integrity of the vote was sufficiently protected in 97 per cent of the polling stations observed, as efficient processing of voters and appropriate use of controls and safeguards were implemented. EU observers assessed, therefore, the overall operation to have been well conducted. Temporary voting was allowed for election officials and security personnel on duty on election day, at least for the single-constituency PR elections. The provision for temporary voting was also applicable to voters in residential centres for elderly people with more than 50 registered voters. In addition, the ECN established polling centres in all prisons, allowing for imprisoned registered voters to cast a PR ballot. Closing was assessed positively in 43 out of 46 polling stations observed.

B. Counting and Tallying of Results

Counting was not conducted at polling stations but was arranged per constituency, at district level, under the direct supervision of the 240 Returning Officers. The reasons for this procedure were security concerns and unreliable electricity supply in all 18,457 polling stations. Also, the fact that ballots of various polling stations were mixed before counting, and that results were announced at constituency level rather than at polling stations, meant that the voting patterns of the electorate at individual polling stations were not revealed.

Constituency counting centres started to receive sensitive materials on election night, immediately after closing was completed at polling stations. The process of transferring sensitive material, including the ballot papers, was carried out according to procedures in most places observed. EU observers assessed the counting process as mostly good or very good in the 75 counting centres observed. Procedures were generally followed, ensuring the integrity and transparency of the process. However, the procedures implemented for the counting process did not include a reconciliation step by polling station.

Whilst the aggregation and establishment of FPTP results fell under the exclusive supervision of the 240 constituency Returning Officers, the transmission of preliminary results for the PR elections, from these constituency Returning Officers to the Returning Officer for the PR elections at ECN HQ, was conducted in two ways. On one side, result forms were transmitted either via fax or as scanned copies via email, and, on the other side, through digital data entry in the software provided by the ECN to counting centres. Once the double entry exercise resulted in the same consolidated outcome, the data processing unit in the ECN HQ continued with the aggregation on the national level. The aggregation of the PR results and the application of the modified *Saint Laguë* formula were conducted with the assistance of the UNDP's Election Support Program (ESP).

XIV. Results and Post-Election Environment

A. Announcement of Results

The ECN announced the results of the 240 FPTP seats within one week of the elections, on 25 November. Re-polling had to be conducted in three polling stations due, in one place to anti-election activities (two polling stations in Jumla) and to irregularities in the number of ballots found in another (Saptari). Also, four by-elections are to be conducted as four of the 10 candidates who used the facility to stand for election in two constituencies were successful in both constituencies. The successful candidates have a period of 30 days to decide which constituency they resign from, after which the ECN has to call by-elections.

The ECN declared the final results for the PR seats on 3 December, announcing the total number of valid votes for each political party and the total number of seats allotted to each of them. The political parties were given a period of one week after the announcement of allotted seats to submit their final list of candidates. After that, the ECN will have to ensure that all relevant quotas are respected; otherwise, the parties are given additional time to make necessary adjustments.²⁵

The results announced by ECN afforded the highest number of votes to NC with 196 seats, followed closely by CPN-UML with 175 seats and 80 seats attributed to UCPN-M.

Political party	FPTP		PR		TOTAL SEATS	
	No.	%	No.	%	No.	%
NC	105	43.8	91	27.2	196	34.1
CPN-UML	91	37.9	84	25.1	175	30.4
UCPN-M	26	10.8	54	16.1	80	13.9
RPPN			24	7.2	24	4.2

²⁵ The first, inaugurating, session of the second Constituent Assembly is expected not be held before early January 2014.

MJF-D	4	1.7	10	3.0	14	2.4
RPP	3	1.3	10	3.0	13	2.3
TMLP	4	1.7	7	2.1	11	1.9
MJF-N	2	0.8	8	2.4	10	1.7
Other parties	5		47	14.0	52	9.0
Seats in the CA	240		335		575	

Source: Electoral Support Project (ESP)

In addition to the 30 political parties, there were two successful independent candidates²⁶ who will be members of the next Constituent Assembly. There still remain 26 appointments to be made to the Constituent Assembly, but no timeframe is specified in the legal framework for this.

Voter participation for the FPTP elections was 78.34 per cent and for the PR reached 79.82 per cent, as compared to 61.7 per cent and 63.29 per cent respectively in the 2008 Constituent Assembly elections from a total of 17,609,895 registered voters. Invalid ballots reached 4.96 per cent for the FPTP elections and 3.2 per cent for the PR elections, registering a decrease in comparison to the 5.15 per cent for the FPTP and 3.66 per cent for PR in the 2008 elections.

B. Post-Election Environment

The post-election environment remained largely calm throughout the country. The release of the first election results, which positioned the UCPN-M as third placed party after NC and CPN-UML, contrary to its expectations, was immediately followed by the party's decision to withdraw its agents from the counting centres. The party claimed that massive fraud had been carried out during voting. Consequently, UCPN-M threatened to leave the process by having its winning candidates boycott the new Constituent Assembly. However, internal party discussions, and a concerted effort from the international community, facilitated the adoption by UCPN-M of a more moderate position and assumption of some responsibility for the results, even if they still believed themselves to have been victims of a conspiracy. UCPN-M demanded, however, that the requirement of a two-third majority to adopt the constitution be replaced by a requirement of consensus. Madhesi parties (MPRF-N, MPRF-D, SP, NSP, TMDP) and FSP, which also secured fewer seats than anticipated, boycotted the counting process too. An alliance of 13 parties led by the UCPN-M was formed that asked the ECN to review the election process by the formation of an independent probe committee.

XV. RECOMMENDATIONS

Enhancement of many aspects of the electoral process, particularly in relation to the inclusion of traditionally marginalised groups, both through law and through voter education, will enable future elections to be more inclusive, and will help to realise the important goals for the fulfilment of fundamental rights of individuals and groups, as laid down in the Interim Constitution of Nepal. The EU EOM offer the following recommendations for consideration and action by the Government of Nepal, the Election Commission, political parties, civil society and the international community. A detailed table of recommendations can be found in Annex I to this report.

²⁶ Attahar Kamal from the Kapilvastu district (constituency number 2) and Chandeshwor Jha from Mahottari district, constituency number 4.

Legal framework

1. The right of political representation is not perfectly realised under present electoral law in Nepal. There are several amendments which, if enacted, could offer greater vindication of this right:
 - (a) **The present PR system allows political parties to allocate seats to members of their choice after the election, thereby disregarding the candidate order submitted in their closed list, which was published prior to the election. Consideration should be given to adopt constitutionally guaranteed rules on allocation of political parties' elected PR seats, by binding political parties to respect the candidate's order established within their closed lists or through other measures aimed at guaranteeing that the voters can determine who is elected.**
 - (b) The provision whereby a candidate is permitted to contest simultaneously in two FPTP constituencies results, if the candidate wins in both constituencies, in by-elections and in a consequent reduction in the mandate of the representative of the constituency from which he resigns. Abandonment of this provision would enhance the political representation of voters in the affected constituencies.
2. Political tensions prevalent in the country in the months preceding the election resulted in a failure to alter constituency boundaries, despite a constitutional imperative in this area, and the availability of census data from 2011. The principle of equal suffrage was thus undermined. Revision of electoral boundaries prior to future elections would promote equality of suffrage.
3. Political parties and candidates were the only persons who had the opportunity to object to the qualifications of those nominated to run for election. Amendments to Section 23 and 29 of the Election to the Members of the Constituent Assembly Act, 2007, extending standing to ordinary voters to object to nominations, would be a vindication of natural justice. It would offer voters the opportunity to have a say in a decision which affects them, a decision as to whether somebody is qualified to be a member of the Constituent Assembly.
4. **Political parties and individual candidates were bound by spending limits laid down in the Code of Conduct for the Elections. An earlier draft of the Code had contained a provision requiring disclosure of sources of funding, as well as requiring that donations of a certain amount should be routed through bank accounts. Review and reform of the applicable rules, to impose greater disclosure burdens on parties and candidates, would enhance the transparency of the electoral process and vindicate the rights of voters to freely choose their representatives without disproportionate distortions imposed by differences in access to resources.**
5. The introduction of assistive facilities, such as the provision of tactile ballot guides, during voting would vindicate the secrecy of the ballot for voters with visual impairments.
6. While prisoners had the right to vote in the PR election, their right to vote was not respected in relation to the FPTP elections. Procedures which facilitate the exercise of the right to vote for prisoners in all elections could be considered in future elections.

7. The existence of a vast multiplicity of legal instruments applicable to the elections, with some created in an *ad hoc* manner close to election day, meant that there was some uncertainty on the part of electoral stakeholders as to the exact content of the law. Consolidation of the law, well in advance of elections, would create greater legal certainty in the future.

Election Administration

8. Higher specifications in the printing of ballot papers, such as the use of water-marking, stronger paper, better quality stapling and perforation, would reduce the risk of damage to ballot papers from tearing, and would also enhance their security. Additional information, such as the names of candidates in the FPTP elections and of parties in the PR elections, and perhaps photographs in the FPTP elections, would offer clearer information to the voter when casting their vote and likely reduce the number of invalid votes.
9. Possibility to issue replacement ballot papers to voters who have spoilt their ballot should be established in the law and procedures.
10. Legal provision was made which allowed persons with disabilities to apply for permits to use private transportation to travel to polling stations on election day. This was irrelevant, for most persons with disabilities, as such transport was not accessible to them. Provision of transportation for persons with disabilities is essential to allow them to travel to polling stations to cast their votes in future elections.
11. The capacity of polling station staff could be enhanced through training, particularly on counting procedures, which includes exercises simulating counting practice.
12. **Reconciliation of all figures regarding the voting process should be required in order to establish the number of ballots received, used, spoiled, returned and cast, as well as the number of voters' names marked off in the voters' list.**
13. Certified copies of polling station inventory forms and constituency results protocols should be made available to political party agents, candidate representatives and accredited domestic observers.
14. Greater elaboration of the rules as to who is authorised to be present at polling and counting locations besides ECN staff would be useful, as would more clear guidance as to their exact role and authority. This would be particularly appropriate in order to regulate the conduct of members of the police force, temporary police and other security forces during all stages of the elections.

Voter registration

15. The considerable achievement represented by the establishment of the biometric voters' list for these elections could be further enhanced if an auditing exercise was to be conducted as well as an exhibition and correction period. Periodic updating of this register should be considered.
16. **While inclusion on the voters' list depended almost entirely on the production of a citizenship certificate (with the late exception applied to those on the 2008 list), the lack of such documentation could represent an obstacle to registration for many marginalised but potentially eligible voters. Consideration could be given to the facilitation of registration on the production of other official documents which include photographic id, such as the documents which could be used by voters to prove their identity for these elections.**

Media and Elections

17. **A revision of the Press Council Act, and of its Code of Conduct, contemplating more effective sanctions to be applied by the Council in response to violations of the Code of Conduct by the media, would contribute to reinforcing the legal authority of the institution. Reinforcing the independence of the Press Council is also advisable.**
18. More detailed instructions on the allocation of free airtime to political parties and candidates in the national electronic media are needed. Establishing exact dates when the broadcasts should start would allow political parties and candidates to plan their campaign agenda and their recording schedule well in advance. Similarly, it is also advisable to establish clear instructions and specific dates in the Code of Conduct for the start of media monitoring by the ECN, in order to make this exercise more effective.
19. It is advisable to develop clearer instructions for media on the airing/publication of spots/advertisements paid for by political parties and candidates during the campaign period. Establishing clear instructions on deadlines for newspapers regarding respect for the campaign silence period is also advisable. It would be useful as well to establish all these instructions before the start of campaign period in order to avoid the introduction of amendments to the Code of Conduct once the campaign period is already started.
20. **A revision and update of the Libel and Slander Act, 1959, appears to be necessary. The current provisions of the Libel and Slander Act, establishing sentences of up to two years in prison for slander, seem outdated and contrary to international best practices. In the same line, a proper and comprehensive implementation of the Right to Information Act, 2007, would contribute to a more free media environment, in line with international commitments.**
21. A higher involvement of community radio stations in the implementation of ECN voter education and information campaigns and strategies is highly advisable. Given the crucial role that community radio stations play, especially in rural areas, informing voters, targeting these radios stations well in advance for the distribution and dissemination of ECN information materials, would contribute to more effective and successful voter education. Similarly, better planned distribution of ECN voter education materials to the electronic media, avoiding accumulation of materials to be used and aired in the last days of campaign period, is also required.

22. Strengthening the implementation of rules and principles for accurate, balanced and responsible journalism, specifically on election coverage, is required. The conduct of proper and professional training programmes, coordinated and conducted by local media institutions like the Press Council or the Federation of Nepalese Journalists, targeting media managers and editors, would contribute to improve the quality of journalism in Nepal.

Gender Equality and Human Rights

23. The Interim Constitution and subsequent electoral law has provided for quotas to ensure inclusion of women and traditionally marginalised groups to membership of the Constituent Assembly. While these quotas have allowed for a great deal of advancement for the targeted groups, there are deficiencies in the application and implementation of the quotas. Amendment of the quota rules, as set out in Section 7 of the Election to the Members of the Constituent Assembly Act, 2007 would further the participation of women and other marginalised groups in political life.
24. Low numbers of women contested for elections. Greater participation of women in political life could be achieved by amendment of the Political Parties Registration Rule, 2007 which could be considered as a way to impose temporary affirmative action measures upon political parties. Inclusion of women in decision-making structures at all levels within parties could be made a condition precedent to party registration.
25. The ECN was unable to deliver upon its aspiration to recruit significant numbers of female staff. Efforts to enforce the gender policy in the ECN structures must be addressed through recruitment practices on an on-going basis.

Domestic Election Observation

26. Consideration could be given to the alteration of the age and educational requirements required for accreditation as domestic observers, bringing them into line with the requirements for candidates for elections.

ANNEXES

Annex I: Table of Recommendations

Purpose and reference in the Final Report	Recommendation	Suggested activities and timeline if suitable	Targeted institution and other stakeholders	Principle International and/or Regional Commitment
LEGAL FRAMEWORK				
To promote right of political representation <i>Final Report Page 11</i>	Alter rules on the mode by which political parties allocate their PR seats within their lists, binding political parties to maintain the pre-election candidate order within their closed lists	Amend Election to the Members of the Constituent Assembly Act, 2007, Section 7	Constituent Assembly; ECN	Article 25 (a) ICCPR: the right to take part in public affairs... through freely chosen representatives; Article 21.1 UDHR
To promote equal suffrage <i>Final Report Page 16</i>	Review FPTP constituency boundaries so that they fairly reflect population distribution with similar number of voters to elected representatives throughout the country.	Redraw boundaries based on 2011 Census results	ECN; Constituent Assembly	Article 25 (b) ICCPR: Every citizen shall have the right... to vote & to be elected at genuine periodic elections which shall be by... equal suffrage, Article 21.3 UDHR
To create the opportunity for individual voters to object to the qualification of candidates nominated for election <i>Final Report Page 30</i>	Extend the current rules on <i>locus standi</i> to challenge the qualifications of candidates who have been nominated for election, granting the facility to individuals to object. At present only candidates and political parties may make objections.	Amend Election to the Members of the Constituent Assembly Act, 2007, Sections 23 and 29	ECN; Constituent Assembly	Principle of Audi Alteram Partem (both sides must be heard) a principle of natural justice, which requires that there should be fair procedures available to review any decision which affects one.
To promote increased transparency in political party financing <i>Final Report Page 19</i>	Review current rules on political party financing and campaign funding to require disclosure of sources of funding received by political parties.	Amend Election Commission Act, 2007, Political Parties Act, 2002 and Political Party Registration (for the purposes of elections) Rule, 2007	ECN, Constituent Assembly	Article 25 (b) ICCPR: the right to elect freely chosen representatives... in genuine elections; General Comment 25 – paragraph 19 – limitations on campaign expenditure...to ensure that the free choice of voters is not undermined... by disproportionate expenditure

Purpose and reference in the Final Report	Recommendation	Suggested activities and timeline if suitable	Targeted institution and other stakeholders	Principle International and/or Regional Commitment
To protect secrecy of the vote and promote political participation of persons with disabilities <i>Final Report Page 26 and 28</i>	Enhance the secrecy of the vote for visual impaired voters.	Provide tactile ballot guides in future elections	ECN	Article 25 (b) ICCPR: the right to vote.... by secret ballot; Article 21.3 UDHR Article 29(a)(ii) CRPD: protecting the right of persons with disabilities to vote by secret ballot in elections.... Facilitating the use of assistive and new technologies where appropriate
To protect the right to vote for voters in prison <i>Final Report Page 14</i>	Extend facilities to vote in FPTP elections to prisoners, rather than limiting their access to PR only	New procedures adopted allowing prisoners to vote in both PR and FPTP elections	ECN	Article 25 (b) ICCPR: Every citizen shall have the right.... to vote
To promote right of political representation <i>Final Report Page 11 and 12</i>	Abandon the provision which allows one candidate to contest in two FPTP constituencies simultaneously	Amend Election to the Members of the Constituent Assembly Act, 2007, Section 5 (2)	Constituent Assembly ECN	Article 25 (a) ICCPR: the right to take part in public affairs... through freely chosen representatives; Article 21.2 UDHR
To promote legal certainty, so stakeholders can be fully conversant with electoral law <i>Final Report Page 11</i>	Create a situation where electoral law is consolidated and where rules are not changed within a month of E-Day, thus enabling clarity on the law, as well as greater ease of dissemination of content of the law.	Consolidate election law	ECN; Constituent Assembly	Respect for Rule of Law

Purpose and reference in the Final Report	Recommendation	Suggested activities and timeline if suitable	Targeted institution and other stakeholders	Principle International and/or Regional Commitment
ELECTION ADMINISTRATION				
To enhance quality of ballot papers <i>Final Report Page 32</i>	Higher specifications in the printing of ballot papers, such as the use of water-marking, stronger paper, better quality stapling and perforation, would reduce the risk of damage to ballot papers from tearing, and would also enhance their security. Additional information, such as the names of candidates in the FPTP elections and of parties in the PR elections, and perhaps photographs in the FPTP elections, would offer clearer information to the voter when casting their vote.	Review policy and practice on the production of ballot papers	ECN	
To ensure greater clarity and consistency in procedures applied on election day <i>Final Report Page 32</i>	Possibility to issue replacement ballot papers to voters who have spoilt their ballot should be established in the law and procedures.	Amend rules and procedures for election day	ECN	
To promote political participation of persons with disabilities <i>Final Report Page 32</i>	Make provision for transportation of persons with disabilities to polling stations so that they may exercise their right to vote	Amend election procedures	ECN	Article 29(a) CRPD: the equal right of persons with disabilities to “effectively and fully participate in political ...life.... Including the right and opportunity for persons with disabilities to vote”
To enhance the transparency of election management <i>Final Report Page 32</i>	The capacity of all ECN staff, especially polling station staff could be enhanced through training, particularly on counting procedures, which includes exercises simulating counting practice.	Adoption and effective implementation of an enhanced human resource development strategy	ECN EEIC	

Purpose and reference in the Final Report	Recommendation	Suggested activities and timeline if suitable	Targeted institution and other stakeholders	Principle International and/or Regional Commitment
To ensure greater clarity and consistency in procedures applied on election day <i>Final Report Page 32</i>	Reconciliation of all figures regarding the voting process should be required in order to establish the number of ballots received, used, spoiled, returned and cast, as well as the number of voters' names marked off in the voters' list.	Amend rules and procedures for election day	ECN	
To ensure greater clarity and consistency in procedures applied on election day <i>Final Report Page 32</i>	Certified copies of polling station inventory forms and constituency results protocols should be made available to political party agents, candidate representatives and accredited domestic observers	Amend rules and procedures for election day	ECN	
To ensure greater clarity and consistency in procedures applied on election day <i>Final Report Page 32</i>	Greater elaboration of the rules as to who is authorised to be present at polling and counting locations besides ECN staff would be useful, as would more clear guidance as to their exact role and authority.	Amend rules and procedures for election day	ECN	
VOTER REGISTRATION				
Assurance of an accurate, inclusive and credible voter's list <i>Final Report Page 15</i>	The biometric voters' list could be further enhanced if an exercise was to be conducted as well as an exhibition and correction period. Periodic updating of this register should be considered.	Permanent possibilities to update the voters' list on an on-going basis	ECN	Article 25, ICCPR

Purpose and reference in the Final Report	Recommendation	Suggested activities and timeline if suitable	Targeted institution and other stakeholders	Principle International and/or Regional Commitment
Assurance of an accurate, inclusive and credible voter's list, as a means to vindicate the right to vote <i>Final Report Page 15</i>	While inclusion on the voters' list depended almost entirely on the production of a citizenship certificate (with the late exception applied to those on the 2008 list), the lack of such documentation could represent an obstacle to registration for many marginalised but potentially eligible voters. Consideration could be given to the facilitation of registration on the production of other official documents which include photographic id, such as the documents which could be used by voters to prove their identity for these elections.	Review rules applicable to voter registration	ECN Constituent Assembly	<i>Article 25 (b) ICCPR: every citizen shall have the right... to vote....</i>
MEDIA AND ELECTIONS				
To strengthen the power and the legal authority of the Press Council <i>Final Report Page 22</i>	Establish more legal rules and sanctions for violations of the Code of Conduct by media or journalists. Better and closer monitoring of media. Reinforcing the independence of the Press Council.	Amend Press Council Act; revise Media Code of Conduct.	Constituent Assembly	Independence and legal authority of media regulatory bodies
To make available more clear instructions on some provisions of ECN Code of Conduct <i>Final Report Page 22</i>	Introduce clear instructions on publishing/airing political party advertisements during the campaign period. Establish specific deadlines for newspapers regarding respect of campaign silence period.	Revision of Chapter 5 and Section 93 of the ECN Code of Conduct.	ECN	

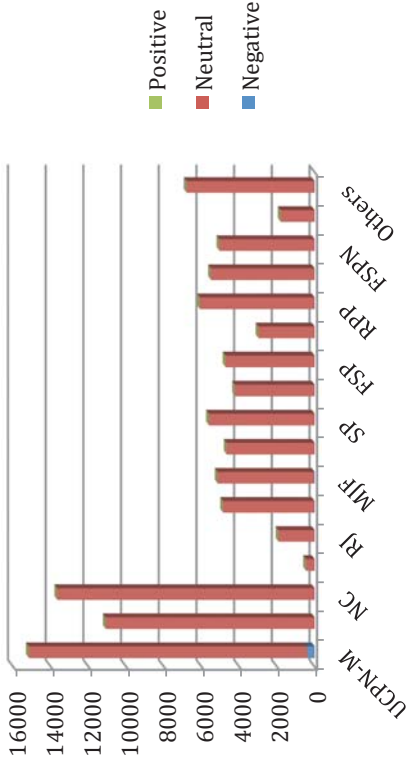
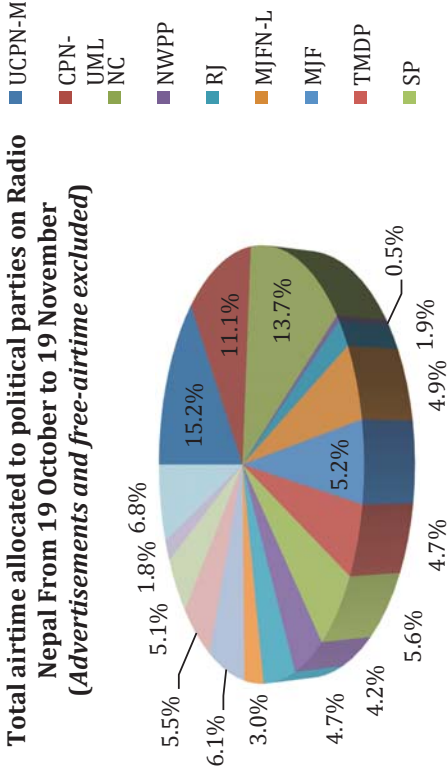
Purpose and reference in the Final Report	Recommendation	Suggested activities and timeline if suitable	Targeted institution and other stakeholders	Principle International and/or Regional Commitment
Earlier implementation of provisions in the ECN Code of Conduct <i>Final Report Page 22</i>	Earlier implementation of allocation of free airtime in the national electronic media, as well as more detailed instructions in this regard. Earlier implementation of ECN media monitoring.	Revise Sections 90 and 95 of the ECN Code of Conduct	ECN	
Update and improve current media environment in line with international commitments and best practices. <i>Final Report Page 22</i>	Revise and update Libel and Slander Act; Implement Right to Information Act properly.	Penalties of up to two years of imprisonment for libel to be withdrawn and replaced with suitable civil sanctions. Provisions of Right to Information Act, regarding disclosure of public information and provision on information officers in public bodies to be implemented.	Constituent Assembly Government	Freedom of Information
ECN to work more closely with the media <i>Final Report Page 14</i>	ECN to involve community radio stations in dissemination of voter education from the very beginning of the campaign period. Better planning of distribution of ECN voter education materials to the electronic media.		ECN	
Strengthening and improving journalism in Nepal <i>Final Report Page 23</i>	Conduct of proper and professional training programmes on election coverage, coordinated and conducted by local media institutions, targeting media managers and editors.	Funding and organising media training on electoral coverage.	Press Council Federation of Nepalese Journalists.	Accurate, professional and objective journalism

Purpose and reference in the Final Report	Recommendation	Suggested activities and timeline if suitable	Targeted institution and other stakeholders	Principle International and/or Regional Commitment
GENDER EQUALITY AND HUMAN RIGHTS				
To promote the participation of women & marginalised groups in politics – quotas to be made mandatory <i>Final Report Page 25</i>	Review operation of the quota system within the PR election to ensure that it becomes impossible for political parties to avoid abiding by it. End the exceptions based on the number of candidates fielded, and remove the flexibility permitted in deviating from the quota target figures, in order that the quotas will apply to all PR lists.	Amend Election to the Members of the Constituent Assembly Act, 2007 Section 7	ECN; Constituent Assembly	Article 4.1 CEDAW: Adoption.. of temporary special measures aimed at accelerating de facto equality between men & women shall not be considered discrimination.. Article 2.2 ICERD: States Parties shall...take... special measures ...to ensure...adequate protection of certain racial groups...for the purpose of guaranteeing full & equal human rights.
To promote greater participation of women in political life <i>Final Report Page 25</i>	Introduce mandatory quotas for political parties, requiring that minimum proportions of women be included within mainstream decision-making party structures; that these affirmative action measures should be a legal prerequisite to registration as a political party.	Amend Political Parties Registration Rule, 2007	ECN; Constituent Assembly	Article 3, ICCPR: the equal right of women & men to enjoyment of all ... political rights Article 4.1 CEDAW: Adoption.. of temporary special measures aimed at accelerating de facto equality between men & women shall not be considered discrimination..
To enhance equality in election administration <i>Final Report Page 26</i>	Despite the adoption of a gender policy by the ECN, very low numbers of women were among ECN staff members. Efforts to re-balance the proportions of male and female staff must be addressed through recruitment practices on an on-going basis, so that this situation is reversed.	Adoption of a human resource strategy to recruit more women	ECN	
DOMESTIC ELECTION OBSERVATION				
To promote greater participation of citizens in political life <i>Final Report Page 19</i>	Consideration could be given to the alteration of the age and educational requirements required for accreditation as domestic observers, bringing them into line with the requirements for candidates for elections.	Legal and procedural amendments	ECN Constituent Assembly	

ANNEX II: EU EOM MEDIA MONITORING FINDINGS

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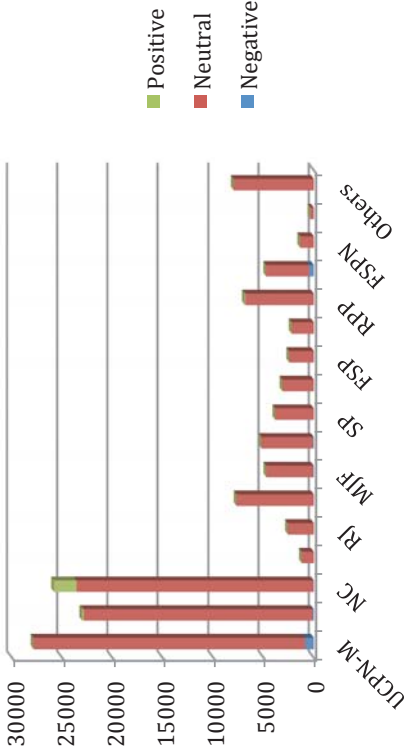
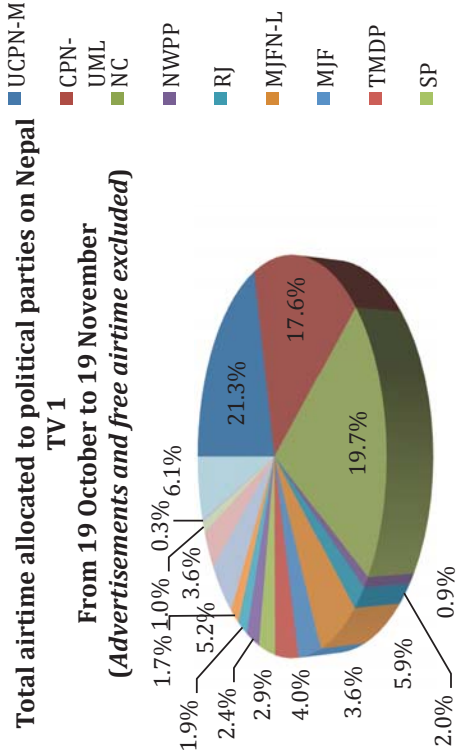
Total airtime allocated to political parties on Radio Nepal From 19 October to 19 November (Advertisements and free-airtime excluded)



Tone of the coverage

NEPAL TV

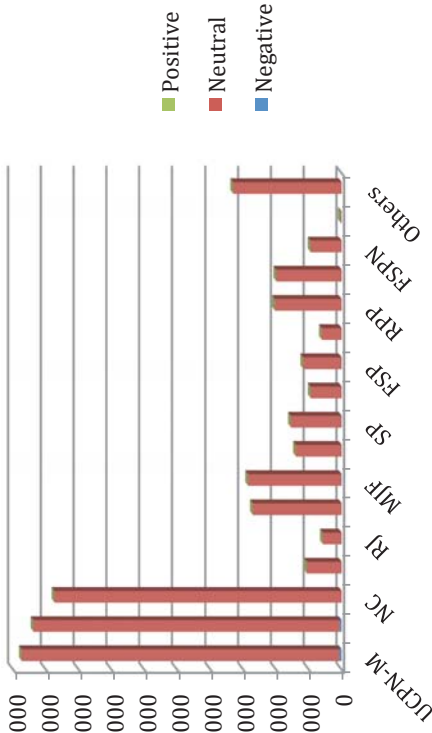
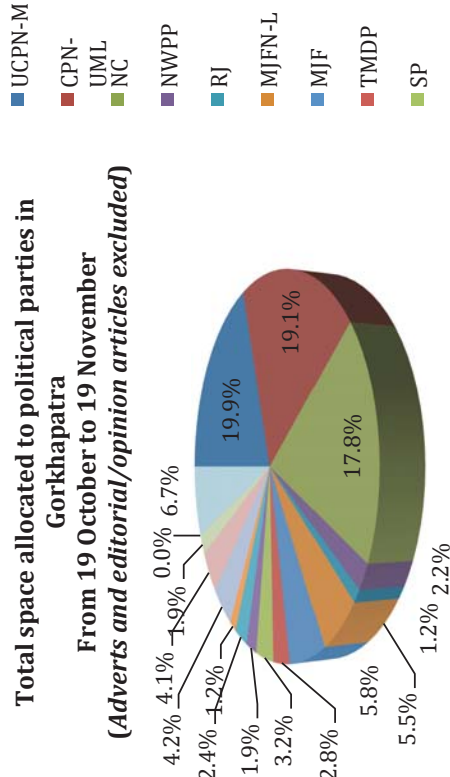
Total airtime allocated to political parties on Nepal TV 1 From 19 October to 19 November (Advertisements and free airtime excluded)



Tone of the coverage

GORKHAPATRA

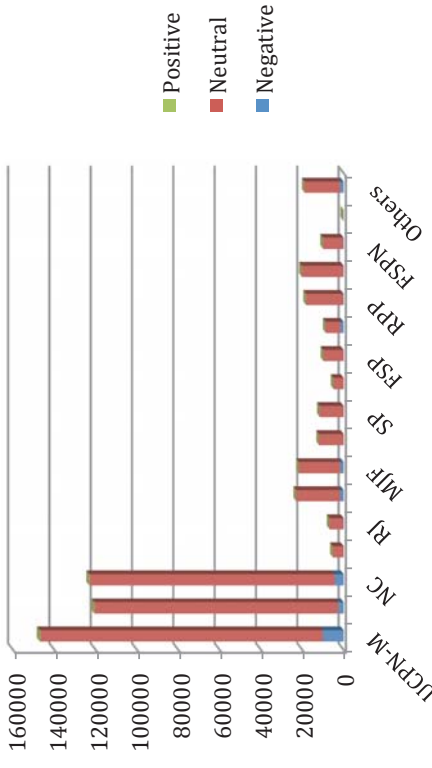
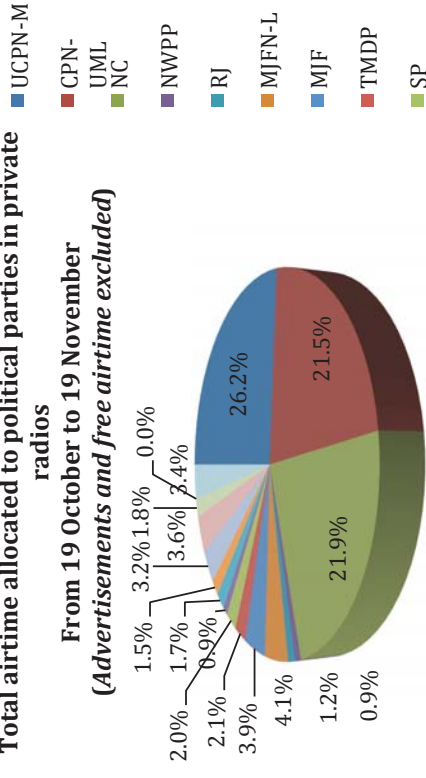
Total space allocated to political parties in
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From 19 October to 19 November
(Adverts and editorial/opinion articles excluded)



Tone of the coverage

PRIVATE RADIO STATIONS

Total airtime allocated to political parties in private
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From 19 October to 19 November
(Advertisements and free airtime excluded)

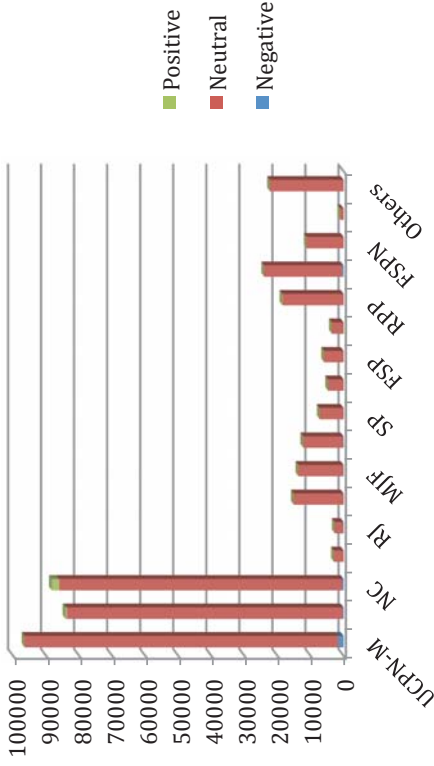
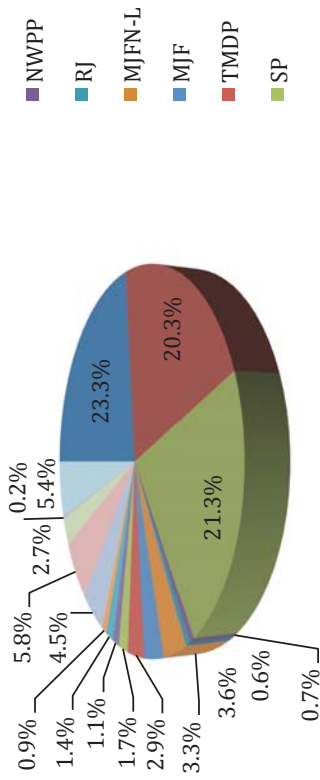


Tone of the coverage

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Total airtime allocated to political parties on private TVs

From 19 October to 19 November
(Advertisements and free airtime excluded)

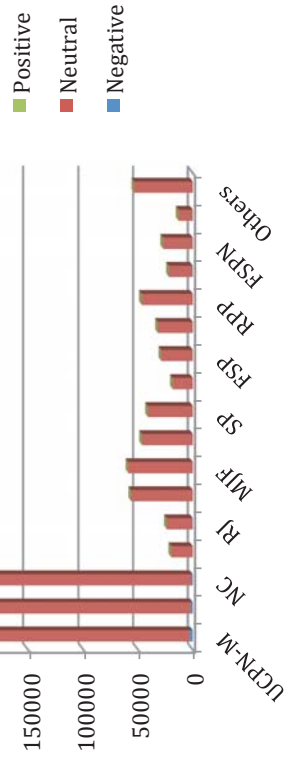
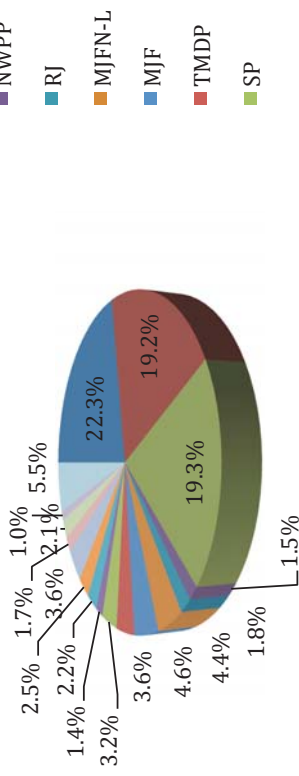


Tone of the coverage

PRIVATE NEWSPAPERS

Total space allocated to political parties in private newspapers

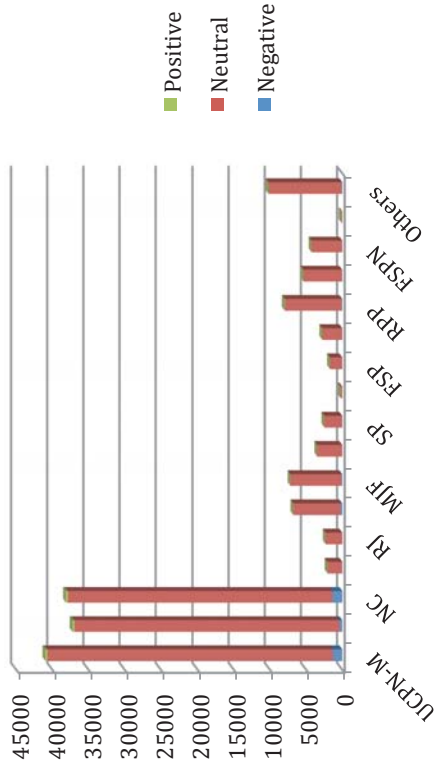
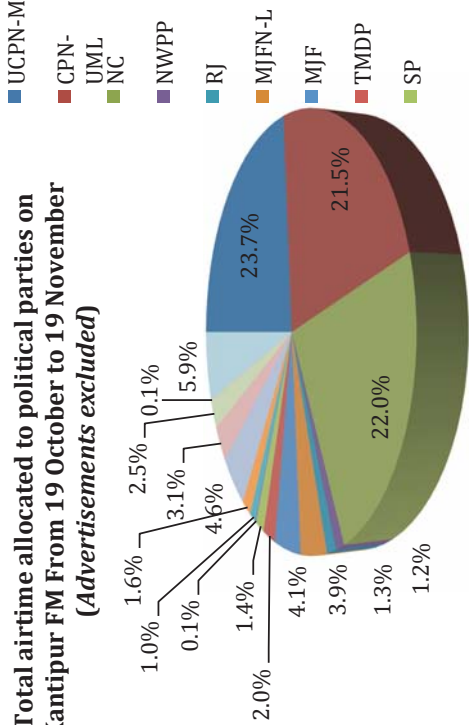
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Tone of the coverage

KANTIPUR FM

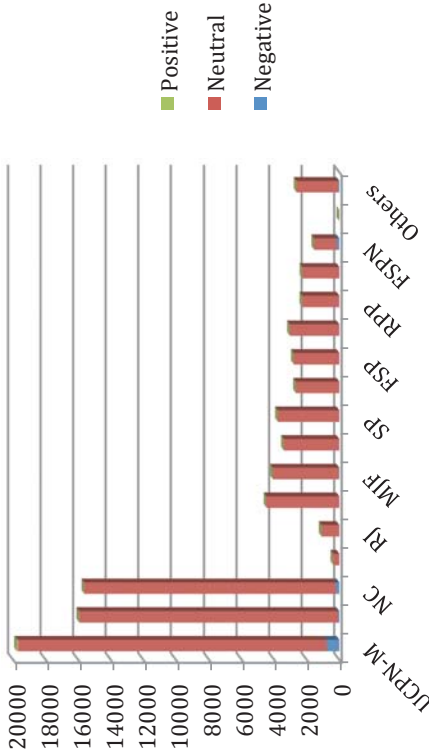
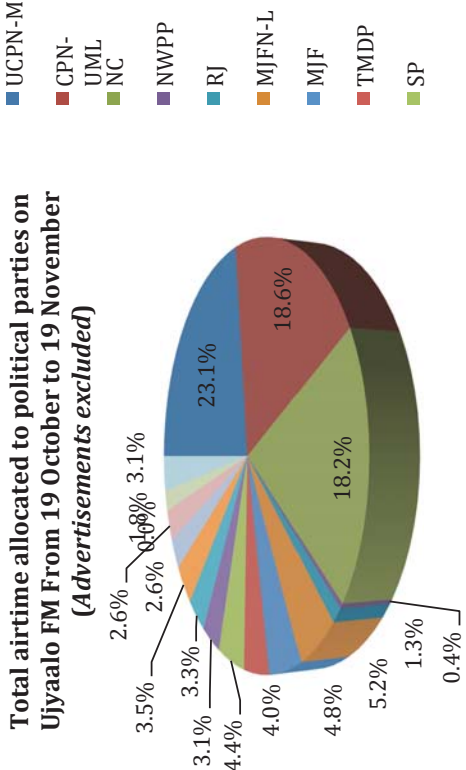
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Tone of the coverage

UJYAALO FM

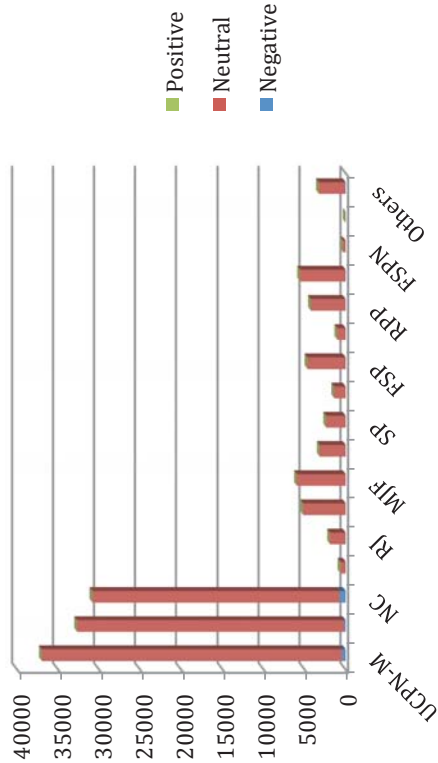
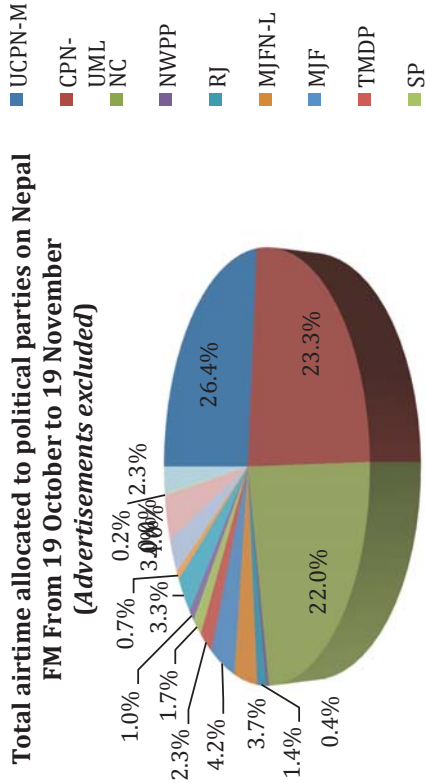
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Tone of the coverage

NEPAL FM

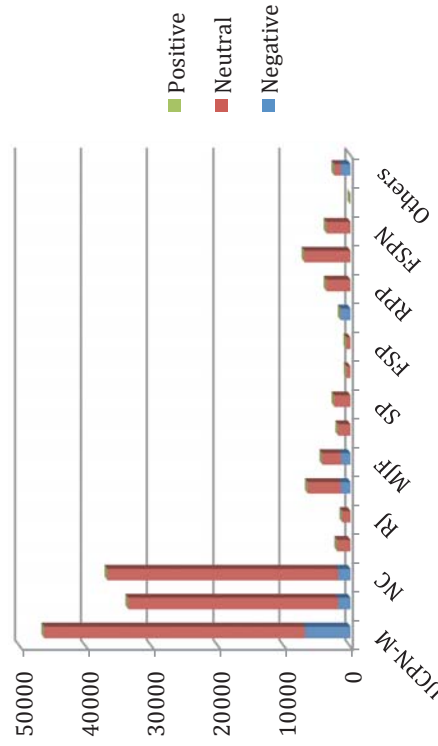
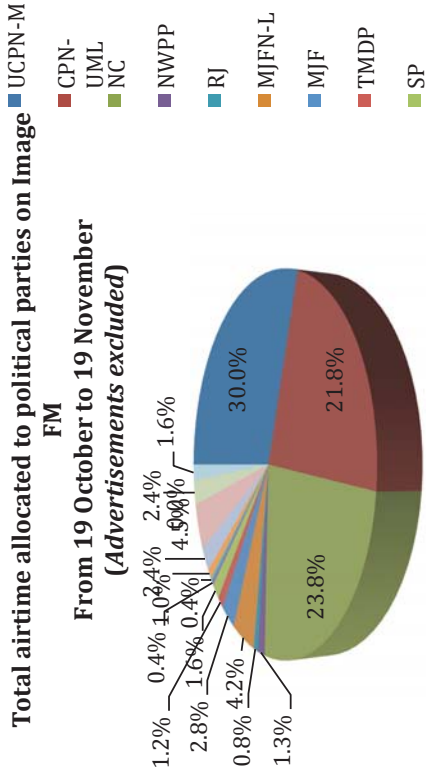
Total airtime allocated to political parties on Nepal FM From 19 October to 19 November
(Advertisements excluded)



Tone of the coverage

IMAGE FM

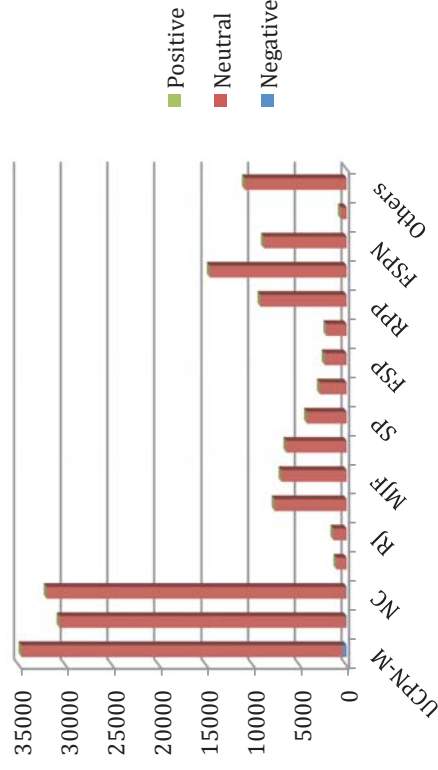
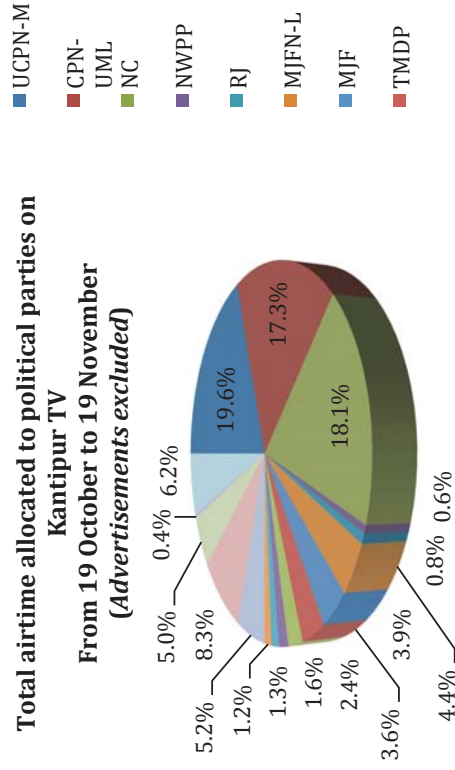
Total airtime allocated to political parties on Image FM From 19 October to 19 November
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Tone of the coverage

KANTIPUR TV

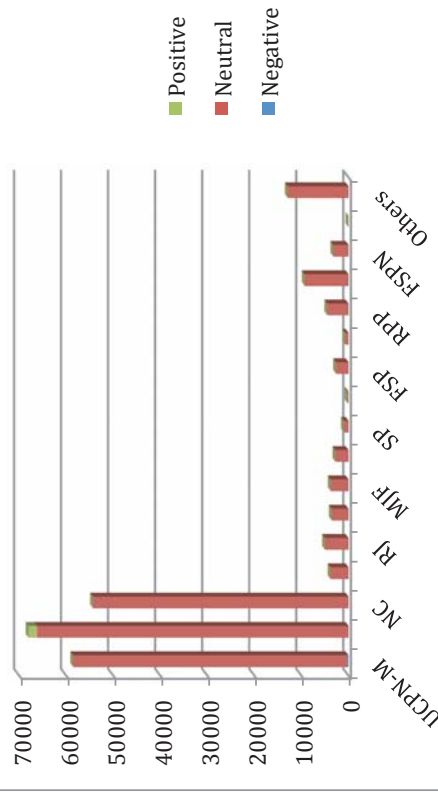
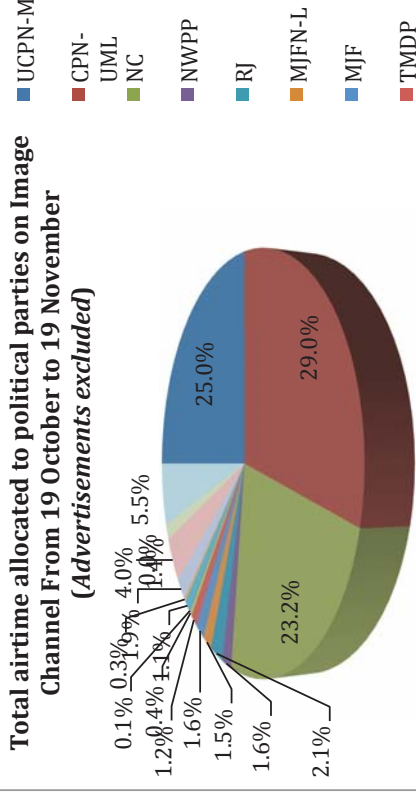
Total airtime allocated to political parties on Kantipur TV
From 19 October to 19 November
(Advertisements excluded)



Tone of the coverage

IMAGE CHANNEL

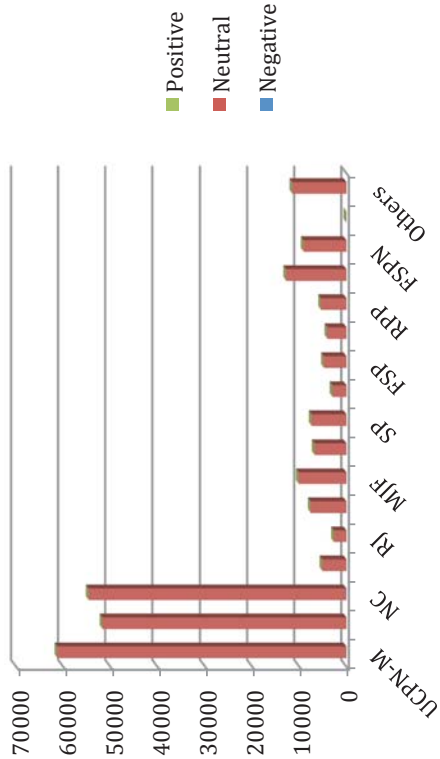
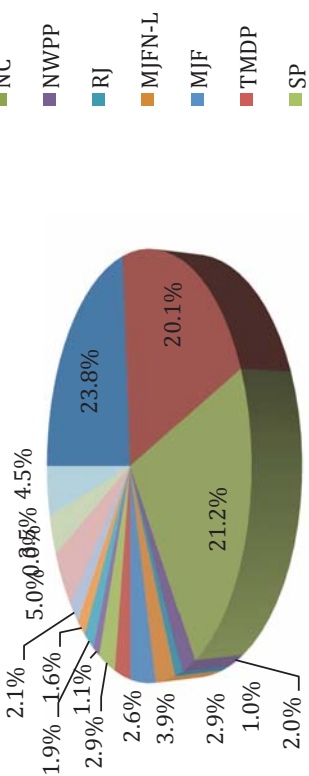
Total airtime allocated to political parties on Image Channel From 19 October to 19 November
(Advertisements excluded)



Tone of the coverage

SAGARMATHA TV

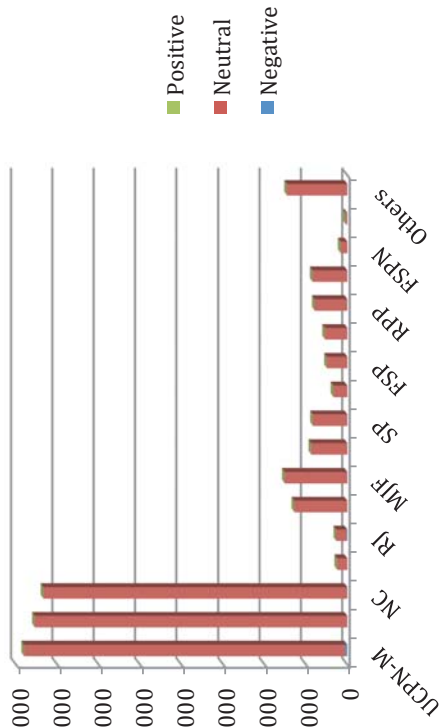
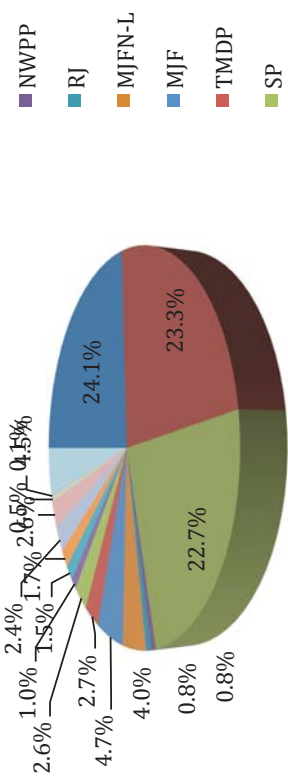
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Sagarmatha TV From 19 October to 19 November
(Advertisements excluded)



Tone of the coverage

KANTIPUR NEWSPAPER

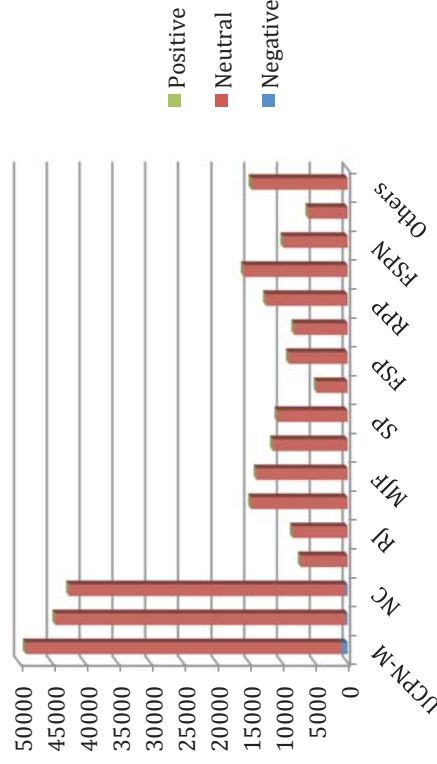
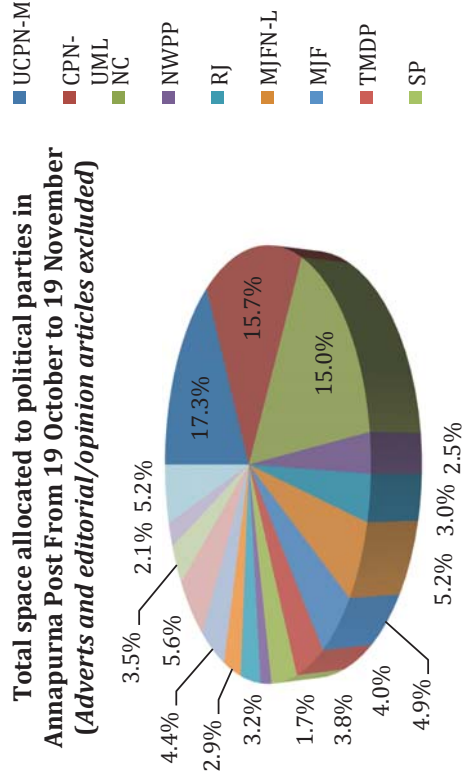
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daily
From 19 October to 19 November
(Adverts and editorial/opinion articles excluded)



Tone of the coverage

ANNAPURNA POST

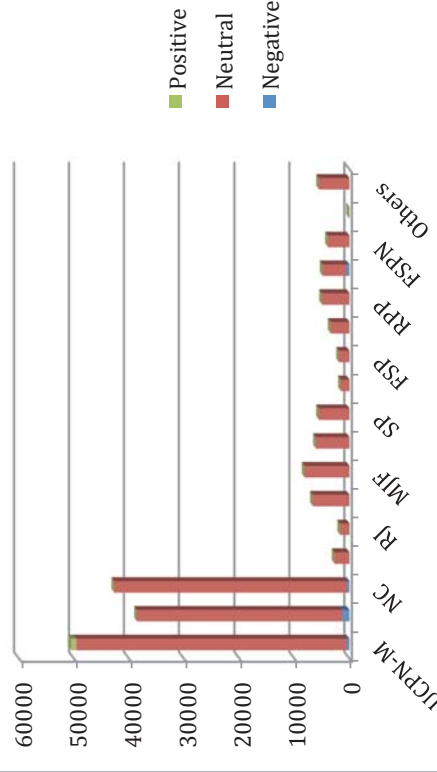
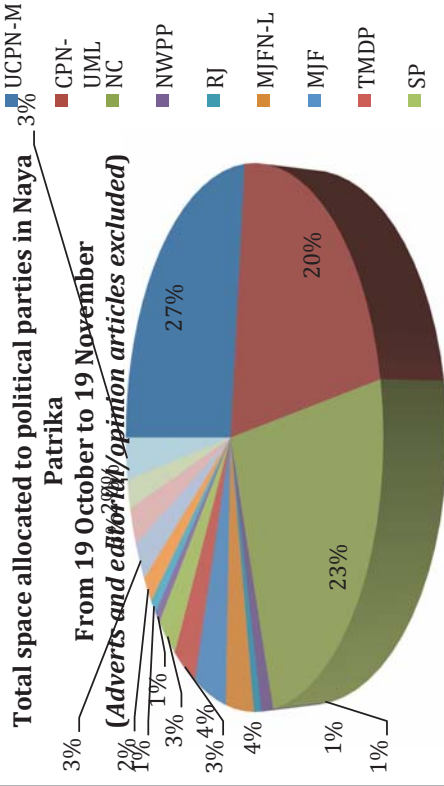
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(Adverts and editorial/opinion articles excluded)



Tone of the coverage

NAYA PATRIKA

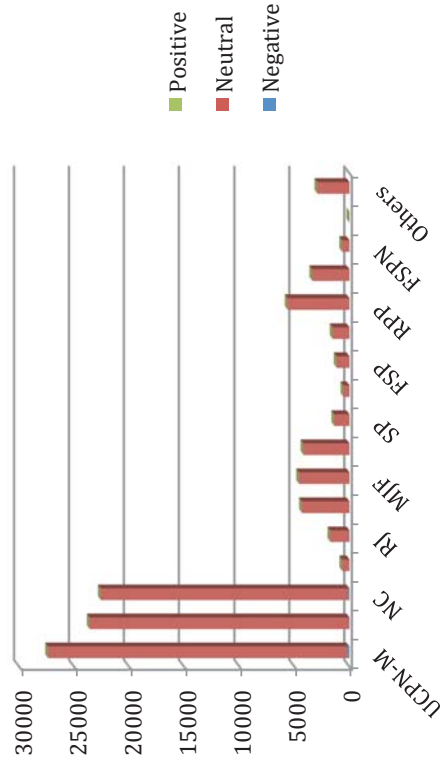
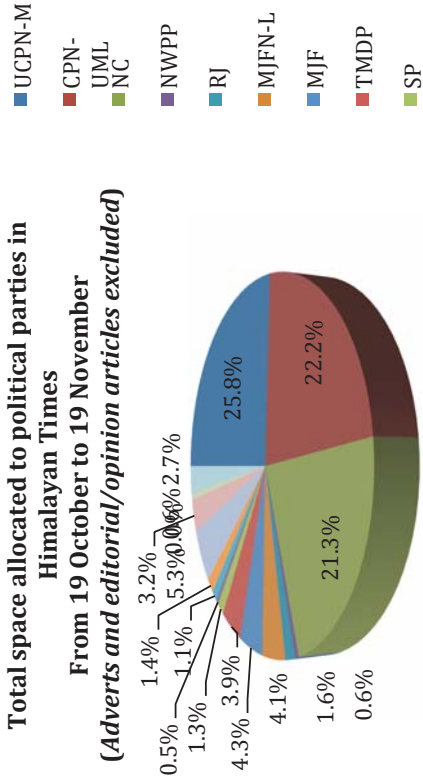
Total space allocated to political parties in Naya Patrika From 19 October to 19 November
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Tone of the coverage

THE HIMALAYAN TIMES

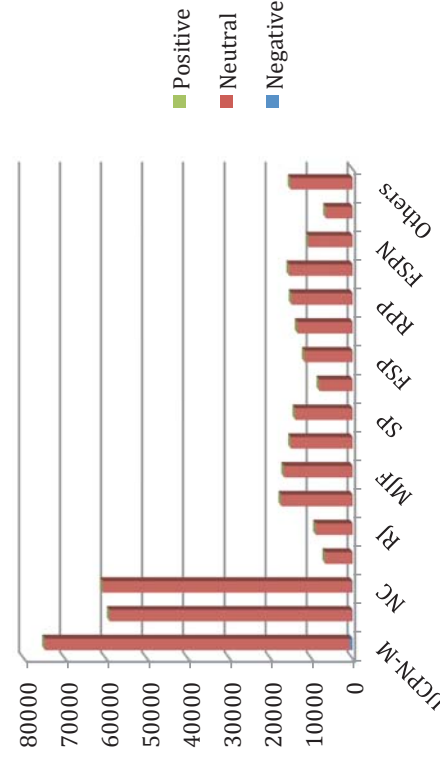
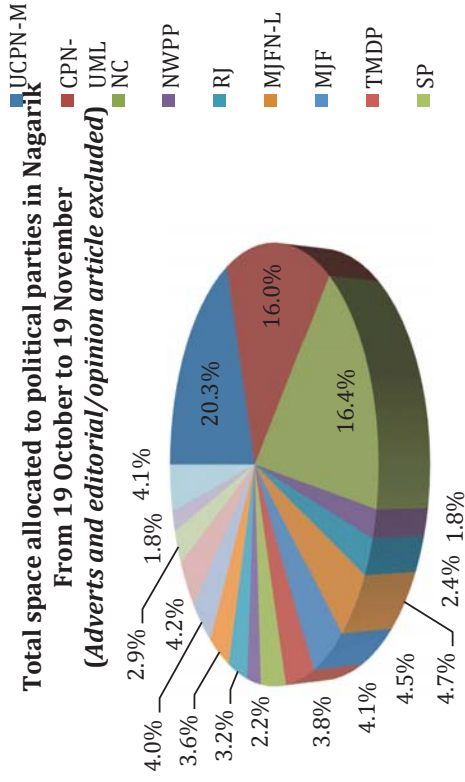
Total space allocated to political parties in
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From 19 October to 19 November
(Adverts and editorial/opinion articles excluded)



Tone of the coverage

NAGARIK

Total space allocated to political parties in NagariK
From 19 October to 19 November
(Adverts and editorial/opinion article excluded)



Tone of the coverage