

# Nepal

The Constituent Assembly Election 2008



The Asian Network for Free Elections (ANFREL)

# NEPAL

## Constituent Assembly Election

*10<sup>th</sup> April 2008*



Report of the International Election Observation Mission  
by the Asian Network for Free Elections (ANFREL)

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**The Asian Network for Free Elections (ANFREL)**

105 Suthisarnwinichai Road, Samsennok, Huaykwang,  
Bangkok 10320, Thailand

Tel : (66 2) 2773627

Fax : (66 2) 2762183

E-mail : [anfrel@anfrel.org](mailto:anfrel@anfrel.org)

Website : [www.anfrel.org](http://www.anfrel.org)

## **Written by**

Adam Cooper, with inputs from all observers

## **Edited by**

Ichal Supriadi, Sanjay Gathia, and Somsri Hananuntasuk

## **Layout by**

Chatchawan Rakchat

## **Photos courtesy of mission observers**

## **Book cover design by**

Piyawan Hosakulsuwan and Pongsak Chanon

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## Foreword

The Asian Network for Free Elections (ANFREL), established in 1997, is Asia's first regional network of civil society organizations striving to promote and support democratization at national and regional levels in Asia. It has so far undertaken over 32 election observation missions across Asia in more than 15 countries over the past 10 years. By drawing upon the expertise of local NGOs in the region, ANFREL is pioneering a process of democratization in Asia led by Asians themselves.

Recent elections observed include the Thailand's Parliamentary elections (December 2007), Timor-Leste's Parliamentary Elections (June 2007), the Philippines (May 2007), Timor-Leste's Presidential Election (April 2007) and Aceh's Elections (December 2006). ANFREL's observers are drawn from its member organisations based in Asia, sharing its findings and recommendations with the public and with all other stakeholders.

This report is the outcome of the information received from 100 observers deployed throughout the country, as well as analysis from its core Secretariat team and senior observers drawn from ANFREL's member organisations. It covers the pre-election period, election day itself, and the post-election environment. As well as being a record of ANFREL's activities, I hope that it will prove a valuable resource for those interested in Nepali politics, and elections more broadly.

Election day itself was relatively peaceful and allowed most of the Nepali people to exercise their right to vote freely, though there were a number of incidents of violence and intimidation in the pre-election environment. The overall administration of the polling was smooth in almost all areas - the irregularities that did take place did not undermine the overall credibility of the election.

After a decade-long conflict, I am pleased that these credible elections have advanced Nepal's peace process help to consolidate peace and democracy. The respectable turnout in a post-conflict environment and

the enormous enthusiasm for the elections show the strong desire of Nepalis for a more inclusive and democratic government.

The Nepali people, the Election Commission, and the Government of Nepal deserve particular credit for the success of this election, and have been supported in achieving their goals by the international community. However, the success of the election should not mean we lose sight of what can be improved for the future, nor the political challenges that lay ahead. Now that members of the Constituent Assembly have been elected, they carry the responsibility of writing a Constitution that will truly enshrine the rights of all Nepalis, including traditionally marginalized groups.



*General Saiyud with senior ANFREL representatives  
at ANFREL's post-election press conference*

I congratulate the Nepali people for their enthusiasm for these landmark elections, and wish them the best in setting up a federal republic that can address the many challenges that Nepal faces.

This mission was particularly significant for ANFREL as it marked 10 years since the organisation was founded. I am proud of what we have achieved so far and look forward to greater successes in the future. After ten years as ANFREL's Chairperson, this mission is my last. It has been my heartfelt honour to be a small part of this historical event in Nepal at the end of my term. I wish the ANFREL Secretariat and all the members all the best for their future endeavours.

General Saiyud Kerdphol  
(Retired Supreme Commander of Royal Thai Forces)  
(Chairperson – People's Network for Elections in Thailand)  
FOUNDING MEMBER & CHAIRPERSON  
ASIAN NETWORK FOR FREE ELECTIONS (ANFREL) Foundation

## **Acknowledgement**

First and foremost, ANFREL would like to extend its appreciation to the Election Commission of Nepal for accrediting ANFREL as international observers, granting our observers the opportunity to both observe and study the election, and for giving us the opportunity to make recommendations for future elections in Nepal.

This mission was possible with the technical support of The Asia Foundation, and financial support from the British Government, for which we offer our heartfelt gratitude.

It has been our privilege to work with the logistical support of two local electoral monitoring bodies, the National Election Observation Committee (NEOC) and the National Election Monitoring Alliance (NEMA), both ANFREL's member organisations in Nepal.

We also thank all our international observers, whose impartial analysis was closely listened to by the Nepali people, local stakeholders and the international community present in Nepal. They were assisted by a group of local interpreters who facilitated the observers' work – we thank them for all their hard work.

The effectiveness of ANFREL's observation was greatly facilitated by the support of other international organisations in Nepal, such as UNMIN, OHCHR, IFES, and NDI. Strong coordination with the Carter Center and the EU EOM allowed for the presence of international observers to be maximised. We also acknowledge all the Embassies and Ambassadors who took time from their busy schedules to share their views, analysis and expectations of Nepal's peace process and democracy. Special thanks are due to the Indian Embassy who granted visas to observers in the Terai, allowing them to evacuate to India in case of any emergency. We thank our speakers who trained and briefed our observers. A special thanks must go to UNMIN head Ian Martin for his contribution and moral support.



We wholeheartedly appreciate the work of ANFREL's local staff, whose dedication ensured that the logistics and other innumerable details of the mission were smoothly arranged.

ANFREL Foundation's Board of Directors also acknowledges all the coordination undertaken by the Secretariat team, in particular by the Mission Coordinator Mr. Ichal Supriadi, in successfully organizing and concluding the mission.

Mr. Kingsley Rodrigo  
(Chairperson - PAFFREL, Sri Lanka)  
SECRETARY GENERAL  
ASIAN NETWORK FOR FREE ELECTIONS (ANFREL) Foundation

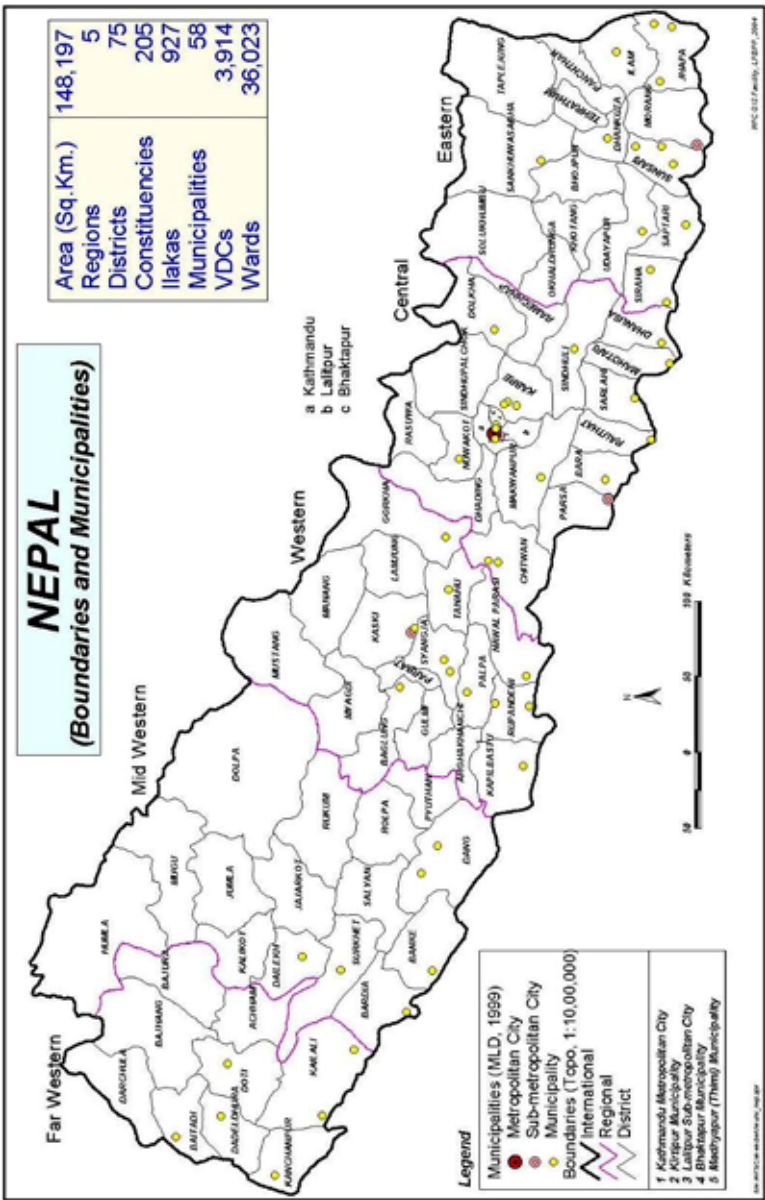


*ANFREL's observers after returning from the field*

## Abbreviations

ANFREL	Asian Network for Free Elections Foundation
APF	Armed Police Force
CA	Constituent Assembly
CDO	Chief District Officer
CEC	Chief Election Commissioner
CPA	Comprehensive Peace Accord
CPN-M	Communist Party of Nepal – Maoist
CPN-UML	Community Party of Nepal – Unified Marxist Leninist
DEAN	Democracy and Election Alliance Nepal
ECN	Election Commission of Nepal
EU EOM	European Union Election Observation Mission
EORC	Election Observation Resource Centre
FPTP	First Past the Post
IDP	Internally Displaced Person
IED	Improvised Explosive Device
LTO	Long-Term Observer
MP	Member of Parliament
MPRF	Madhesi People's Right Forum
NC	Nepali Congress
NEMA	National Election Monitoring Alliance
NEOC	National Election Observation Committee
OCHA	Office for the Coordination of Humanitarian Affairs
PLA	People's Liberation Army
PR	Proportional Representation
RO	Returning Officer
SPA	Seven Party Alliance
SSP	Senior Superintendent of Police
STO	Short-Term Observer
UNDP	United Nations Development Programme
UNMIN	United Nations Mission in Nepal
VDC	Village Development Committee
VE	Voter Education
VEV	Voter Education Volunteers

Map of Nepal<sup>1</sup>



<sup>1</sup> Courtesy of UN OCHA

## EXECUTIVE SUMMARY

ANFREL deployed a total of 100 election observers for Nepal's Constituent Assembly elections – 20 long-term observers who observed the pre-election environment, election day, and the post-election process, and a further 80 short-term observers who focused on election day. The mission was the largest ANFREL has ever organised, lasting for two months, and was lead by General Saiyud Kerdphol (Retd.), ANFREL's Chairperson at the time.

Especially given the tense post-conflict political environment, the election was deemed a broad success by Nepalis and the international community alike. Twice delayed, the holding of the CA election marked a key fulfillment of the Comprehensive Peace Accord agreed between the seven mainstream political parties and the Maoists in late 2006. Through the election of significant numbers of women, historically marginalised groups such as Dalits and Madhesi, and indeed members of a former armed movement, the foundations were laid for a more inclusive democracy in Nepal. Election day in particular exceeded expectations, with polling administered smoothly in the vast majority of polling stations observed and levels of violence far less than anticipated. Despite some complaints from political parties, all accepted the results.

The legal framework for the election, though complex, satisfactorily regulated most of the key parts of the election process. A mixed electoral system was used for the first time in Nepal in which 335 members were elected through proportional representation lists and 240 in first-past-the-post contests (the remaining 26 members of the CA were appointed). To broaden participation, half of the PR seats were reserved for women and other quotas introduced for traditionally marginalised groups.

In such a highly politicised environment, the Election Commission of Nepal upheld the highest standards of neutrality. The Commission also overcame significant logistical challenges in the election: without the assistance of the Nepal Army election materials were successfully

distributed across the country within a very tight timeframe (to allow for the participation of Madhesi political parties the Commission delayed the deadline for submitting candidate lists). Though a national election had not been held in Nepal for nearly ten years, staff were generally well trained and in difficult circumstances performed their duties admirably.

While the integrity of the voter roll was not generally challenged by political parties, it did exclude a significant number of people, to some extent unavoidably. As the voter registration drive was conducted over a year before the election, a large number of 18 and some 19 year olds were unfortunately disenfranchised, as were 2.6 million Nepalis (mostly in the Terai) who were granted citizenship but too late to be included on the voter roll. More, however, could have been done to accommodate internally displaced persons and the landless. Positively, provisions to vote were made for People's Liberation Army, Nepal Army, and prisoners – though just for the PR list.

Voter education efforts were significant, and took into account the lack of access to the media in rural areas, as well as the difficult geography and mix of ethnicities and languages in Nepal. However, while voters were generally clear about when and where to vote, their understanding of the nature of the election, the admittedly electoral complex system, and what constitutes an invalid ballot was not sufficiently strong.

The pre-election environment saw campaigning in much of the country take place peacefully and energetically, buttressed by high voter interest. Nevertheless, the tension between political parties in the campaign period, as well as violence by a number of armed groups, constituted the most serious challenges to the CA election. Restrictions on the freedom of movement and assembly were frequently observed, due to both inter-party rivalries and threats by armed groups in the Terai. Political tolerance stands to be improved: in certain areas which parties considered their strongholds, rival parties frequently faced difficulty in campaigning. While conflict between parties lapsed into violence, voters were more frequently intimidated rather than overtly

attacked; the effect of this on voting patterns on election day is difficult to ascertain. Tensions heightened as election day approached with a concomitant rise in the seriousness and frequency of violent incidents. Observers concurred that such election violations were committed by all major political parties but disproportionately by the Maoists, though their supporters also suffered the greatest number of deaths during the election as a result of heavy-handed responses by the police.

Strenuous though largely unsuccessful attempts were made to defuse such tensions in the lead up to the election. The Election Commission made repeated appeals to the Government to take action against those committing criminal acts and demanded that political parties abide by the election law and code of conduct. Political parties pledged and re-pledged their commitment to non-violence. However, though warnings were made, sanctions – either by the government, police, or the Election Commission – were rarely if ever applied.

Election day, by contrast, was a general success. While regrettable and sporadic incidents of violence did occur, they were fewer in number and less widespread than expected; stated plans by political parties to mobilise 100-200 of their supporters per polling station and by armed groups to prevent the mobility of voters appear were not widely implemented. Polling was administered smoothly in the large majority of polling stations visited, with most procedures followed correctly in 95% or more of polling stations observed. Over 80% of ANFREL's observers reported a good or very good overall rating for areas that they visited on election day. Isolated incidents, including "booth capture", were observed in a small number of instances, with only 13% of observer teams reporting more widespread problems.

Polling procedures were generally well adhered to. Of the 20 indicators used to assess the opening, polling and closing process, 11 were met in 95% of polling stations, and 14 were met in 90% of polling stations. The two most significant difficulties faced on election day were voter identification and the presence of unauthorised persons inside polling stations. Political party representatives set up desks outside of polling stations to assist in voter identification, a practice that is both legal and

common in Nepal. However, their presence arguably comprises the secrecy of the vote, facilitates illegal campaigning, and risks discouraging polling officials from undertaking rigorous voter identification themselves. Their presence was abused to facilitate multiple voting and should therefore be disallowed in future elections. The unauthorized entry of individuals – predominantly candidates or party representatives – often unduly influenced voters and was observed in 18% of all polling stations.

The counting process, which took place at district counting centres and not at polling stations, was conducted to the general satisfaction of election stakeholders in the majority of constituencies observed. Adherence to counting procedures outlined in regulations issued by the Election Commission was mixed, with significant variation between counting centres over the process by which ballots were sorted and counted, though such variation was not generally perceived as problematic by political party representatives. Most difficulties were observed during the initial phases of counting, with only a small number remaining disordered beyond the initial arrival of ballot boxes.

The election environment for repolling was generally satisfactory, as security forces and the presence of observers could be concentrated in a smaller number of locations. However those areas where repolling was deemed necessary were, by implication, those areas where disputes occurred. Such tensions were not necessarily resolved by the time that repolling took place. Furthermore, similar concerns arose during repolling as on election day, though to a greater extent.

Recommendations in different areas of the election process are made at the end of this report. The twelve recommendations considered most important are listed below:

1. Ensure that there is a comprehensive and accurate voter roll and reliable means to identify voters
2. Ban the role of political parties in voter identification; polling officials alone should be responsible for identifying voters

based on reliable documentation, not chits issued by party representatives

3. Rank proportional representation (PR) candidates in an open list so that voters can clearly see who their representatives may be
4. Retain quotas for women in PR lists and complement them with dedicated programmes to support the work of women in the CA and increase the participation of women in the leadership of political parties
5. Security forces should rigorously enforce the law. Those who commit election violations of a criminal nature should be arrested, thoroughly investigated, and charges brought against them when necessary
6. Election officials should fully enforce the Code of Conduct, applying sanctions against those who violate it and using the power at their disposal to order arrests
7. Offer greater training to local government officials and police in conflict management and resolution
8. In politically sensitive constituencies consider assigning Returning and Polling Officers to work outside of their home districts to reduce the fear they may feel in confronting those who violate the election law
9. Create a separate institution to receive, investigate, and adjudicate complaints, perhaps in the form of an Electoral Court, equipping it with much greater investigative resources that are currently at the disposal of the ECN
10. First-the-past-post ballot papers should have the names of candidates marked on them and PR ballots should have the names of parties marked on them
11. Strengthen the management of the counting process to ensure procedures are consistently followed in all counting centres
12. Increase voter education efforts by intensifying use of broadcast media, improving the monitoring of Voter Education Volunteers (VEVs) and offering them greater logistical and security support



## INTRODUCTION

### Basic mission overview

Following an invitation from the Election Commission of Nepal (ECN), ANFREL deployed a total of 105 international observers for Nepal's Constituent Assembly (CA) election. Initially planned for October-November 2007, ANFREL's mission took place from 22<sup>nd</sup> February until 24<sup>th</sup> April 2008 (see Annex 1 for full mission schedule).

Observers were recruited from 24 countries, almost all from different Asian regions but with a small number from Australia and Africa. They represented 35 different organizations, predominantly local NGOs in Asia working on election issues. ANFREL's mission was the second largest international election observation mission in the country after the European Union Election Observation Mission (EU EOM), and the largest that ANFREL has ever organised.

Three members of ANFREL's core team arrived on 22<sup>nd</sup> February to set up the mission and office. 20 Long-Term Observers (LTOs) arrived on 10<sup>th</sup> March and remained in Nepal, half of whom left on 14<sup>th</sup> April and half of whom observed counting, repolling, and the post-election environment until 21<sup>st</sup> April. Two pre-election reports were issued based on the findings of LTOs. 80 Short-Term Observers (STOs) were in Nepal 3<sup>rd</sup>-14<sup>th</sup> April. Observed were deployed in pairs.

The mission was lead by General Saiyud Kerdphol, former Supreme Commander of the Royal Thai Armed Forces and ANFREL Chairperson. The Deputy Chief of Mission and Spokesperson was Mr. Damaso Magbual, ANFREL Vice Chairman. Other senior members of the mission



*ANFREL Head of Mission Gen. Saiyud Kerdphol with Prime Minister G.P. Koirala*

included: Mr. Kingsley Rodrigo, Chairman of the People's Action for Free and Fair Elections in Sri Lanka and ANFREL Secretary-General and Mr. Koul Panha, Executive Director of the Committee for Free and Fair Elections in Cambodia. ANFREL was also honored to host as observers three Commissioners from the National Election Commission (CNE) of Timor Leste and the director of Technical Secretariat for the Administration of Elections (STAE) of Timor Leste (see Annex 2 for profiles of senior observers).

## **Observation methodology**

As signatories to the Declaration of Principles for International Election Observation and the Code of Conduct for International Election Observers, ANFREL observes all elections according to internationally recognised standards and principles. Without comprising on such standards, ANFREL also aims to couch its analysis in the context of a country's recent political and electoral history. Consistent with ANFREL's observation of elections in post-conflict environments such as Aceh and Afghanistan, assessment of the election is judged in terms of compliance with international standards but also to what extent the election advances broader goals of consolidating peace and democracy.

Adherence to basic principles for a credible election, listed below, were assessed:

- A genuinely universal franchise
- The right of political parties and candidates to participate in the election
- Freedom of expression for election stakeholders and individuals
- Freedom of movement and assembly
- The ability of voters to cast their ballot secretly
- Transparency of the election process

To assess such principles fully, the vast majority of the election process was observed, including the pre-election period, election day, and the post-election environment. At a central level, the following areas were

assessed: the broad constitutional and legal framework, the electoral system, voter registration and participation of marginalised groups, registration of candidates and parties, the competence and neutrality of the government and security forces, and the performance and neutrality of the Election Commission. The overall political situation was monitored to the extent that it impacted the above areas.

Long-term observers (LTOs) focused on a number of different aspects of the pre-election environment, including: the campaign environment, security, compliance with electoral laws, voter education and voters' views, election administration, role of government officials, and the work of local election monitoring organisations. LTOs were deployed to ten base areas, two in each of five development regions, from which they travelled to a number of different districts. Though based in larger towns, LTOs were directed to travel into remote rural areas despite poor or non-existent road access. While this was possible in Nepal's hilly regions and the plains, access to the mountainous north was severely constrained.

ANFREL's core team in Kathmandu observed similar issues as LTOs but at a national level, also analysing the constitutional and legal framework, the election system, voter registration and the participation of marginalised groups, and the registration of candidates and parties.

The qualitative assessment by LTOs was complemented by a quantitative voter survey of 307 Nepali citizens old enough to vote, carried out 15<sup>th</sup>-26<sup>th</sup> March i.e. 2-3 weeks before election day. The survey covered all five regions of Nepal. To better represent the population as a whole, 232 (76%) were selected from rural areas, and 75 (24%) from urban areas, with equal percentages of men and women, and equal percentages of people under and over 30 years of age. Although the sample size is not large enough to accurately reflect the opinion in individual regions, ANFREL believes these findings are broadly representative of the population as a whole since the margin of error with the sampling method used is +/- 5% (see Annex 3 for the full results of the survey). The ECN's Code of Conduct prevents the publication of "results of opinion survey conducted in a way to directly

influence the election results of any political party or candidate". While the answers to questions posed in ANFREL's survey would not have influenced the election results, following guidance from the ECN, these findings were not released prior to election day.

Two pre-election reports were prepared (on 24<sup>th</sup> March and 1<sup>st</sup> April) based on the findings of LTOs and ANFREL's core team, offering recommendations to election authorities, political parties, and other stakeholders on improving the credibility and transparency of the election. Such recommendations were made in the spirit of ANFREL's position of non-interference in the electoral process.

Short-term observers (STOs) were required to undertake a basic assessment of the pre-election environment but focused their observation on election day itself. Both STOs and LTOs were guided in their election day observation by a 25-point checklist. After election day, LTOs observed the counting of ballots, handling of complaints, repolling, and the broader post-election environment (see Annex 4 for all reporting templates for both LTOs and STOs templates).

To familiarize observers with the local political context electoral laws and system, and observation methodology, LTOs were briefed for three days before being deployed and for two days mid-mission, while STOs underwent a two day intensive briefing (see Annex 5 for briefing schedules).

In deploying its observers, ANFREL sought to ensure broad geographical coverage while also covering sensitive districts that were at risk to election violations (see Annex 6 for deployment map and Annex 7 for list of all observers). LTOs and ANFREL's local partners determined in large part the deployment of STOs. In order to ensure that the presence of international observers had the greatest possible impact, ANFREL worked closely with other observation groups, particularly the European Union Election Observation Mission (EU EOM), and the Carter Center. Findings and deployment plans were shared to share information and minimise overlap – where multiple international observers were in the same district, effort was made so

that different constituencies were observed, particularly on election day (see Annex 8 for map showing the deployment of major international observer groups). At the local level, observers were assisted by NEOC (National Election Observation Committee) and NEMA (National Election Monitoring Alliances), both national monitoring groups in Nepal with wide coverage of the country, with both logistical support and briefings on the local political situation.



*An ANFREL observer interviewing a voter*

Though foreigners are rarely directly targeted in Nepal, the security of observers was prioritised during the mission; observers were fully briefed on security risks and evacuation procedures. Close coordination with security authorities was initiated both in Kathmandu and by observers at the local level to assess the risk of observing in particular areas and in arranging necessary security. Political parties were approached to encourage them to restate their commitment to non-violence and curb any unlawful activities committed by their supporters. Armed groups, however, were not directly engaged with.

ANFREL released its preliminary report at a press conference on the election on 12<sup>th</sup> April, two days after the election. A preliminary assessment of the post-election process (including counting, repolling, and complaints) was released on 26<sup>th</sup> April.

## POLITICAL CONTEXT

The Constituent Assembly (CA) elections held on 10th April 2008 were as much a milestone in Nepal's history as they were for its peace process. CA elections were first promised to the Nepali people by King Tribhuvan in 1951 when the Ranas who had ruled for over a century were overthrown by a people's movement backed by the monarchy. The promised CA elections were not held though, and the 1950s saw power shared between political parties and monarchy exercised through a constitution introduced without popular participation.

The country's first general elections were held in 1958, bringing B.P. Koirala of the Nepali Congress party to power briefly before he was usurped in 1960 by King Mahendra, Tribhuvan's successor. He crafted a constitution in 1962 which introduced the Panchayat system of governance in which political parties were banned. For nearly the next thirty years, elections in Nepal could be contested only by independents, with the powers of state largely invested in the monarchy. Political parties did exist outside of the formal system of government but their activities were severely constrained.

A referendum in 1980 offered Nepalis the choice of retaining the Panchayat system with slight adjustments, or reintroducing political parties. In a vote that was less than free and fair, a slight majority voted in favour of the Panchayat system. Some constitutional changes followed, with the Parliament elected every five years appointing the Prime Minister, and the King appointing Cabinet upon on the recommendation of the Prime Minister.

Significant change to government came only in 1990, when the first People's Movement, or *Jana Andolan*, brought the reintroduction of political parties and weakened the power of King Birendra, who had come to the throne eighteen years earlier. A new constitution allowed the King to retain some powers though, such as appointing the Chief Election Commissioner.

Multiparty elections held in 1991 saw the Nepali Congress return to power. Girija Prasad (G.P.) Koirala, brother to Nepal's first Prime Minister B.P. Koirala, was elected Prime Minister. The government lasted four years and was followed by a series of short-lived coalitions throughout the 1990s – lead by NC, UML, or the royalist Rastriya Prajatantra Party (RPP) – who failed to meet Nepalis' expectations of democratically elected government.

Against this backdrop of political instability, the Maoists launched their People's War in 1996, lead by Pushpa Kamal Dahal (aka Prachanda) and Dr. Baburam Bhattarai. The conflict escalated in 2001 after the failure of the first round of peace: the Maoists attacked an army barrack, a state of emergency declared, and the Royal Nepal Army deployed. An increasingly large part of the Nepal's rural hills came under Maoist control, in which they administered their own form of justice, expropriating land, and sometimes forcibly conscribing recruits to their People's Liberation Army (PLA). Serious human rights violations were committed by both sides, with the Nepal Army also engaging in abduction and extra-judicial killings. Over 13,000 died during the conflict, most cases of which are still unresolved. Human rights groups have called for justice for the victims and the establishment of the Truth and Reconciliation Committee referenced in the CPA, rather than allowing full amnesty for all culprits.



*King Gyanendra (photo courtesy of ABC Australia)*

The dynamics of both politics and the conflict shifted following the massacre of the royal family of June 2001, in which King Birendra and many of his family members were killed. While an investigation at the time blamed Crown Prince Dipendra, who allegedly carried out the massacre before killing himself, the deaths remain a mystery. Gyanendra, Birendra's less popular younger brother, succeeded him.

Soon after coming to the throne, King Gyanendra dismissed then Prime Minister Sher Bahadur Deuba, and nominated his own replacement. Several rounds of peace talks with the Maoists in 2002 and 2003 failed. In February 2005, Gyanendra took power in a coup, claiming that only he and not elected politicians could end the conflict with the Maoists. Having dismissed the government, he appointed his own cabinet and dealt harshly with his opponents from political parties and the media. Freedom of speech, assembly, and association were highly restricted.

By taking such draconian steps, the King unwittingly prompted the formation of an alliance of former rivals who found common cause in opposing his rule. A Seven Party Alliance (SPA)<sup>2</sup> came together, which later became an Eight Party Alliance after a 12-point agreement was signed with the Maoists. *Jana Andolan II*, or Second People's Movement, was declared in April 2006 and huge protests were held across the country, prompting violent crackdowns by security forces still loyal to the King. The movement was ultimately successful though, with Gyanendra reinstating parliament, who selected G.P. Koirala as Prime Minister.

The successful cooperation between the SPA and the Maoists in the *Jana Andolan II* presented a political opportunity for reconciliation. In November 2006, the SPA and Maoists signed the Comprehensive Peace Accord (CPA) which, *inter alia*, declared the formal end of the conflict, limiting the King's powers, disclosure of information about the 'disappeared', the integration of the PLA into the Nepal Army, and the

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<sup>2</sup> Nepali Congress, Nepali Congress Democratic, CPN-UML, Janamorcha Nepal, Sadbhavna Party, Nepal Workers and Peasants Party and Bammorcha Nepal



holding of CA elections by mid-June 2007. While much of the CPA has yet to be implemented, it has been successful in that neither the Nepal Army nor the Maoists have engaged in armed conflict with each other since it was signed.



*Prachanda and G.P. Koirala sign the CPA (photo courtesy of [www.sangam.org](http://www.sangam.org))*

An interim constitution came into effect in January 2007, with the Maoists joining the interim government in March 2007. The June 2007 deadline set in the CPA for the CA election could not be met as the necessary legal framework for elections was not in place, and the election was postponed until 22<sup>nd</sup> November 2007.

Before the November elections could be held though, the Maoists walked out of the government, demanding that Nepal be declared a republic before the election and that the election be held through a fully proportional electoral system. The failure to negotiate a solution to these demands lead on 5<sup>th</sup> October to the second postponement of the CA election.

Negotiations continued, and on 23<sup>rd</sup> December a 23 point agreement was reached which decided that Nepal would be declared a Federal Republic at the first CA meeting and that the number of CA seats elected through the PR system would be increased. The size of the CA was increased to 601 members: 240 elected through first-past-the-post (FPTP), 335 through proportional representation (PR), and 26 appointed by the new government. By the end of 2007 the Maoists had

rejoined the government and on 11<sup>th</sup> January 2008 a new date of 10<sup>th</sup> April 2008 was set for the CA election.

Parallel to Maoist demands were increasingly loud calls for greater representation from traditionally marginalised groups, particularly from Madhesi living in the Terai, the southern plains of Nepal. In early 2007 the Madhesi Jana Adhikar Forum (Madhesi People's Right Forum), a civil society group, launched a programme of agitation demanding greater autonomy and representation, which eventually led to a constitutional amendment increasing the number of FPTP seats from 205 to 240, with many of these constituencies located in the Terai.

A second round of agitation took place in the Terai from December 2007 until late February 2008 under the banner of the United Democratic Madhesi Front, an alliance of the three major political parties in the Terai<sup>3</sup> and others who threatened not to take part in the elections if their demands were not met. As key goods are transported through the Terai, the strike engineered by the Madhesis had a severe impact on the economy of Kathmandu and hilly areas. An eight-point deal was struck on 28<sup>th</sup> February 2008, promising proportional representation of Madhesis in state bodies and amendments to the ethnic minority quota system for PR lists<sup>4</sup>. Once this deal and another with the Federal Republic National Front<sup>5</sup> had been struck, the participation of almost all major political stakeholders had been secured and confidence began to grow that the CA election could be held on 10<sup>th</sup> April as scheduled. This was possible only with the ECN's flexibility in extending deadlines for the submission of candidatures.

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<sup>3</sup> Madhesi Jana Adhikar Forum lead by Upendra Yadav, Nepal Sadhbhavna Party lead by Rajendra Mahoto, and the Terai Madhesh Loktantrik Party lead by Mahantha Thakur

<sup>4</sup> The law initially stated that if the number of PR candidates a party fielded exceeded 20% of the total number of PR seats, then that party would have to abide by certain quotas guaranteeing representation for various marginalised groups. The UDMF negotiated an increase in this threshold from 20% to 30%, allowing them to more easily opt out of having non-Madhesis in their parties.

<sup>5</sup> An alliance of various traditionally marginalised groups, including the Limbuwan, Khambuwan, Tamangsaling, Tharuhat and Dalit

However, the weak security environment in parts of the country lead to some concerns about how successfully the election could be held in those areas. Such was the case in the east and central Terai, where armed groups rejected the deal struck by the UDMF and declared their own programme of disruption leading right up until election day. Though enforcement of strikes (*bandhs*) called by the armed groups varied across the Terai, many districts were impacted, and candidates were often scared to campaign. Armed groups typically used small improvised explosive devices (IEDs) that did not cause large loss of life; rather, they sought to create a climate of fear which would discourage voter turnout and thus delegitimise the election.



*ANFREL senior representatives interviewing CPN-M leader Prachanda*

The tense campaign environment was also the consequence of heated political competition that spilled over into violence and intimidation practiced by all of the major parties. Attempts to negotiate alliances at a national level were not successful. A 'left alliance' between the Maoists and the UML did

not materialise; indeed the failure of these talks lead to a marked increase in attacks on the UML by YCL cadres. Negotiations between the three Madhesi parties under the banner of the UDMF on selecting a single Madhesi candidate for each constituency also collapsed. While the leaders of political parties signed a number of agreements in the run up to the election restating their commitment to non-violence, in general there was relatively little common action taken by parties.

## ELECTION OVERVIEW

### Constitutional framework

The interim constitution promulgated on 10<sup>th</sup> December 2006 broadly follows the outlines of the CPA of November 2006 and, to a lesser extent, parts of the 1990 Constitution. It was drafted by Committee formed in June 2006 chaired by retired Supreme Court Justice Laxman Aryal, comprising of prominent lawyers and nominees of several political parties, including the Maoists. Though provision was made for input from the public and civil society, it is unclear to what extent these were considered.

Once the interim constitution came into effect, an interim parliament was formed along the lines of the 1999 parliament<sup>6</sup>, minus royal appointees but plus 84 appointees from the Maoists and 48 from other political parties. The 330 member assembly, mandated to act as an interim legislature and prepare for CA elections, was comprised as follows:

Nepali Congress	132
Communist Party of Nepal (Maoist)	84
Communist Party of Nepal (Unified Marxist-Leninist)	82
Rashtriya Prajatantra Party	8
Nepal Sadbhavana Party (Anandi Devi)	4
Janamorcha Nepal	4
Nepal Workers Peasants Party	4
Tarai-Madhes Loktantrik Party	4
Rashtriya Jana Morcha	3
United Left Front	2
Communist Party of Nepal (Unified)	2
Rashtriya Janashakti Party	1

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<sup>6</sup> Under the 1990 Constitution there were two chambers with a total of 265 members

The salient features of the interim constitution included: a consensual decision making model (including for the nomination of Prime Minister), constraints on the powers of the King, an outline of the Constituent Assembly's basic structure, a strong executive, and enshrinement of a wide range of fundamental rights.

Three amendments were made to the interim constitution, reflecting the tensions within power-sharing arrangements. The first amendment was partly a result of the fact that the power sharing in the interim constitution was largely between the SPA and the Maoists, to the exclusion of other political actors. Passed in January 2007 in response to the first wave of agitation in the Terai, the first amendment altered to constitution to include representation in state bodies for marginalised groups and revision to the delimitation of electoral constituencies to reflect the country's population distribution<sup>7</sup>.

The second amendment granted parliament the ability to initiate a motion of no-confidence against the Prime Minister and table a motion for the abolition of the monarchy if it was found to be "interfering" with the CA election. It also altered the deadline for the CA election to be held to mid-December 2007.

The third amendment was the outcome of the 23-point agreement reached between the SPA and the Maoists to bring them back into government and ensure their participation in the election. The amendment states that Nepal will be declared a Federal Republic at the first CA meeting provided that a simple majority of CA members vote for it. The size of the CA was increased to 601 members, composed of a greater proportion of PR seats than before: 240 FPTP, 330 PR, and 26 nominated by the new government. The deadline for the CA was again revised to mid-April 2008.

In short, the interim constitution provided a suitable framework for the conduct of elections. Its weaknesses in accommodating the demands of marginalised groups were largely overcome, either through

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<sup>7</sup> The 2001 census shows that 48.4% of the population is living in the Terai

constitutional amendments or extra-constitutional agreements. While the original timeline for the CA election could not be kept to, all of the major stakeholders eventually participated in the CA election, a fact that seemed far from assured even a month and a half before election day. Sharing state power, including Ministerial portfolios, between a range of different parties avoided one party abusing state resources in the election to a massive extent, though it did not prevent the problem entirely, and those outside of the Eight Party Alliance raised concerns about their exclusion from state affairs.

## **Legal framework**

The conduct of the CA election was governed by five acts<sup>8</sup>, as well as several regulations<sup>9</sup> and a Code of Conduct issued by the Election Commission (see Annex 9 for list of all laws and regulations). Together, these documents satisfactorily regulate most of the key parts of the election process (aspects of the law relating to particular areas, such as counting or complaints, are considered in the relevant sections of this report). However, the law is often unnecessarily complex, with significant overlap between the Acts and regulations. This lack of clarity impedes understanding by other election stakeholders, not to mention the general public. While the key acts and regulations are publicly available on the ECN website, the list is not comprehensive.

The five pieces of legislation at the core of the legal framework were drafted by the ECN and, commendably, shared with political parties and others for their comments. The bills were subsequently sent to the State Affairs Committee (SAC) in Parliament, who have the ability to amend it as they see fit. The amended bill is then put to Parliament where it is ratified, in practice without significant challenge or debate. The changes brought by the SAC reflected political compromises and

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<sup>8</sup> The Act Relating to Electoral Rolls, The Law on the Functions, Duties and Powers of the Election Commission, The Election of Members of the Constituent Assembly Act, The Constituent Assembly Court Act, and The Election Offences and Punishment Act.

<sup>9</sup> E.g. The Regulation on the Election to Members of Constituent Assembly, The Rules Relating to Electoral Rolls, Political Party Registration Rules

somewhat weakened the legislation e.g. “other groups” for whom quotas were reserved on PR lists was redefined to include elite groups such as Brahmins, not “oppressed groups” as was originally intended. On occasion, regulations issued by the ECN offered the opportunity to improve gaps in the law e.g. while the law demands that parties’ selected candidates for PR lists must meet certain quotas, the regulations extend this demand to nominated candidates too.

Legislation from previous elections was used as a starting point for drafting the five Acts, which were all passed in 2007 (except for the Act Relating to Electoral Rolls which was passed in 2006). Many improvements were made to the law, with far stronger measures on the inclusion of women and ethnic minorities and tighter regulations on campaigning. However, other opportunities to change long-established legal provisions that are not in line with best practice were missed. For example, suggestions to put the name of candidates/parties on the ballot paper and take measures to democratize political parties were not accepted.

Aside from the five Acts and ECN regulations, the ECN issued a Code of Conduct (CoC), as it has done in previous elections. It outlines specific obligations primarily for political parties and candidates but also government officials and the media<sup>10</sup>. A separate Code of Conduct for observers was also issued.

In general, the CoC saw the Election Commission expand both the breadth and depth of its regulatory powers. While the CoC contains some general provisions<sup>11</sup>, it also includes very specific measures, such as regulating the precise size of pamphlets<sup>12</sup>, prohibiting wall paintings

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<sup>10</sup> According to the ECN, the CoC has come into force since: 16 January 2008 for the Government of Nepal, 20 February 2008 for political parties, 6 March 2008 for the candidates and 9 March 2008 for the media

<sup>11</sup> e.g. “Canvassing shall not be made ... in such a manner as to undermine the independence, national integrity, and sovereignty of Nepal”, “The language used in election canvassing shall be decent and dignified”

<sup>12</sup> “Only pamphlets, with a maximum size of 180 square inches on the paper of up to 75 grams in maximum shall be allowed to be used. Such pamphlets shall have to be printed in only one colour”

(a common form of campaigning in Nepali elections), and detailed limits on campaign expenditure<sup>13</sup>. Serious violations such as the use of intimidation or blocking other campaigns through force are also covered in the CoC, though such crimes also fall within the remit of criminal law. To monitor adherence to the CoC, the ECN established committees both at the central and district level<sup>14</sup>, and assigned 49 senior civil servants to monitor all districts.

If a violation is found, the ECN “shall order the concerned party to desist from that act and the person or body not desisting from such act may be fined up to Rs. 100,000 [about \$1,500]”. If the ECN believes that that violation prevents the election from being held in a free, fair and impartial manner, it “may cancel the candidacy of such candidates”. These punitive measures apply to all aspects of the CoC. However, with a more nuanced range of punishments in between a light fine and the seriousness of revoking candidacy, the ECN could increase its ability to respond proportionately to violations.

In general, both monitoring and enforcement of the CoC was weak. According to the ECN’s data, 304 formal complaints were made to the ECN in the pre-election period but no punitive sanctions were applied in any of these cases. Though some complaints, both informal and formal, were solved without the use of sanctions (e.g. by mediating conflicts between political parties), this inaction is of serious concern. There are a number of possible reasons for this. The CoC’s provisions on campaigning are so specific that it would be challenging for any election administration to monitor, let alone enforce. Some ECN officials saw the CoC as a moral or even voluntary code whose implementation was more the responsibility of political parties and candidates rather than the ECN. Regarding cases of violence and

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<sup>13</sup> FPTP candidates can spend up to Rs 459,500 (about \$6,640) with specific limits set for particular campaign costs, while parties can spend Rs 50,000 (about \$720) per candidate on their PR list

<sup>14</sup> The ECN established a Complaint and Dispute Settlement Committee in Kathmandu, while Code of Conduct District Coordination Committees were formed in each of the districts. Committees in the districts were coordinated by the Chief Returning Officer while the Retuning Officer, the Chief District Officer, the Chief of the District Police Office, and the District Electoral Officer all served as members



intimidation, the ECN saw such issues as the responsibility of the government and the police (who themselves were not vigorously pursuing such cases), with the Chief Election Commissioner repeatedly requesting these authorities to ensure a more secure election environment. But most commonly, the ECN argued or implied that applying sanctions could provoke a highly negative reaction from violators that could potentially destabilise the broader election process.

## **Electoral system**

### *Mixed electoral system*

While a mixed electoral system was envisaged early in the peace process, the size of the CA and the proportion of first-past-the-post (FPTP) and proportional representation (PR) changed following political agreements and their concomitant constitutional amendments. The CA's 601 members will comprise of 335 elected through PR, 240 through FPTP, and 26 appointed by government<sup>15</sup>.

FPTP seats are single-member constituencies that can be contested either by political party representatives or independents in which the candidate with the highest vote wins the seat. Up to two FPTP seats can be contested by a given candidate. On the PR ballot, voters select a single party and the country is treated as a single constituency. PR seats are allocated to parties based on the proportion of votes they receive nationwide<sup>16</sup>. Neither ballot has the name of parties or candidates marked on it, only a symbol assigned to the political party or candidate by the ECN / Returning Officer.

The PR system uses a "closed list", meaning that the list of candidates on a party's PR list is not ranked on the ballot. Voters cast their vote for

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<sup>15</sup> Specifically, they are appointed by the Council of Ministers, so that indigenous groups that are not elected and distinguished personalities may be included in the CA

<sup>16</sup> The results are calculated using the modified Sainte-Lague system where the votes for each party are divided by a series of odd digits to derive a quotient. Seats are allocated to the party from the highest to the lowest quotient.

one party on the ballot but *after* the election the party's executive committee have the power to select any candidates from the list to be elected (so long as the total list of selected CA members meets applicable PR quotas, detailed below). This system hands excessive power to parties' executive committees, themselves often appointed by the party leader, and provides very little transparency for the voter.

### *Quota system*

PR lists are subject to a number of quotas designed to guarantee broader representation in the CA. Lists must have between 34 and 335 candidates. All lists must be at least 50% female, irrespective of the size of the list. Parties submitting large<sup>17</sup> PR lists must also abide by the following quotas for traditionally marginalised and under-represented groups:

- 37.8% for Oppressed Caste/Indigenous groups
- 31.2% for Madhesi<sup>18</sup>
- 30.2% for Other groups
- 13% for Dalit<sup>19</sup>
- 4% for Backward regions<sup>20</sup>

The total percentage for the above quotas exceeds 100% because candidates can meet more than one quota requirement at the same time. There must be at least 50% women in each of these categories. Quotas must be adhered to both when the list of candidates is submitted to the ECN and also when the candidates are selected by the party after the election.

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<sup>17</sup> Defined as a list of candidates greater than 30% the total number of PR seats i.e. 101 seats or more

<sup>18</sup> Madhesi are the ethnic group predominantly based in the Terai, the southern plains of Nepal. Further details can be found later in this report.

<sup>19</sup> Dalits, comprised of eight major caste groups and twenty-five identified sub-castes, have been long discriminated against in Nepal, and are estimated by some NGOs to make up 21% Nepal's population. See <http://www.hrw.org/english/docs/2004/02/09/nepal7322.htm>

<sup>20</sup> Defined as the nine least developed regions in Nepal: nine Acham, Kalikot, Jajarkot, Jumla, Dolpa, Bajhang, Bajura, Mugu and Humla.

Though the PR list is the main means through which inclusion is guaranteed, parties that have candidates in both the FPTP and the PR race must abide by a further condition: a third of fielded candidates must be women. Of course, the election of women running as FPTP candidates cannot be assured. Nevertheless, the quota system ensures that women are guaranteed at least 45% of the 335 PR seats, equivalent to 25% of the total CA.

The quota system for traditionally marginalised groups such as Madhesis and Dalits is an important step forward for inclusion in Nepal's CA. However, the system suffers from two key problems. Firstly, as mentioned above, the definition of "other groups" was expanded by a parliamentary committee so that it could include high-caste groups such as Brahmins, going against the spirit of the legislation. Secondly, the fact that there is an exemption to quotas for traditionally marginalised groups for smaller parties also limits the CA's diversity<sup>21</sup>.

## **Election administration**

### *Selection process*

According to the Interim Constitution, the Prime Minister "shall, on the recommendation of the Constitutional Council, appoint the Chief Election Commissioner and the Election Commissioners" (commissioners were previously appointed by the King). The current Chief Election Commissioner (CEC) and four other commissioners were appointed on 30<sup>th</sup> October 2006 for a six year term. The manner in which the commissioners were selected was fair, and resulted in a team of commissioners widely regarded as neutral and of the utmost integrity.

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<sup>21</sup> 11 out of the 55 political parties had PR lists large enough to require them to adhere to the quotas for traditionally marginalised groups

Safeguards in the law help to minimise potential conflicts of interest. The Interim Constitution demands that commissioners are not “of any political party immediately before the appointment”. There are provisions for impeachment where commissioners are found guilty of wrongdoing. Commissioners are disqualified from other government appointments. However, the Interim Constitution’s demands that commissioners hold a Bachelor’s degree and be 45 years of age or older are perhaps unnecessarily restrictive, and the stipulation that commissioners “possess high moral character” is vague.

### *Mandate*

As outlined in the Election Commission Act, the ECN has broad responsibilities in administering national elections, referenda, and local elections, including: preparing the voter roll, registering political parties and candidates, drafting election laws and issuing regulations, conducting voter education, training staff, administering polling, and resolving disputes. The ECN retains the ability to enlist the support of both private and public bodies who are duty bound to provide the requested assistance.

Such responsibilities were generally fulfilled successfully. However, the breadth of the ECN’s mandate does present one potential conflict of interest. Being responsible for both administering the election and issuing sanctions against those who commit election violations<sup>22</sup> can cause difficulties for Election Commissions in any context. Election Commissions may feel that their primary responsibility is to administer the election and that issuing sanctions against political parties may provoke a backlash and jeopardise participation in the election. The politicisation of the complaints process can be avoided through creating a separate institution to receive, investigate and judge complaints.

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<sup>22</sup> The ECN’s power to issue sanctions against those who commit election violations is weaker after election day, after which the Constituent Assembly Court begins to function

## Structure

The Election Commission Act establishes a Secretariat and local level offices to carry out the ECN's functions. Five regional offices, 75 district offices, and 240 Returning Officers were delegated significant responsibility. 234,000 polling staff were recruited, 108,000 locally<sup>23</sup>. A successful cascade training programme ensured the ECN were able to carry out their duties effectively. The ECN was given significant support by the United Nations Mission in Nepal's (UNMIN) Electoral Assistance Division, with 10 advisers working alongside the ECN in Kathmandu, and others at regional offices and at every district election office<sup>24</sup>. According to the ECN, the estimated budget for the election of 2.73 billion rupees was not exceeded.

## Logistics

The ECN should be highly commended for overcoming two major logistical challenges in the election: Nepal's geography and the tight timeframe for the election.

In previous elections, election materials have been distributed by the Nepal Army who for this election were confined to their barracks and were not involved in the election apart from guarding a small number of key installations and buildings, in line with the CPA. The ECN ably managed their new responsibility of



*Election materials delivered to Dhanghadi*

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<sup>23</sup> Each of the 20,888 polling centres had between 5 and 13 polling officials, depending on the number of voters

<sup>24</sup> UNMIN's mandate for electoral assistance was broad., covering legal issues, procedures, voter education, electoral operations, logistics, training, IT project management, observer accreditation, media policy, field support and donor coordination

logistics distribution, using all necessary means e.g. distributing ballot papers by helicopters to 44 remote constituencies.



*A swastika stamp used to stamp ballots*



*Sensitive election materials sealed with wax*

A challenging timeframe for the election was made even more so due to political negotiations between the government and three Madhesi political parties in February 2008. The deadline for submitting PR lists was extended from 20<sup>th</sup> February to 2<sup>nd</sup> March, and that for FPTP candidates from 25<sup>th</sup> February to 6<sup>th</sup> March to facilitate the Madhesis' participation. This delay posed a particular challenge for the printing of the 41.8 million ballot papers by the state printer, Janak Education Material Centre<sup>25</sup>. Manpower was dramatically increased and ballots were successfully distributed to all constituencies in advance of the election. Indeed, ANFREL observers did not find any constituencies where essential materials had not been delivered on time.

### *Decision-making*

The ECN promoted openness in its decision-making by very regularly sharing information about its activities at press conferences, roundtable discussions with observers, and in private meetings. Despite the ECN's heavy workload, requests for information were responded to in a timely manner. A request by an international observer group to attend a meeting of the Commission was granted (though this practice was not institutionalised). In a highly politicised context, these measures helped

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<sup>25</sup> 240 different FPTP ballots were printed, totalling 20.4 million. 20.8 million of one kind of PR ballot were printed.

the Election Commission to gain the trust of election stakeholders and establish its reputation as a neutral and competent body.

Enjoying such respect, the ECN is uniquely placed to build on its reputation by strengthening decision-making processes within the Commission. A gap in the Election Commission Act is that it does not specify how individual issues are decided upon between the five commissioners i.e. it is unclear whether decisions are made by



*ANFREL Deputy Chief of Mission Mr. Damaso Magbual with the Chief Election Commissioner and two other Election Commissioners*

consensus, require a majority vote, or an unanimous vote. While the Secretary at the Commission is required to maintain the records of the Commission, there is no legal obligation to make records of key decisions publicly available, a step which would serve as a useful check-and-balance.

### *Monitoring election violations*

A range of ECN officials are authorized to receive and adjudicate complaints. Returning Officers, Polling Officers and newly established Monitoring Teams are all able to issue sanctions on the spot. In some cases these officials can order a person to leave the area, seize campaign materials or vehicles, or order someone's arrest while in others the ECN would appoint an investigator to decide on whether to submit case to court. Depending on the offence, an on-the-spot fine of 500 to 10,000 rupees can be issued. While these ECN officials may work in response to formal complaints, they are also empowered by the election law to initiate proceedings if they receive "information from any source that the law relating to election has been violated." The ECN's effectiveness

in responding to complaints is assessed in the 'Pre-election environment' section of this report under 'Monitoring of and response to violations'.

The CA court was set up to receive complaints after election day. The court can issue fines of between 10,000 and 50,000 rupees, sentence violators to two years imprisonment, and annul the election of a candidate.

## **Voter registration and the participation of marginalised groups**

### *Voter registration*

Empowered by the Voter Registration Act of 2006, the Election Commission undertook the voter registration process January-February 2007 in preparation for an election expected in June 2007. A total of 17,611,000 voters were registered, 8,880,000 male and 8,730,000 female. Over 22,000 civil servants and teachers were mobilized by the Election Commission as voter registration officers. The law states that electoral rolls should be available in district election offices for persons to submit corrections but does not state a minimum time period before which the rolls should be made public<sup>26</sup>. ANFREL observers found a small number of voters were not aware of whether or not they were on the voter roll, pointing to the need to improve public access in the future.

While other observer groups present in Nepal at the time of registration noted some difficulties in registrars gaining access to conflict-affected parts of the Terai<sup>27</sup>, the integrity of the voter roll was broadly accepted by political parties. Despite this acceptance, observation on election day exposed weaknesses in both the voter roll and voter identification. The need to address these problems is well recognised within the ECN. After the election the CEC declared the Commission's intention to "launch an in-depth assessment of our voter registration system and of

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<sup>26</sup> See Act Relating to Electoral Rolls, 2063, Chapter 2, para 13

<sup>27</sup> E.g. Carter Center Election Observation Mission in Nepal, Pre-Election Statement , 16<sup>th</sup> April 2007



the voters' list itself" which would likely lead to a "stronger and more inclusive voters' list and a voter's identification system for the next election"<sup>28</sup>.

Those on the voter roll were required to be Nepali citizens aged 18 years old or older as of 15<sup>th</sup> December 2006, and a permanent resident of a VDC or municipality. These criteria unfortunately lead to the disenfranchisement of a significant number of Nepalis, to some extent unavoidably. As the election was eventually held in April 2008, those aged between 18 and 19 and four months were disenfranchised, as it was not possible to undertake another round of voter registration. Following the passage of the Citizenship Act of 2006, 2.6 million Nepalis<sup>29</sup> (mostly in the Terai) were granted citizenship, but too late to be included on the voter roll and participate in the election.



*Army officers with their ID cards at a polling station*



*Voting at a prison*

### *Internally Displaced Persons (IDPs)*

In the context of a conflict in which many thousands were internally displaced, the permanent residency requirement is problematic, both for internally displaced persons (IDPs) and the landless. According to

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<sup>28</sup> Comments made by the CEC at a donor's meeting on 2<sup>nd</sup> May 2008

<sup>29</sup> Data from UNHCR, [www.unhcr.org/publ/PUBL/474ac8dba.pdf](http://www.unhcr.org/publ/PUBL/474ac8dba.pdf)

the Norwegian Refugee Council, Government of Nepal's IDP National Policy endorsed in February 2007 affirms the right for IDPs to vote but that the "directives required to implement this policy are yet to be approved by the Cabinet"<sup>30</sup>. Both the IDPs and the landless also suffer from a lack of documentation which impedes their participation in an election.

However, special provisions were made for others who were not residing in their home constituencies, including government officials, police officers, army officers, Maoist combatants, prisoners, and election and security officers deployed at polling centres. These persons were classified as "temporary voters" and, by showing their citizenship certificates, were granted the right to vote on the PR list though not for a FPTP candidate - consideration should be given to extending this right to fully enfranchise temporary voters in the future. The inclusion of prisoners is highly progressive and sets a strong example for other countries in the region, encouraging political parties to see them as legitimate citizens and their constituents.

### *Women*

As noted above, the 50% quota for women in PR lists (irrespective of the size of the list) and requirement that at least a third of the CA be comprised of women is highly progressive. Of course, such quotas need to be complemented with long-term work to ensure that the systematic challenges preventing the political participation of women are addressed.

With regarding to FPTP seats, 72% of constituencies had at least one female candidate according to statistics from the ECN. The lack of internal democracy within Nepali political parties has a direct bearing on women being nominated as candidates for FPTP seats, who are selected by party's central executive committee. The table below showing a sample of a range of parties' central committees indicates that women's representation is 12% on average:

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<sup>30</sup> IDPs Excluded from Voting in their Place of Displacement, [www.nrc.no/?did=9262093](http://www.nrc.no/?did=9262093)

*Table showing women's representation on a sample of political party central committees*

<b>Party</b>	<b>Number on central committee</b>	<b>Number of women on central committee</b>	<b>As %</b>
Nepali Congress	47	7	15%
Communist Party of Nepal-Unified Marxist Leninist	65	6	9%
People's Front Nepal (PFN)	47	10	21%
Nepal Sadbhawana Party-Anandidevi (NSP-A)	49	6	12%
Communist Party of Nepal-Maoist (CPN-M)	33	2	6%
Rastriya Prajatantra Party (RPP)	35	1	3%
Nepal Workers' and Peasants Party (NWPP)	11	1	9%
Communist Party of Nepal-United (Samyukta)	17	3	18%
Communist Party of Nepal – Marxist Leninist (CPN-ML)	41	6	15%
People's Power Party	41	4	10%
National's People's Front for Nepal	39	5	13%
Community Party Nepal-Unified (Ekikrit)	70	7	10%
<b>TOTAL</b>	<b>495</b>	<b>58</b>	<b>12%</b>

Women's participation as voters was aided through policies such as separate queuing lines and bathrooms for women, and ensuring that half of all voter education volunteers were women. Further steps could be taken in the future, such as special provisions to arrange transport on election day for pregnant women who are unable to walk to polling stations.

Within the election administration, nearly 50,000 out of 236,000 staff hired were women. While there was a strong gender balance at many polling stations, senior levels of the election administration were less well represented. According to the EU EOM, only 2 out of the 240

Returning Officers were women. One out of the five election commissioners was a woman. In terms of public attitudes, 84% of Nepalis expressed support for women making their own decision on election day.

### *Physically challenged*

The law allows for those who cannot vote due to physical disability or other reasons to be accompanied “by any person whom he/she trusts”<sup>31</sup> that the Polling Officer considers reasonable. Given that some assistants were observed abusing their position to unduly influence many voters at a single polling booth, the provisions on such assistance should be made clearer. Limits could be placed on how many times one person may serve as an assistant to prevent abuse.

The responsibility for any other special provisions for “the blind, disabled, elderly persons, pregnant women and other voters suffering from other similar physical infirmities” is left to the discretion of the ECN and its sub-offices, who did not provide any assistance more than they were obliged to. The EC should be obliged by law to make special provisions for the transport on election day of the disabled, sickly, pregnant, elderly, and others whose mobility is limited.

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<sup>31</sup> Election to Members of the Constituent Assembly Act, 2064, Chapter 7, para 46

## Registration of candidates and parties

There were no significant barriers to the registration of either parties or candidates for the CA election. Financial deposits were mandatory but were not so large that they obstructed participation, and were useful in deterring frivolous applications. Any parties outside of the interim parliament required the signatures of 10,000 supporters eligible to vote.

74 parties registered for the CA election, 55 of whom competed. According to ECN data, 11 of the 55 parties submitted PR lists large enough that they had to abide by quotas on traditionally disenfranchised groups. Both these lists and the comparatively large number of candidates resulted in a more diverse group of candidates than in previous Nepali elections<sup>32</sup>. The complexity of the quota system meant some parties did not initially meet its requirements. In such cases the ECN issued a notice informing them of the required changes, granting the party seven days to amend their list, a deadline which all but one of the parties met. 299 candidates on PR lists failed to meet the necessary criteria.

In total, 6,000 candidates were put forward in PR lists. A total of 4,212 candidates contested FPTP seats, 9.3% of whom were women and 20.7% of whom were independents<sup>33</sup>. 266 FPTP candidates and 299 PR candidates withdrew their nominations, sometimes following political deals that were struck and sometimes as the result of intimidation. Several candidates in the Terai told observers of pressure on them to resign from both armed groups and rival parties. For example, two independent candidates withdrew in Taplejung after receiving pressure from CPN-M, and an independent candidate withdrew in Ilam after strong warnings from the UML.

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<sup>32</sup> Candidates on PR lists included 3,068 Women , 2,138 oppressed groups, 1,981 Madhesi, 1,750 Other groups, 680 Dalits, and 183 from Backward regions N.B. it is possible for candidates to qualify for more than one category

<sup>33</sup> Data from ECN: 367 women (325 representing parties, and 42 independents) and 816 independents (774 men and 42 women)

As mentioned above in the context of women's participation, the method by which candidates are selected – either for PR lists by the party's central executive committee or by FPTP seats by the party leadership – is not participatory. Executive committees themselves are often appointed by the party leader, resulting in his undue control over the process. Weak internal party democracies mean that party members have little say in the selection process for either PR or FPTP candidates. These difficulties were highlighted by the sometimes violent rejection of nominated candidates by grassroots party members.

## Local and international observation

The ECN's open attitude towards observers and strong donor support made the CA election the most heavily observed in Nepal's history: 61,854 local observers from 148 institutions and 783 international observers from 31 institutions were accredited by the ECN. Of these, the three largest international groups were the EU EOM, ANFREL, and the Carter Center. Other international observers came from the NGO sector, Embassies, and Election Commissions in the region.



*Domestic election observers in Bhaktapur*

The largest domestic groups were the National Election Observation Committee (NEOC), National Election Monitoring Alliance (NEMA), General Election Observation Committee (GEOC), Democracy and

Election Alliance Nepal (DEAN), who to some extent coordinated with each other on issues like security and deployment.

Coordination between the largest three international observation groups was strong. Where observers from more than one organisation were in a district (see Annex 5 for a map showing the deployment of the main international observer groups), it was agreed that different

constituencies would be targeted. Findings were regularly shared and joint action taken on a number of issues. Though UNMIN and OHCHR were not election observers *per se*, they did follow the election/political environment within their mandates, and observers therefore liaised and coordinated with them where appropriate.

Observers were supported to a large extent by an Election Observation Resource Centre (EORC), established by ECN with the support of the UNDP. Observer accreditation was carried out quickly, briefings and training for observer groups arranged efficiently, and access to the ECN facilitated. While the ECN encouraged coordination between observers, the EORC did not play an active coordination role so as not to impose unduly on observer groups.

Observers were obliged to follow a Code of Conduct issued by the ECN which outlined both observers' rights and obligations. Before the election, the ECN challenged a number of local observation groups, alleging that they had not been politically neutral, a claim which has been leveled at Nepali observation groups in the past. The ECN's concern is to some extent warranted, as ANFREL did find local observers who were politically aligned, and received allegations that a few senior leaders of domestic observer groups were seen as linked to either the UML or the Nepali Congress. However, some steps have been taken by local observer groups themselves to address this problem, who vetted their observers and asked senior leaders who were selected for a party's PR list to resign.

While further steps are required to ensure the full political neutrality of some domestic observer groups, they played an essential role in improving the credibility and transparency of the CA election. Their breadth in numbers and understanding of the local political context allowed them to gain a more comprehensive view of the election than many international observers. They were also able to fully appreciate the post-conflict context of the election and that it was one step in a much broader peace process. Their long-term presence in the country should in theory also allow them to follow through on post-election recommendations more easily.



*An ANFREL observer interviewing an official  
in a polling station*

After the election, the ECN warned that they may disqualify over 100 domestic organisations from observing elections in the future for failing to submit their preliminary reports within 15 days of polls<sup>34</sup>. While observer groups should indeed submit reports in a timely manner, the ECN's threat to "blacklist" them and reject their applications to observe any future elections is a disproportionate response. It is also of concern that reports were received of the CEC privately warning one domestic observer

group and one international observer group about the "overly negative" content of their reports, an unfortunate deviation from the ECN's otherwise welcome attitude towards observers.

In general, international observers did not suffer any obstruction in carrying out their work. All political parties publicly welcomed the presence of international observers, though mixed messages emanated from the CPN-M, whose open attitude was occasionally marred by unsubstantiated criticism of foreign observers<sup>35</sup>. In practice, ANFREL observers were able to work freely, with the exception of three incidents: in Gorkha, YCL youth prevented ANFREL from observing a NC rally; YCL members in Sunsari directly threatened that they would beat ANFREL observers; and in Sarlahi, a Hindu extremist group warned an ANFREL interpreter that "the bullet might hit anyone". These three situations were successfully defused once ANFREL observers explained their non-partisan mandate.

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<sup>34</sup> The ECN has stated that only 13 local organisations and 5 international bodies submitted preliminary reports on time

<sup>35</sup> e.g. CPN-M leader Prachanda claimed on 2<sup>nd</sup> April that international observers were in the country "to prevent the Maoists from getting elected"



Local observers faced much more substantial threats to their safety. While most could operate without hindrance, a small number suffered threats, abduction, and beatings<sup>36</sup>. They were also more profoundly affected by the actions of armed groups in the eastern and central Terai, whose strikes, threats, and bans on movement, could be mostly circumvented by internationals but not by locals. For example, nearly 10% of the local observers from one large monitoring group assigned to the Eastern region district of Parsa had reportedly dropped out due to security conditions.

## **PRE-ELECTION ENVIRONMENT**

### **Security arrangements**

Under the CPA, both the Nepal Army and Maoist combatants from the People's Liberation Army (PLA) are confined to barracks<sup>37</sup> and cantonments respectively. While the peace process has been successful in preventing open conflict between these two sides, the maintenance of law and order remained weak across the country.

In response, to these security challenges, the regular Nepal Police of 42,048 officers was supplemented by an additional 47,812 temporary police officers specifically for the purpose of election-related security. In total, 32,136 Nepal Police Officers were deployed to polling centres, 3-7 regular police officers 3-21 temporary police officers. The Armed Police Force (APF) of 25,000 was also involved in election-related security, and had an additional 6,000 temporary officers for the election.

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<sup>36</sup> E.g. NEMA claimed that Maoists attacked its representatives in Khotang district, barred its two representatives in Dang district from observing, and kidnapped an observer in Sankhuwasaba

<sup>37</sup> The CPA allows for the protection of a small number of key installations and the border



*Temporary police recruits*

A thorough assessment of the recruitment of temporary police was not possible, though an Election Commission official from the Eastern region believed that some of the new recruits were appointed due to political pressure. While similar allegations were made elsewhere, it did not appear that any single party dominated the recruitment process. Fears that the limited training offered to temporary police could render them counterproductive were not borne out.

As well as securing the election environment, police also aimed to protect election officials, candidates, those attending large rallies, and key election materials such as ballot boxes. Though all candidates in theory had state security available to them if they so demanded, resources were limited and some candidates, particularly those from Madhesi groups, complained of bias in how security forces were assigned.

## Campaign environment

### *Freedom to campaign*

Campaigning in most of the country was relatively peaceful and conducted energetically. After the participation of Madhesi groups in the election was secured in late February 2008, confidence that the election would be held according to schedule increased dramatically and



*Voters squeeze into a square in Bhaktapur to attend a campaign rally*

campaigning began in earnest. A vigorous campaign was buttressed by high voter interest; while the complexities of the electoral system may not have been appreciated by most voters, almost all instinctively understood the importance of the election in restoring peace and were eager to take part in election related activities.

Nevertheless, the tension between political parties in the campaign period, both rhetorically and in practice, constituted the most serious challenge to the CA election (more so than events on election day or subsequently). The Democracy and Election Alliance Nepal (DEAN), a local organisation that ran a specific programme to monitor election-related violence between November 26<sup>th</sup> 2007 and April 30<sup>th</sup> 2008, reported 485 incidents of political and election violence, which resulted in 50 deaths, 1,286 injuries and 116 kidnappings (see Annex 10); the large majority of these incidents took place before election day<sup>38</sup>. DEAN

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<sup>38</sup> See DEAN Political/Election Violence Education and Resolution (P/EVER) Project, Election and Political Violence in Nepal - Final Report

also claimed that “in nearly forty percent of the country many parties were restricted in their activities, or prevented from campaigning altogether”. Qualitative sentiments of a similar nature about restrictions on the campaign environment were expressed by other observer groups, both local and international.



*A party supporter suffers head injuries after being beaten up by rival supporters*

Restrictions on the freedom of movement and assembly were frequently observed, due to both inter-party rivalries and threats by armed groups in the Terai. Such problems were most pronounced in remote areas where the reach of the government, security forces, and election officials was weaker. Tensions heightened as election day approached with a concomitant rise in the seriousness and frequency of violent incidents, though fears of widespread disruption on election day were not borne out.



*A candidate supported by the individual pictured above was kidnapped in Siraha. He perceived a lack of police action regarding the case and peacefully protested. The police responded by striking him and his fellow protestors*

Strenuous attempts were made to defuse such tensions in the lead up to the election, but unfortunately were largely unsuccessful. The Election Commission, civil society, and election observers repeated called for peaceful campaigning. The ECN made repeated appeals to the Government to take action against those committing criminal acts and demanded that political parties abide by the election law and code of conduct. Political parties pledged and re-pledged their commitment to non-violence through various agreements and meetings though did not take sufficient steps to discipline their cadres who violated the code of conduct. The government, police, and the ECN were reluctant to apply sanctions available to them, and those measures they did take did not significantly relieve pre-election tensions. The state's generally

passive response to serious election-related crimes was occasionally punctuated by heavy-handed responses, such as the killing of seven Maoist cadres in Dang by armed police three days before the election<sup>39</sup>. In Surkhet, a protest against the killing of a UML candidate by a youth group affiliated with NC lead to the police shooting and killing of a YCL cadre on 9<sup>th</sup> April<sup>40</sup>.

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<sup>39</sup> The Maoists suffered the greatest numbers of deaths in the election, a fact which was largely obscured in the mainstream press.

<sup>40</sup>[http://nepal.ohchr.org/en/resources/Documents/English/reports/HCR/2008\\_06\\_04\\_April%20elections\\_E.pdf](http://nepal.ohchr.org/en/resources/Documents/English/reports/HCR/2008_06_04_April%20elections_E.pdf)

A central problem during the campaign period was the lack of tolerance for one's political rivals. Although examples of competitive and open campaigning in areas dominated by one party were observed<sup>41</sup>, in general there was a reluctance to let others campaign in perceived strongholds, particularly by the CPN-M (behaviour which could be seen as analogous to the conflict with the government during which Maoist areas were largely self-administered)<sup>42</sup>. A prime example is Gorkha district, home to CPN-M's second-in-command Dr Baburam Bhattarai, where campaigning across large parts of the district by other parties was either not possible or severely restricted; rival candidates and party representatives were regularly harassed by armed YCL cadres. While the targets of such actions were typically the NC and UML, minority parties with a royalist background and independents faced difficulties too.

Examples of similar behaviour by other parties is abundant e.g. Nepali Congress leaders were blocked access to many in villages in Siraha district by the Sadbhavana party, reflective of the broader tensions between Madhesis and Pahadis from Nepal's hills. ANFREL's voter survey suggests that the underlying problem is that almost 20% of voters lack political tolerance<sup>43</sup>, highlighting the need for greater civic education in the future (N.B. all statistics about voters' views are from ANFREL's voter survey unless stated otherwise).

### *Voter intimidation*

Most voters interviewed believed that they could exercise their vote freely and could speak openly about their political views<sup>44</sup>, a finding that tallies with the fact that campaigning in most areas was peaceful.

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<sup>41</sup> e.g. In Gulmi and parts of Kailali, traditional Maoist strongholds, NC and CPN-UML actively campaigned. Gandaki and Dhaulagiri, previously areas of strong support for NC saw even and fair competition between four major parties

<sup>42</sup> DEAN state that amongst those involved in violence, the CPN-M was involved in the most cases (58%) followed by UML (20%) and NC (11%)

<sup>43</sup> 18% of voters said that political parties and candidates that most people do not like should *not* be allowed to campaign in the voters' area. The same percentage replied that a friend supporting a rival party or candidate would end the friendship

<sup>44</sup> 13% of voters who did not feel free to express their political opinions

While violent incidents against voters took place sporadically, voter intimidation was more widely reported. Less visible or quantifiable than violence, the scale and impact of intimidation is inherently difficult to assess, and difficult for election authorities to prove and punish. Interviews with voters showed that all major political parties were found to be unduly threatening voters, with the majority of cases involving the CPN-M and the YCL<sup>45</sup>. In over a dozen districts observed by ANFREL, Maoists cadres had threatened to either “return to the jungle to restart the war” if they did not win the election and./or claimed that they would be able to use cameras and binoculars to find out which party voters chose on their ballot papers<sup>46</sup>. The persistence and widespread nature of these rumours prompted the ECN to issue statements reiterating that the right to vote could be exercised in secret.

Intimidation by a range of groups reflected itself in the expectations of voters themselves. Prior to the election, almost 30% of voters said they thought there would be election-related violence in their area or expected that family members may be caught up in such violence. Despite the uncertain security environment, 90% of all Nepalis interviewed by ANFREL expressed their intention to vote on election day, a clear indication of their determination and enthusiasm for the elections:

As well as impacting parties and voters, violence and intimidation was also directed towards other election stakeholders. In a small number of constituencies, insecurity has hindered the work of local election observers, election officials, and voter education volunteers.

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<sup>45</sup> The intimidation of voters by armed groups in the Terai is treated in a separate section of the report below

<sup>46</sup> Such threats at the local level may have been taken more seriously because of comments made by the CPN-M leadership, who wavered between committing to accept the results of the election even if they lost, and declaring that they would reject any results that did not give them the most seats.

By way of background, the Terai (or Tarai) are the plains of Nepal flanking the country's southern border with India, stretching from Kanchanpur district in the West to Jhapa district in the East. It makes up 23% of Nepal's area and 48.4% of its population according to the 2001 census. While the predominant ethnic group are the Madhesi (hence the use of the term Madhes as an alternative to Terai), there are a wide range of other indigenous ethnic groups as well as migrants from hill areas. Madhesi have campaigned for the past fifty years against alleged discrimination by the state and their under-representation in the civil service and security services while current grievances are centred on political participation and citizenship<sup>47</sup>.

The signing of an agreement between the United Democratic Madhesi Front (UDMF), an alliance of the three major political parties in the Terai<sup>48</sup>, and the government on 28<sup>th</sup> February 2008 marked a turning point in the Terai. Up until then, Madhesi groups had been agitating for several months through *bandhs* (strikes) and demonstrations, some of which turned violent. Indeed, the scale of disruption called into question whether the election could be held at all in the Terai if it was opposed by groups with widespread local support. However, once an agreement was reached that promised greater representation in state institutions and altered some of the requirements for ethnic diversity in PR lists, the political parties agreed to participate in the election and lift the *bandh*.

This deal, however, was rejected by armed groups operating in the east and central Terai<sup>49</sup>. Though lacking popular support, a small number of militants caused significant disruption through a variety of means.

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<sup>47</sup> Information on the Terai kindly provided by Mr. Ali Saleem, ANFREL observer

<sup>48</sup> Madhesi Jana Adhikar Forum lead by Upendra Yadav, Nepal Sadhbhavna Party lead by Rajendra Mahoto, and the Terai Madhesh Loktantrik Party lead by Mahantha Thakur

<sup>49</sup> There are at least forty armed groups operating in the Terai, all relatively small in number. Only a minority have an explicitly political agenda. In addition to armed groups, criminal gangs operate in certain parts of the Terai, particularly in areas close to the border with India, some of whom were hired by candidates to intimidate their rivals



Small improvised explosive devices (IEDs) were targeted at both those involved in the election (e.g. district election offices, political party offices, candidates' homes) and public areas alike, creating a climate of fear that limited campaigning outside of urban areas<sup>50</sup>. While the three largest parties (NC, CPN-UML and CPN-M) were certainly intimidated, Madhesi parties also claimed that they had received some threats themselves. Smaller parties and independent candidates were also seriously affected<sup>51</sup>.



*The open letter distributed by the SJTMM announcing their programme to disrupt the election*

Two weeks before the election the Samyukta Janatantrik Tarai Mukti Morcha (SJTMM), an umbrella organisation of four Madhesi armed groups, announced a programme to disrupt the election, including a *bandh*. This was observed in the majority of districts in the eastern and central Terai, severely disrupting travel between and in (especially Dhanusha, Parsa, and Mahottari) while other areas saw partial observance of the strike (e.g. Bara, Rautahat, and Sarlahi). Bomb blasts were threatened at main squares, near government offices and residences of candidates, and on buses and trucks, causing widespread insecurity amongst

voters. Election officials were reportedly reluctant to work in particularly sensitive areas. Madhesi polling personnel in the Western district of Kapilvastu resigned under pressure from fellow Madhesis while Madhesi polling personnel in Saptari district complained of being deployed only to sensitive rural areas instead of safer urban areas<sup>52</sup>.

<sup>50</sup> The use of IEDs was focused on the Terai those as the election approached, several small IEDs exploded in Kathmandu though none resulted in any casualties

<sup>51</sup> An independent candidate, Bhrigunath Thakur in Dhanusha, was abducted while in Sirah armed groups kidnapped a candidate from Nepal Mojdur Kishan Party

<sup>52</sup> Responses to these complaints varied, with some arguing that Madhesi deployment to sensitive areas was logical because their cultural understanding of such areas would be greater, whereas others cited biased decision making by Pahadi election officials

Similarly, voter education volunteers feared for their safety and some were reluctant to venture to VDCs which they perceived as especially dangerous. In at least one Eastern Terai district no monitoring team was formed due to what a regional election official called “a chaotic situation”.



*A ban on vehicle movement and shops opening called for by armed groups in the Terai leaves the streets of Siraha deserted*

Attempts were made to curb the impact of armed groups, with varying degrees of success. Additional armed police force were deployed to the most sensitive districts, border security was increased to the extent possible, and greater security cooperation with the Indian state governments was secured. Peace and Reconstruction Minister Ramchandra Poudel invited armed groups to talks (fulfilling a commitment in the eight point agreement of February 2008), albeit belatedly. Four armed groups responded to the invitation made in late March but talks fell through before they even began when preconditions set by armed groups were not met. The level of violence pre-election remained high though the impact of armed groups on election day itself was minimal.

The insecurity in the Terai was driven not just by armed groups but also by competition between political parties. Although the Madhesi Jana Adhikar Forum, Nepal Sadhbhavna Party, and Terai Madhesh Loktantrik Party all cooperated to sign a deal with the government,

they were unable to agree on common Madhesi candidates in FPTP races, causing tensions to emerge between their supporters. Incidents of the NC, UML, and CPN-M attacking both each other and Madhesi parties were observed.

### *Immediate pre-election environment*

While the weak security environment was a longstanding concern both during the peace process and in the lead up to the election, the last two weeks before the election gave cause for particular worry. Levels of violence increased and greater disruption to campaigning was witnessed, both against candidates and their supporters. A number of serious incidents took place in the days before the election, such as the killing of CPN-UML candidate Rishi Prasad Sharma in Surkhet on 8<sup>th</sup> April, and the gunning down of seven Maoist cadres in Dang on 7<sup>th</sup> April. In the week preceding the election, over half of the districts visited by ANFREL's STOs saw at least one violent incident take place, over half of which involved the YCL or CPN-M as the primary aggressor.

Some tensions were quelled by local-level "peace agreements"<sup>53</sup>, increased security, imposing curfews, and in one constituency (Surkhet Const. 1) by delaying the polls. While this did not stem the tide of pre-election violence, such measures contributed towards a comparatively peaceful election day.

The 'quiet' or 'cooling' period during which campaigning is prohibited in the 48 hours before the election was generally respected: 80% of ANFREL's observers reported general compliance by political parties. Those violations that did occur were committed by a range of parties. While some attempted to be more discrete about campaigning, visiting

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<sup>53</sup> e.g. in Dolakha between youth cadres of CPN-M and UML on 7th April, or in Dhading where a joint declaration by ten parties to have peaceful elections had a positive impact

voters door-to-door<sup>54</sup>, others violated the election law by holding rallies attended by hundreds of people<sup>55</sup>.

## Code of conduct

The Code of Conduct (CoC), as noted in the legal framework section of this report, was issued by the ECN to elucidate obligations primarily for political parties and candidates but also government officials and the media. Overall, adherence to the CoC was not sufficiently strong, particular because of violations committed by political parties.

The use of children in campaigning, for example, was practiced by all major parties across the country<sup>56</sup>. Given the potential for campaign rallies to turn violent, this placed children at undue risk. While some of these children may have attended voluntarily, some children from dalit and poor families were recruited in return for promises of land. In addition to party meetings and rallies, observers noted with the concern the possible use of children in confrontations with other groups. In Gorkha, for example, ANFREL observers were prevented from observing a Nepali Congress rally by a group of 20 YCL members aged 11-16<sup>57</sup>.



*Children campaigning in Janakpur a few days before the election*

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<sup>54</sup> e.g. NC cadres handing out sample ballots marked with the party's symbol in Kailali

<sup>55</sup> e.g. in Chitwan the CPN-M convened a gathering of 300-400 people to garner support from the Gurung and Rau communities

<sup>56</sup> The CoC states clearly that "no children shall be engaged in the holding of any type of procession, mass meeting or rally or in any election-related publicity campaign"

<sup>57</sup> See also UNMIN Election Report No 1, 22 March 2008 for details of a CPN-M attack on a UML convoy in which 19 UML members including their local candidate were injured.

Incidents of vote buying were observed, though the phenomenon was not systematic or widespread, particularly compared to other countries in the region. In-kind gifts, such as SIM cards, clothing, food, or even bicycles were more commonly offered than cash handouts. Perhaps surprisingly, public *expectations* of vote buying were high: overall, 26% believed that it likely that some parties or candidates will try to buy votes in their area.



*A sari offered to a voter for her support*

Part of the difficulty in assessing the extent of vote buying and the influence of “money politics” more broadly is the challenge of monitoring campaign expenditure. There is a basic monitoring mechanism in place within the Election Commission and candidates are required to submit records of the expenditure. However, this needs to be greatly strengthened to ensure compliance with campaign spending limits: no candidates interviewed expressed any concern that their expenditure may be scrutinised. While it is inherently difficult to assess, candidates in some areas are clearly not abiding by regulations limiting campaign expenditure.



*A car belonging to a local government official in Siraha is draped with campaign materials for a NC candidate*

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OHCHR investigations revealed “that students as young as twelve had been taken out of school and enlisted by the YCL”

A NC candidate in Sindhuli, for example, disclosed to local journalists that she would spend 15 million rupees on her campaign, over ten times the legal limit.

The most visible indicator of the difficulty in enforcing the CoC was the omnipresence of wall paintings. Though a common practice in Nepali election campaigns, the CoC for the CA election banned graffiti on walls expressing political messages, though the ECN would not or could not effectively enforce this ban.



*Enthusiastic crowds at party rallies*

By contrast with political parties, overall compliance with the CoC by the government was satisfactory. Abuse of state resources was a less prevalent problem perhaps because the power-sharing arrangements that divided control of government Ministries between the major political parties prevented any single party systematically abusing state resources for their own ends. However, examples of local government officials misusing their power were both directly observed and alleged by political parties. Complaints were most often directed against the three largest parties, particularly the Nepali Congress, and often from Madhesi leaders in the Terai. Typical violations included the use of government vehicles for campaigning and local government arranging greater security for parties they were sympathetic to. Individual Ministers generally refrained from abusing their positions but incidents of bias were observed, such as the greater coverage of the CPN-M campaign on state media.

## Monitoring of and response to violations

As noted above, the response by the security services to cases of election-related crimes was mixed. While additional police were deployed to constituencies identified as sensitive, the potential benefit this might bring was to some extent negated by a passive approach to law enforcement. Complaints and crimes were not vigorously investigated. Few violators were arrested – those that were kept in police custody were often released soon afterwards<sup>58</sup>.

The ECN rightly saw election violations of a criminal nature as primarily falling under mandate of the police. That said, Returning Officers, Polling Officers and Monitoring Teams have the power to order arrests which security services are obliged to undertake<sup>59</sup>, though this power was not used. Acts of violence and intimidation can also constitute violations under the ECN's Code of Conduct under which sanctions from small fines to revocation of candidacy can be imposed.

The total number of formal complaints received by the ECN at headquarters in the pre-election period was 304<sup>60</sup>, 199 of which were "resolved" and 105 that "did not require resolution". Of course, these figures do not represent the number of election violations nationwide because many complaints were filed just with local-level ECN officials and not at headquarters-level. More importantly though, these numbers significantly under-represent the number of violations committed nationwide because of a widespread reluctance to file

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<sup>58</sup> See also UNMIN Election Report No 3, 6 April 2008: "Police inconsistency in enforcing the law during the pre-electoral period risks encouraging an atmosphere where all actors feel they can behave with impunity. Those who violate the law should be arrested and brought to justice; the pattern of arrests followed by release without proper enforcement of the law has contributed to the continuing violence", and UNMIN Election Report No 2, 30 March 2008 which notes that "the police do not intend to pursue those already identified as alleged perpetrators [of the fatal shootings of Maoist cadres in Kapilvastu on 22 March] until after the election as a result of political pressure not to do so"

<sup>59</sup> The Act Made to Amend and Consolidate Prevailing Laws Relating to Election Offences and Punishment, Section 18, Sub-section 2

<sup>60</sup> Of the 304 complaints, 91 were from political parties, 55 from government entities, 28 from the mass media, and 130 from others

complaints at all. Some complainants were sceptical that the ECN would take action, but more were worried about retribution by those they were complaining against. Indeed, some DEOs openly recognised this fear as a key factor in why they had not received complaints.

The law empowers the ECN to initiate proceedings even when a petition or formal complaint has not been lodged. Indeed, one of the primary functions of “monitoring teams” deployed to every district was to investigate whether the election law was being followed and take appropriate action. However, ECN monitoring teams generally awaited complaints and failed to actively seek out violations.

In most cases, the ECN responded to complaints of violence by requesting parties to refrain from repeating such acts in the future, and sometimes attempting mediation<sup>61</sup>. There are numerous examples of success achieved through local-level dialogue and negotiations between the parties. Dadeldhura saw five days of escalating tensions and violence between the NC, CPN-M, and CPN-UML until the EC helped to mediate an agreement between them. In the Mid-Eastern district of Taplejung, the EC successfully called an all-party meeting and arbitrated a favorable resolution surrounding wall paintings. In the Far Western district of Kailali, two cases of libel and one case of poster tampering were resolved by the EC and DEO through mediation.

However, with little exception, enforcement of the law relating to violence and intimidation – by the government, police, and Election Commission – was weak. Some of this reluctance stems from a belief that in such a sensitive political environment, the consequence of the law being fully implemented and party members being investigated and punished for their crimes would, overall, be negative. Election officials implied or openly admitted that applying sanctions would weaken commitment from political parties to the election and risk destabilising a fragile peace process. The unfortunate consequence was

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<sup>61</sup> Manual on Settlement of Petitions and Proceedings Relating to Election, 2064 (2007), Chapter 2, Provision 3 (iii).



a culture of impunity where those committing serious offences have largely gone unpunished, encouraging further violence.

As noted above, the responsibility for law enforcement is shared between the ECN, government and the police. It would be politically difficult for the ECN to take a more punitive approach to election violations without the political support of the government and police. Indeed, the conscious decision by the ECN not to apply sanctions against political parties must be placed within the broader context of the peace process, whose logic has been to defer justice to maintain the participation of all stakeholders; Ian Martin, the head of UNMIN, noted after the election that in the three years that he had been in Nepal, “there has not been a single case where the perpetrators of a [politically-motivated] killing ... has been brought to justice before the civilian courts”<sup>62</sup>. Whether such a compromise on the rule of law was necessary to hold the election and advance the political process is highly debatable.

## **Role of the media**

Though the security situation was poor in parts of the country, the media in Nepal were able to operate quite freely and few were deliberately targeted. They performed a crucial check-and-balance role, helping to highlight irregularities in the election (e.g. the use of “dummy” candidates in Kathmandu Constituency 10<sup>63</sup>) and actively disseminated voter education messages. The ECN too made use of both print and broadcast media.

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<sup>62</sup> Transcript of Press conference at the Reporter’s Club, Kathmandu with Ian Martin, Special Representative of the Secretary-General in Nepal, 27 May 2008

<sup>63</sup> “Dummy” candidates were those seemingly contesting as independents but in fact aligned to a particular party or candidate. Though they would stand little chance of winning the seat, these candidates would be able to claim resources and benefits (e.g. the use of vehicles on election day) and have their representatives within the polling station, all of which may serve as an advantage to the candidate/party they are allied with.

Some biases were observed within the media, particularly in newspapers strongly affiliated with a political party. The Press Council of Nepal (PCN) ran a media monitoring program on behalf of the Election Commission found that “Mostly the weeklies, government media programs and some private FM and TV stations practiced heavy doses of slanted opinion journalism. They generally tended to give a favorable coverage to a particular party or candidate at the expense of rival party or candidate.”<sup>64</sup>. With respect to the state media, the PCN found that “overall, the government media programs gave space to major parties. But their opinion journalism and comments tended to be favorable to Maoists”. Apart from bias, the accuracy of reporting, particularly with respect to sensitive conflicts, was a persistent challenge for journalists throughout the election.

### **Voter Education (VE)**

Particularly as Nepal has never before had an election for a Constituent Assembly, nor used a mixed electoral system before, a large voter education programme was carried out by the ECN. Smaller programmes were carried out by other NGOs, such as the Coalition for Constituent Assembly Support (CoCAS) managed by the Asia Foundation, and street theatre funded by IFES.

While NGO campaigns were valuable, the ECN’s programme was the most prominent and aimed to be comprehensive. In addition to a media campaign <sup>65</sup> and distributing posters and pamphlets, 8,568 Voter Education Volunteers (VEVs) and 4,721 facilitators were mobilized to try and reach every Village Development Committee (VDC) in the country. VEVs used an eight page flipchart to explain the basics of the election, how to vote, and so on.

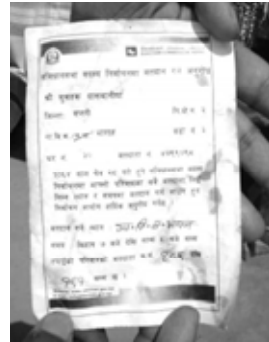
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<sup>64</sup> Press Council of Nepal, Preliminary Report on Media Monitoring Program for CA Election [www.presscouncilnepal.org/files/MMP%20Report\\_April\\_11.pdf](http://www.presscouncilnepal.org/files/MMP%20Report_April_11.pdf)

<sup>65</sup> The ECN disseminated VE through FM/radio/television from the second week of February and publicised in newspapers in March/April.

VEVs were mostly locally recruited teachers whose work was supervised by monitors in each of the 240 constituencies. They worked in pairs and comprised of one male and one female.

The ECN demanded that NGOs and VEVs alike could only use VE materials produced or approved by the ECN, ensuring a consistent message across the country. Sensitivity was shown to the ethnic diversity in Nepal by translating materials into 17 different languages. In a country with relatively low literacy rates and limited access to television, the strategy of using volunteers who visit voters door-to-door was apt. Rural communities often expressed gratitude for the effort of VEVs in reaching remote areas to inform them about the election.



*At this village in Siraha, VEVs had put up posters on some houses and distributed voting invitations to each household informing them of where and when to vote. They did not, however, deliver any face-to-face voter education, presumably because of security fears*

However, some difficulties were faced by VEVs in their work, most of them beyond their immediate control. Though all VEVs received training, a minority had difficulties in explaining more complex aspects of the election such as the electoral system. A small number of complaints of political bias being shown by VEVs were noted by observers. Quite understandably, VEVs had some difficulties in reaching remote areas and conflict-affected areas. For example, access to some villages in the districts of Saptari and Sirah was blocked by armed groups, and Maoists obstructed VEV classes in the Mid-Western region's Pyuthan district in Lingga, Pobli and Barjubang; VEVs were observed filling in their monitoring sheets in a café in the district centre

to give the impression they had conducted VE in the field. Visits by ANFREL observers confirmed that some VDCs had not received voter education, contrasting with the district election offices who believed that these VDCs had already been covered by VEVs. A number of electoral stakeholders commented that stronger monitoring was needed to effectively check if VEVs had actually undertaken their work.

The effectiveness of voter education programmes was mixed. While voters were generally clear about when and where to vote, their understanding of the nature of the election and an admittedly electoral complex system was not very strong. ANFREL’s survey showed that two weeks before election day, 24% of voters did not know what the election was for.

Voters were also not sufficiently well informed about the process of voting and what constitutes an invalid ballot. While such information was included in the ECN’s voter education materials, the proportion of invalid ballots rose significantly compared to previous elections: for FPTP ballots 5.15% of the votes were invalid while 3.7% of PR ballots were invalid, compared to around 2% for previous elections. Most often, this was because voters had stamped ballots twice,



*Electronic voting machines were used in Nepal for the first time in Kathmandu Constituency-1 whose residents were educated on how to use them*



*A voter education poster showing what constitutes a valid and invalid ballot*

or occasionally with their thumbprints instead of using the stamp. The higher invalid rate for FPTP ballots may be because they were handed to voters first before they received their PR ballot – some polling officials speculated that voters thought they could exercise their two votes on a single ballot paper.

The nature of the voter education imparted by political parties is, of course, partial. However, they played an important role both by showing voters how to vote, and explaining their policies. The major parties mounted active campaigns though some faced similar difficulties to VEVs in reaching out to remote or conflict-affected areas. Just two weeks before the election just over a third of voters felt that they had enough information about the candidates and parties to make an informed decision on election day.

## ELECTION DAY

### Election Day fact box<sup>66</sup>

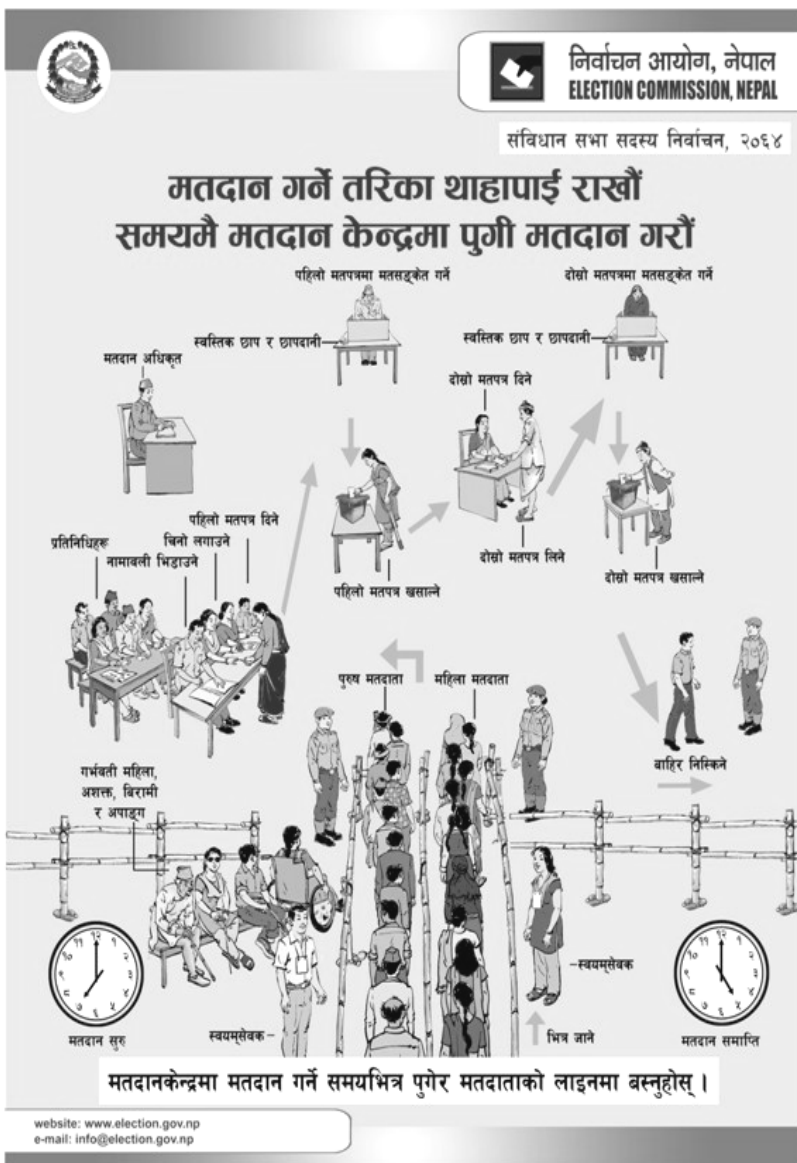
- 20,888 polling centres at 9,821 locations
- Polling stations open from 7am-5pm
- No public transport allowed on election day
- Eligible voters: 17,611,000
- 62% turnout. Highest in Dolpa (FPTP 84%, PR 80%), lowest in Manang (FPTP 48%, PR 40%). 53% female turnout.
- Invalid ballots: FPTP 5.2%, PR 3.7%
- Number of ANFREL observers: 100
- Number of polling stations visited by ANFREL: 526

#### POLLING PROCESS:

- Separate queues for men and women, elderly/pregnant etc have priority
- Voter's identification confirmed on voters list
- Voter's index finger is marked with indelible ink
- Ballot paper is signed by Polling Officer and stub by the voter
- Voter will cast two ballots, separately: first the FPTP (blue) ballot and second the PR (pink) ballot (see Annex 11 for examples)
- If a voter makes a mistake and requests a second ballot, he/she cannot be issued a second ballot
- A blind or disabled voter may request the assistance of another person to vote. The voter indicates the person, who can be the polling officer or someone else identified by the voter and authorized by the Polling Officer
- The ballots are marked with a swastika stamp
- Two security officers guarding the ballot boxes inside the polling centre and police officers outside the Polling Centre.
- If there are disturbances the Polling Officer decides on whether to temporarily interrupt the polling process or close down the polling centre

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<sup>66</sup> Adapted from briefings by the Election Commission of Nepal and presentations by the ECN Electoral Observation Resource Centre



## Election environment

Polling on election day was a general success. While regrettable and sporadic incidents of violence did occur, they were fewer in number and less widespread than expected<sup>67</sup>. Polling was administered smoothly in the large majority of polling stations visited, with most procedures followed correctly in 95% or more of polling stations observed. Over 80% of ANFREL's observers reported a good or very good overall rating for areas that they visited on election day<sup>68</sup>.



*Highly enthusiastic voters gathered in large queues even before polling stations opened*

In the pre-election period, the greatest concern was that violence and intimidation by political parties and armed groups in the Terai on election day would significantly disrupt polling and deter turnout, a fear which was largely not borne out. Parties had claimed that they would mobilise 100-200 of their youth supporters per polling station, ostensibly for “security” though voters feared parties might clash with each other. However, the numbers mobilised were far fewer than this

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<sup>67</sup> DEAN's election violence monitoring program recorded 64 incidents in 24 districts which resulted in four deaths, 112 injuries, and eight kidnappings

<sup>68</sup> Very Good – no incidents or irregularities were observed; Good – a few incidents or irregularities were observed that had no significant effect on the integrity of the process; Average – many incidents or irregularities were observed that had no significant effect on the integrity of the process. Poor - incidents or irregularities were observed that could have significantly affected the integrity of the process; Very Poor - incidents or irregularities occurred which so affected the integrity of the process as to render the results from one or more polling centres invalid.



and there did not appear to be the systematic intimidation of voters on election day that many observers had expected, difficult as this is to assess. Indeed, some caution should be exercised when assessing levels of intimidation. In areas such as Arghakanchi and Ramechap, for example, the very strong CPN-M presence led many voters to declare that “everything is OK” while only a few voters or observers dared to disclose intimidation on election day and the day before.

Some violent incidents did occur on election day itself – DEAN’s election violence monitoring program recorded 64 incidents in 24 districts which resulted in four deaths, 112 injuries, and eight kidnappings. ANFREL observers witnessed or interviewed those affected by about a dozen such incidents which involved clashes between a wide range of parties<sup>69</sup>. Occasionally polling stations or ballot boxes themselves were targeted<sup>70</sup>. Such incidents were mostly limited to individual polling stations and did not generally impact on the election environment in other constituencies within the district.

Booth capture – the phenomenon whereby one party assumes control of a particular polling station – was observed in a small number of stations. Rumours of polling stations had been supposedly “captured” were often found to be false when ANFREL observers visited stations to verify the claims. Those stations that had been taken over by one party’s representatives were sometimes done violently<sup>71</sup>, though more

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<sup>69</sup> Examples include: in Chitwan, a NC supporter was beaten up outside PS 118 in Const 5, prompting 40-60 NC youth cadres to come to the PS, which in turn deterred voters from coming to vote; in Arghakanchi, a polling station and all its election material in Balkot was burned by the YCL, a NC-CPN-M clash left nine people slightly injured, while in Rajiya, the YCL beat up 8 NC supporters with bamboo sticks; in Ramenchap, the CPN-M stopped NC and UML party agents in Doramdhar from going into polling stations, and clashes between the CPN-M and UML took place; in Sunsari, fights took place in four polling stations because of fraudulent activities of polling staff who were intentionally invalidating ballots by tearing them carelessly; in Sarlahi, NC-and Madhesi Forum supporters started a fist fight which caused PS 62 to close

<sup>70</sup> E.g. in Nuwakot where there were five reported incidents of ballot boxes being destroyed

<sup>71</sup> E.g. in Arghakanchi district in the village of Karunga, CPN-M cadres beat people in the queue and then proceeded to stamp the ballot papers themselves

often a party could assume control by either co-opting or intimidating the polling officials.<sup>72</sup>



*A candidate from a major party in Siraha is pictured above with his supporters. After forcing out the polling station staff, they began stamping ballot papers themselves*

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<sup>72</sup> E.g. in Saptari Constituency 2, at Chandra Higher Secondary School in Bodebarsaien, voters claimed that all of the election officials at polling station 28 had been bought off by a candidate, Mrigendra Kumar Singh Yadav. In the presence of polling officer Rama Kant Yadav, voters were observed voting multiple times without their names being checked against the voter list. In Siraha Constituency 5 at Karjana VDC (PS 27), the Maoist candidate accused the polling officer of allowing the NC candidate to capture the station. After a heated argument, a large group of YCL cadres evicted the polling station staff and began stamping the ballots themselves.

ANFREL observers did not face significant obstacles in observing and investigating claims of serious election-related crimes, except in a few instances. Roadblocks erected by the CPN-M in Morang Const. 8 and Kaule in Nuwakot prevented observers from passing through initially until they received clearance from their superiors. Only one serious threats was made against ANFREL's observers on election day: after an incident in which a CPN-M party agent was stopped from influencing voters inside PS in Saptari, a group of people of unknown affiliation outside the polling station threatened the observers' driver that the observers would be shot if "observers caused any problems for them".

Only a minority of areas reported more widespread problems: 13% of ANFREL's teams gave an overall 'poor' or 'very poor' rating for the election environments in the areas that they visited in six districts: Sunsari, Saptari, Sarlahi, Nuwakot, Arghakanchi, and Gorkha. A range of different of problems were observed, including intimidation of rival party representatives and supporters, restrictions on the freedom of movement, violent clashes between parties, poor adherence to polling procedures, and "booth capture".

To a very large extent, these districts were those identified as sensitive in the pre-election period. In Gorkha, for example, the CPN-M's rivals had suffered constraints on the freedom of campaigning, movement, and assembly; this trend continued through to election day. Both the NC and UML were unable to submit most names of their party agents to polling officers, fearing abduction and harassment. Those that did try to go polling stations faced severe challenges. For example, in Gorkha Constituency 3, Maoist cadres armed with *khukuris* (a traditional knife) and iron rods stopped polling agents from going to polling stations in 10 VDCs<sup>73</sup>, burnt polling agents' voters list, accreditation cards, and materials given by the National Democratic Institute, and robbed them of the money that they had been given for accommodation and transportation by the candidate. In a number of polling stations, voters were prevented from exercising their freedom

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<sup>73</sup> VDCs: Lapu, Gumda, Laprak, Uhiya, Kashi, Goan , Kerunja, Barpak, Bihi and Prok

of movement by large groups of YCL cadres who blocked their path, sometimes by erecting roadblocks and checkpoints.

While the indicators used by ANFREL observers showed that the election was held to a lower standard in the Terai than outside of it, areas of the eastern and central Terai where armed groups operate faced far fewer problems on election day than during the pre-election period. The program of disruption announced by armed groups, including threatened attacks against voters walking to polling stations, was not fully carried out. Armed groups did not significantly restrict the freedom of movement of voters on election day, though several small IEDs did explode<sup>74</sup> and some threats and intimidation were observed<sup>75</sup>. While very atypical, in Saptari Constituency 1 one polling station in Trikol VDC – home to Jay Krishna Goit, leader of the Janatantrik Terai Mukti Morcha (JTMM) armed group - did not see any voters. When interviewed, the VDC's residents claimed they had willingly boycotted the election, though some coercion was evident. Overall, however, voters defied any threats to cast their vote such as in Birjung, where pamphlets distributed the day before the election by the Madhesi Tigers telling people not to vote were ignored.

The response by security forces and the Election Commission in most of these cases was mixed. In most cases of egregious fraud or violence, rapid action was taken to cancel or suspend polling. For example, three polling stations visited by ANREL observers in Siraha saw polling officials quickly call for repolling soon after “booth capture” occurred – YCL cadres beat a polling officer in one polling station<sup>76</sup> and snatched a ballot box in another<sup>77</sup>, and NC cadres captured a station in Siraha district headquarters. The DEO in Sankhuwasaba took rapid action to quell party clashes by bringing party leaders together. A CPN-M party

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<sup>74</sup> E.g. in Dhanusha Constituency 1 an armed group detonated an IED, and in Birjung where a one bomb at Inarwa killing an individual

<sup>75</sup> Voters at a polling station in Dhanusha were intimidated by the presence of JMM cadres affiliated to an armed group

<sup>76</sup> Tenuapatti, Constituency 2

<sup>77</sup> Kajara Jurhoil, Constituency 2

agent in Saptari<sup>78</sup> was prevented from unduly influencing voters by a polling officer who quickly intervened. Security forces made several arrests of party supporters carrying weapons <sup>79</sup>, evicted some candidates who had entered polling stations<sup>80</sup>, and cleared obstacles to voters' movement<sup>81</sup>.

However, a less vigorous response by both the ECN and police was observed in many other cases. In Gorkha for example, a polling officer dismissed valid complaints that a booth that had been captured by the CPN-M, while another polling officer in the same constituency felt unable to challenge a party agent inside the polling station directing voters where on the ballot they should stamp. Indeed, the failure to challenge the presence of unauthorized individuals in polling stations was observed in many places.

Though additional security forces were deployed in sensitive districts, these numbers were not sufficient to prevent poll fraud in some stations. For example, both armed and regular police were grossly outnumbered when a large numbers of Maoist cadres captured a polling station in Siraha Constituency 5 (Karjana VDC). There were occasional complaints of bias too, such as in Sunsari where voters complained that security personnel focused their protection on NC candidate Sujata Koirala's supporters and not those of Madhesi parties. In just one instance, the police blocked ANFREL observers from talking to voters nearby a polling station<sup>82</sup>.

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<sup>78</sup> Constituency 2, PS 76, Diman High School

<sup>79</sup> E.g. Saptari police arrested five people all carrying socket bombs

<sup>80</sup> E.g. in Kapilbastu where candidates in Constituency 3 who continued to campaign on election day were ordered to disburse, or in Birjung where a MJRF candidate was ordered to leave the polling station

<sup>81</sup> E.g. in Dolakha where police cleared UML erected roadblocks

<sup>82</sup> Siraha Const. 5

## Polling process

The administration of polling on election day was generally conducted well. Polling officials were generally well trained, competent, and neutral. Of the 20 indicators used to assess the opening, polling and closing process, 11 were met in 95% of polling stations, and 14 were met in 90% of polling stations.

Polling stations were mostly and located in convenient and neutral locations though some elderly and disabled voters struggled to reach polling stations due to the long distances and difficult terrain of Nepal and the fact that no special transport provisions had been made for them. In remote areas voters walked for up to nine hours to reach their station, testament to their determination but a journey that other potential voters may not have been able to physically manage.



*Polling booths set up incorrectly in Siraha*

The vast majority of polling stations were set up correctly and ensured privacy for voters. However, the secrecy of the vote was not protected at 18% of polling stations<sup>83</sup>, a vulnerability which was sometimes

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<sup>83</sup> E.g. Arghakanchi Const 2, Baglung Const 1 PS 75, Gulmi Const 2 three different PS, Chitwan, Dhanusha, Makwanpur, Sunsari, and at Chichapani VDC in Kailali at the PS outside of the cantonment

exploited by individuals who sought to influence voters' choice as they were marking their ballot.

The opening and closing process were generally carried out to a high standard. Empty ballot boxes were shown to those present and at the end of voting were appropriately sealed. A small minority of stations opened late because staff were still setting up polling stations or being trained, though most voters were patient with such delays. Initial confusion in some polling stations about roles and responsibilities of staff or setting up the station were quickly resolved. High early turnout put some of the more inexperienced staff under significant pressure but resolved itself as the day progressed.



*A typical desk/tent set up by a political party outside of a polling station where party representatives identify voters and hand out 'chits' which are then given to polling officials upon entry to the polling station*

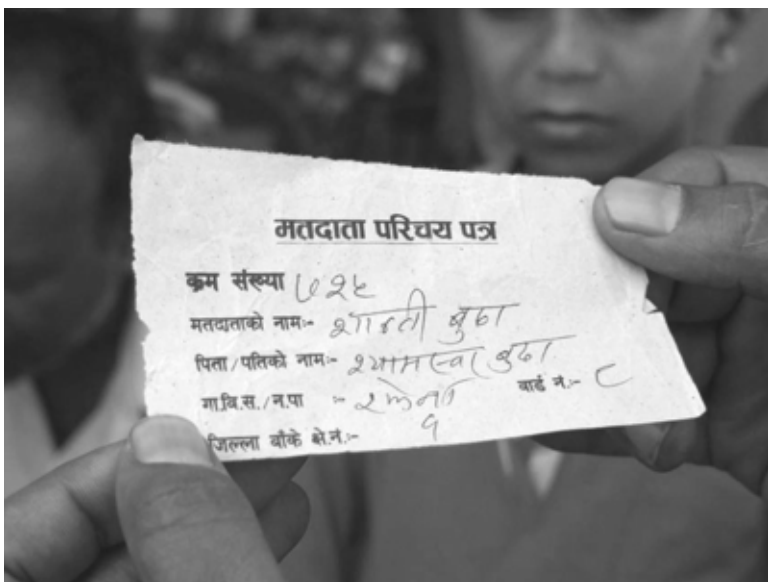
Polling procedures were generally followed closely, though voter identification was a significant weakness. Some voters arrived at polling stations to find that they were not on the voter roll, exposing problems with the voter registration process<sup>84</sup>. However, the greater

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<sup>84</sup> E.g. Kapilbastu Const 4, Nuwakot, Surkhet Const 2 Khodara VDC, Kanchanpur, Rupandehi where 800 names were missing on one voter list, and Makwanpur where a voter claimed around 3,000 people from his locality did not come to vote because they were not aware that they were registered

problem was the lack of rigour with which voters were identified and the heavy reliance on political parties in voter identification.

The presence of political party representatives at desks nearby polling stations is legal and common practice both in Nepal and the region. Party volunteers search for the voters' name on the voter roll and give them a chit, or small piece of paper, with their details recorded on it. This chit is then presented to polling officials on arrival to aid with voter identification. Observers witnessed the recording of names of voters outside of 44% of the polling stations visited.



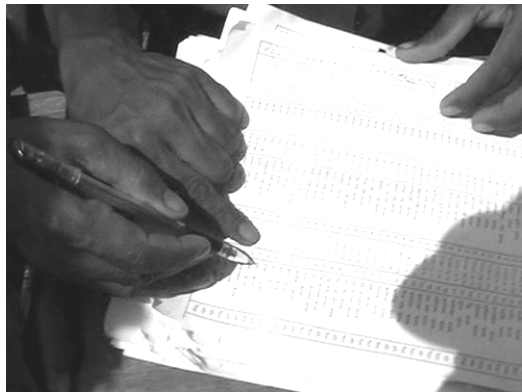
*A chit given to a voter by a political party is examined by a polling official*

While the assistance of party representatives may have sped up polling, their presence was frequently abused. At the first instance, the very act of going to a party's desk, and thereby indicating one's voting intentions in public, compromises the secrecy of the vote. Parties were also observed campaigning, rather than simply assisting voters – at 26% of polling stations observers found individuals inside or near the polling station trying to influence the way people vote. The most negative impact party representatives had, however, was that it



discouraged polling officials from undertaking voter identification themselves. Such is the reliance of polling officials on chits issued by parties that voters who did not hold one were frequently told to leave the polling station to obtain a chit. Only in half of the polling stations observed were voters' names called out by polling officials.

The obvious problem is that parties' primary interest is in securing more votes for themselves, not accurate voter identification. Before the election, some parties allegedly surveyed which eligible voters were out of the district or abroad and then assigned those names to their supporters so that they could try to vote multiple times. In some VDCs, ANFREL observers saw official turnouts of 70% though such areas had large numbers of residents working out of district or abroad, raising suspicions that either ineligible voters took part in the election or multiple voting occurred. In 15% of polling stations observed by ANFREL voters who already had ink on their fingers were allowed to vote.



*A child of 13 years of age is pictured placing his ballot paper inside a ballot box in Siraha. When challenged about this incident, polling officials claimed that he had presented a chit identifying himself to be a 30 year old man, pointing to "his" name on the voter roll*

The weakness in voter identification was one of the factors that allowed a small number of children to vote. So long as the children had a chit indicating their "name" and relevant details, polling officials saw that they could consider them an eligible voter. Polling officials in Rautahat, for example, argued that a child who was 13 years old could vote as he

had been given a chit. Around 50 children aged 16 voted in a polling station in Nuwakot. Four polling stations in Siraha constituency 2 saw large numbers of children aged 13-15 cast their vote<sup>85</sup>. Such fraud is less obvious than overt “booth capture” – indeed, no polling station was repolled because of large numbers of underage or multiple voters.



*Children, some appearing to be as young as seven years old, in the queue for voters at a polling station in Siraha. Underage voters show their fingers marked with indelible ink to an ANFREL observer after having voted*

Though voter identification proved problematic, the most frequent violation observed on election day was unauthorized entry of individuals in polling stations, which was observed in 14 different districts and 18% of all polling stations. While occasionally these individuals were those with no political affiliation or ill intention<sup>86</sup>, candidates from a range of parties were observed in stations<sup>87</sup>, but more often their supporters who were seeking to influence voters<sup>88</sup>. Some of

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<sup>85</sup> PS 21, 22, 23, and 24. Other examples were seen in Dhading, Sarlahi Const. 3 where a boy explained that he was voting for his father, and Saptari Const 3 where polling officials at PS 30, Lalapatti Lower School, would not allow observers to see if children were on the voter list or not

<sup>86</sup> In Palpa and Chitwan

<sup>87</sup> E.g. NC candidate in Dhading Const 2 in Sunaula Bazaar; Maoist candidate and central committee member in Sindhuli Const 3; CPN-M local leader and a UML candidate inside polling stations in Sunsari, and a MJRF in Birjung

<sup>88</sup> E.g. YCL cadres influencing voters inside PS 92 and 93 in Lamjung, CPN-M influencing voters inside several polling station in Gorkha, CPN-M supporters in Dang Const 3, CPN-

those entering polling stations illegally did so under the pretence of providing “assistance” to voters, particularly the elderly<sup>89</sup>.



*Pictured left is an individual standing behind a voter as she marks her ballot.*

*Pictured right is a NC supporter inside a polling station*

Other minor problems observed include the unauthorised use of transport<sup>90</sup>, voters not being allowed to cast tendered ballots<sup>91</sup>, and ballots not being sufficiently large to accommodate all ballot papers easily.

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M cadres in Rolpa Const 1 (Mijhing VDC, PS2), 20 UML entered into Yangchachu School for the Blind in Sarlahi Const 1

<sup>89</sup> E.g. a Maoist representative in Ramenchap specifically targeted the elderly, taking their ballots from them and marking them on their behalf; in Gorkha (Pardar School, Chapa Bunjung, Khoplang VDC) a polling official claimed that an individual who was showing voters where to mark their ballots was helping those who could not see and read; one woman assisted a large number of people to vote in Kapilbastu; party agents in Dhanusha were seen assisting voters to stamp ballots; in Salupati in Ramenchap a Maoist leader accompanied the elderly to polling booths and stamped their ballots for them

<sup>90</sup>In Baglung a NEOF vehicle was observed transporting people to vote and a NC vehicle was seen transporting very old and disabled voters to the polls; Parties used an ambulance to travel around in Dhanusha; a large jeep with Indian number plates was seen in Banke; and 12 PLA were seen in a car close to Gorung cantonment in Kailali

<sup>91</sup> Two voters in Bhimbhedi VDC in Makwanpur were prevented from submitting tendered ballots; Two voters in Rautahat Const 6 could not submit tendered ballots; similar incidents were observed in Sunsari and Dailekh

Otherwise, polling procedures and regulations were well adhered to. No problems were observed with the indelible ink supplied, which polling officials applied and checked correctly. The closing of polling stations and transportation to counting centres was conducted transparently.



*Indelible ink being applied*



*Ballot boxes being sealed*

In terms of voter education, most appeared to know how to vote, though there was some initial confusion in certain areas about the process. Some voters stamped the first-past-the-post ballot paper twice thinking that they had to exercise their two votes on a single ballot, or used ink from their fingers to mark the ballot paper. Many voters were not clear about the difference between the two ballot papers. Polling staff stressed the need for greater voter education to prevent such problems happening in the future.

Voter turnout was a respectable 62%. Though lower than the turnout in the general elections in 1999 and 1991<sup>92</sup>, Nepalis should be commended for their strong determination to vote despite the difficult geography and challenging security environment in parts of the country. Nevertheless, some caution must be exercised in interpreting voter turnout numbers. The possibility of multiple voting in a small number

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<sup>92</sup> Voter turnout was 65.15 per cent in 1991, 61.86 per cent in 1994 and 65.79 per cent in 1999, see [www.election.gov.np/EN/prevelection.html](http://www.election.gov.np/EN/prevelection.html)

of polling stations and the possibility that some voters felt compelled to vote rather than doing so of their own free will, may cause the numbers in some areas to be inflated. On the other hand, polling officials<sup>93</sup> stated that turnout would likely have been much higher if voters living out-of-district could have more easily cast their vote – these restrictions particularly disadvantaged men, who are more likely to engage in migrant labour. Voter turnout would also have been higher if special arrangements had been made for the elderly, pregnant, disabled and others who had difficulty in walking long distances to polling stations.

### Statistical overview

Overall grading awarded by observers to the electoral environment on 10<sup>th</sup> April 2008<sup>94</sup>

	<b>TOTAL Districts</b>	<b>as %</b>	<b>Non-Terai Districts</b>	<b>as %</b>	<b>Terai Districts</b>	<b>as %</b>
<b>Very good</b>	6	13%	3	12%	3	14%
<b>Good</b>	31	67%	18	72%	13	62%
<b>Average</b>	3	7%	2	8%	1	5%
<b>Poor</b>	5	11%	2	8%	3	14%
<b>Very poor</b>	1	2%	0	0%	1	5%
<b>TOTAL</b>	<b>46</b>		<b>25</b>		<b>21</b>	

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<sup>93</sup> e.g. in Gulmi, Pokhara, Okhaldunga, Baitadi

<sup>94</sup> These results should not necessarily be interpreted as indicative as the standard of the election across an individual district. Rather, they are intended to give an overall picture of the standard of election day nationwide.

## Summary results of election day checklist

Data is taken from a total of 526 polling stations visited. Not all indicators were assessed at all polling stations, particularly in the 'before opening' and 'closing the poll' sections.

<b>Environment</b>	<b>% yes</b>	<b>% no</b>
Are there individuals inside or near the polling station trying to influence the way people vote?	26%	74%
Is anyone near the center recording voters' names?	44%	56%
Is the center in a convenient and neutral location?	87%	13%
Are there campaign materials posted within 100 meters of the station?	21%	79%
Were unauthorized people inside the polling place?	18%	82%
<b>Before Opening</b>	<b>% yes</b>	<b>% no</b>
Did all essential materials arrive, including the electoral roll, ballot papers, and ink?	99%	1%
Did the Polling Officer show the empty ballot boxes before sealing them?	97%	3%
Were any candidates or party agents present?	98%	2%
Did the polling station open on time?	92%	8%
<b>Polling Process</b>	<b>% yes</b>	<b>% no</b>
Were observers and party agents witnesses allowed to observe all aspects of the polling?	99%	1%
Are names of voters called out clearly?	53%	47%
Are voters who are not on the list allowed to vote or eligible voters turned away?	11%	89%
Were any voters challenged? (if yes, include total and details in comment section)	4%	96%
Are fingers checked for ink?	90%	10%
Are voters who already have ink on their fingers allowed to vote?	15%	85%
Are the voter's fingers marked with ink before they vote?	96%	4%
Have the ballots given to the voter been signed by the Polling Officer?	100%	0%

Were any tendered ballots cast ? (if yes, include total and details in comment section)	10%	90%
Can the voters mark their ballots in secret, without being observed by anyone?	82%	18%
<b>Closing the Poll</b>	<b>% yes</b>	<b>% no</b>
Did the Polling Station close at the correct time?	94%	6%
Were voters in the queue at closing time allowed to vote?	77%	23%
Were the ballot boxes sealed correctly?	100%	0%
Were unused ballots counted and stored correctly in sealed envelopes?	97%	3%
Were the used, unused, and spoiled ballots properly reconciled?	97%	3%
Were observers and party agents allowed to accompany the ballot boxes?	93%	7%

## POST-ELECTION

After election day ANFREL retained 12 long-term observers who travelled to 16 districts<sup>95</sup> to observe the counting of ballots, the complaints process, and the broader post-election environment until 21<sup>st</sup> April. Repolling was observed at 17 polling stations in four separate districts<sup>96</sup>.

### Counting

The counting procedures for the CA election were as follows<sup>97</sup>:

- Ballots are transported from polling stations district headquarters where they are counted
- Returning Officers announce the date, time and place to start the counting
- The counting starts when all the ballot boxes from all the polling centres of the constituency have arrived at the counting centre
- Once started, the counting is continuous (i.e. 24 hours per day)
- Upon reception at the counting centre, the number of ballot papers in each ballot box will be checked against the number of voters and other documentation checked, such as the serial numbers of ballot boxes. If any inconsistencies are noted, ballot boxes may be quarantined pending investigation and clarification
- The mixing process involves combining ballot boxes from more than one (generally two) polling centres before the results of such ballots are counted
- Counting of the two ballots can be done simultaneously, if the counting centre is big enough. If there is not enough space available, the FPTP ballots are counted first and the PR second
- If there is a decision to repeat polling, the counting will not proceed

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<sup>95</sup> Gorkha, Rupandehi, Nawalparasi, Kapilbastu, Dadeldhura, Arghakanchi, Doti, Kailali, Kanchanpur, Jhapa, Surkhet, Bardiya, Banke, Siraha, Saptari, Kathmandu

<sup>96</sup> Two polling stations in Arghakanchi, three in Saptari, seven in Siraha, and five in Nuwakot

<sup>97</sup> Adapted from presentation given by the Election Observation Resource Centre to ANFREL observers



- Returning Officers announce the results and send those results to the Election Commission

The FPTP ballots were counted in all constituencies by 21st April while the counting of the PR ballots was completed on 23rd April (there is no specific deadline for the publication of results stated in the law). This was sooner than initially anticipated and the result of the dedicated efforts of counting officials. In more urban areas where the transport of ballot boxes from polling was not difficult, counting began the evening of election day while more remote districts had to wait several days until the last ballot box had arrived. The counting and tabulation of ballot papers was conducted to the general satisfaction of election stakeholders in the majority of constituencies observed by ANFREL.

The post-election environment, particularly as decisions on re-polling were being waited on, was tense but largely peaceful. Isolated violent incidents did occur, mostly in areas where election day itself had seen clashes e.g. in Saptari, about 40 YCL cadres with batons chased NC supporters in broad daylight and thrashed one person in front of the EC office on 12<sup>th</sup> April, and on 13<sup>th</sup> April a clash between the YCL and police on left two police beaten. Large crowds outside of counting centres were largely peaceful.

Adherence to counting procedures outlined in regulations issued by the Election Commission was mixed. There was significant variation between counting centres over the process by which ballots were sorted and counted and the division of labour assigned among counting officials. Such variation was not generally perceived as problematic by political party representatives, as they considered whichever system was adopted to be transparent, efficient and reliable.



Most difficulties were observed during the initial phases of counting, with the quality of counting improving as time wore on. Many counting centres faced difficulties with the first arrival of ballot boxes, suffering from a lack of staff in some cases. Procedures to be undertaken at the beginning of the counting process, such as reconciliation and cross-checking serial numbers were not familiar to all polling staff, perhaps a reflection of the complex regulations<sup>98</sup>. Unauthorised persons were generally prohibited entry to counting centres, though enforcement of this became more lax as the counting process proceeded e.g. both NC and CPN-M candidates were seen inside the counting centre in Nuwakot.

A small number of counting centres remained chaotic beyond the initial arrival of ballot boxes and did not strongly adhere to procedures outlined by the Election Commission. This sometimes prompted confusion amongst political parties who perceived inconsistencies in the reporting of results. For example in Dadeldhura, counting of PR ballots was delayed for two days because of disagreement between parties over the total number of votes cast. While some reports indicated that 57,049 votes had been cast, the EC announced that the correct figure was 54,794. This disagreement was the result of the failure to correctly reconcile ballot papers with the number of votes cast in each polling station, which should take place *before* they are mixed together with those from other polling stations.

As time wore on, the policy of 24-hour counting posed challenges for some counting officials. The rigour with which procedures were adhered to diminished, as did the scrutiny of party agents. Indeed, some polling stations did not have sufficient staff to constantly count ballots – counting was stopped for one and half hours in Kailali Const. 2 so that officials could take a short break.

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<sup>98</sup> The regulation relating to election of the members of the Constituent Assembly states that “the counting shall be verified with the total number of votes cast at that polling station”, while the counting directives issued by the ECN make no reference to reconciliation.

Election officials promoted transparency in the counting process by releasing results on an ongoing basis to the general public. Access for observers was also generally good, with Election Commission staff readily sharing information and tabulation paper. However, a counting centre in Dadeldhura initially prevented entry and others were not set up in a manner that facilitated close enough observation of the process (e.g. Kanchanpur constituencies 1,2, and 3).



*A typical counting centre at which election officials sit in a circle to sort and count ballot papers. Local and international observers can be seen in the background*

Political party agents were granted good access to counting centres (though some chose to boycott counting) and performed a crucial check-and-balance role by monitoring the counting and tabulation. However, without large counting and tabulation sheets clearly visible on the walls or boards of counting centres, smaller parties and observers who cannot station representatives in every counting centre for 24 hours are less able to scrutinize the process.

Overall, there were proportionally more invalid ballot papers than in previous elections, particularly in conflict-affected sections of the Terai.

5.2% of FPTP ballot and 3.7% of PR ballots were considered valid, most often because they were stamped twice or a fingerprint had been used instead of a swastika stamp.

## **Repolling and complaints adjudication**

Repolling took place in 106 polling centres, concentrated in just 21 constituencies of 12 districts<sup>99</sup>. As with the pre-election period, the number of complaints submitted is probably an underestimate of the number of valid complaints. While some complaints submitted are undoubtedly frivolous, this is outweighed by the number of complaints that are not submitted when an incident occurred, which were not submitted for a number of reasons: scepticism that the complaint would be addressed, unfamiliarity with the complaints mechanism, intimidation by rival political parties, and a belief that even a successfully resolved complaint would not alter the outcome of the election in that constituency.

The most common reasons cited by the ECN for repolling were “unrest in the polling centres; booth capturing; damage of ballot box, polling materials, polling center; no seal or seal was broken in the ballot box; no signature in the ballot paper, ballot box and other election materials were robbed on the way; polling officer threatened etc.”<sup>100</sup> (see Annex 12 for full list). As noted earlier in this report, the response by the ECN to most highly egregious election violations on election day was satisfactory, with decisions to postpone polling taken quickly. However, other areas saw a less a vigorous response: in Gorkha, for example, where the overall election environment was poor and booth capture was observed to have taken place in several stations, did not see any repolling. Election violations that did not involve overt violence, such as the use of children for multiple voting, were not cited as reasons for repolling in any areas.

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<sup>99</sup> 68 polling centres were repolled based on the recommendation of Polling Officers while the Election Commission ordered repolling in 38 polling centres based on the recommendations of Returning Officers

<sup>100</sup> Email communication with ECN EORC

The decision to conduct repolling is based on the decision of polling officers or on reports prepared by returning officers and submitted to the ECN in Kathmandu. The challenge of this approach in the context of the CA election is that polling officers were often highly intimidated by those committing violations. This highlights the need to strengthen the mechanism for evaluating complaints in cases where polling officers or returning officers do not submit a report. While ECN monitoring and investigation teams may serve as a potential avenue to report on complaints, they need to be strengthened in number and capacity to be effective. By ensuring a more conducive environment for resolution of complaints at a constituency level, complaints can also be responded to in a more timely manner.

Information was readily shared by the Commission about which polling stations would be re-pollled and when, establishing public faith in the integrity of the election process. Dissemination of information regarding the decision making of this process would promote further trust in the Commission, particularly with respect to the Petition and Dispute Management Committee<sup>101</sup>, the body within the Election Commission mandated “to prepare and update the details of petitions and action on the petitions made throughout the country and publish such details”<sup>102</sup>.

The election environment for repolling was generally satisfactory, as security forces and the presence of observers could be concentrated in a smaller number of locations. However those areas where repolling was deemed necessary were, by implication, those areas where disputes occurred. Such tensions were not necessarily resolved by the time that repolling took place. In Nuwakot for example, tensions between the NC and CPN-M rose ahead of repolling, with the NC accusing the YCL of

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<sup>101</sup> The committee is made up of five members: Election Commissioner (Responsible for Code of Conduct); Deputy Attorney General, Office of Attorney General; Secretary, Ministry of Law, Justice and Parliamentary Affairs; Secretary, Election Commission; Joint Secretary (Law Division), Election Commission.

<sup>102</sup> See Chapter 3 of the Manual on Settlement of Petitions and Proceedings Relating to Election, 2064 (2007)

intimidating voters door-to-door. In one case was re-polling necessary: the “capture” of a polling station in Jukena VDC in Arghakanchi on 16<sup>th</sup> April prompted another round of repolling on 18<sup>th</sup> April.

Similar concerns arose during re-polling as on election day, though to a greater extent. While polling procedures were generally adhered to, some discrepancies were observed. In Nuwakot, for example, the polling station closed 15 minutes early, the number of unused ballot papers was not announced, trucks and vehicles without vehicle permits carried 200 YCL cadres to the counting centre.



*Left, a Maoist representative “assisting” polling officials in Siraha; Right, a policeman watching over a voter while she casts her vote*

As with election day, the undue influence on voters by the presence of party representatives outside of polling stations providing “assistance” and “voter identification” was a particular challenge. Parties were observed recording the names of those who were not present in the district and assigning those names to their supporters, and even to children<sup>103</sup>. This allowed their supporters to vote even if their real name was not on the voter list and facilitated multiple voting.

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<sup>103</sup> E.g. Siraha Const 2, polling station at Zijhoyal VDC; Nuwakot

Interference by political parties in the election process was also facilitated by the entry of unauthorised individuals in the polling stations, including different party representatives<sup>104</sup> and candidates<sup>105</sup>, some of whom directly sought to influence voters, observers, or polling officials. “Voting invitations” issued by parties on election day with pictures of the candidate were observed<sup>106</sup>, as well as vote buying in-kind<sup>107</sup>. There were isolated reports of intimidation by the Young Communist League directed at voters, observers, and rival parties<sup>108</sup>. Some polling staff cited intimidation as the reason why certain party agents did not observe repolling and domestic observers were not able to work freely. Some local observers speculated that polling officials would be reluctant to challenge parties who would be in power in the constituency.

Only in one instance during repolling was strong action against violators observed: in a polling station in Saptari, four women were arrested for impersonating voters. This stands in contrast to the greater number of other examples where those committing fraud were not sanctioned. For example, when 20 children were observed voting in Nuwakot the polling officer replied that “there is nothing I can do unless the political parties refuse them”. Some cited agreements reached between political parties that “anyone on the voter list should be allowed to vote”. This may have resulted in a number of proxy voters, particularly in those areas where migrant workers make up a large proportion of the population; caution must therefore be exercised when interpreting data on voter turnout.

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<sup>104</sup> E.g. In Balkot VDC in Arghakanchi, the CPN-M representative’s presence was intimidating, speaking directly with voters while they searched for their names on the voter roll

<sup>105</sup> Both the NC and CPN-M candidate in Nuwakot were seen walking in and out the polling station throughout the course of the day

<sup>106</sup> E.g. Arghakanchi, where 10th-16<sup>th</sup> April, the CPN-M printed campaign material and handed it out house-to-house, bringing it with them on repolling day. The CPN-M representative in the polling station was whispering to people to ask them to hide the printed material

<sup>107</sup> In Nuwakot, a group of CPN-M cadres were seen giving away bitten rice to voters about 250m away from the polling station

<sup>108</sup> No UML agent was present at the polling station in Siraha Const. 5, Karzana VDC, Bagha Primary School. Polling officials cited intimidation by the YCL.

## Overview of the election results

According to figures from the ECN, turnout for the FPTP race was 61.7%, of which 95% of the votes were valid. In the PR race, the total voters' turnout was 63.29% of which 96.3% of the votes were valid. Nearly 80% of FPTP candidates will have to forfeit their deposits. Of the 54 political parties that submitted lists to run in the PR race, only 11 political parties submitted closed PR lists large enough requiring them to abide by quotas for traditionally marginalised groups<sup>109</sup>. Only 25 have won one seat or more in the PR race. Three weeks after election day, these 25 parties submitted their selected candidates to the ECN. According to UNMIN<sup>110</sup> "the Nepal Communist Party-united and Nepal Communist Party-ML, failed to comply with the quota provisions of the Election Act, while RPP did not adhere to the procedural requirement that party lists need stated approval from their central committee". The nature of the "closed list" where candidates for each party's list are not ranked beforehand but selected afterwards inevitably caused some discord within parties<sup>111</sup>.

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<sup>109</sup> PR lists comprising 30 per cent candidates (101 candidates or above) must abide by the quotas on traditionally marginalise groups. The 11 parties are: CPN- Maoist, Nepali Congress, CPN- UML, Rastriya Prajatantra Party, CPN- ML, Janamorcha Nepal, Rastriya Prajatantra Party Nepal, Rastriya Janashakti Party, Rastriya Janamorcha, CPN- United, Samajbadi Prajatantrik Janata Party, Nepal

<sup>110</sup> UNMIN Update on Electoral Activities, 7 May 2008

<sup>111</sup> According to the Nepal Samacharpatra newspaper, CPN-M cadres in Jhapa district vandalised their own party office in Charali after the name of their local candidate was not submitted, a NC candidate from Haripriya Bhandari resigned from all party positions, as did the UML chief for the Kathmandu Valley, and UML cadres in Baglung vandalised their own party office after no one from the district was included in its final list



*Party representation in the elected Constituent Assembly<sup>112</sup>*

Ballot seq. no.	Party name	FPTP	PR	TOTAL
1	Nepal Communist Party (UML)	33	70	103
2	Nepali Congress	37	73	110
3	Rastriya Janashakti Party		3	3
4	Rastriya Prajatantra Party		8	8
5	Janamorchha Nepal	2	5	7
6	Communist Party of Nepal (Maoists)	120	100	220
7	Nepal Workers and Peasants Party	2	2	4
8	Samajwadi Pra. Janata Party		1	1
9	Rastriya Janamorchha	1	3	4
12	Rastriya Janamukti Party		2	2
13	Rastriya Prajatantra Party Nepal		4	4
14	Communist Party of Nepal (Unified)		2	2
15	Communist Party of Nepal (Marxist-Leninist)		8	8
17	Communist Party of Nepal (United)		5	5
19	Dalit Janajati Party		1	1
20	Nepal Sadhwawana Party (Anandidevi)		2	2
22	Madhesi People's Rights Forum, Nepal	30	22	52
33	Nepali Janata Dal		2	2
43	Sadbhavana Party	4	5	9
44	Tarai Madhes Loktantrik Party	9	11	20
47	Nepal Pariwar Dal		1	1
48	Federal Democratic National Forum		2	2
49	Nepa Rastriya Party		1	1
50	Nepal Lokatantrik Samajbadi Dal		1	1
53	Chure Bhawar Rastriya Ekta Party Nepal		1	1
	Independents	2		2
		<b>240</b>	<b>335</b>	<b>575</b>

Out of the 575 elected members in the CA, 191 (i.e. 33.2%) are women, a very favourable proportion not just compared to the region but also to

<sup>112</sup> See Annex 11 for more detailed election results

most established democracies. However, women's rights activists stressed that at least 13 of the 26 appointed seats in the CA must be filled by women in order to fulfill the constitutional provision that 33% of all seats are filled by women. At the time of writing the Cabinet had yet to appoint members to the 26 seats.

## **Post-election politics**

Though election day was not without incident, it exceeded expectations and was sufficiently peaceful to allow a satisfactory turnout. As such, the conduct of the election on 10<sup>th</sup> April itself was broadly welcomed by international and local observers, with some concerns raised over the pre-election campaign environment.

The results that slowly emerged as ballots were counted across the country surprised almost all observers. The NC and UML were both predicted to do better than the CPN-M, yet the latter secured the most number of seats in the assembly, doing well in both the FPTP (winning half of the 240 seats) and PR races (winning 100 of the 335 seats). Some attributed this to the intimidatory tactics used by the CPN-M before the election, noting that by voting the Maoists into power that they would have a greater stake in the democratic system and would be less likely to return to war. However, most believed that it reflected Nepalis' desire for new leadership and the CPN-M being the first group to articulate a republican agenda, pointing to their strong showing in Kathmandu constituencies which were expected to go to NC or UML and where intimidation is more difficult to practice than in rural areas. In the Terai, the Madhesi Jana Adhikar Forum was by far the strongest party, again defying predictions that the failure of Madhesi parties to form a coalition would split the Madhesi vote and benefit the NC.

Senior leaders from both the UML and NC leaders lost their races: CPN-UML General Secretary Madhav Kumar Nepal was defeated by the Maoist candidate in Kathmandu Const. 2 and NC's acting president Sushil Koirala was defeated by MPRF candidate in Banke Const. 3. The UML's unexpected losses prompted a change of leadership two days after the election, with MK Nepal initially replaced by Acting General

Secretary of the party Amrit Kumar Bohara. UML Ministers resigned from the Cabinet on 14<sup>th</sup> April. As the election results emerged, heated debate began within the NC and UML about whether to join a CPN-M lead government. Though losing parties pointed to the violence and intimidation directed towards them in explaining their defeat<sup>113</sup>, both the NC and UML pledged to respect the outcome of the election.

The NC and UML laid out conditions for joining the interim government, focusing on amending the provision in the interim constitution that requires a two-third majority to both form and oust the government, the possibility of a Presidential system, which parties would hold key positions, and the activities of the YCL. By 21st May the NC, UML and MJF reach a common position, agreeing to a ceremonial president and amending the interim constitution so that a government can be formed and removed through a simple majority. The CPN-M countered this with their own nine-point proposal on 27<sup>th</sup> May which the three other major parties rejected.

Though no agreement could be reached on the formation of the government, all parties agreed that the first meeting of the Constituent Assembly could go ahead. On 28<sup>th</sup> May, at the International Convention Centre, CA members voted overwhelmingly to establish a democratic republic and give the King Gyanendra 15 days to leave the palace. Two small bombs outside the Centre did not cause any injury and the mood across the country was celebratory. On 11<sup>th</sup> June, the King left the palace and held his first press conference in many years, declaring that “I have no intention or thoughts to leave the country ... I will stay in the country to help establish peace”, which some commentators interpreted as a desire to return to politics.

Ongoing talks between the parties only entrenched parties’ positions. The CPN-M insisted on filling both the position of Prime Minister and President, the latter with executive powers, while other parties demanded a ceremonial president and greater power-sharing. The

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<sup>113</sup> More than 35 Nepali Congress district units and candidates reported to NC Headquarters that the party did not perform well because “Maoists resorted to intimidation”

failure to reach agreement on substantive issues meant that the second and third meetings of the CA were held without any major business to discuss.

As the negotiations continued in Kathmandu, the pattern of politically-motivated attacks that were observed pre-election continued across the country, with the large majority of such acts being carried out by the YCL. The NC and UML claimed, as did human rights groups, that their supporters were being driven out of areas where the CPN-M had won and that their party activists were being targeted for their activities during the CA election<sup>114</sup>.

The question of whether the Maoists would give up the use of violence having entered government came to the fore after it emerged that Ram Hari Shrestha, a businessman from Kathmandu, had been killed by PLA soldiers in a cantonment. Accused of stealing \$28,500 from the party, Shrestha was kidnapped by the PLA on 27<sup>th</sup> April and taken to the PLA cantonment in Chitwan district where he was tortured. He later died in a Chitwan hospital on 8<sup>th</sup> May as a result of his injuries. Though initially deeming the incident an “internal affair”, Prachanda later declared that a three-member commission would be set up to investigate the killing in response to public pressure.

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<sup>114</sup> E.g. 22 NC workers were displaced from their villages in Rukum after receiving threats from the CPN-M; 25 Maoists in Dudhdevi VDC of Nuwakot attacked the Finance Minister on 14th April; YCL cadres attacked and injured CPN-UML cadres in Kulung VDC of Bhojpur; the Asian Centre for Human Right lists a number of CPN-M attacks in its report “Another Commission is not enough: Ram Hari Shrestha and the Corrosive Impact of Impunity on Nepal’s Unsteady Peace: “CPN(M) cadres cut off water to the village of Angna-5 village in Panchthar because of the residents support for the NC. The CPN(M) also apparently denied water to NC supporters in Dhikure village, Tehrathum district ... on 6 May 2008, CPN(M) cadres beat up two UML supporters in Siddhakali-6 village in Sankhuwasabha district. According to a UML report, cadres of the Young Communist League(YCL) abducted and beat Dipak Tamang and Anil Biswokarma, both UML activists on 10 April 2008. The police apparently failed to intervene.” They also note the historical precedent for such action, underscoring that such violence “was a familiar part of post election violence during the 1990s most notably perpetrated by the Nepali Congress (NC)”.

The case of Ram Hari Shrestha, as some analysts pointed out, highlighted not only violence committed by the Maoists but raises the broader issues of impunity and the rule of law<sup>115</sup>. For example, head of UNMIN Ian Martin noted that just as the Maoists should cooperate with bringing the killers of Ram Hari Shrestha, the Nepali Congress,



*UNMIN chief Ian Martin speaking to ANFREL observers*

Madhesi Jana Adhikar Forum, and Nepal Army should also support bringing to justice their own supporters who have committed murders<sup>116</sup>. As well as a lack of action against those committing violent acts post-election, there was also a lack of accountability for incidents that occurred pre-election. For example, Human Rights Watch, noted that “no action has been taken” against the Armed Police Force who killed seven Maoists in Dang three days before the election<sup>117</sup>.

While the CA is the most inclusive elected body Nepal has ever had, the challenges that the Assembly and new government must address are profound: reform of the Nepal Army and the integration of the PLA within it, the precise divisions of a new federal republic, investigating crimes committed during the conflict, and strengthening the rule of law.

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<sup>115</sup> See Human Rights Watch, Nepal: Urgent Need to Restore Rule of Law Failure to Punish Those Responsible for Attacks and Killings Fuels Impunity, [http://hrw.org/english/docs/2008/05/23/nepal18928\\_txt.htm](http://hrw.org/english/docs/2008/05/23/nepal18928_txt.htm); Asian Centre for Human Rights, Another Commission is not enough: Ram Hari Shrestha and the Corrosive Impact of Impunity on Nepal’s Unsteady Peace, [www.achrweb.org/Review/2008/216-08.html](http://www.achrweb.org/Review/2008/216-08.html)

<sup>116</sup> See Transcript of Press conference at the Reporter’s Club, Kathmandu with Ian Martin, Special Representative of the Secretary-General in Nepal, 27 May 2008: “Because this is a time for all political parties to show that they have the political will to bring to justice those responsible for violations of human rights, and not intervene as they are accustomed to do to protect their own supporters while calling for justice when their supporters are the victims”

<sup>117</sup> Human Rights Watch, *ibid*.

## RECOMMENDATIONS

Within each section recommendations are listed in order of descending importance.

### **Legal framework**

1. Simplify the legal framework. The legal framework which governs the electoral process is complex, with a comparatively large number of acts and regulations, many of which overlap and regulate similar areas of the election process. While the framework satisfactorily allows for a fair election, a single Election Act should be developed as the new Constitution is drafted. This Act should outline a broad framework for the conduct of elections while detailed procedures should be contained in regulations issued by the ECN to allow for greater flexibility as Nepal's democracy evolves.
2. Limit wide ranging regulation of campaigning. While campaigning does need to be regulated and a level playing field between parties ensured, the regulation of minutiae such as wall paintings and the size of posters places a heavy burden on the ECN, whose limited monitoring resources could best be directed to more serious election violations.
3. Introduce a graduated scale of penalties within the Code of Conduct. Currently, the ECN can issue small fines and revoke candidacy in cases of election violations. By widening the sanctions available to it, the ECN can issue more nuanced punitive measures proportional to the seriousness of the violation.
4. Improve the quality of parliamentary input. The State Affairs Committee (SAC) in the parliament has the ability to amend legislation drafted by the Election Commission. While parliamentary oversight is needed, the strength of legislation should not be diluted by the SAC.

5. Issue all laws and regulations well in advance of the election, ensure that they are available to the public and observers alike, and disseminate details through the media.

### **Voter registration and identification**

1. Ensure that there is a comprehensive and accurate voter roll. The need for this is well recognised within the ECN – donors should strongly support the ECN’s plans to undertake an improved voter registration programme. This programme should include issuing voter identification cards.
2. Ban the role of political parties in voter identification. Polling officials alone should be responsible for identifying voters based on reliable documentation, not chits issued by party representatives.
3. Reconsider the use of out-of-constituency voting. While allowing voters outside of their home constituencies to cast their vote in their place of residence is challenging and requires safeguards to prevent its misuse, it would allow for the participation of the large numbers of migrant workers within Nepal. If properly implemented, such a system could also curb proxy/multiple voting where voters are assigned the names of those who are known to be living out of the constituency.
4. Improve public access to voter rolls so that corrections can be made well in advance of election day.

## Security

1. Security forces should rigorously enforce the law. Those who commit election violations of a criminal nature should be arrested, thoroughly investigated, and charges brought against them when necessary. Political pressure to release suspected criminals or recruit party cadres as temporary police should be resisted.
2. Election officials should take advantage of the power at their disposal to order security forces to make arrests.
3. Offer greater training to local government officials and police in conflict management and resolution. Some proactive CDOs tried to resolve tensions between clashing parties with some success. By developing the capacity of such local leaders, tensions could be more effectively resolved without necessarily resorting to punitive sanctions.
4. Security forces should respond in an appropriate manner to rioting and mass demonstrations, adhering to standard operating procedures. Those who breach such standards should be held accountable for their actions.
5. Political parties should clearly and unequivocally condemn violence practised by their own party cadres and take greater preventative action to prevent further incidents. Accountability mechanisms within parties to discipline cadres should be developed.
6. The security provided to political parties and candidates should be equitable. Parties themselves should refrain from making their own private security arrangements, particularly using their own armed personnel.
7. Armed groups operating in the eastern and central Terai should be engaged in dialogue.



8. Ensure that more remote areas where voters feel particularly insecure are not neglected by election stakeholders.

## **Campaigning**

1. Political parties should abide by the law which completely forbids the use of threats and intimidation to coerce voters into supporting them, and ensure that their rhetoric about peaceful campaigning is translated into practice. Greater tolerance must be shown towards rival parties and their right to campaign must be fully respected. Political parties should unequivocally and continuously express their commitment to abide by election results and refrain from making threats about negative consequences if they were to lose.
2. Political parties should take strong steps to protect children from being coerced into campaigning or other activities.
3. Civil servants such as CDOs should refrain from siding with political parties and using state resources at their disposal for the benefit of any political party.
4. Electoral staff at all level should maintain their high standards of neutrality and be monitored by disciplinary bodies within the ECN.
5. Strengthen campaign finance regulations. Political parties should be legally obliged to disclose campaign finances prior to the election and such information should be publicly available on the ECN website for the public and observers to scrutinize. FPTP candidates should declare assets and disclose financial information to their local DEO and PR candidates to the ECN in Kathmandu. Resources within the ECN to monitor campaign finances should be increased correspondingly.

6. Provisions of the Comprehensive Peace Accord on the mobility of PLA combatants and Nepal Army soldiers outside of cantonments/barracks should be strictly adhered to.

### **Complaints investigation and adjudication**

1. Create a separate institution to receive, investigate, and adjudicate complaints. There is an inherent tension between the role of the Election Commission as the institution that administers elections and the body that receives and adjudicates complaints. To avoid the politicisation of the complaints process, a new institution, perhaps in the form of an Electoral Court, should be established and equipped with much greater investigative resources that are currently at the disposal of the ECN. Irrespective of whether a new institution is created, the number and capacity of Monitoring Teams should be dramatically increased.
2. Fully enforce the Code of Conduct. The CoC was seen as a guide to political parties and others as to what activities were permitted, with the ECN strenuously demanding that it be abided by. To ensure full compliance, however, the CoC must be fully implemented and sanctions imposed against those who violate it.
3. Initiate action against those violating the election law even when a formal complaint has not been received from the aggrieved party. In many cases, the victims of election-related crimes either do not know how to make to complain or are too intimidated to do so, in which case the ECN should act upon information received from other sources to investigate and charge violators.
4. In politically sensitive constituencies consider assigning Returning and Polling Officers to work outside of their home districts to reduce the fear they may feel in confronting those who violate the election law.

5. Promote understanding and trust in the adjudication of complaints by proactively releasing details of key decisions taken on repolling and serious violations of election law.
6. Clearly define in the law the decision-making process within the Election Commission, specifying whether decisions should be taken by consensus, by majority vote, or unanimously.
7. If aggrieved, political parties should consistently submit formal written complaints to the ECT and not rely solely upon verbal complaints or those made in the media.

### **Election day and polling procedures**

1. Prohibit political party representatives from assisting in voter identification outside of polling stations and rely only on polling officials to rigorously assess the identity of voters. Parties should not be allowed to set up stalls or desks of any kind on election day.
2. If doubt exists over whether a voter is eligible or not, polling staff should demand appropriate documentation as proof of identity. This should be particularly applied to those who appear to be children.
3. First-the-past ballot papers should have the names of candidates marked on them. Doing so would provide greater transparency to the voter and help reduce the number of invalid ballots. PR ballots should have the names of parties marked on them.
4. The law prohibiting unauthorized persons from entering polling stations should be rigorously enforced by security forces at the request of the polling officer.

5. Strongly monitor the wider election environment for incidents of violence, intimidation, and campaigning by dedicating more security forces and election officials to areas away from polling stations.
6. Special transport provisions to and from polling stations should be made for the disabled, elderly, sickly, pregnant, and others whose mobility is limited.
7. Polling booths should be set up such that the secrecy of the vote is more strongly protected.
8. Prevent abuse of those claiming to provide “assistance” to voters inside the polling station by placing a limit on how many times one person may serve as an assistor.
9. Issue both FPTP and PR ballot papers at the same time.
10. Allow voters to cast tendered ballots if necessary.
11. Introduce stronger safeguards to prevent the potential abuse of unused ballot papers such as by punching holes in them or marking them with an ‘unused’ stamp.
12. Train polling staff in advance of election day rather than on the morning of election day before the polls open.
13. Use larger ballot boxes or fold ballot papers before handing them to voters. Stuffing an excessive number of ballots into a small box risks damaging and thus invalidating them.
14. All campaign materials should be cleared from inside polling stations and areas around them. This should include party symbols on clothing etc.

## Counting

1. Start counting at district centres as soon as ballot boxes arrive to speed up the process, and to minimise possible disruption of counting if a single ballot box does not arrive.
2. Provide greater training for counting officials particularly on procedures when ballot boxes first arrive at counting centres such as the reconciliation of the number of ballot papers with the number of voters. The manner in which ballots are counted should not vary between counting centres.
3. Strengthen oversight of the counting process by clearly displaying large counting and tabulation sheets inside and outside of counting centres.
4. Consider allowing fingerprints and other such marks on ballot papers as a valid expression of a voter's intention.
5. Introduce a rotation system for counting officials (e.g. three shifts of eight hours per day) to ease the burden on staff and ensure the highest level of performance at all times. Consideration should also be given to increasing the number of persons assisting throughout the counting process, particularly during the initial phase of counting when ballot boxes begin to arrive.

## **Voter education**

1. Strengthening monitoring of Voter Education Volunteers (VEVs) to verify that all VDCs have been visited.
2. Offer greater logistical and security support to VEVs so that they can more easily visit remote and/or sensitive VDCs.
3. Intensify use of broadcast media, particularly radio.
4. Allow for more time to conduct voter education, particularly if a complex electoral system is retained.
5. Plan the timing of VEV visits to maximise the number of people reached, where possible avoiding times when large numbers of people are working.
6. Widen the use of creative means of voter education such as street theatre.
7. Strengthen coordination and informing sharing between VEV stakeholders by introducing regular meetings chaired by the ECN.
8. Integrate civic and voter education into the school curriculum.

## **Participation**

1. Rank proportional representation (PR) candidates in an open list so that voters can clearly see who their representatives may be.
2. Amend the definition of “other groups” in the quota for PR lists to exclude elite groups and only include “oppressed groups”, as the quota was originally intended.

3. Retain quotas for women in PR lists and complement them with dedicated programmes to support the work of women in the CA and increase the participation of women in the leadership of political parties.
4. Consider lowering or abolishing the threshold that allows smaller parties to exempt themselves from abiding by quotas for traditionally marginalised groups.
5. Extend the rights of temporary voters such as prisoners to vote in the FPTP as well as PR race.
6. Political parties should allow for party members to exercise a governing role and have input into the selection of candidates. The Bill on Political Parties sitting with parliament should be amended to improve the internal democracy of parties, at a minimum mandating that a party's executive committee should be elected and not selected by the party leader.
7. Make special provisions to register Internally Displaced Persons (IDPs) and allow them to vote, considering their displacement from their home districts and a possible loss of identity documents

## **Media**

1. The media should adhere to the standards of political neutrality outlined in the Code of Conduct and strive to report accurately, particularly with cases involving conflict or violence.
2. Enforce the requirements of the Code of Conduct that demand unbiased coverage. If a media outlet fails to abide by directives issued by the ECN, sanctions should be issued against them.
3. Hold the Minister of Information & Communications accountable for any biased coverage on state media.

## Observation

1. Local observer groups should build on coordination mechanisms set up for the CA election to increase coordination on deployment and sharing of information for future elections.
2. Local observer groups should strengthen background checks on observers to ensure they do not have any political bias.
3. Consider allowing local observer groups sufficient vehicle passes during election day.
4. All observer groups should meet the requirements set out by the ECN, including the timely submission of reports.
5. Broaden the training given to observers to include the submission of complaints to the ECN.
6. Maintain observer programmes that focus specifically on election-related violence and consider introducing a programme to monitor money politics.
7. Widen political party agent training programmes to include all parties, including the CPN-M.



## Annex 1

### ANFREL Mission timetable for CA election

Date	Activities
February 22	Secretariat team arrive in KTM
March 10	LTOs arrive in KTM
March 11 – 13	LTO briefing and training
March 14	Deployment of LTOs
March 21	First LTO report deadline
March 26	Second LTO report deadline LTOs arrive for mid-term evaluation
March 27-28	Mid-term evaluation
March 29	Re-deployment of LTOs to districts
March 31	Issue statement and hold press conference on pre-election environment
April 3	STOs arrive in Kathmandu
April 4-5	STO briefing and training
April 6	Deployment of STOs
April 6	Third LTO report deadline
April 9	STO/LTO pre-election report deadline
<b>April 10</b>	<b>ELECTION DAY</b>
April 11	All STOs and 10 LTOs return to KTM
April 11	De-briefing
April 12	Post-election press conference and release of preliminary report
April 14	All STOs and 10 LTOs leave the country
April 19	Remaining 10 LTOs return to KTM
April 20	LTO debriefing
April 21	Remaining LTOs leave the country
April 24	Release of post-election report on counting, repolling, and complaints
April 27	Secretariat team leave the country

### **Profile of ANFREL senior team of observers**

#### **CHIEF OBSERVER**

**General Saiyud Kerdphol (Retd)**(Thailand) is former Supreme Commander of the Royal Thai Army. Now retired, he helps organise volunteer citizen groups for observing and monitoring elections in Thailand. He has been the Chairman of ANFREL since 1997 and is also the Chair of People's Network for Democracy (P-Net) in Thailand and a Vice Chair of Poll Watch Foundation. He has been campaigning for democracy and for free and fair elections in the region for more than 10 years and encourages militaries to step back to their barracks and to stay away from politics. He has led ANFREL missions to Cambodia, Indonesia, Malaysia, East Timor, Bangladesh, Pakistan, and Sri Lanka, amongst other Asian countries.

#### **DEPUTY CHIEF OBSERVER and SPOKESPERSON**

**Mr. Damaso G. Magbual** (Philippines) is a retired corporate executive and a former professor of Philosophy and Political Science at St. Louis University in the Philippines. Presently, he is a member of the National Council of the National Citizens' Movement for Free Elections. He has served as resource speaker, trainer and consultant on election monitoring, electoral systems and administration in more than a dozen countries since 1987. He has written a number of articles on election monitoring; observed several elections in Asia, Europe and the United States. He is a past chapter president of the Philippine Jaycees and a past president of the Rotary Club of Makati-Legazpi.

#### **SENIOR OBSERVER**

**Mr. Kingsley Rodrigo** (Sri Lanka) is the Secretary General of ANFREL and the Chair of the People's Action for Free and Fair Elections (PAFFREL) in Sri Lanka. He is a committee member of the National Commission against the Proliferation of Illicit Small Arms in Sri Lanka. Kingsley has led observation missions and electoral assessment teams to many Asian countries.

### **SENIOR OBSERVER**

**Mr. Koul Panha** (Cambodia) is Executive Director of the Committee for Free and Fair Elections in Cambodia (COMFREL), a leading Cambodian local election monitoring NGO, and a board member of ANFREL. He was a representative for ANFREL at the endorsement of The Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers, commemorated on October 27, 2005 at the United Nations, New York.

### **SENIOR OBSERVER**

**Prof. Nobuhiko Suto** (Japan) is a Professor at Tokai University engaged in the study of democracy in Asia. He has worked in crisis management, peace building and promotion of democracy in countries like Rwanda, Bosnia, Haiti, Iraq and Afghanistan. He represents the Japanese NGO InterBand, which worked together with ANFREL in Cambodia, East-Timor, Indonesia, Sri Lanka, and Pakistan.

### **SENIOR OBSERVER**

**Mr. Sakool Zuesongdham** (Thailand) is an executive committee member of ANFREL and a board member of the Poll Watch Foundation in Thailand. Mr. Sakool has worked previously with the Election Commission of Thailand's Bangkok division for four years. He is the Chair of Arom Pongpangan Foundation, an organisation working for the rights of workers and trade unions.

### **SENIOR OBSERVER**

**Mr. Tomas Do Rosario Cabral** (East Timor) is Director of the Technical Secretariat for Electoral Administration (STAE) in Timor Leste. STAE functions under the Ministry for State Administration and is the government agency responsible for the administration, organization and execution of elections.

## SENIOR OBSERVER

**Ms. Somsri Hananuntasuk** (Thailand) is the Executive Director for ANFREL and the former Chair of Amnesty International, Thailand. She has observed elections in more than 15 countries in Asia and has organized about 30 missions for more than 1000 international observers to be deployed in different parts of Asia. She also serves as a member of the sub-committee for Prisoners and Juveniles Detainees of the National Human Rights Commission and as a board member for the Campaign Committee for Human Rights in Thailand. She is also a board member of the Thai Action Committee for Democracy in Burma (TACDB) and a coordinator for the Peace for Burma coalition in Thailand.

### Results from voter survey

Pre-Election Voter Survey			NATIONAL					RURAL %	URBAN %
			♂ as % of total	♀ as % of total	Total	under 30 as % of total	over 30 as % of total		
1	Generally speaking, do you think things in Nepal are going in the right direction, or do you think they are going in the wrong direction?	Right direction	31%	37%	68%	34%	35%	66%	75%
		Wrong direction	4%	5%	9%	5%	5%	9%	11%
		Don't know / refused	14%	8%	23%	12%	11%	25%	15%
2	There will be an election in Nepal next month on April 10. Do you know what the election is for?	To elect a parliament, new government, etc.	4%	4%	7%	3%	4%	4%	16%

		To elect a constituent assembly, make a constitution, etc.	23%	34%	57%	29%	28%	55%	64%
		Both parliament and constitution	7%	4%	12%	6%	6%	11%	13%
		Don't know / refused	15%	9%	24%	12%	13%	30%	7%
3	The campaigns for the election have already started. Do you feel you already have enough information about the plans and policies of the candidates and parties competing to make an informed decision on election day?	Yes	14%	21%	35%	15%	19%	31%	46%
		No	23%	21%	44%	23%	21%	44%	43%
		Don't know / refused	13%	9%	21%	12%	9%	25%	11%
4	Do you think that these elections can lead to improvement in the future, or do you believe that no matter how one votes, things probably will not change?	Vote can change things	33%	37%	70%	36%	34%	68%	75%
		Things are not going to get better	8%	9%	16%	7%	9%	15%	21%
		Don't know	9%	5%	14%	8%	6%	17%	4%

5	I do not want to know whom you will vote for. But tell me: do you think you will vote in the election next month?	Yes	44%	46%	90%	44%	46%	92%	84%
		No	4%	4%	8%	5%	3%	7%	12%
		DK	2%	0%	2%	1%	1%	1%	4%
6	What is the most important reason why you may not vote?	Not registered	21%	7%	28%	24%	3%	28%	27%
		Fear of trouble / violence / intimidation	0%	3%	3%	3%	0%	0%	9%
		Didn't like any party / candidate	7%	3%	10%	3%	7%	6%	18%
		No interest/my vote or the election won't make a difference	10%	10%	21%	14%	7%	22%	18%
		No time / too busy working	7%	14%	21%	10%	10%	22%	18%
		Other / Don't know / refused	14%	3%	17%	10%	7%	22%	9%
7	Do you think that most people in your area view the Election Commission of Nepal as usually neutral and unbiased in performing its work, sometimes biased, or often biased?	Usually neutral	24%	31%	55%	26%	29%	53%	60%
		Sometimes biased	5%	3%	8%	5%	3%	5%	14%
		Often biased	1%	2%	2%	1%	1%	2%	3%
		Don't Know / refused	20%	14%	35%	18%	17%	39%	23%

8	In some areas there are concerns that some political parties or candidates may try to buy votes with money or gifts. Do you think that is likely in this area?	Yes, likely,	9%	17%	26%	11%	15%	17%	46%
		No, not likely	0%	43%	43%	48%	50%	47%	35%
		Don't know / refused	14%	17%	31%	17%	13%	36%	19%
9	Do you think that all political parties and candidates, even the ones most people do not like, should be allowed to campaign in your area?	Yes	39%	38%	77%	37%	40%	76%	82%
		No	8%	10%	18%	9%	9%	18%	17%
		Don't know / refused	3%	2%	5%	4%	1%	6%	1%
10	Suppose a friend of yours supported a party or candidate that most people did not like. Would you accept that, or would it end your friendship?	Would accept it	41%	38%	78%	38%	40%	77%	82%
		Would end friendship	7%	11%	18%	10%	8%	19%	16%
		Don't know / refused	2%	1%	4%	2%	2%	4%	3%
11	Do people feel free to express their political opinions in the area where you live?	Yes	40%	40%	79%	40%	40%	77%	86%
		No	5%	7%	13%	6%	6%	14%	10%
		Don't know / refused	5%	3%	8%	4%	4%	9%	4%
12	When women vote, do you think they should decide for themselves, or should they receive advice from their father or husband?	Women should decide for themselves	41%	43%	84%	42%	42%	83%	88%
		Men should advise them	7%	6%	13%	6%	7%	14%	9%
		Don't know	1%	1%	3%	2%	1%	3%	3%

13	Some people think the elections next month will be free and fair, some think it will not be free and fair, and some are not sure. How about you?	Free and fair	25%	23%	48%	25%	23%	50%	43%
		Not free and fair	7%	12%	20%	8%	12%	14%	35%
		Not sure / no response	18%	15%	32%	16%	16%	36%	22%
14	Do you think that there may be election-related violence in the campaigns or on election day in this area?	Yes, likely	13%	15%	28%	15%	13%	25%	39%
		No, probably not	20%	24%	44%	21%	22%	43%	44%
		Don't know	17%	11%	28%	13%	15%	32%	17%
15	How concerned are you that you or someone in your family will be a victim of election-related violence in April 10 election: a lot; a little; not much; not at all?	a lot	5%	6%	10%	5%	5%	8%	16%
		a little	9%	9%	18%	7%	11%	14%	30%
		not much	6%	7%	13%	6%	7%	13%	14%
		not at all	22%	21%	44%	21%	22%	47%	35%
		don't know	7%	8%	15%	10%	5%	18%	5%



## **Annex 4**

### **Reporting templates**

#### ***LTO PRE-ELECTION REPORT TEMPLATE***

For all questions, please mark yes/no and write a narrative explanation, using examples where appropriate.

### **Summary**

#### **Political context**

#### **Campaign environment**

	<b>Yes / No</b>
Are political parties and candidates able to campaign freely without fear and intimidation?	
Are parties / candidates / party cadres using threats or violence to influence voters' choices?	
Are parties and candidates abiding by the code of conduct and election law on campaigning?	
Have the parties recruited and trained party agents district-wide?	
Are there any constraints on the participation of women as candidates or in voting?	
Are any 'smear' or 'black' campaigns being run to discredit other parties or candidates?	

### **Security**

	<b>Yes / No</b>
Is the overall security situation conducive to holding a free and fair election?	
Are security agencies (Nepali Police, Armed Police Force) trusted by the population to secure a safe election environment?	
Are new police recruits perceived to be competent and politically neutral?	

### **Voter views**

	<b>Yes / No</b>
Do voters understand what a Constituent Assembly is?	
Do voters understand the electoral system?	
Do voters feel they know enough about rules for voting to be able to cast their ballots on election day without making a mistake?	
Do voter know where to vote?	
Do voters feel able to reach the polling station without a vehicle?	
Do ordinary citizens have freedom of association, speech, and movement?	
Have voters received any voter education?	
Are there eligible voters who are not on the voter roll?	

### **Election Administration**

	<b>Yes / No</b>
Are election officials able to work without fear and intimidation?	
Have the election officials in your area received most or all of the equipment and materials they will need for the election?	
Are election officials at all levels well-trained and well organized to conduct the election?	
Is the EC perceived as neutral and unbiased by voters, political parties and candidates?	
Have complaints been filed with the EC?	
Has the EC investigated and resolved any complaints?	
Are the EC monitoring teams successful in monitoring whether the code of conduct and election law is being followed?	
Have any special preparations been made for vulnerable groups on election day (elderly, pregnant women, etc)?	
Are polling stations located in a neutral place?	

**Government officials / civil servants**

	Yes / No
Are government officials (e.g. CDOs) perceived as politically neutral?	
Is the government following the code of conduct (i.e. is any government property used for campaigning? Have any local projects or grants been announced? Have any civil servants been transferred?)?	

**Other observation/monitoring groups**

	Yes / No
Are domestic observers active in monitoring the pre-election environment?	
Are domestic observers perceived as politically neutral?	
Are local NGOs active in voter education?	

**Other issues**

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## **STO PRE-ELECTION REPORT TEMPLATE**

<b>No</b>	<b>Pre-Election Environment Assessment Checklist</b>	<b>Yes</b>	<b>No</b>
1	Are political parties and candidates free to organize and to recruit new members?		
2	Are parties and candidates free to assemble and conduct activities?		
3	Do ordinary citizens have freedom of association, speech, and movement?		
4	Do people have adequate access to information on the platforms and policies of the parties and candidates so that they can make an informed choice on election day?		
5	Do people have sufficient knowledge of the electoral processes (how and where to register, complain, and vote) to participate effectively in the election process?		
6	Are election-related complaints appropriately resolved?		
7	Are the local election officers well-trained and qualified to effectively fulfill their duties?		
8	Has the local election administration received the materials and support needed to conduct the elections?		
9	Are election officials perceived as neutral administrators of the electoral process?		
10	Was campaigning done in a fair and peaceful way?		
11	Is the security environment conducive to a free and fair election?		
12	Were all campaigns conducted without the unfair use of government facilities or resources by incumbents or others?		
13	Did any parties or candidates try to buy votes with money or gifts?		
14	Did any parties or candidates use threats or violence to influence voters' choices or to intimidate them from casting a vote on election day?		
15	Are parties abiding by the 48 hour cooling off period?		

Give details of any violations, unusual occurrences, or irregularities that you observed prior to election day:

## ***ELECTION DAY NARRATIVE REPORT***

### Overall Assessment of the Polling Processes

Instructions for this Section: Put an “X” next to the statement that best describes your assessment of the election environment and polling process for the area you observed. If your response is “poor” or “very poor”, please provide further explanation in the comment section”

	Very Good – no incidents or irregularities were observed.
	Good – a few incidents or irregularities were observed that had no significant effect on the integrity of the process.
	Average – many incidents or irregularities were observed that had no significant effect on the integrity of the process.
	Poor - incidents or irregularities were observed that could have significantly affected the integrity of the process.
	Very Poor - incidents or irregularities occurred which so affected the integrity of the process as to render the results from one or more polling centers invalid.

Give details of any violations, unusual occurrences, or irregularities that occurred at your polling centre:

Nepal CA Counting Observation Form					
Observer Name:		District:			
		Constituency:			
Instructions		Counting Station No:			
Read the questions carefully. Put an "x" in the appropriate box. If you cannot answer the question, or it is not relevant, leave it blank. If violations or irregularities occurred, please briefly explain them in the comment section on the back of the form.					
Counting Process		Constituency No.		Constituency No.	
		Yes	No	Yes	No
1	Did the Returning Officer announce in advance the date, time and place for counting?				
2	Were all ballot boxes for the constituency received before counting started?				
3	Was the total number of boxes counted equal to the number of polling stations in the constituency?				
4	Were any of the ballot boxes opened or damaged?				
5	Were the seals still intact and did the number correspond to the documentation?				
6	Have any boxes been put aside because of suspicious breakage or mismatching sequence numbers?				
7	Were ballots from two or more ballot boxes mixed together before counting started?				
8	Were the constituency ballots counted first (if there is insufficient space to count both simultaneously)?				
9	To the best of your knowledge has counting been conducted in a continuous process 24 hours a day?				
10	Were observers and party agents able to observe the entire counting process?				
11	Were party agents and observers allowed to independently record the				

	election results?				
12	Were invalid ballots considered valid, or valid ballots considered invalid?				
13	Were the votes accurately recorded?				
14	Were there any party agents present who were not willing to sign the Vote Count Certificate?				
15	Were the used, unused, and spoiled ballots properly reconciled?				
	<b>Overall Assessment of the Counting Processes</b>				
	<u>Instructions for this Section:</u> Put an "X" next to the statement that best describes your assessment of the election environment and counting process for the area you observed. If your response is "poor" or "very poor", please provide further explanation in the comment section.				
	<b>Very Good</b> – no incidents or irregularities were observed.				
	<b>Good</b> – a few incidents or irregularities were observed that had no significant effect on the integrity of the process.				
	<b>Average</b> – many incidents or irregularities were observed that had no significant effect on the integrity of the process.				
	<b>Poor</b> - incidents or irregularities were observed that could have significantly affected the integrity of the process.				
	<b>Very Poor</b> - incidents or irregularities occurred which so affected the integrity of the process as to render the results from one or more counting centers invalid.				

## ***LTO POST-ELECTION REPORT TEMPLATE***

### **Political context**

#### **Counting/Polling/Re-polling**

	<b>Yes / No</b>
Is there any re-polling in this area (if yes, please be specific about the reasons why)?	
Are there any irregularities inside the counting centre? (if yes, please be specific about the irregularities)	
Are there any irregularities outside the counting centre?	
Have any ballot boxes been quarantined?	

#### **Political parties**

	<b>Yes / No</b>
Generally speaking do the <b>political parties</b> feel the election was free and fair?	
Did the political parties in your area file any formal complaints with the EC? (please get specifics if parties have filed complaints – i.e. the number of complaints, the nature of complaints)	
Are the parties willing to work together to form a constituent assembly?	

#### **Security**

	<b>Yes / No</b>
Has there been post-election violence or intimidation in your area?	



### Voter views

	Yes /No
Does the <b>public</b> feel that the election was free and fair? (make sure that you speak to a broad cross-section of people, not just supporters of one party)	
Do people believe the results of the elections will lead to improvement in the future?	

### Election Administration – Complaints procedure

	Yes / No
Is the EC properly investigating and responding to complaints made by political parties and others about incidents on election day?	
What difficulties have the EC faced in investigating complaints?	n/a
Is the EC monitoring/investigating team active?	
Has the District EC issued any punishments any time in the election process for violations of the Code of Conduct?	
What lessons have District Election Officers learnt from this election and what would they do differently in the future?	n/a

### Observation groups

	Yes / No
Do other election monitoring organisations (both local <i>and</i> international organisations) believe that the election in your area was free and fair?	
What would local election monitoring organisations (e.g. NEOC, NEMA, DEAN) do in the future to improve their observation?	n/a
Do local election monitoring organisations believe that the Election Commission is responding well to complaints?	

## Annex 5

### LTO briefing schedule

Date/Time	Agenda	Speaker
<b>Day 1 (11<sup>th</sup> March)</b>		
8:45 – 10:00	Welcome to observers Introduction to local partners Observer introductions Introduction to ANFREL team	The Asia Foundation (TAF) National Election Observation Committee (NEOC); National Election Monitoring Alliance (NEMA) ANFREL
10:00 – 10:15	<i>Break</i>	
10:15 – 10:45	Mission Overview	ANFREL
10:45 – 11:15	Political/election basics	ANFREL
11:15 – 12:15	Introduction to Nepali politics	Dr. Gopal, NEOC
12:15 – 13:15	<i>Lunch</i>	
13:15 – 14:15	CA elections in Nepal – an international perspective	Sagar Prasai, TAF
14:15 – 15:15	Security arrangements for poll	Gupta Bahadur Shrestha, Superintendent of the Nepali Police
15:15 – 15:30	<i>Break</i>	
15:30 – 16:30	Security situation / pointers What to do in an emergency	Ashok Rana and Desmond Charles, UNDP Security
16:30 – 17:30	Media environment	Kunda Dixit, Nepali Times
17:30 – 17:45	<i>Break</i>	
17:45 – 18:30	Gender perspective on election	Sapana Pradhan Malla, Forum for Women, Law and Development
18:30 – 20:00	<i>Dinner / rest</i>	
20:00 – 21:00	Regional Coordinator briefing	ANFREL
<b>Day 2 (12<sup>th</sup> March)</b>		
08:30 – 09:00	Role of Election Commission	Durba Dhakal, Joint Secretary, Election Commission of Nepal Raju Man Singh Malla, Joint
09:00 – 11:00	Election law and code of conduct	

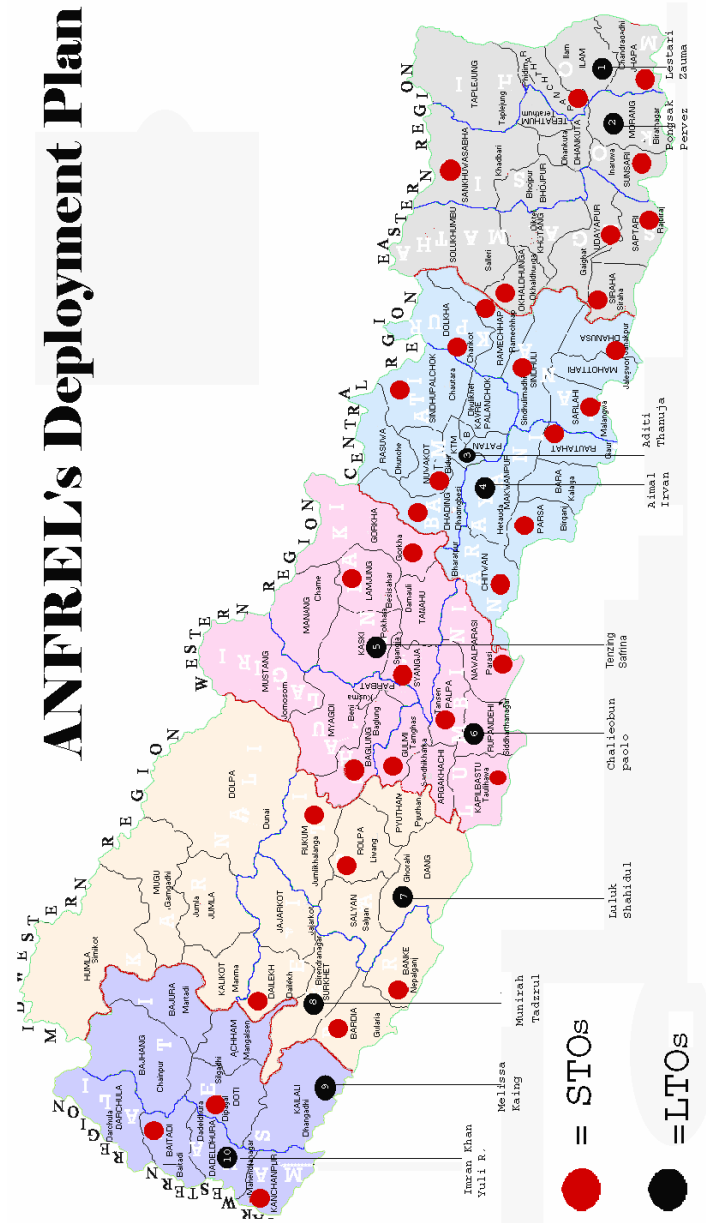
11:00 – 11:15	<i>Break</i>	Secretary, Election Commission of Nepal Fernanda Lopes, UNDP
11:15 – 11:45	Polling procedures summary	
11:45 – 12:45	<i>Lunch</i>	
12:45 – 14:15	UNMIN's role Electoral preparations	Dr. Fida Nasrallah, UNMIN
14:15 – 16:00	NEOC / NEMA observation plans Challenges to a free and fair election in Nepal and electoral malpractices	Dr. Gopal, NEOC, Mr. Pradip Ghimire, NEMA
16:00 – 16:15	<i>Break</i>	
16:15 – 17:15	Carter Center presentation	Darren Nance, The Carter Center
17:15 – 19:00	Deployment plan	ANFREL
Day 3 (13 <sup>th</sup> March)		
08:30 – 09:30	Observation methodology	ANFREL, TAF
09:30 – 10:00	ANFREL observer code of conduct	ANFREL, TAF
10:00 – 10:15	<i>Break</i>	
11:15 – 12:00	Reporting format and system	ANFREL, TAF
12:00 – 13:00	Checklist / voter questionnaire	TAF, ANFREL
13:00 – 14:00	<i>Lunch</i>	
14:00 – 15:30	*PRESS CONFERENCE*	
15:30 – 16:30	Interview technique	Somsri Hananuntasuk
16:30 – 17:00	Media relations	ANFREL
17:00 – 17:20	<i>Break</i>	
17:20 – 18:30	Logistics	
18:30 – 20:00	<i>Dinner</i>	
20:00 – 20:30	Logistics	Ichal Supriadi
20:30 – 21:30	Finances	Ichal Supriadi

## STO briefing schedule

Date/Time	Agenda	Speaker
<b>4 April (Friday)</b>		
9:00 – 10:00	Opening session – welcome to observers	-Mr. Bhoj Raj Pokharel, Chief Election Commissioner -Mr. Ian Martin, SRSG (UNMIN) -Mr. Surya Prasad Shrestha, Chairperson, NEOC -Mr. Taranath Dahal, Co-convenor, NEMA -Mr. Nick Langton, Director, The Asia Foundation -General Saiyud Kerdphol, Chairman, ANFREL
10:00 – 10:15	<i>Break</i>	
10:15 – 10:45	Mission Overview	ANFREL (Ichal Supriadi)
10:45 – 11:30	Recent political history	Dr. Gopal Siwakoti, NEOC
11:30 – 12:30	Complexities and Exhilaration of the Nepali Political Process	Mr. Kanak Dixit, Editor of Himal magazine and Professor Bhagawan Ratna Tuladhar
12:30 – 13:30	<i>Lunch</i>	
13:30 – 14:15	CA elections in Nepal	Mr. Stephen Beale, Deputy UNMIN Electoral Assistance Office
14:15 – 15:15	Nepali Political Parties	Mr. Dominic Cardy, NDI
15:15 – 15:30	<i>Break</i>	
15:30 – 16:30	Role of Election Commission Election law and Code of Conduct Election preparations	Mr. Raju Man Singh Malla, Joint-Secretary Election Commission of Nepal
16:30 – 17:30	Election Day: opening, polling, and closing Security arrangements	Ms Fernanda Abreu Lopes, Electoral Observation Resource Centre
17:30 - 17:45	<i>Break</i>	
17:45 – 18:30	Security Situation in Nepal: Overview and Key Stakeholders	Mr. Desmond Charles, United Nations Department of Safety and Security

18:30 – 19:30	Election-related violence and intimidation	Mr. Subhadayak Shah, Democracy and Election Alliance Nepal
<b>Day 2 - 5<sup>th</sup> April</b>		
08:45 – 9:30	Potential problems on election day	Dr. Gopal Siwakoti, NEOC
09:30 – 10:00	Security	ANFREL (Ichal Supriadi)
10:00 – 10:15	<i>Break</i>	
10:15 – 10:45	Interview Techniques and Code of Conduct	ANFREL (Somsri Hananuntasuk)
10:45 – 12:00	Electronic Voting Machine	Election Commission
12:00 – 13:00	<i>Lunch</i>	
13:00 – 13:45	Politics of the marginalized groups	ANFREL (Ali Saleem)
13:45 – 14:15	Observation methodology – what to do on the ground	ANFREL (Ichal Supriadi)
14:15 – 14:30	<i>Break</i>	
14:30 – 15:15	Submitting reports	ANFREL (Adam Cooper and Cathy Shin)
15:15 – 17:00	Observation manual Pre-election checklist Election day checklist	Mr. Tim Meisburger, TAF
17:00 – 17:30	<i>Break</i>	
17:30 – 19:30	Deployment logistics and Finance	ANFREL (Ichal Supriadi)

# ANFREL's Deployment Plan



## Annex 7

### Observer names and deployment location

REG	#	District	Observer			Position
EASTERN	1	Jhapa	Nasiruddin Elan	Odhikar	Bangladesh	STO
			Tri Hastuti Nur	JPPR	Indonesia	STO
	2	Panchthar	Joseph William	PAFFREL	Sri Lanka	STO
			Ana Maria. Ciriaco	PPCRV	Sri Lanka	STO
	3	Sankhuwasaba	Natalia Warrat	TAF	Indonesia	STO
			Say Sara Vathany	COMFREL	Cambodia	STO
	4	Sunsari	Arshaad Mehmood	-	Pakistan	STO
			Sukhgerel .Dugersuren	WSP	Mongolia	STO
	5	Udaypur (Gaighat)	Omar Farouk	Hiroshima Univ	Japan	STO
			Rona Jaimero	NAMFREL	Philippine	STO
	6	Saptari	Amin Iskandar	NIEI	Malaysia	STO
			W.C.Hemalaya	PAFFREL	Sri Lanka	STO
	7	Okhaldhunga	Kwanravee Wangudom	AI - Thailand	Thailand	STO
			Prinya Thaewanarumitkul	Thammasat Univ.	Thailand	STO
CENTRAL	9	Jhapa, Panchar	Lestari Nurhajati	KIPP	Indonesia	LTO
			Zauma Lahtaw	Shalom	Burma	LTO
	8	Siraha, Sarlahi	Pongsak Chanon	ANFREL	Thailand	LTO
			Md. Masud. Parves	FEMA	Bangladesh	LTO
	10	KTM-1 (Kathmandu)	Gen. Saiyud Kerdphol	ANFREL	Thailand	Head of Mission
			Eva Maria. Marquisa	ANFREL	Germany	STO
	11	KTM-2	Damaso Magbual	ANFREL	Philippine	Deputy Head of Mission
			Tomas Cabral	STAE	Timor Leste	STO
	12	KTM-3 (Kathmandu)	Kingsley Rodrigo	ANFREL	Sri Lanka	STO
			Nurul Larasati	SCTV	Indonesia	(STO)
	13	KTM-4 - (Lalitpur)	Saolak Chakwiewattanakul	TPBS	Thailand	(STO)
			Mr. Wichian. Bonjaeng	TPBS	Thailand	(STO)
	14	KTM-5 (Bhaktapur)	Chatchawan Rakchat	ANFREL	Thailand	STO
			Sakool Zuesongdham	ANFREL	Thailand	STO
			Wu Chung Te	Citizens Congress Watch		STO
	15	KTM-6	Ali Saleem	Volunteer	Pakistan	STO
			Teresinha MN Cardoso	CNE	Timor Leste	STO
	16	KTM 7	Tome Xavier	CNE	Timor Leste	STO
			Deolindo Dos Santos	CNE	Timor Leste	STO
	17	KTM-7	Adhiti Bahaduri	Independent	India	Media Officer
			Vidana.G.D Thanuja	PAFFREL	Srilanka	LTO

WESTERN	18	Nuwakot	Mr. Syed Jaymal Zahid	Malaysiakini	Malaysia	STO
			Ms. Agni Baljinyan	WSP	Mongolia	STO
	19	Dhading	Prof. Nobuhiko Suto	Interband	Japan	STO
			Ms. Afreena Noor	FAFEN	Pakistan	STO
	20	Sindhupalchok	Sanjay V Gathia	ANFREL	India	STO
			Sirirak Preedametawong	ANFREL	Thailand	STO
	21	Dolakha	Yunus Ali	NIEI	Malaysia	STO
			Chaterine Musuva	EISA	Kenya	STO
	22	Sindhuli	Nimal G. Gunatileke	PAFFREL	Sri Lanka	STO
			Kazumi Abe	Interband	Japan	STO
	23	Ramechap	Hang Puthea	NICFEC	Cambodia	STO
			Lily Zang	Raajje Found	Australia	STO
	24	Dhanusha	Chan Shwe Debby	TACDB	Hong Kong	STO
			Sok Sam Oeun	COMFREL	Cambodia	STO
	25	Sarlahi (Mobile team)	Aiman Rasheed	Transparency	Maldives	STO
			Adriyani Utari	KIPP	Indonesia	STO
	26	Parsa (Birgunj)	Moh. Basher	FEFA	Afghanistan	STO
			Lalaine Mapril Apugan	IPER	Philippine	STO
	27	Rautahat (Gaur)	Abd. Mahzoon	Transparency	Maldives	STO
			Nawamohana Kumari. I	PAFFREL	Sri Lanka	STO
	28	Chitwan	Sri Sugiarti	Volunteer	Indonesia	STO
			Thangamutu Jayasingam	PAFFREL	Sri Lanka	STO
	29	Makwanpur	Aimal Khan	SDPI	Pakistan	LTO
			Irvan Mawardi	JPPR	Indonesia	LTO
	30	Lamjung	Koul Panha	COMFREL	Cambodia	STO
			Masoma Amiri	FEFA	Afghanistan	STO
	31	Tanahu	Shahadat Hossain Helu	FEMA	Bangladesh	STO
			Eun Ha Cha	PSPD	South Korea	STO
	32	Baglung or Myagdi (Beni)	Taskin Fahmina	Odhikar	Bangladesh	STO
			Stephenson Chow	HKHRC	Hong Kong	STO
	33	Kaski (Pokhara)	Innes Martins	KOMEG	Timor Leste	STO
			Julieta Ferreira	Women Caucus	Timor Leste	STO
	34	Parasi	Mar Sophal	COMFREL	Cambodia	STO
			Marie G Faylona	TAF	Philippine	STO
	35	Kapilbastu	Thanapol Sukpan	P-Net	Thailand	STO
			Laddawan Tantivitayapitak	ANFREL	Thailand	STO
	36	Gulmi (Tansen)	Millindi Ilangisihe	Volunteer	Australia	STO
			Hina Ambreen Syed	FAFEN	Pakistan	STO
	37	Arghakanci	Muh. Naveed	FAFEN	Pakistan	STO
			Sumanthi Savitri. P	Volunteer	Sri Lanka	STO
	38	Gorkha	Tenzing Paljor	Volunteer	India	LTO
			Safrina	KIPP	Indonesia	LTO
	39	Rupandehi	Paolo Maligaya	NAMFREL	Philippines	LTO
			Compunut Chalieobun	Volunteer	Thailand	LTO



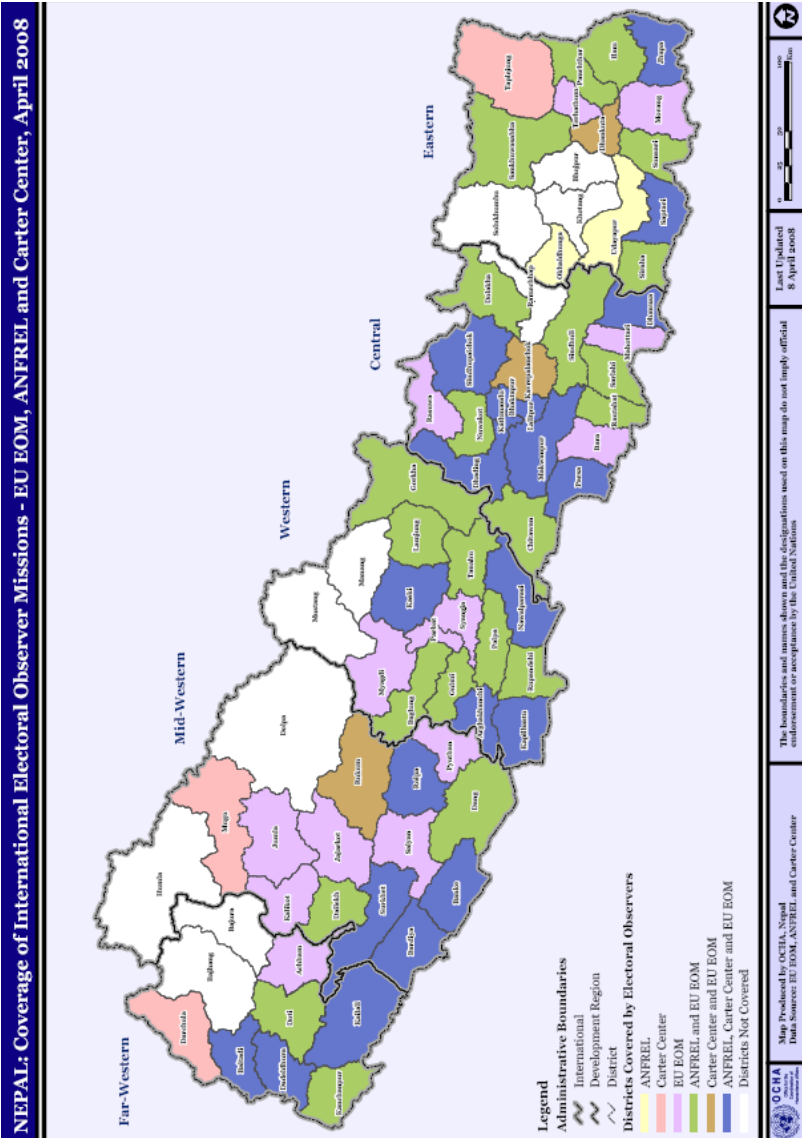
MID WESTERN	40	Dailekh	Ali Pahl	NPF	Pakistan	STO
			Md Korban Ali	Odhikar	Bangladesh	STO
	41	Bardiya	Dee La	Shalom	Burma	STO
			Molline D.Pallieres	Volunteer	Cambodia	STO
	42	Rolpa	Sardar Zeb	HRCP	pakistan	STO
			Shin S. Hwan	Volunteer	South Korea	STO
	43	Banke	Marc Livsey	Volunteer	Australia	STO
			Nittaya.W	Lawyer	Thailand	STO
FAR WESTERN	44	Surkhet	Tadzrul Adha	NIEI	Malaysia	LTO
			Munirah H	NIEI	Malaysia	LTO
	45	Dang	Luluk N	JPPR	Indonesia	LTO
			M. Sahidul. H	EWG	Bangladesh	LTO
	46	Doti	Raymond Ciriaco	NAMFREL	Philippine	STO
			Nusrat Jahan	Volunteer	Bangladesh	STO
	47	Kanchanpur	Virgillio Hernandes	NAMFREL	Philippine	STO
			Ne Jony	NICFEC	Cambodia	STO
	48	Baitadi	Praven Rai	Lokniti	India	STO
			Achan Mugleng	Volunteer	India	STO
CORE TEAM	51	KTM	Melissa Lin Shi M	NIEI	Malaysia	LTO
			Kaeng Sovannaren	COMFREL	Cambodia	LTO
			Imran Khan	Volunteer	Pakistan	LTO
			Yuli Rustinawati	Arus Pelangi	Indonesia	LTO
			Somsri Hananuntasuk	ANFREL	Thai	ED
			Ichal Supriadi	ANFREL	Indonesia	MC
			Adam Cooper	ANFREL	British	MA
			Cathy Shin Sunneth	Independent	Canada	RA
			Ajay Pillarisetti	Independent	India	RA
			Catherine Hingley	Independent	British	RA

Note

ED = Executive Director, MC= Mission Coordinator,

MA= Mission Assistant.RA=Reporting Assistant.

Map showing the deployment of observers from the EU EOM, ANFREL, and the Carter Center (courtesy of OCHA)



### **List of election laws and regulations**

#### *Laws*

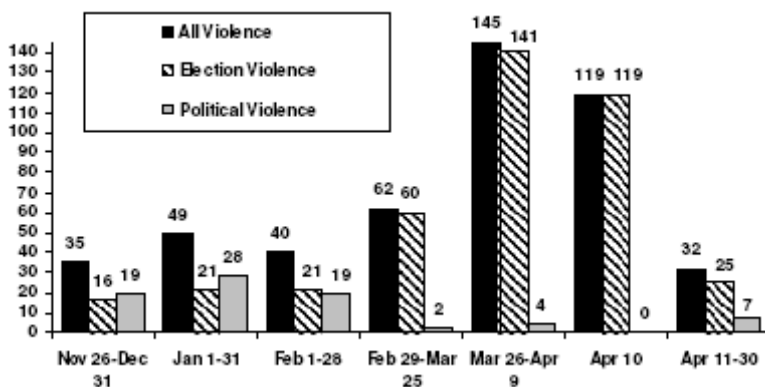
1. Constituent Assembly Members' Election Act
2. Election Commission Act
3. Election Offence and Punishment Act
4. Electoral Rolls Act
5. Constituent Assembly Court Act

#### *Regulations and directives*

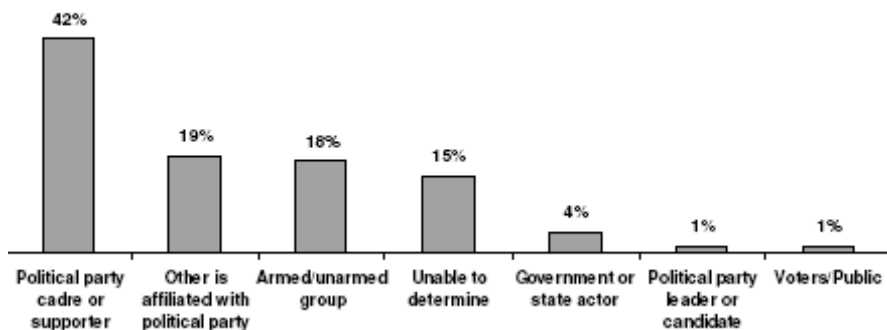
1. Election Code of Conduct
2. Constituent Assembly Members' Election Regulation
3. Procedures for PR Candidate Nomination and Selection
4. Directives for Candidates
5. Political Party Registration Regulation
6. Regulation Relating to Electoral Rolls
7. Counting Directives
8. Observation Directives
9. Monitoring Order for Constituent Assembly Election

## Selected graphs and statistics from the Political/Election Violence Education and Resolution (P/EVER) Project by DEAN

*Number of Incidents of Political and Election Violence: November 26, 2007 – April 30, 2008*



*Perpetrators of political and election violence by type*



<i><b>Perpetrators of violent incidents by armed group</b></i>	<i><b>No. of incidents</b></i>
JTMM (Jwala Singh)	15
Samyikta Madhesi Morcha	9
JTMM (Goit Samuha)	5
Federal Limbuwan Rajya Parishad	4
Samyukta Janatantrik Tarai Mukti Morcha	3
Limbuwan Rajya Parishad	2
Madhesi Mukti Morcha	2
Armed Group	1
Defense Army	1
Janatantrik Mukti Morcha	1
Madhesi Tigers Group	1
Madhesi Yuwa Forum	1
Madhes Mukti Tigers	1
Madhesi Armed Forces	1
Madhesi Morcha	1
Madhesi Revolutionary Group	1
Samyukta Janatantrik Morcha	1
Tarai Mukti Morcha	1
Tharu Kalyankari Samiti	1

<i><b>Perpetrators of violent incidents by party leaders, cadres, or affiliates</b></i>	<i><b>No. of incidents</b></i>
CPN-M	69
YCL	63
CPN-UML	40
NC	25
MJF	12
Rastriya Janamorcha	3
RPP	2
Tarun Dal	2
Tarai Madhes Loktantrik Party	2
CPN United	1
NMKP	1
RPP Nepal	1
Tarai Madhes Prajatantrik Party	1

### Example ballot papers

### Proportional representation ballot



# Example FPTP ballot

ॐ नमो भगवते वासुदेवाय  
 भारतीय जनता पार्टी, India  
 राष्ट्रीय लोक निर्माण एवं विकास विभाग  
 विभाग विभाग, विभाग विभाग विभाग

भाग १: १-१०  
 भाग २: १-१०  
 भाग ३: १-१०

भारतीय जनता पार्टी  
 SRH 04- 07501

भारतीय जनता पार्टी

ॐ नमो भगवते वासुदेवाय  
 भारतीय जनता पार्टी (BJP) राष्ट्रीय

भारतीय जनता पार्टी

## Annex 12

### List of polling stations repolled and justification

S.N.	District / Const.	VDC	Polling Centres	Reasons
1.	Sarlahi- 5	Phool Parasi	Phool Parasi Primary School - Ka & Kha (2)	Unrest & Ballot Box damaged
	Sarlahi-6	Gadahiya	Janta Primary School Birta tole Gadahiya, - Ka & Kha (2), Janta Secondary School Gadahiya- Ka & Kha (2), Baluwa Bhar Primary School Gadahiya (1)	Unrest, looted election materials
	"	Balara  Mirjapur  Anarha	VDC building - Ka and Kha (2), Balra Lower Secondary School (1), Janta Primary School - Ka and Kha (2), Matha Tole Primary School Mirjapur (1), Police Chowki Bhawan Koiritole - Ka and Kha (2)	Unrest, looted election materials
2.	Mahotari-3	Parsa	Parsa Patooli Secondary School - Ka & Kha (2)	Booth Captured
	"	Banouli Danouli  Suga Bhawani Patti	Lower Secondary School Banouli - Ka, Kha and Ga (3), Suga VDC Bhawan suga Ka, Kha, Ga (3)	Big mass attacked polling centre, destroyed ballot box, ballot paper and other election materials also threatened polling staff.



	Mahotari-4	Aakdara	Bela Primary School (1), Public Dharmasala Shankar Chowk (1), Kuldeep School Manarakatti (1)	Ballot Box was not Sealed properly
	"	Kolhuwa Bageba	Nepal Rastriya Primary School Bahera Jabdi Ka and Kha - (2)	Booth Captured
	Mahotari-5	Sonoul	Rastriya Primary School - Ka and Kha (2)	Conflict in the polling centre and ballot box thrown in the pond
3.	Baglung-1	Malika	Malika Secondary School Mahal Danda Ka, Kha and Ga - (3)	Unrest and Polling Officer threatened
	Baglung-2	Sarkawa  Rangkhani	Janta Secondary School - Ka, Kha and Ga (3), Rangkhani Ka, Kha, Ga and Gha (4)	Unrest in the polling centre  Conflict between political parties
	Baglung-3	Khuga	Himalaya Secondary School Lukarban (1)	Conflict among political parties
4.	Dhading-1	Sertung	Bhukram Devi Secondary School Borang - Kha (1), Chyamra Devi Primary School - Ka & Kha (2)	Looted Ballot Box and Other materials & damaged on the way to the district head quarter by unidentified group.
	"	Darkha	Ganesh Kunda Secondary School - Ka & Kha (2)	"
	"	"	Rudra Devi Primary School (1)	"
	"	"	Brichet Lower Secondary School - Ka & Kha (2)	"

	"	Gumdi	Tamang Kharka Secondary School - Ka, Kha, Ga, Gha, Yang (5)	"
	"	"	Kalayn Lower Secondary School - Ka & Kha (2), Chim Chowk Lower Secondary School - Ka (1)	"
	"	Sataya Devi	Bachhala Secondary School - Ka, Kha & Ga (3)	"
5.	Rautahat-4	Dharmapur	Aadarsha Primary School Sigarban - Ka & Kha (2)	Booth captured
	"	Gingadiya	VDC Office Basbiti Gingadiya - Kha (1)	Poured water in the Ballot Box , Unrest
6.	Saptari - 1	Paraswani	Rastriya Primary School Tangari - Ka and Kha (2)	Unrest, Ballot paper looted
	Saptari-2	Dadha	Sub- Health Post Building - Ka (1)	No signature of Polling Officer in the Ballot Paper PR
	"	Madhawapur	VDC Bhawan (1)	Threatened Polling Officer to cancel polling destroyed ballot box and looted ballot paper and other election materials.
7.	Siraha-2	Jijhol Tenuwa Patti	Janta Secondary School Kajara Ka and Kha (2), Tenuwa Patti Primary School Sohapur Ka and Kha (2)	Unrest, Ballot Paper and Ballot Box damaged
	Siraha-3	Siraha Municipality	Lower Secondary School Bhakhanaha Ka, Kha, Ga, Gha (4), Bal Mandir Lower Secondary School Ka and Kha (2)	Unrest in the polling centre, polling centre and ballot paper destroyed

	"	Tulsipur	Janta Secondary School Tulsipur-Ka (1)	Seal of the ballot box was broken
	"	Malhaniya Gamhariya	Lower Secondary School Phoobariya - Ka and Kha (2)	Unidentified persons attacked in the polling centre and looted all the election materials, ballot box damaged
	Siraha-5	Karjanaha	Bagha Lower Secondary School - Kha (1)	Unidentified persons attacked in the polling centre and looted all the election materials, ballot box damaged
8.	Nawalparasi-3	Tamasria	Nepal Lok Sewa Secondary School Basantapur Ka - (1)	Local Conflict, unrest
9.	Chitwon - 5	Meghuli	Sajhapur Lower Secondary School - Ka and Kha (2), Sarswati Secondary School - Ka, Kha, Ga and Gha (4), Janaki Secondary School - Ka, Kha, Ga, Gha, Yang and Cha (6)	Conflict between political parties
10.	Dailekha-1	Kansi Kandha	Kot Lower Secondary School - Ka (1), Gadigaon Primary School - (1)	Ballot box and election material looted on the way by unidentified persons.

11.	Arghakhanchi-1	Balkot	Balkot Primary Schol Pouwa - Ka and Kha (2), Amar Primary School Dundruk - Ka and Kha (2)	Fire, destroyed the polling centre by unidentified persons
	Arghakhanchi-2	Jukena	Sudha Secondary School Chaap Danda - Ka (1)	Unrest and Booth captured
12.	Nuwakot-1	Madanpur	VDC building - Ka, Kha, Ga, Gha and Yang (5)	Unrest, gunfire in the polling centre

## Annex 13

### Election results

#### *Seat allocation among the political parties under the PR system*

SN	Name of Political Party	No. of Candidates	No. of Votes Received	% of vote	Seats won	% seats
1	CPN-Maoist	333	3,144,204	29.28	100	29.85
2	Nepali Congress	329	2,269,883	21.14	73	21.79
3	CPN- UML	332	2,183,370	20.33	70	20.9
4	Madheshi JanAdhikar Forum Nepal	100	678,327	6.32	22	0
5	Terai Madhes Loktantrik Party	97	338,930	3.16	11	3.28
6	Rastriya Prajatantra Party	260	263,431	2.45	8	2.39
7	CPN- ML	167	243,545	2.27	8	2.39
8	Janamorcha Nepal	320	164,381	1.53	5	1.49
9	CPN- United	67	154,968	1.44	5	1.19
10	Sadbhawana Party	100	167,517	1.56	5	1.49
11	Rastriya Prajatantra Party Nepal	221	110,519	1.03	4	1.19
12	Rastriya Janashakti	278	102,147	0.95	3	0.9
13	Rastriya Janmorcha	333	106,224	0.99	3	0.9
14	Nepal Majdoor Kisan Party	86	74,089	0.69	2	0.6
15	Rastriya Janamukti Party	100	53,910	0.5	2	0.6
16	CPN- Unified	328	4,8600	0.45	2	0.6
17	Nepal Sadbhavana Party (A)	68	55,671	0.52	2	0.6
18	Nepali Janata Dal	87	48,990	0.46	2	0.6

19	Sanghiya Loktantrik Rastriya Manch	94	71,958	0.67	2	0.6
20	Samajbadi P. Janata Party Nepal	174	35,752	0.33	1	0.3
21	Dalit Janajati Party	72	40,348	0.38	1	0.3
22	Nepal Pariwar Dal	71	23,512	0.22	1	0.3
23	Nepa: Rastriya Party	72	37,757	0.35	1	0.3
24	Nepal Loktantrik Samajbadi Dal	80	25,022	0.23	1	0.3
25	Churevawar Rastriya Ekata Party Nepal	42	28,575	0.27	1	0.3
26	Nepal Rastriy Bikas Party	42	8,026	0.07	0	0
27	Samajbadi Party Nepal	35	6,564	0.06	0	0
28	Rastriya Janata Dal	33	19,305	0.18	0	0
29	Nepal Samata Party	35	4,697	0.04	0	0
30	CPN- (United-Marxist0	100	18,717	0.17	0	0
31	CPN- Marxist	37	21,234	0.2	0	0
32	Hindu Prajantrik Party	61	4,902	0.05	0	0
33	Nav Janabadi Morcha	33	5,193	0.05	0	0
34	Rastriya Bikas Party	38	9,329	0.09	0	0
35	Muskan Sena Nepal Party	54	9,292	0.06	0	0
36	Lig Nepal Shanti Ekata Party	59	4,443	0.04	0	0
37	Nepal Janabhawana Party	45	13,173	0.12	0	0
38	Nepal Shanti Kchhetra Parishad	39	10,565	0.1	0	0
39	Rastrabadi Ekata Party	57	4,772	0.04	0	0
40	Nepal Rastriya Lok Tantrik Dal	36	3,216	0.03	0	0

41	Rastrabadi Ekata Party	49	4,150	0.04	0	0
42	Nepali Congress (Rastrabadi)	39	5,721	0.05	0	0
43	Janamukti Party Nepal	79	3,396	0.03	0	0
44	Sashakti Nepal	63	3,752	0.03	0	0
45	Rastriya Janata Dal Nepal	76	12,678	0.12	0	0
46	Shanti Party Nepal	68	10,511	0.1	0	0
47	Nepal Janata Party	51	12,531	0.12	0	0
48	Lok Kalyan Janata party Nepal	86	18,123	0.17	0	0
49	Mangol National Organisation	46	11,578	0.11	0	0
50	Nepal Samyabadi Dal	41	5,478	0.05	0	0
51	Nepal Sukumbasi Party (L)	56	8,322	0.08	0	0
52	Nepal Dalit Shramik Morcha	46	7,107	0.07	0	0
53	Tamsaling Nepal Rastriya Dal	50	20,657	0.19	0	0
54	Nawa Nepal Prajatantrik Dal	36	3,016	0.03	0	0
<b>Total</b>		<b>5701</b>	<b>10,739,078</b>	<b>100</b>	<b>335</b>	<b>100</b>

*The results of voting under the First Past the Post System (FPTP)*

SN	Political Parties/ Independent Candidates	Total	Candidates		Elected Members	
			Male	Female	Female	Male
1	CPN- Maoist	120	198	42	23	97
2	Nepali Congress	37	214	26	2	35
3	CPN- UML	33	212	27	1	32
4	M.J.A Forum	30	100	3	2	28
5	T.M L.Party	9	90	4	1	8
6	Nepal Sadbahawana Party	4	83	4	-	4
7	Janamorchha Nepal	2	175	28		2
8	N.M.K Party	2	71	27	-	2
9	Rastriya Janamorchha	1	107	15	-	1
10	Independent	2	774	42	-	2
11	Remaining 45 Political parties	0	1554	150	-	-
12	Sub- Total		<b>3578</b>	<b>368</b>	<b>29</b>	<b>211</b>
	<b>Grand Total</b>	<b>240</b>	<b>3946</b>		<b>240</b>	



### Selected press statements

24<sup>th</sup> March 2008

#### **ANFREL urges action to stem increasing pre-election violence** **Violations of Code of Conduct must not go unpunished**

The Asian Network for Free Elections (ANFREL) today releases its first pre-election report based on findings from its 20 international election observers deployed across the country, and expresses concern about escalating levels of pre-election violence and intimidation. While ANFREL is encouraged by active campaigning by political parties and intensive preparations by election officials, violence both by armed groups in the Terai and by party cadres across the country pose a significant threat to the freeness of the campaign environment.

Noting that the Election Commission enjoys great credibility for its neutrality and integrity, ANFREL encourages the Commission to capitalise on their reputation for fairness by dealing sternly with those that flout election laws.

“Violence and intimidation is restricting campaigning, frightening the public, and is preventing election officials, volunteers, and local observers from fulfilling their duties,” said Ichal Supriadi, ANFREL’s Mission Coordinator.

“To strengthen their commitment to a peaceful election, political party leaders must clearly condemn violence by their own cadres and take greater preventative action. At the same time, the Election Commission should send out a strong message by handing out strong punishments to those that ignore the code of conduct,” he continued.

Regarding violence in the Terai, ANFREL encourages armed groups to respond positively to the invitation to talks recently issued by the government and urge them to refrain from implementing their programme to disrupt the election.

ANFREL's report includes ten key recommendations to address pre-election violence, and other challenges ahead of the election such as the need for greater voter education.

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1<sup>st</sup> April 2008

**Culture of impunity for election-related violence must end**

The Asian Network for Free Elections (ANFREL) today releases its second pre-election report based on findings from its 20 international election observers deployed across the country since 15<sup>th</sup> March 2008.

Although parts of the country are peaceful and enthusiasm for the election remains high, ANFREL observers have seen the freeness of the election environment deteriorate in the majority of districts they have visited.

Rivalry between political parties has often manifested itself in violence and intimidation. In certain districts both in the hills and the Terai, candidates have been unable to campaign freely and voters fear they will not be able exercise their freedom of choice; of the political parties, CPN-Maoist and Young Communist League cadres were overwhelmingly identified as the main aggressors. Current efforts to engage armed groups have not yet been successful in curbing the climate of fear in some districts in the eastern and central Terai.

The primary responsibility for addressing violence and intimidation lies with the groups committing such acts – political party leaders, despite their public proclamations, have not done nearly enough in this regard. However, the response by the authorities responsible for enforcing the law has also been inadequate.

“There is not the political will at the moment to vigorously pursue those who break the law. The risk of this approach is that a culture of impunity emerges where party cadres and other groups run rampant, safe in the knowledge that they won't face serious consequences. It is

misguided to think that *not* enforcing the law will provide for a fairer election environment,” said Ichal Supriadi, ANFREL’s Mission Coordinator.

“Similarly, the peace accord should be strictly adhered to. In this regard, we are concerned about reports from our observers that combatants from Maoist cantonments have been leaving in large numbers, and urge them to return immediately,” concluded Mr. Supriadi.

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12<sup>th</sup> April

### **CREDIBLE ELECTIONS ADVANCE NEPAL’S PEACE PROCESS**

*ANFREL has been in Nepal since 22<sup>nd</sup> February 2008 and had over 100 observers across the country on election day, who observed 431 number of polling stations in 49 districts.*

Largely successful and credible Constituent Assembly elections mark an historic step towards consolidating peace and democracy in Nepal. ANFREL congratulates the Election Commission, polling officials, observers and, most of all, the Nepali people for this achievement.

A strong turnout in this post-conflict environment and enormous enthusiasm for the election shows the will of Nepalis for a more inclusive and democratic government. ANFREL encourages political parties to respect the will of the people.

Election day itself was relatively peaceful, allowing most Nepalis to exercise their right to vote freely, though there were a number of incidents of violence and intimidation in the pre-election environment. The administration of polling was smooth in almost all areas, however understanding of the complex electoral system varied. Irregularities in some parts of districts that ANFREL observed in undermined the competitiveness of the elections in those areas, but not the overall credibility of the election.

The overall integrity of the election will be upheld provided that the counting of ballots is conducted well and grievances are appropriately resolved, including through re-polling.

“The Nepali people and the Election Commission deserve credit for the success of this election. But the optimism of the moment should be tempered both with sadness for those who have lost their lives in election-related violence, and caution as difficult challenges lay ahead,” said ANFREL’s Chief of Mission, General Saiyud Kerdphol.

“In the immediate term, the grievances of political parties must be thoroughly investigated and repolling conducted where necessary. We commend the Election Commission for already announcing that repolling will take place where egregious violations have been committed. We hope that less visible but no less serious problems will be considered with equal vigour. Political parties must also follow the due process of law if they have complaints,” said ANFREL’s Executive Director Somsri Hananuntasuk.

“There have been many successes in these election, such as the meaningful participation of women,” she observed. “These successes, however, should not distract us from the long term technical and legal reforms necessary to strengthen Nepal’s elections in the future.”

ANFREL will continue to observe the counting process and post-election environment, and will issue a full assessment of the entire election process and detailed recommendations for future elections in June 2008. However, the mission would like to highlight the following recommendations:

## Recommendations

### *In the immediate term:*

1. All political parties should respect the will of the people and use the appropriate legal channels if they have grievances
2. The Election Commission should make every effort to ensure that grievances are thoroughly investigated, repolling conducted where necessary, and the perpetrators of election-related fraud and crimes brought to justice
3. The Nepali public and all political stakeholders should continue to show patience in awaiting the results of a necessary lengthy counting process

### *In the long term:*

1. Ensure that there is a comprehensive and accurate voter roll and reconsider the use of out-of-district voting to facilitate the greatest possible participation
2. Political parties should take concrete steps to maintain discipline amongst their party members and ensure they comply with the law, and that children are not coerced into campaigning or other activities
3. Proportional representation candidates should be ranked so that voters can clearly see who their likely representatives will be
4. Greater resources should be dedicated within the Election Commission to monitoring the implementation of the code of conduct
5. First-the-past ballot papers should have the names of candidates marked on them
6. The application of the rule of law by the government, police, and Election Commission, should be strengthened
7. Start counting at district centres as soon as individual boxes arrive to speed up the process, and to minimise possible disruption of counting if a single ballot box does not arrive
8. Allow greater time for voter education to deepen the understanding by the public of the electoral system
9. Consider limiting the role of party agents in checking the presence of the voter roll

**Media coverage of ANFREL mission**

<b>March - May 2008</b>			
<b>Issue Date:</b>	<b>Publication Name &amp; Author / Journalist Name:</b>	<b>Type of media:</b>	<b>Message Summary:</b>
<b>NATIONAL BROADSHEET DAILIES</b>			
March 3,	The Himalayan Times, Razen Manandhar	English daily	CA elections will see a sea of observers
March 14	Gorkhapatra	Nepali daily	ANFREL deploys 20 poll observers
March 14	The Rising Nepal	Nepali daily	ANFREL deploys 20 poll observers
March 15	The Himalayan Times, Razen Manandhar	English daily	ANFREL poll observers start work
March 26	The Himalayan Times, Razen Manandhar	English daily	810 foreign observers to fan out across nation
March 26	The Kathmandu Post, Somsri Hananuntasuk	English daily	High expectations from the polls?
March 28	Kantipur, Somsri Hananuntasuk	Nepali daily	High expectations from the polls?
March 31	Gorkhapatra	Nepali daily	Parties condemn mosque blast
April 1	The Himalayan Times, Somsri Hananuntasuk	English daily	Nepali Prisoners' Right to vote
April 2	The Himalayan Times	English daily	Poll environment poor, says report
April 2	The Kathmandu Post	English daily	ANFREL censures parties for poll violence
April 4	The Kathmandu Post/Damodar Neupane	English daily	Maoists turn back international poll monitor, journo
April 5	The Himalayan Times	English daily	Don't reach to hasty conclusions, CEC tells observers
April 5	The Himalayan Times/Razen Manandhar	English daily	Interview with General Saiyud Kerdphol

April 5	The Rising Nepal	English daily	EC urges observers not to draw hasty conclusions
April 6	The Himalayan Times	English daily	Short term observers to start work
April 6	The Rising Nepal	English daily	ANFREL to deploy 80 more international observers
April 7	Gorkhapatra	Nepali daily	NEMA and ANFREL hold discussion
April 8	Rajdhani	Nepali daily	PM's request to observers
April 8	Annapurna post	Nepali daily	PM praises observers
April 8	The Kathmandu Post	English daily	PM meets international observers
April 8	The Himalayan Times	English daily	PM meets international observers
April 8	Gorkhapatra	Nepali daily	CA polls to solve all problems
April 8	The Rising Nepal	English daily	Election at centre of people's faith: PM
April 9	The Kathmandu Post/Kiran Chapagain	English daily	deployment of the observers
April 13	The Himalayan Times	English daily	Polls held peacefully: ANFREL
April 13	The Kathmandu Post	English daily	Polls were successful and credible
April 13	The Rising Nepal	English daily	Crucial step towards inclusion: Observers
April 13	Rajdhani	Nepali daily	polls day was peaceful, though pre-poll days saw violence
April 13	Annapurna post	Nepali daily	Polls successfully held
April 13	Kantipur Daily	Nepali daily	Results must be accepted: International Observers
April 15	Kantipur Daily	Nepali daily	People flock to congratulate Prachanda
April 28	The Himalayan Times	English daily	Post-poll Scenario Okay: ANFREL

INTERNATIONAL MEDIA			
March13	Xinhua	Chinese News Agency	Election watchdog concerns about violence ahead of polls in Nepal
March13	American Chronicle/Surya B. Prasai	American	Nepal's CA polls facing continued insecurity
April 3,	Gulf News/Indo-Asian News Service/Sudeshna Sarkar	UAE daily/Indian syndicated news agency	Carters arriving to monitor election/Asian observers spread across Nepal
April 3	Hindustan Times/Anirban Roy	Indian daily	Poor environment for polls in Nepal: observers
April 3	Xinhua	Chinese news agency	80 Asian poll observers arrive in Kathmandu
April 3	Indo-Asian News Service/Sudeshna Sarkar	Indian news agency	80 more election observers arrive in Nepal
April 4	Press Trust of India/Sirish Pradhan	Indian news agency	100 ANFREL observers for Nepal polls
April 4	Asian News International	Indian news agency	80 Asian poll observers arrive in Kathmandu
April 8	Xinhua	Chinese news agency	Nepali PM urges cooperation with international observers for poll success
April 13	The Economic Times	Indian Daily	Asian observers say Nepal elections were successful and credible
April 14	Bloomberg News/Jay Shankar	American daily	Nepal Vote Count Should be speeded up
April 14	Women's Feature Service/Aditi Bhaduri	Indian syndicated features service	ANFREL's commitment to gender equity in election observation



<b>LOCAL RADIO</b>			
April 2	Nepal FM (12, 3, 5, 6, 9PM)	private radio	ANFREL STOs to arrive
April 2	Radio Kantipur (12, 3, 6 PM)	private radio	ANFREL STOs to arrive
April 2	Gorkha FM (11:55, 2:55)	private radio	ANFREL STOs to arrive
April 3	Headlines FM (2, 4PM)	private radio	ANFREL STOs to arrive
April 3	Nepal FM (6, 9, 12, 5)	private radio	ANFREL STOs to arrive/arrived
April 3	Radio Kantipur (6:30, 12, 3, 6:30, 9)	private radio	ANFREL STOs to arrive/arrived
April 3	Gorkha FM (11:55, 2:55)	private radio	ANFREL STOs to arrive/arrived
April 3	Headlines FM (8am, 1, 2pm)	private radio	ANFREL STOs to arrive/arrived
April 3	Radio Sagarmatha (8:45, 11:45am, 2:45pm)	private radio	ANFREL STOs to arrive/arrived
April 3	Maitri FM (10am)	private radio	ANFREL STOs to arrive
April 4	Radio Nepal (7pm)	govt radio	ANFREL STOs arrived
April 4	Nepal FM (9, 10, 12, 2, 6)	private radio	Briefing to ANFREL STOs by Chief Election Commissioner
April 4	Radio Kantipur (9, 11, 12, 3)	private radio	Briefing to ANFREL STOs by Chief Election Commissioner
April 4	Headlines FM (9, 10, 12, 1)	private radio	Briefing to ANFREL STOs by Chief Election Commissioner
April 4	Radio Sagarmatha (8:45, 11:45am, 2:45, 9:45pm)	private radio	Briefing to ANFREL STOs by Chief Election Commissioner
April 5	Gorkha FM (8:55, 10:55, 11:55, 2:55)	private radio	Briefing to ANFREL STOs by Chief Election Commissioner
April 5	Nepal FM (3, 6, 9 pm)	private radio	Deployment plan of STOs
April 5	Radio Kantipur (2pm)	private radio	Deployment plan of STOs
April 6	Headlines FM (1, 4 pm)	private radio	Deployment plan of STOs
April 10	Radio Nepal (5pm)/Anuradha	private radio	Interview with Damaso Magbual

INTERNATIONAL RADIO			
April 1	Voice of America/ Liam Cochrane	American	Observers worry about violence
April 3	Radio Australia/Liam Cochrane	Australian	Nepal's leaders pledge peaceful elections
April 3	Radio Australia/Liam Cochrane	Australian	Nepali leaders pledge peaceful elections
April 10	BBC World Service/Gavin Straw	British	Election observation/Interview with Damaso Magbuel
April 11	Voice of America/Steve Herman	American	Maoists performing better than expected as Nepal counts votes
April 12	Voice of America/ Steve Herman	American	International Observers call Nepal elections credible despite violence, threats
ONLINE NEWS			
April 1	Nepalnews.com	Nepali	YCL, Terai rebels prime code violators: ANFREL
April 1	Associated News Agency/ ana.np.com	Nepali	ANFREL's Press Conference and release of 2nd pre-election report
April 5	Kantipur online	Nepali	Don't be swayed by isolated events: CEC to observers
April 7	Nepalnews.com	Nepali	ANFREL discusses polls situation with PM
April 3	Newsblaze.com/Indra Adhikari	US	ANFREL chairman arrives with 80 more poll observers
April 3	Associated News Agency/ana.np.com	Nepali	ANFREL chairman arrives with 80 more poll observers
April 4	Nepalnews.com	Nepali	Post-conflict elections imply compromises: CEC
April 4	Katnipur online	Nepali	EC committed to free and fair polls: CEC Pokharel
April 5	Mynews.in/Ch.Narendr a	Indian	Culture of impunity for election-related violence

April 7	Zee news.com/ Ritesh Srivastav	Indian	Will democracy prevail in Nepal?
April 7	Nepalnews.com		ANFREL discusses polls with PM
April 7	Kantipur online		PM Koirala met with a delegation of ANFREL
April 28	Nepalnews.com		ANFREL says post election period was peaceful
<b>LOCAL TELEVISION</b>			
April 1	Nepalnews.com/Indra Adhikary	private webportal	ANFREL concerned about violence ahead of polls
April 3	Associated News Agency	Private TV	ANFREL press conference of 1st April 2008, and poll violence
April 3	KTV	private TV	arrival of ANFREL STOs
April 3	Associated News Agency/Amit Sthapit	Private TV	80 ANFREL STOs arrive with Chairman
April 3	ATV	private TV	arrival of ANFREL STOs
April 3	Channel Nepal	private TV	arrival of ANFREL STOs
April 3	NTV	govt TV	arrival of ANFREL STOs
April 3	STV	private TV	arrival of ANFREL STOs
April 4	Associate News Agency/Amit Sthapit	Private TV	Briefing to ANFREL STOs by Chief Election Commissioner
April 4	KTV	private TV	Briefing to ANFREL STOs by Chief Election Commissioner
April 4	ATV	private TV	Briefing to ANFREL STOs by Chief Election Commissioner
April 4	Channel Nepal	private TV	Briefing to ANFREL STOs by Chief Election Commissioner
April 4	STV	private TV	briefing to STOs by chief election commissioner
April 4	Image TV/Saraswatee Karmacharya	private TV	Briefing to ANFREL STOs by Chief Election Commissioner
April 5	Image TV/Saraswatee Karmacharya	Private TV	Interview with Gen. Saiyud Kerdphol

April 9	NTV	govt TV	Briefing to ANFREL STOs by Chief Election Commissioner
April 10	ATV	private TV	Special interview with senior observers
April 10	ATV	private TV	Gen Saiyud's reaction on polling day
April 12	Image TV/Saraswatee Karmacharya	private TV	ANFREL press conference
<b>INTERNATIONAL TELEVISION</b>			
April 8	SCTV/Nurul	Indonesia TV	Explosion at BICC
April 12	SCOLA TV/Santosh Shah	US TV channel	ANFREL Press Conference of 12.04.08
April 14	SCTV/Nurul	Indonesia TV	Prachanda's press conference
April 15	SCTV/Nurul	Indonesia TV	Interview with Prachanda
April 5-11	TPBS/ Saolak	Thailand TV	Interview observers / voters / Carter Center

The HIMALAYAN TIMES 15<sup>th</sup> MARCH 2008

## ANFREL poll observers start work

**Himalayan News Service**  
Kathmandu, March 14

The Asian Network for Free Elections (ANFREL) started deployment of its international observers across the country for the constituent assembly polls from today.

"We have started our job from today," said Aditi Bhaduri, the international observer of ANFREL.

The ANFREL's long-term observers have come from 10 Asian countries — Pakistan, Malaysia, Cambodia, Indonesia, Bangladesh, Myanmar, India, Thailand, Philippines and Sri Lanka.

The 20-member team of Bangkok-based organisation has already arrived here and its 80 more observers will join them soon.

ANFREL said that it has undertaken over 30 election observation missions across Asia in more than 15 countries over the past 10 years.

On the very first day, the observers condemned election-related violence in the country. "ANFREL strongly condemns

violent acts, whether it be against Election Commission staff, candidates or party supporters. Everyone should be free to campaign without fearing for his or her safety," says a statement made by ANFREL.

The ANFREL has also raised voice for intensifying voter education.

"Recent surveys show that only a minority of people correctly understand the constituent assembly polls. We hope that Nepalis will be better informed by the time we reach April 10," it added.

## Polls significant in many ways, says Kerdphol

**Himalayan News Service**  
Kathmandu, April 4

The Former Supreme Commander of the Royal Thai Army, Satyud Kerdphol, who is leading a 100-member delegation of international observers from Asian Network for Free Election (ANFREL), says the election to constituent assembly in Nepal will cross barriers of challenges.

"The election in Nepal is significant in many senses as it is going to overcome all challenges. The government, the parties and the public as well as the observers will have roles to play to make the historic event a success," he told this daily today.

Kerdphol arrived in the capital yesterday, along with the 80-

member short-term observers. Its 20 long-term observers are already on field since 14 March. The ANFREL observers include civil society members from 22 Asian countries. He said election in post-conflict situation is not only an election but also a safe and democratic outlet to the conflict. "I have personally witnessed many elections in post-conflict countries — from East Timor to Pakistan — and I understand how challenging it can be," he said.

He said violence could be witnessed to some extent in the given political situation in Nepal, but instead of tolerating them in general the observers will have to look at such incidents individually and see how much impact they can have in the election process and how much of them can affect the overall result.

When asked about the possibility of differences of opinion among the international observers, he said the difference is natural but the reports by the observing organisations should be true and credible.

"Every team has its views. We have to accept that. But efforts must be there that their reports are going to be very near to the truth," he said, adding that the reports of the observers, both domestic and international, would play an important role in making the whole world believe that the election were indeed free and fair.

In the context of the election-related violence, he said the observers have to be very careful that their observations and reports in general, or focussed on any particular incident, must be free from any prejudice for or against any political party or ideology. "We cannot ignore the fact that some organisations may have some preferences for or against any ideology. But in this post-cold war world, we should be free from such biases and do our duty with maximum neutrality," he said, adding that the ANFREL would at least be free from such biases.

**TOPICS**

## Nepali prisoners' right to vote

**SOMESH HANANTHAKUR**

International observers in Nepal have much to learn from the forthcoming Constituent Assembly (CA) elections. An interesting aspect that observers must have noted is the rights of those behind the bars. Irrespective of their legal status, they have been entitled the right to vote. Nepal is one of the poorest countries in the world, with literacy rate of just under 50 per cent and widespread unemployment. For the past few years, Nepal's significance for the international community has grown mainly owing to its complicated nature of conflict and political violence, but not many people have considered the significance of the rights that have been granted to those behind the bars.

Certainly, Nepal has a sky-high rate of poverty, but a rich legal spirit, too! Nepal is one of the few countries in Asia that has done away with capital punishment and prisoners have not been barred from exercising their voting rights.

It is because the state cares for the electoral rights of all groups of people here, except for the internally displaced persons (IDPs) and the landless. Credit must be given to the Election Commission, and the Home Ministry, that will provide for polling stations outside the prisons, thus allowing prisoners to participate in the constitution-making process. This practice has been observed in elections in Indonesia, East Timor and Afghanistan, but not in many established democracies.

There are concerns that prisoners may not vote in a desirable manner. But they are as much bona fide citizens of Nepal as are those outside jail and entitled to all rights granted to Nepalis by the constitution. It is only justifiable that the prisoners should have an equitable say in shaping the country's future.

They have rightly been given the voting right. This way, they too get a chance to voice their demands for improvement in living conditions, rehabilitation and release of the innocent. Allowing prisoners to exercise their voting rights also serves the purpose of reminding politicians of the existence of this group and that their votes too count.

As the prisoners will vote outside the prisons as temporary voters, no polling station will be set up inside the prison buildings as was done in Indonesia and East Timor. But they will only get to vote under the Proportional Representation (PR) system. At the same time, political parties are not allowed to campaign inside prison premises. Any information intended for prisoners can be sent only with the express permission of the Election Commission and Home Ministry.

But so much more needs to be done to make the electoral process completely inclusive. Despite the commendable measure of allowing prisoners to cast their ballots, there are interestingly two other key groups that are disenfranchised with respect to the upcoming CA elections: the internally displaced people (IDPs) and the landless. The CA would have been more representative had they been allowed to exercise their voting rights too.

*Hananthakur is with Asian Network for Free Elections (ANFREL).*



### **Background information on ANFREL**

#### **Introduction**

Formed in November 1997, the Asian Network for Free Elections (ANFREL) has established itself as the preeminent NGO in Asia working on elections. ANFREL's main focus is in observing pre- and post-electoral processes, and developing and training civil society groups that are actively working on democratisation in their home countries. We also undertake specific research projects and advocate on good governance issues in Asia.

Since its formation, ANFREL has operated in more than 30 elections in 15 countries across Asia, from Timor-Leste to Japan to Afghanistan.

ANFREL draws its observers from a network of partner civil society organisations in Asia, listed below. Our long-term aim is to build expertise on elections and governance in the region, entrenching a culture of democracy that is seen as locally developed rather than externally imposed. Through observing election administration internationally, our observers have developed a strong understand of international best practice – knowledge that can then be applied in their respective home countries.

#### **Objectives**

As part of its overall objective of supporting democratisation efforts in Asia, ANFREL is committed to supporting national based organisations initiatives on:

- A. Election monitoring / pre-post election, referendum and local election and other democracy-related processes
- B. Education and trainings on election and democracy-related studies
- C. Research on election and democracy-related issues and cover electoral and democratic reforms

- D. Conduct campaigns and advocacy work on issues related to democratic processes
- E. Information dissemination and publication of material related to election and other democratic processes
- F. Creation of an environment conducive to a democratic development in the spirit of regional solidarity

### **Election observation mission objectives**

For all of our election observation missions, we aim:

1. To support the enhancement of the integrity of electoral processes and minimize election irregularities and election-related human rights violations
2. To provide accurate, impartial information and analysis on issues related to general elections in particular and prospects for democratic development in general
3. To enhance and sustain the capacity of civil society organisations to ensure an environment conducive for the conduct of free elections as well as for the realisation of people's aspiration for democracy
4. To strengthen the civil society among participating nations (achieved in training and promotion of democratic values among members of the observation mission)
5. To support and strengthen local networks of elections observation bodies in organising, information gathering and data exchanging activities during missions
6. To publish a mission report which underlines the outcome of the observation mission of the observation team, together with recommendations for the electoral process



## National member organisations

Afghanistan	Free and Fair Election Foundation of Afghanistan (FEFA)
Bangladesh	ODHIKAR The Fair Election Monitoring Alliance (FEMA) Committee for Free and Fair Election (COMFREL)
Cambodia	Neutral & Impartial Committee for Free & Fair Elections in Cambodia (NICFEC)
India	Programme for Comparative Democracy (LOKNITI)
Indonesia	Komite Independen Pemantau Pemilu (KIPP) The People's Voter Education Network ( JPPR)
Japan	InterBand
Malaysia	The National Institute for Electoral Integrity (NIEI)
Mongolia	Women for Social Progress (WSP)
Nepal	National Election Observation Committee (NEOC) National Election Monitoring Alliance (NEMA)
Pakistan	Human Rights Commission of Pakistan (HRCP) The Free and Fair Election Network (FAFEN) Institute for Political and Electoral Reform (IPER) National Citizen Movement for Free Elections
Philippines	(NAMFREL-NCR) The Parish Pastoral Council for Responsible Voting (PPCRV)
South Korea	People Solidarity for Participatory Democracy (PSPD)
Sri Lanka	People Action for Free and Fair Elections (PAFFREL)
Thailand	Open Forum for Democracy Foundation (Poll Watch Foundation-Thailand)
Timor Leste	Women Caucus for Politic, Timor Leste Rua Villa Verde

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Mr. Sakool Zuesongdham  
Open Forum for Democracy Foundation  
(PollWatch) Thailand

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Ms. Kazumi Abe (INTERBAND, Japan)

### **ADVISOR**

Dr. Withaya Sujaritthanarak  
Dr. Laddawan Tantvitayaphitak

### **Secretariat**

Executive Director	<i>Ms. Somsri Hananuntasak</i>
Advisor and Consultant	<i>Mr. Sanjay Gathia</i>
Project Coordinator	<i>Mr. Ichal Supriadi</i>
Project Officer	<i>Mr. Adam Cooper</i>
Technical Training Officer	<i>Mr. Pongsak Chanon</i>
Finance Officer	<i>Ms. Sirirak Preedametawong</i>
IT/Web	<i>Mr. Chatchawan Rakchat</i>

## LIST OF PREVIOUS ANFREL MISSIONS

	Country	Election / activity type	Election date
	Thailand	Parliamentary elections	December 2007
	Thailand	Constitutional referendum	August 2007
	East Timor	Parliamentary elections	July 2007
	Mindanao region, Philippines	General elections (9 levels of representative elected)	May 2007
	East Timor	1 <sup>st</sup> round Presidential elections	April 2007
	Indonesia (Aceh)	Governor and mayoral elections	December 2006
	Thailand	Parliamentary elections	April 2006
	Singapore	General elections	May 2006
	Thailand	Provincial re-elections	November 2005
	Sri Lanka	Presidential elections	November 2005
	Thailand	Parliamentary elections	February 2005
	Afghanistan	Parliamentary (Wolesi Jirga and Provincial Council) elections	October 2005
	Taiwan	Legislative elections	December 2004
	Indonesia	Presidential + Legislative elections	December 2004
	United States	Presidential elections	November 2004
	Afghanistan	Presidential elections	October 2004
	Sri Lanka	Parliamentary elections	April 2004
	Cambodia	General elections	July 2003
	Pakistan	Parliamentary + provincial elections	October 2002
	Cambodia	Commune council elections	February 2002
	Sri Lanka	Parliamentary elections	December 2001
	Bangladesh	Parliamentary elections	October 2001
	East Timor	Constituent Assembly elections	August 2001
	Tamil Nadu (India)	State elections	May 2001

	Thailand	Parliamentary elections	January 2001
	Sri Lanka	Parliamentary elections	October 2000
	Japan	General elections	June 2000
	Sri Lanka	Presidential elections	December 1999
	Malaysia	General elections	November 1999
	East Timor	Constitutional referendum	September 1999
	Indonesia	General elections	June 1999
	Nepal	Parliamentary elections	May 1999
	Cambodia	National elections	August 1998

Constituent Assembly elections held on 10th April 2008 were a key milestone in the Nepal's peace process. ANFREL supported the election by deployed its largest ever observation mission, sending 100 observers across the country.

The election was broadly successful and moved Nepal closer towards the democratic and inclusive state that its citizens hope for. In a tense political environment the Election Commission of Nepal administered the election successfully. Compared to the challenging pre-election environment, polling on election day was free from the widespread troubles that many had feared.

This report details the findings of ANFREL's observers and assesses to what extent the election met international standards. It also offers specific recommendations for how future elections in Nepal may be improved.



*"While the formation of the Constituent Assembly is a historic achievement, it is only the first step in a process of forging a lasting peace. The formidable challenges ahead, which include the tasks of drafting a new constitution; reconciling differing views on how federalism should be interpreted; empowering minority groups and others who have been historically marginalized; integrating the two existing armies; and, lastly, addressing the wounds left from decades of violence, kidnapping, and impunity from prosecution."*

Ian Martin  
Speaking at the Asia Society, New York



The Asian Network for Free Elections (ANFREL)