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**ELECTION OBSERVATION DELEGATION TO
THE HOUSE OF REPRESENTATIVES AND PROVINCIAL ASSEMBLIES
ELECTIONS
IN NEPAL
(26 November and 7 December 2017)**

**Report by
Neena Gill CBE, Head of the EP Delegation**

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- A. List of participants and programme of the delegation**
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Introduction:

Following an invitation from the Nepal authorities, the Conference of Presidents on 5 October 2017 authorised the sending of a delegation to observe the elections to the House of Representatives and provincial assemblies in Nepal. These elections were taking place in two phases on 26 November in the constituencies in the more mountainous districts and on 7 December in the remaining 45 constituencies.

The European Parliament has always been a strong supporter of the process of democratic consolidation in Nepal following the civil war in the country in the early 2000s. It observed the elections in 2008 and 2013 and the sending of a further delegation was a sign of its ongoing commitment. EU financial assistance to Nepal has strengthened under the multiannual indicative programme for 2014-2020 which included support for democracy and good governance. Development aid amounts to €360 million, which is triple the amount for the previous budget period.

At the constituent meeting on 19 October 2017 Ms Neena GILL CBE (S&D, UK) was elected head of the delegation that would observe both phases. For the first phase the delegation was also composed of Ivan STEFANEC (EPP, SK), Tomas ZDECHOVSKY (EPP, CZ), Norbert NEUSER (S&D, DE), Bernd LUCKE (ECR, DE), Javier NART (ALDE, ES), and Georg MAYER (ENF, AT). For the second phase the delegation was made up of Thomas MANN (EPP, DE), Tomas ZDECHOVSKY (EPP, CZ), Bernd LUCKE (ECR, DE), Javier NART (ALDE, ES), and Bernard MONOT (ENF, FR).

The EP delegation was integrated into the European Union Election Observation Mission (EU EOM) led by the Chief Observer Ms Željana ZOVKO (EPP, Croatia).

The standard programme was organised for the EP delegation: i.e. briefings from the EOM Core Team, meetings with representatives from the main political parties, the government (President and Prime Minister), the Election Commission, representatives from the media and civil society, and national and international observers.

The context of the 2017 elections:

The 2017 elections to the House of Representatives and provincial assemblies took place against a background of constitutional change in the last decade. The most significant developments had been the abolition of the monarchy in May 2008 and the subsequent founding of the Republic of Nepal. The national elections of November 2013 led to the establishment of a Constituent Assembly with a mandate to adopt a new constitution for Nepal. These events followed many years of political turmoil (with seven constitutions in 70 years and no government enjoying a majority in parliament since 1994) and a decade of armed conflict in which 17,000 people died.

This new constitution was promulgated in September 2015, after which the Constituent Assembly was transformed into a parliament. The new constitution replaced a unitary with a federal system of government. At the time of the MEPs' visit, however, there was still much

work to be done in this respect, particularly as some provincial capitals had not yet been selected and civil servants had not been redeployed.

Local elections - the first for 20 years - had taken place in three phases from May to September 2017 and, with a turnout of around 75%, had represented a significant step towards the implementation of the new constitution. However the Madhesi¹ parties had boycotted the elections as their demands to redraw the provincial boundaries had not been met. MEPs were informed that in general these elections had gone “quite well”, despite some incidents of violence

The elections to the House of Representatives and the provincial assemblies were a further stage in the embedding of the new constitution and were to be the first occasion in which citizens would directly elect a Parliament at federal and provincial level.

The new House of Representatives consists of 275 members with a five year mandate. 165 members are elected through a first-past-the-post (FPTP) system and 110 are elected by proportional representation (PR) in which the entire country is a single constituency. The Federal Parliament of Nepal will become a bicameral body following the election of the National Assembly.

Political parties are required to ensure that at least 50% of their candidates under the PR list and at least one third of the total number of candidates under the PR and FPTP system are women. The elections under the PR system represented the best opportunity for female candidates of being elected as many women were reported to be standing in unwinnable seats under the FPTP system.

It is also compulsory for political parties to include candidates from certain ethnic and social groups in their PR closed lists according to quotas which reflect the composition of the Nepalese population. However the delegation was informed that the inclusion among the quotas of the Khas Arya ethnic group², which has been traditionally over-represented in government, did not help to promote social inclusion

Prior to the election power was shared by the Communist Party of Nepal–Maoist Centre (CPN-MC) and the Nepali Congress (NC) in a coalition government. Under the power-sharing agreement the NC leader, Sher Bahadur Deuba, took over as prime minister in June 2017 from Pushpa Kamal Dahal. Mr Deuba was the 24th Prime Minister in 27 years.

In October 2017 the CPN-MC and the Communist Party of Nepal Unified Marxist-Leninist (CPN-UML), which had previously been bitter opponents, formed an alliance to contest the FPTP elections together. The Nepali Congress responded by accusing the alliance of working towards amending the parliamentary system in order to impose one-party communist rule through a presidential system. The Congress, in its turn, however, sought to set up a less formal alliance with a number of smaller parties.

¹ The term “Madhesi” generally describes people of Indian ancestry living in the Terai region of Nepal and who had a history of being largely excluded from mainstream politics and many of whom did not have citizenship certificates.

² “Kas Arya” covers a number of communities, including the Brahmins.

There were a number of incidents of violence throughout the election campaign, largely instigated by a Marxist splinter group. From 7 November to 9 December there were more than 150 violent incidents, principally with improvised explosive devices (IEDs) targeting political figures, and one temporary policeman lost his life.

During its meetings the EP delegation ascertained that there was more scepticism in Nepal than in previous elections about the benefits of international observers. In particular, some figures in the administration appeared to believe that it was no longer necessary for Nepal to host observer missions. The example of India - which does not admit international observers to its elections - was cited.

This more negative attitude towards international observers was exacerbated by a specific case in the Kanchanpur district when a Chief Election Officer/District Chief Justice accused EU long term observers of violating the observer Code of Conduct and called for the EU EOM to stop carrying out its mandate in the district. The EOM issued a statement maintaining that the observers had not breached the Code, however the two observers were replaced.

The EP delegation took up this issue in a number of its meetings. MEPs stressed that the international observers were present to support the electoral process and not to police the proceedings. They cited the many examples of observer missions, including those in EU member states, and stressed that the presence of observers helped to make the elections more credible. Most respondents - including those at the highest levels of government - did not contradict this view.

The EP delegation also expressed particular concerns about the issue of campaign finance and the expenditure ceilings imposed on candidates. Under the FPTP system for the House of Representatives, the maximum level for candidates was 2.5 million rupees (around €20,500). It appeared from discussions that this maximum was being consistently flouted with impunity by the more affluent candidates to the detriment of others.

Election Day:

The EP delegation in both stages split into three teams. On 26 November the teams went by road to Nuwakot, Sindhupalchok and Gorkha, the latter two locations requiring two overnight stays. On 7 December the teams went to Kathmandu/Lalitpur, Pokhara and Dhangadhi, and once again the latter two destinations required two overnight stays and on this occasion a flight.

The MEPs commended the generally well-organised and well-managed preparations and conduct of the vote, particularly in view of the short time available to undertake the preparations (the date for the election was set by the government only 97 days before the first Election Day). They praised the work of the polling station staff and the commitment of the voters who turned out in large numbers (65% in the first stage and 67% in the second stage). In particular they welcomed the strong engagement shown by women and young people.

Nevertheless they were concerned about the restrictions that they faced at a number of polling stations, particularly on 26 November, when they were prevented - mostly? by

temporary police - from being able to observe properly. They also remarked that there was some blurring of the tasks carried out by polling station staff and political party representatives and that these needed to be more clearly defined. There was also a need for clearer rules on the procedures for assisted voting.

After the vote on 26 November the ballots were stored securely and counting for the two stages only began after the closing of ballots on 7 December. The counting was in its very early stages when the delegation left Nepal.

Press conference and the EU EOM preliminary statement:

The EU EOM and EP press conference took place on 9 December 2017. The Head of the EP delegation fully endorsed the points made by Ms Zovko and the conclusions of the EU EOM.

In her own statement, Ms Gill referred to the issues highlighted on Election Day, as well as the issues of campaign finance, the occasional violence and the role of international election observers. She stressed that these elections represented a significant milestone in the consolidation of the democratic process in Nepal and that the international observer mission - and the EU in general - was a strong supporter of this process.

Post-election day developments

TO BE ADDED

Annexes:

A. List of participants and programme of the delegation

GENERAL ELECTIONS IN NEPAL
ELECTION OBSERVATION DELEGATION

26 NOVEMBER 2017 (1st stage)

7 DECEMBER 2017 (2nd stage)

Members First Stage

1. Ivan ŠTEFANEC, EPP, SK
2. Tomáš ZDECHOVSKÝ, EPP, CZ
3. Neena GILL, S&D, UK
4. Norbert NEUSER, S&D, DE
5. Bernd LUCKE, ECR, DE
6. Javier NART, ALDE, ES
7. Georg MAYER, ENF, AU

Members Second Stage

1. Thomas MANN, EPP, DE
2. Tomáš ZDECHOVSKÝ, EPP, CZ
3. Neena GILL, S&D, UK
4. Antonio PANZERI, S&D, IT
5. Bernd LUCKE, ECR, DE
6. Javier NART, ALDE, ES
7. Bernard MONOT, ENF, FR

Secretariat

Karl MINAIRE, Administrator (First and second Stage)

Tim BODEN, Administrator (First and second Stage)

Pilar GONZALEZ MURILLO, Assistant (First and second Stage)

European Parliament Delegation Program: 23 – 27 November 2017 (FINAL)

Time	Meeting	Location	Comments
Thursday, 23 November 2017			
ETA 11:25	<u>VIP Arrivals</u> MEPs Tomas Zdechovsky, Norbert Neuser, Bernd Lucke, George Mayer Turkish Airlines 726	Tribhuvan International Airport (TIA)	Pickup at airport by SP Transfer to Hotel Yak and Yeti VIP guests to be met by Daniel Lama just in front of the VIP lounge, before Immigration
ETA 15:00	MEP Neena Gill Jet Airways 9W 260		
ETA 16:15	MEP Javier Nart EK 2396		
Various times	Arrival at Hotel Yak and Yeti		

19:30 (leave Hotel by 19:00)	Dinner with CO, DCO, EP Staff	Krishnarpan, Hotel Dwarikas	
Friday, 24 November, 2017			
9:00-11:00	Chief Observer and EU EOM Briefing <u>Briefings by:</u> <ul style="list-style-type: none"> - Political Analyst (Beatrice Bianchi) - Legal Analyst (Anne Marlborough) - Election Analyst (Alexander Matus) - Media Analyst (Javier Gutierrez) - Campaign Finance Analyst (Christos Christogeorgakis) - Security (Arild Nodland) 	Dynasty Hall, Hotel Yak and Yeti	
ETA 11:25	VIP Arrival MEP Ivan Stefanec Turkish Airlines 726	Tribhuvan International Airport (TIA)	Pickup at airport by SP Transfer to Hotel Yak and Yeti
12:00	Meeting with Rajendra Shrestha, Vice-Chairperson, Sanghiya Samajbadi Forum (SSFN)	Dynasty Hall, Hotel Yak and Yeti	
14:00 (leave Hotel Yak and Yeti at 13:50)	Meeting with the Chief Election Commissioner (CEC) Dr. Ayodhee P. Yadav	Election Commission, Kantipath	To be accompanied by Deputy Chief Observer, Thomas Boserup and Election Analyst, Alexander Matus
15:30	Meeting with Daman Nath Dhungana, Senior Leader (Nepali Congress) and Former Speaker of the House	Hotel Greenland, Bhaktapur	

18:30 (Leave Hotel Yak and Yeti by 18:00)	<u>Dinner hosted by the Head of the EU Delegation</u> Attended by: Head of EU Delegation EU Member States EU EOM Chief Observer EU EOM Deputy Chief Observer European Parliament Staff Members of EU EOM	Begnas Hall, Radisson Hotel	
Saturday, 25 November, 2017			
9:00	<u>Meeting with Media Representatives</u> - Aditya Adhikari (Journalist, Author) - Dharmendra Jha (Senior Journalist) - Mahesh Acharya (Journalist, BBC)	Dynasty Hall, Hotel Yak and Yeti	
10:00	Meeting with Carlos Valenzuela (Field Office Director, The Carter Center)	Dynasty Hall, Hotel Yak and Yeti	
11:30	<u>Roundtable with civil society</u> Attending: - Niranjan Thapaliya (Amnesty International) - Pinky Gurung (Blue Diamond Society) - Subodh Raj Pyakurel (Informal Sector Service Center)	Dynasty Hall, Hotel Yak and Yeti	
11:00	MEPs Depart for deployment 1 st Phase Election Day (to stay two nights) Gorkha (Team 2) Tomas Zdechovsky, Javier Nart (accompanied by Karl Minaire)	Gorkha Bazaar (Gorkha district),	(Road ~5 hours)
20:00	Meeting Team 2 with Long Term Observers	Gorkha	

13:00	MEPs Depart for deployment for 1 st Phase Election Day (to stay two nights) Chautara (Team 3) Norbert Neuser, Bernd Lucke (accompanied by Pilar Gonzalez)	Chautara (Sindhupalchowk district)	(Road ~3 hours)
18:00	Meeting Team 3 with Long Term Observers	Hotel Araniko, Chautara	
Sunday, 26 November, 2017			
<i>ELECTION DAY 1st PHASE</i>			
4:00	MEPs Depart for 1 st Phase Election Day Bidur (Team 1) Neena Gill, Ivan Stefanec, Georg Mayer (accompanied by Tim Boden)	Bidur (Nuwakot district)	(Road ~3 hours)
6:00-18:00	Election Day Observation Polling stations open at 7:00 Close at 17:00 Team 1, 2 and 3	Various locations	
20:00	MEPs Return after 1 st Phase Observation Neena Gill, Ivan Stefanec, Georg Mayer (accompanied by Tim Boden)	Bidur (Nuwakot district)	(Road ~3 hours)
Monday, 27 November, 2017			
06:30	MEPs Return from deployment after 1 st Phase election observation	Gorkha Bazaar (Gorkha district)	(Road ~5 hours)

8:30	MEPs Return from deployment after 1 st Phase election observation	Chautara (Sindhupalchowk district)	(Road ~3 hours)
8:30	Meeting with KP Oli, Chairperson of the Communist Party Nepal - United Marxist Leninist (CPN-UML)	KP Oli Residence	
10:30	Meeting with Pashupati Shumsher Rana, Chairman of the Rastriya Prajatantrik Party - Prajatantrik (RPP-P)	Rana Residence, Maharajgunj	
12:00	Meeting with CO and EU EOM Core Team	Dynasty Hall or EU EOM Meeting Hall, Hotel Yak and Yeti	
ETD 12:55 (leave Y&Y by 10:00)	<u>VIP Departures</u> MEPs Ivan Stefanec, Georg Mayer Turkish Airlines 727	Tribhuvan International Airport (TIA)	SP
ETD 16:00 (leave Y&Y by 13:15)	MEP Neena Gill Jet Airways 9W 259		
ETD 21:05 (leave Y&Y by 18:15)	MEP Tomas Zdechovsky Etihad Airlines EY 293		

Tuesday, 28 November, 2017

<p>ETD 21:05 (leave Y&Y by 18:15)</p>	<p><u>VIP Departures</u></p> <p>MEPs Norbert Neuser, Javier Nart Etihad Airlines EY 293</p>	<p>Tribhuvan International Airport (TIA)</p>	<p>SP</p>
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Thursday, 30 November 2017

<p>ETD 13:55 (leave Y&Y by 11:15)</p>	<p><u>VIP Departure</u></p> <p>MEP Bernd Lucke Thai Airways 320</p>		
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European Parliament Delegation Program: 5 - 9 December 2017 (FINAL)

Time	Meeting	Location	Comments
Tuesday, 5 December, 2017			
	<u>VIP Arrivals</u>		
ETA 10:30	MEP Tomas Zdechovsky Qatar Airways QR 652	Tribhuvan International Airport (TIA)	Pickup at airport by SP Transfer to Hotel Yak and Yeti VIP guests to be met just in front of the VIP lounge, before Immigration
ETA 13:30	MEP Bernd Lucke AirAsia AK 702		
ETA 15:30	MEPs Thomas Mann, Neena Gill Etihad EY 290		
ETA 15:40	MEP Javier NART, Bernard MONOT Qatar Airways QR 646		

20:30	Dinner with the Indian Ambassador, Ms Neena Gill	India House, Lazimpat	To be accompanied by Chief Observer, Nicolay Paus and Tim Boden
Wednesday, 6 December, 2017			
8:00	Meeting with Agni Sapkota, Communist Party Nepal - Maoist Centre (CPN-MC) and Former Minister of Information and Communication	EU EOM Meeting Hall, Hotel Yak and Yeti	
9:00	Chief Observer and EU EOM Briefing	EU EOM Meeting Hall, Hotel Yak and Yeti	
10:00	<u>Roundtable with Domestic Observer Groups:</u> <ul style="list-style-type: none"> - Alok Pokharel, Democracy Resource Center Nepal (DRCN) - Olin Thakur, Senior Manager, Sankalpa - Saru Subedi, Research Unit Head, Sankalpa - Professor Kapil Shrestha, Vice-Chairperson, National Election Observation Committee (NEOC) - Surya Shrestha, General Secretary, National Election Observation Committee (NEOC) 	EU EOM Meeting Hall, Hotel Yak and Yeti	
11:15	Meeting with Arjun Narsingh KC, Nepali Congress Senior Leader and Former Minister	KC residence, Gongabu	
12:30	Lunch Meeting hosted by the UK Ambassador with EU Ambassadors	UK Residence	To be accompanied by CO, DCO, Nicolay, Tim, Beatrice Bianchi (Political Analyst), Sarah Fradgley (Press Officer)
ETD 11:45 (Leave Hotel Yak and Yeti by 10:00)	<u>MEPS Depart for deployment 2nd Phase Election Day</u> Pokhara (Team 2) MEPs Thomas Mann, Bernd Lucke (Accompanied by Karl Minaire)		

18:00	Meeting Team 2 with Long Term Observers		
ETD 13:30 (leave hotel Yak and Yeti by 11:50)	<u>MEPS Depart for deployment 2nd Phase Election Day</u> Dhangadhi (Team 3) MEPs Tomas Zdechovsky, Javier Nart (Accompanied by Pilar GONZÁLEZ-MURILLO)		
18:00	Meeting Team 3 with Long Term Observers	Hotel Devotee, Dhanghadi	
14:45	Meeting with Shashi Bikram Karki (candidate from Bhaktapur-1) and Anusha Thapa, Central Committee Members of the Bibeksheel Sajha Party	EU EOM Meeting Hall, Hotel Yak and Yeti	
17:00	Briefing by the Election Commission Nepal (followed by dinner)	Hotel Annapurna, Durbar Marg	
Thursday, 7 December, 2017			
ELECTION DAY 2nd PHASE			
06:00-18:00	Election Day Observation Polling stations open at 7:00 Close at 17:00 Team 1 (Lalitpur/Kathmandu), 2 and 3	Various locations	

Friday, 8 December, 2017

<p>ETD 9:10 (Arrive at Hotel Yak and Yeti at 11:30)</p> <p>ETD 9:30 (Arrive at Hotel Yak and Yeti by 11:00)</p>	<p><u>MEPs Return from deployment after 2nd Phase election observation</u></p> <p>Dhangadhi Team</p>		
	<p>Pokhara Team</p>		
12:30	EP internal briefing: preparation of press statement	Hotel Yak and Yeti	
14:15	Meeting with the President Bidhya Devi Bhandary	Presidential Palace, Maharajgunj	
15:30	Meeting with the Prime Minister Sher Bahadur Deuba	Prime Minister Residence, Baluwatar	
<p>ETD 20:50 (Leave Hotel Yak and Yeti by 18:00)</p>	<p>VIP Departure</p> <p>MEP Javier Nart</p> <p>Qatar Airways QR 651</p>	Tribhuvan International Airport (TIA)	SP

Saturday, 9 December, 2017

14:00	Press Conference	Hotel Yak and Yeti	
	<u>VIP Departures</u>	Tribhuvan International Airport (TIA)	SP
ETD 12:55 (Leave Hotel Yak and Yeti by 10:00)	MEP Bernd Lucke 727 Turkish Airlines		
ETD 20:50 (Leave Hotel Yak and Yeti by 18:00)	MEPs Bernard Monot, Tomas Zdechovsky Qatar Airways QR 651		
ETD 21:05 (Leave Hotel Yak and Yeti by 18:20)	MEPs Neena Gill, Thomas Mann Etihad EY 293		
	EP Staff departure on Etihad EY 293 at 21:05		



B. European Parliament Election Observation Delegation Statement

Statement by Ms Neena Gill CBE,
Head of the European Parliament election observation delegation
to the House of Representatives
and Provincial Assemblies elections in Nepal,
26 November and 7 December 2017

Kathmandu, 09 December 2017

Ladies and gentlemen,

Thank you first of all for the great interest that you have shown in this press conference. As Head of the European Parliament's delegation, I have the honour of speaking on behalf of my fellow MEPs.

As you know, the delegations of the European Parliament observed both phases of the process on 26 November and 7 December – I believe that this is a clear sign of our commitment to the strengthening of democracy in Nepal. These elections – the first since the adoption of the new constitution – are a significant milestone in the consolidation of the democratic process. During these two visits, we met a wide range of representatives from many political parties, from civil society as well as the Election Commission. We were also honoured to meet the President and the Prime Minister.

The European Parliament delegation fully endorses the preliminary findings and conclusions of the EU Election Observation Mission as outlined by our Chief Observer, my friend and colleague Željana Zovko. I would like to thank her and her team for the excellent cooperation and the very comprehensive work that they have carried out. I will not repeat the main findings that she has just presented, but would like to focus on a number of issues.

Firstly, I should like to emphasise that the European Observation Mission including the European Parliament delegation, which was invited by the authorities, is here to work in partnership with Nepal and to make a positive contribution to your democracy. As observers, we are here to support you.

We were present in six different regions of the country over the two stages of the elections. We were very impressed by the well-organised and well-managed preparations and conduct of the vote, particularly in view of the short time available, to undertake these preparations. The commitment and dedication of the polling centre staff, the enthusiasm of the voters who had to wait patiently in line, the strong engagement shown by women

and young people, and a turnout which many of our own countries could only envy, have in general made these two election days a very positive development in the embedding of democracy in Nepal. I would also like to mention that the limitations we faced in observing in some polling centres on 26 November were far less during the second phase.

However, let me just flag up two elements which deserve attention from the relevant authorities in the future. The involvement of political parties' representatives on Election Day is to be welcomed, nevertheless there should be a clearer definition of their tasks, which must be separate and distinct from the duties carried out by the officials of the polling centres. Furthermore, the transparency of the vote would be strengthened by a well-defined rule on assisted voting.

But an election is not simply about what happens on one day, and it is necessary to mention some more long-standing issues. Most importantly, the security environment is of some concern. Political competition should not descend into violence, and we urge all political forces to take a very clear stance on this.

We also note that the financing of the electoral campaign remains a problematic issue, particularly in respect for funding for candidates. Rules do exist, but they are inadequate and cannot be effectively enforced. This situation must clearly be improved.

As I mentioned earlier, elections are an extremely important part of the process of strengthening democracy in Nepal. The EU has given a clear sign of its commitment by sending this Election Observation Mission. However, this is only one element of our support to your country. Democracy assistance through the EU funded programmes is an important element in the broader EU-Nepal relationship. This relationship is based on the principles of democracy and human rights and support to peace, stability and prosperity. The European Parliament is a great friend of Nepal and a key player in the whole process – we will stand with you. As the counting continues and the results are announced, we urge everyone to focus on inclusive political life, building confidence and trust, and to further strengthen the institutions that underpin democracy.

We are looking forward to the final report of the Election Observation Mission and to the full implementation of its recommendations.

Thank you for your attention.

C. EU Election Observation Mission Preliminary findings and conclusions



PRELIMINARY STATEMENT

Political freedoms and the commitment of voters prevailed over violence and, despite shortcomings, the Election Commission delivered the elections within a tight timeframe

Kathmandu, 9 December 2017

SUMMARY

This preliminary statement of the EU EOM to Nepal is delivered before the completion of the electoral process. The EU EOM will remain in Nepal to observe the completion of the counting process, the tabulation of results, and the resolution of any complaints and appeals. The EU EOM will publish a final report which will include recommendations for future elections.

- The 26 November and 7 December elections to the House of Representatives and the seven provincial assemblies represent a key milestone in the implementation of the 2015 Constitution. The legal framework offers a good basis for the conduct of elections which comply with the international standards subscribed to by Nepal. The enabling legislation for these elections was enacted less than three months before the elections. The electoral system, in a constitutionally mandated effort to promote gender and social inclusion, is designed, in part, on the basis of proportional inclusion.
- Political freedoms, including association, assembly, expression, were well-respected in the law and in practice. There were no restrictions on the right to stand for election. Political freedom was, however, disrupted by a series of violent attacks on candidates and campaign events. Since 7 November, more than 150 violent incidents occurred throughout Nepal, principally with improvised explosive devices. A temporary police officer lost his life. Preventive detention was used to restrict the activities of some who were perceived to be a threat to public security.
- The Election Commission of Nepal (ECN) succeeded with the logistical preparations as well as the operational aspects of conducting the elections in two phases, despite the date for the election having been set by the Government just 97 days before the first election day. This tight timeframe was exacerbated by the late adoption of the necessary legislation and difficult geographical conditions. There is however a lack of transparency in the work of the ECN. There is no mechanism for regular consultations with political parties, civil society and observers at the central level. Decisions, internal rules of procedure, and voter registration data by administrative unit and constituency are not public. The ECN has failed to publish critical information on polling centre turnout. Also, procedural weaknesses exist, particularly with regard to the reconciliation of ballots, which is detrimental to transparency, making the process vulnerable to abuse.
- Oversight of the work of returning officers by the ECN is inadequate. While the law stipulates that the returning officers are subject to the direction of the ECN, decision-making is often left to the discretion of the returning officers. This reluctance of the ECN to exercise its powers led to the

inconsistent application of legislation, particularly regarding the access of observers. Despite serious efforts having been made voter education was seen to be insufficient. This was particularly worrying given the complexity of these elections. Equal suffrage has not been fully provided for, as great differences exist between the numbers of registered voters per constituency. The principal cause of these inequalities is the constitutional requirement that there be at least one federal constituency in each of the 77 districts, irrespective of population.

- A voter registration drive ending in August resulted in 1.37 million new registrants. The final voter list included 15,427,935 voters, an estimated 90 per cent of the total voting-age population. The right to vote was extensively circumscribed during these elections as at least half a million people, namely election officials and security personnel on election duties, were denied an opportunity to vote. Around 170,000 young people who turned 18 between the registration deadline and the election days were not permitted to register. Furthermore, the requirements to transfer voter registration are overly restrictive.
- A well conducted candidate nomination process was completed on 19 November. In total, there were 1,945 candidates running for 165 FPTP House of Representatives seats and 3,238 candidates running for 330 FPTP provincial assembly seats. Forty-nine political parties submitted closed lists, comprising 2,273 candidates for the 110 PR seats for the House of Representatives. Forty-one parties submitted 172 closed lists with 3,712 candidates for the 220 PR seats in the seven provincial assemblies.
- The ECN, in consultation with political parties, introduced an Election Code of Conduct, a key element of electoral law. The Code is applicable very broadly, not just to candidates and political parties. The rules are highly detailed and impose excessive restrictions on campaign freedom. Extensive power is conferred on the ECN to punish transgressions of the Code, including by fines and disqualification. Electoral law confers power on the ECN to regulate financial expenditure for campaign purposes. The shortage of information available to the public and the poor enforcement of disclosure rules together undermine the transparency of and accountability for campaign finance. Although vote-buying is explicitly prohibited in the Code, allegations that both cash and in-kind gifts were given to voters circulated widely.
- The media environment during the election campaign period was generally free, although a few cases of limitations on the freedom of expression and the freedom of the press were observed. Eight journalists were subject to preventive detention. Monitoring of 13 national media outlets by the EU EOM revealed a reasonably balanced coverage by public and private broadcasters and newspapers, with only the national radio station, Radio Nepal, allocating a disproportionate amount of airtime in favour of Nepali Congress.
- Many cases concerning both the work of the ECN and aspects of electoral law were filed with the Supreme Court, but not a single case proceeded to a full hearing. An interim hearing took place on the voting rights of electoral staff and security officials on election duty, yet no mandatory order ensued. The failure to proceed to full hearings of cases in a timely manner could possibly represent a denial of the right to an effective legal remedy. The ECN received around 100

complaints regarding violations of the Election Code of Conduct. A largely mediatory approach to adjudication was adopted, which undermined the enforcement of this instrument.

- The equality of women is a fundamental principle in the Constitution, with a requirement that at least one third of the total number of members elected from each political party to the Federal Parliament must be women. Political parties selected very few women to compete in the FPTP elections.
- Over 100 EU observers observed the opening, voting and closing process at 633 polling centres in 61 districts within all seven provinces. Despite the fact that the conduct of polling in 89% of polling centres visited was assessed positively, as good or very good, there was an assessment of bad or very bad conduct of polling recorded in 11% of the centres visited. Irregularities which impacted upon the credibility of the polling process in these centres where the assessment was negative included: lack of secrecy of the vote; excessive assisted voting, with assistance often being provided by unauthorised persons to voters who appeared to be able to mark the ballots unaided; people voting together behind the voting screen; voters voting on behalf of others; and interference with the work of the polling staff, mainly by political party and candidate agents conducting parallel voter identification inside the polling centres.
- EU observers were denied access to 22 polling centres and were seriously restricted in their observation in 29 polling centres. Observers were also denied access to counting centres in ten districts during the first day of counting.

The EU EOM has been present in Nepal since 25 October, at the invitation of the Government and the Election Commission of Nepal. The mission is led by Chief Observer, Željana Zovko, a Member of the European Parliament (MEP) from Croatia. The mission is comprised of ten core team analysts in Kathmandu, 38 long-term observers (LTOs) and 44 short-term observers (STOs) who have been deployed in all seven provinces. A delegation of seven MEPs led by Neena Gill CBE as well as diplomatic staff of EU member state embassies in Nepal, joined the EU EOM for both election days. In total, the mission was composed of over 100 observers from all 28 EU Member States, as well as Norway and Switzerland.

The EU EOM undertakes a comprehensive approach to election observation. It assesses the whole electoral process against international obligations and commitments for democratic elections as well as the laws of Nepal. The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation signed at the United Nations in October 2005. The EU EOM expresses its appreciation to the Government of Nepal, the ECN, political parties, civil society, media, as well as the people of Nepal for their cooperation and assistance in the course of our observation.

BACKGROUND

The 26 November and 7 December elections to the House of Representatives and the seven provincial assemblies represent a key milestone in the implementation of the Constitution promulgated in September 2015. Local elections, concluded in September 2017, represented a first step in the realisation of the new federal structure. The Federal Parliament of Nepal will become bicameral upon the election of both the House of Representatives and the National Assembly.

The political milieu has been reshaped by extraordinary electoral alliances. For the first time since the establishment of the multiparty system, political parties agreed to compete together for the first-past-the-post (FPTP) elections. Previously, each party ran alone, and post-election coalitions were formed to govern. The current elections reveal a shift to strategies based on party coalitions. The catalyst for this change was the creation of the 'Left Alliance' between the Communist Party of Nepal-Unified Marxist Leninist (CPN-UML) and the Communist Party of Nepal- Maoist Centre (CPN-MC) on 3 October. Other political parties reacted by also creating alliances, with the Nepali Congress subsequently leading the 'Democratic Alliance'. In Province 2 there was also an alliance between the Rastriya Janata Party Nepal (RJPN) and the Sanghiya Samajbadi Forum-Nepal (SSF-N) parties.

LEGAL FRAMEWORK

The legal framework for the House of Representatives and Provincial Assembly elections offers a good basis for the conduct of elections which comply with the international standards subscribed to by Nepal. While the Constitution of Nepal, promulgated in September 2015, established the electoral system, the enabling legislation for these elections was enacted less than three months before the elections took place, with some directives published less than two weeks beforehand.

The House of Representatives, the first of the bicameral houses of the new Federal Parliament to be elected, will be comprised of 275 members, elected through a mixed electoral system. One hundred and sixty-five members are elected in a first-past-the-post (FPTP) system, from 165 constituencies, amounting to 60% of total membership. The remaining 40% of members, 110 individuals, are being elected by proportional representation (PR) where the entire country is a single constituency. According to the Constitution, the Federal Parliament should be established before 21 January 2018.

The electoral system, in a constitutionally mandated effort to promote gender and social inclusion, is designed, in part, on the basis of proportional inclusion. It is compulsory for political parties to include candidates from certain ethnic and social groups in their PR closed lists. Nominations must be made according to quotas which reflect the composition of Nepalese society¹. Women must comprise a total of 50% of the candidates nominated by any political party to the House of Representatives. These quotas are a meritorious example of affirmative action through which Nepal is attempting to promote equality for historically marginalised groups.

The proportional inclusion system is based on that established under the Interim Constitution of 2007, but the impact has been diminished as the rules apply to only 40% of parliamentary seats under the present Constitution, as compared to 57% before. Furthermore, the expansion of the list of cluster groups to include the Khas Arya², a group traditionally over-represented in political life, defeats the purpose of ending social discrimination and undermines the coherence of the quota system.

Political freedoms, including association, assembly, expression, were well-respected in the law and in practice. There were no restrictions on the right to stand for election. Political freedom was, however, disrupted by those who engaged in violent attacks during the election period. Preventive detention was used to restrict the activities of some who were perceived to be a threat to public security. While

¹ While the Constitution lists the groups to be included in the PR electoral system, the Elections Act for the House of Representatives sets out quotas as follows: Dalit 13.8%; indigenous people 28.7%; Khas Arya 31.2%; Madhesi 15.3%; Tharu 6.6%; Muslin 4.4%; "backward regions" 4.3%. These proportions are based on the National Census 2011. Persons with disabilities must be included also.

² Constitution of Nepal, Art. 84 (2) Khas Arya means the Kshetri, Brahmin, Thakuri, Sanyasi (Dashami) community.

preventive detention is provided for in the Constitution and the law, the use of such detention merely to suppress dissenting political views, such as advocacy of invalidation of the vote, would violate the International Covenant on Civil and Political Rights.

The right to vote is denied by law to “persons of unsound mind,” amounting to a violation of the Convention on the Rights of Persons with Disabilities. In addition, there are difficulties, both practical and legal, which have had the consequence that some members of marginalised groups lack citizenship certificates, the holding of which is a precondition to voter registration, thereby frustrating their right to vote. The secrecy of the ballot was denied to persons with disabilities who did not have facilities for independent voting. While all citizens have the right to vote, the weight of the vote differs widely between different constituencies, undermining the equality of the franchise.

The ECN, in consultation with political parties, introduced an Election Code of Conduct, a key element of electoral law. The Code is applicable very broadly, not just to candidates and political parties, but also to the Government of Nepal, public bodies, the media, electoral staff, NGOs, observers and the general public. The rules are highly detailed and impose excessive restrictions on campaign freedom, circumscribing the freedom of expression. Extensive power is conferred on the ECN to punish transgressions of the Code, including by fines and disqualification. Allegations of breaches of the Code circulated widely, but enforcement action was largely absent.

ELECTION ADMINISTRATION

The ECN is a permanent constitutional body with extensive executive and regulatory powers, mandated to organise elections in Nepal. The mechanism for the appointment of election commissioners provides for cross-party consensus. The ECN to date, at the district and constituency level, has performed its duties impartially, generally enjoying the confidence of stakeholders.

There is however a lack of transparency in the work of the ECN. Decisions of the ECN and minutes of their meetings are not published systematically. Internal rules of procedure, a comprehensive electoral calendar, and voter registration data by administrative unit and constituency are not publicly available. The ECN has not published critical information on polling centre turnout. Importantly, there is no mechanism for regular consultations with political parties, civil society and observers at the central level, but engagement with stakeholders at the district level is better.

Oversight of the work of returning officers by the ECN is inadequate. While the law stipulates that the returning officers are subject to the direction of the ECN, decision-making is in reality often left to the discretion of the returning officers. This reluctance of the ECN to exercise its powers led to the inconsistent application of legislation, particularly regarding the access of observers to counting centres.

The ECN managed to conduct the elections in two phases, despite the date for the election having been set by the Government just 97 days before the first election day. This created a tight time-frame for the conduct of elections, exacerbated by the late adoption of the necessary legislation. The ECN decided to print ballot papers for both FPTP elections together on a single sheet of paper, and the equivalent for the two PR ballot papers. The intervention of the Supreme Court led to the separation of the two FPTP ballots on separate sheets of paper, while the PR papers were not affected. Ensuing logistical delays and difficult geographical and weather conditions further complicated preparations. Nevertheless, all technical preparations were completed on time for both election days. A notable exception, however, was the very late publication of essential polling and counting directives, less than two weeks before the first election

day. Thus, political party agents in particular, had limited time to familiarise themselves with the procedures for these critical parts of the process.

The polling and counting directives include a number of safeguards aimed at ensuring the credibility of the process. These include the mandatory presentation of a government-issued ID card, and access for agents and observers. However procedural weaknesses persist, particularly in regard to reconciliation of ballots, which is detrimental to transparency, making the process vulnerable to abuse. There is no meaningful reconciliation between the number of voters who received ballot papers, the number of used ballots and the number of ballots found in the ballot box. There is no provision on matching the polling and counting centre reconciliation data, neither is there any procedure on how to proceed in case of discrepancy. The directives also lack a mechanism for the auditing of polling centres with implausibly high or low turnout figures.

The ECN imposed unreasonable restrictions on observers, limiting their deployment to only one province. This went beyond the requirements stipulated in the accreditation procedures and hampered the work of both domestic and international observers. Despite serious efforts voter education was seen to be insufficient. The ECN stated that, due to challenges arising from printing the additional FPTP ballot, it would not have enough time for effective voter education. This was particularly worrying given the complexity of these elections where voters were casting four votes on three ballots. Around 20,000 voter educators, one per polling centre, were recruited, trained and dispatched to the field late, allowing only 15 days for their door-to-door visits ahead of the first phase election day.

The Constituency Delimitation Commission completed its work in a period of just 42 days in July and August this year. Equal suffrage has not been fully provided for, as great differences exist between the numbers of registered voters per constituency. The largest federal constituency has nearly 26 times more voters than the smallest one. Eighty-seven of the 165 federal constituencies (53%) deviate by more than 15% from the national average of 93,503 voters per federal constituency. Similar disparities exist for all seven provincial assemblies. The principal cause of these inequalities is the constitutional requirement for at least one federal constituency in each of the 77 districts, irrespective of population.

VOTER REGISTRATION

The ECN has the overall responsibility to maintain the biometric voter register. Voter registration is active and continuous. The voter registration drive in July and August resulted in 1.37 million new registrants, representing an increase of 9.8% on the number registered for local elections. The final voter list was accessible online and it included 15,427,935 voters, an estimated 90% of the total voting-age population. However, the actual registration rate is lower, as there is no effective system in place for removal of deceased persons from the list.

The right to vote was extensively circumscribed during these elections as at least half a million people, namely election officials and security personnel on election duties, prisoners and residents of old age homes, were denied the opportunity to vote. This is particularly egregious as these groups are foreseen in the law as temporary voters who may be permitted to vote in the proportional representation elections. The ECN failed to vindicate their rights. Around 170,000 young people who turned 18 between the registration deadline and the election days were not able to register due to the legal requirement to be 18 on the day of registration. Furthermore, the requirements to transfer voter registration are overly restrictive. A voter who wants to transfer registration to another location must provide evidence of

permanent residence, such as through property ownership in the new place, and therefore voters staying in rented premises cannot transfer their registration.

CANDIDATE NOMINATION

The candidate nomination process was completed on 19 November. The ECN published the list of all candidates on its website. In total, there were 1,945 candidates running for 165 FPTP House of Representatives seats and 3,238 candidates running for 330 FPTP provincial assembly seats. Forty-nine political parties submitted closed lists, comprising 2,273 candidates for the 110 PR seats for the House of Representatives. Forty-one parties submitted 172 closed lists with 3,712 candidates for the 220 PR seats in the seven provincial assemblies. In general, the candidate nomination process proceeded smoothly, with only one disputed disqualification being challenged in the Supreme Court.

ELECTION CAMPAIGN

The electoral process was marred by a series of violent attacks on candidates and campaign events. Since 7 November, more than 150 violent incidents occurred throughout Nepal, particularly in Provinces 1 and 3. The number of incidents increased leading up to the two days of elections. Attacks with improvised explosive devices (IEDs), targeted 34 candidates from the 'left alliance' and 34 candidates from the NC, as well as eight candidates from other political parties. These included attacks on rallies of Prime Minister Deuba and the chairpersons of the CPN-UML and of the CPN-MC. On 4 December, former Minister of Health Gagan Thapa, an NC candidate, was injured by an IED while conducting 'door-to-door' canvassing in Kathmandu. There were 29 attacks on polling centres and election offices. Forty-eight IEDs targeted public venues, including two police stations in Saptari and Kailali districts. Fifty-one people were injured during these attacks. On 29 November, a temporary police officer died from injuries after an IED exploded near the venue of a NC event in Dang district which Prime Minister Deuba was scheduled to attend. Almost 1,000 people were held in preventive detention during the electoral period due to allegations of disrupting the elections. There was little public opposition to this practice, apart from some protest at the arrest of Madhesi activist C.K. Raut on election day.

Political parties started mobilising their supporters after the announcement of the date of the elections, and campaigning was invigorated by the filing of nominations on 22 October for the first phase of the elections, and on 2 November for the second phase. While there was broad freedom to campaign, the Election Code of Conduct prescribed an extensive catalogue of rules restraining candidates and political parties in their campaign activities, while also prescribing spending limits. The requirements stipulate that, among other things, election symbols may not be displayed on t-shirts and caps, and that posters and flags must be limited in size. Political parties largely respected the minor requirements and expressed their satisfaction with the restraints which reduced campaign spending expectations. However, the more serious aspects of the Code, such as limits on campaign expenditure, were not as well respected. Although vote-buying is explicitly prohibited in the Code, allegations that both cash and in-kind gifts were given to voters circulated widely. The Code of Conduct also imposed a period of campaign silence. While this silent period was largely respected both for the first and second phases of polling, EU observers noted exceptions, with some door-to-door campaign activities.

Relations between political parties were generally peaceful in all parts of the country. Incidents of sporadic clashes were, however, reported. During the early weeks of the campaign, posters and billboards were largely absent, with the campaign gradually becoming more visible. The EU EOM observed 120

campaign events across Nepal.³ ‘Door-to-door’ campaigning and the holding of ‘corner meetings’ were the most common forms of campaign activity. Rallies on a larger scale with national party leaders promoting the parties became frequent from the second half of November.

CAMPAIGN FINANCE

Electoral law confers power on the ECN to regulate financial expenditure for campaign purposes. For candidates, maximum limits on spending have been set out for the FPTP elections, the amounts differing depending upon whether the election is to the House of Representatives or a provincial assembly. The legal framework, however, contains almost no rules on the sources of funding for candidates, providing only that they shall not receive financial support from any governmental or public entity or NGO. Their political parties, may, however provide financial support. Candidates may also raise their own campaign funding, which favours candidates with greater financial means.

For political parties, by contrast, funding rules are clearly defined by law, including prohibitions on the receipt of donations from state corporations and foreign entities. Bank accounts have to be maintained for party monies, and income above a threshold must be disclosed. The legal framework also imposes limits on campaign expenditure by political parties, with the ceilings determined by the number of candidates they have fielded in the PR elections. Publication of the financial statements of income and expenditure by both political parties and candidates is required.

While monitoring structures, both at the central and district levels, have been set up by the ECN, enforcement of the rules on campaign finance has not been comprehensive. Sanctions have been imposed for the non-timely submission of reports, but the quantum of fines levied cannot be considered to be a sufficient deterrent against the repetition of such behaviour.⁴ Additionally, although vested with an auditing mandate, the performance of the ECN regarding the efficient and timely verification of financial accounts submitted by parties and candidate could be improved. The shortage of information available to the public and the poor enforcement of transparency rules together undermine the transparency of and accountability for campaign finance. This fails to comply with Article 7(3) of the UN Convention against Corruption, ratified by Nepal in 2011.

MEDIA

The media environment during the election campaign period was generally free, although a few cases of limitations on the freedom of expression and the freedom of the press were observed. Eight journalists were subject to preventive detention, allegedly due to a perceived threat to public security and the electoral process. Both the Federation of Nepali Journalists and the International Federation of Journalists condemned the arrests. On 29 November a journalist suffered injuries after the explosion of an IED in Udaypur district while he was covering campaign activities.

³ The EU EOM observed 15 campaign activities for phase 1 and 105 for phase 2. Of the 120 events, 47 were organised by the ‘left alliance’ and 37 by the NC – plus seven by the ‘democratic alliance’. EU EOM observers were present in seven events of the Bibeksheel Sajha Party, 4 events of Rastriya Prajatantra Party, 4 events of Nepal Majdur Kisan Party, 3 events of the RJPN and 3 of SSF-N as well as one common event among the two Madhesi parties. Similarly, two events of Rastriya Janamorchha was observed along with one event of the Communist Party of Nepal-Marxist Leninist, Mongol National Organisation and Deshbhakta Janaganatantrik Morcha. The mission also observed two independent candidates carrying out one campaign activity each.

⁴ The Election Commission Act, 2017 provides for fines equal to total election expenditure if limits are exceeded. In practice, the ECN imposed fines of NPR 1,500 (€12) for failure to submit reports after elections in 2013.

Media in general provided a diverse platform for political parties to present their messages to voters across the country. Although electoral coverage focused mainly on campaign activities by NC, CPN-UML and CPN-MC, public and private media also provided coverage, to a lesser degree, to smaller parties. In a welcome initiative, some community radio stations at district level offered free-of-charge airtime to candidates to present their manifestos. Nevertheless, private radio stations at district level are widely perceived to be politically inclined. Political parties and candidates campaigned actively and in an appropriate manner through the social media, and any misuse of this platform was attributable to supporters rather than officials. Some local journalists used their personal Facebook or Twitter accounts to sensitise voters and to question parties and candidates.

Monitoring of 13 national media outlets⁵ conducted by the EU EOM, from 6 November to 4 December 2017, revealed generally balanced coverage by public and private broadcasters and newspapers, with a reasonably proportionate distribution of airtime and space among the three main parties. News and election related information was mainly presented in a neutral tone. Only the national radio station, Radio Nepal, showed unbalanced coverage in favor of NC (39% of total airtime) to the detriment of CPN-MC (20% of total airtime) and CPN-UML (24% of total airtime). The remaining media monitored by the EU EOM showed, in general, a fair degree of impartiality in their electoral coverage.

The Election Code of Conduct includes restrictive provisions on the diffusion of parties' and candidates' propaganda in the media, limiting each party to only one advertisement (size 7'x7') to be published per day in only one newspaper, and up to just four spots a day, of a maximum duration of one minute, to be aired on tv and radio stations. In this regard, violations of the Election Code of Conduct by NC, CPN-UML, RPP-N, RPP-D, BSP, PLGP, APMP, ERPP-D and independent candidates were observed by the EU EOM in eight different media (Kantipur Radio, Ujyaalo FM, Kantipur TV, Image TV, Avenues TV, Naagarik, Naya Patrika and Kantipur newspaper). Likewise, in contravention of instructions published by the ECN on 28 November, online media MyRepublica published exit polls forecasting electoral winners at the district level. However, the ECN asked for clarifications, to both the concerned media and party, only in regard to two violations by CPN-UML and RPP-N. Similarly, no clarifications or actions were sought or taken by the ECN regarding the 52 cases of violation of campaign silence periods by 31 different media outlets, according to reports produced by the regulatory body, the Press Council of Nepal.

ELECTORAL JUSTICE

Many cases concerning both the work of the ECN and aspects of electoral law were filed with the Supreme Court, but not a single case proceeded to a full hearing prior to the elections. An interim order in one case resulted in the ECN being required to print separate ballot papers for the FPTP elections, but there was no equivalent ruling in a case on the PR poll. An interim hearing took place on the voting rights of electoral staff and security officials on election duty, yet no mandatory order ensued. Other cases, on overseas voting, on the inclusion of persons with disabilities and of women, did not proceed to a full hearing either. The failure to proceed to full hearings of cases in a timely manner could possibly represent a denial of the right to an effective legal remedy.⁶

The ECN has jurisdiction to monitor and enforce the Election Code of Conduct. Around 100 complaints were received regarding violations of the Code, ranging from a multitude of minor transgressions, such as posters and billboards in excess of the permitted size, to complaints of a more serious nature, including

⁵The sample included the public media Radio Nepal, Nepal TV and Gorkhapatra newspaper, and the private media Kantipur Radio, CIN Radio, Ujyaalo FM, Kantipur TV, Avenues TV, Image TV, Kantipur newspaper, Naya Patrika, Nagarik and The Himalayan Times.

⁶ International Covenant on Civil & Political Rights, Article 25

the abuse of public office to influence the election. In excess of 2,000 applications from public bodies for dispensations from the Code were made also. Enforcement of the Code was largely confined to requests to cease the behaviour complained of. A largely mediatory approach was adopted, which allowed an ad hoc application of the Code and provided little transparency or clarity on consistency in decision-making. The widespread absence of respect for, or implementation of, the Code partly undermines the integrity of the Code and the credibility of the ECN as the responsible body.

PARTICIPATION OF WOMEN AND TRADITIONALLY MARGINALISED GROUPS

The Constitution makes it an imperative that traditionally marginalised groups are represented both in the Federal Parliament and in provincial assemblies. The Constitution includes “gender and sexual minorities” as being among the groups with the right to participate in state bodies on the grounds of proportional inclusion. A total of 167 people identified themselves as third gender when registering to vote, and there was one high-profile third gender candidate for the House of Representatives PR election.

The equality of women is a fundamental principle in the Constitution, with a requirement that at least one third of the total number of members elected from each political party to the Federal Parliament must be women. There are no legal obstacles restricting the political participation of women, although powerful social and cultural barriers to female leadership persist. Political parties did not select many women to compete in the FPTP elections, as women comprised just 7.5% of the total number of candidates for the House of Representatives, and 7.4% of the total for the provincial assemblies. Nonetheless, it is likely that Nepal will maintain its position as leader in the region for the proportion of women in parliament.

Political parties are constitutionally bound to provide for the representation of persons with disabilities in their PR lists. While achieved in an ad hoc manner for these elections, a reasonable number of candidates from this community received nominations. The recently enacted Rights Relating to Persons with Disabilities Act, 2017 provides strong protection for the right to political participation of persons with disabilities, obliging the Government of Nepal to ensure that the polling process and polling materials are accessible and understandable. The electoral law does not create any entitlements to accessible polling stations or to voter education materials which meet the varied needs of persons with disabilities. The Electoral Rolls Act 2017 states that persons “of unsound mind” shall not be entitled to vote, breaching the Convention on the Rights of Persons with Disabilities.

DOMESTIC OBSERVER ORGANISATIONS

Several domestic observer organisations deployed a considerable number of observers, contributing to the transparency of the electoral process. Three groups – National Election Observation Committee, General Election Observation Committee and Sankalpa deployed on the two election days around 1,400 and 3,400 observers respectively, while the Democracy Resource Center observed separately. They coordinated their activities closely and issued a joint statement after both election days.

POLLING AND COUNTING

On 26 November and 7 December, over 100 EU observers observed the opening, voting and closing process at 633 polling centres in 61 districts within all seven provinces. Despite presenting the ECN-issued observer accreditation cards, which grant unhindered access to polling and counting centres, EU observers were denied access to 22 polling centres and were seriously restricted in their observation in 29 polling centres. Observers were also denied access to counting centres in ten districts during the first day of observation of the counting process.

Despite the fact that the conduct of polling in 89% of polling centres visited was assessed positively, to be good or very good, there was an assessment of bad or very bad conduct of polling recorded in 11% of the centres visited. Irregularities which impacted upon the credibility of the polling process in these centres where the assessment was negative included: lack of secrecy of the vote; excessive assisted voting, with assistance often being provided by unauthorised persons to voters who appeared to be able to mark the ballots unaided; people voting together behind the voting screen; voters voting on behalf of others; and interference with the work of the polling staff mainly by political party and candidate agents conducting parallel voter identification inside the polling centres.

Voters were not always marking their ballots in secrecy in 13% of polling centres visited. Instances of more than one voter behind the voting screen, and voting on behalf of others, were observed in 14% and 11% respectively of the polling centres visited. Interference with the work of the polling staff was observed in 20% of the polling centres observed. Political party and candidate agents were present in all, and domestic observers in one third, of the polling centres visited. According to the ECN, the turnout in the first phase districts reached 65% and in the second phase districts 67%. The EU observers are currently observing the counting process in 41 of the 77 districts within all seven provinces.

This preliminary statement is available on the mission website www.eomnepal.eu as well as on social media: Facebook [EUEOMNepal2017](#) and Twitter [@EUEOMNepal2017](#). For further information, please contact: Sarah Fradgley, EU EOM Press Officer, Tel. +977 9801237603, sarah.fradgley@eomnepal.eu

D. Press release by the EU EOM



Press Release

Political freedoms and the commitment of voters prevailed over violence and, despite shortcomings, the Election Commission delivered the elections within a tight timeframe

Kathmandu, 9 December

The European Union Election Observation Mission (EU EOM) to Nepal says the 26 November and 7 December elections to the House of Representatives and provincial assemblies demonstrated that political freedoms, such as association, assembly and expression, prevailed over the violent attacks of the election campaign period.

The EU EOM also commented that, while the Election Commission of Nepal (ECN) successfully organised in a very short timeframe the logistical aspects of the election in two phases, there was a notable lack of transparency in the work of the ECN, which affected the electoral process. For example, there is no mechanism for regular consultations with political parties, civil society and observers at the central level. Further, the ECN has not published critical information on polling centre turnout. The EU EOM also mentioned that procedural weaknesses exist, particularly with regard to the reconciliation of ballots, which is detrimental to transparency.

Presenting the mission's preliminary statement in Kathmandu, Željana Zovko, EU Chief Observer said: *"The 2017 elections to the House of Representatives and the provincial assemblies represent a key milestone in the implementation of the 2015 Constitution. Despite the violence designed to frustrate the electoral process, the two election days showed that voters were not deterred. Instead, millions of people throughout the country went to cast their ballots for peace, stability and a prosperous Nepal."*

The EU EOM also emphasised that the right to vote was extensively limited during these elections, as at least half a million people, namely election officials and security personnel on election duties, were denied an opportunity to vote. Around 170,000 people who turned 18 between the registration deadline and the election days were not permitted to register. In addition, the requirements to transfer voter registration are overly restrictive. The mission also noted that, although serious efforts were made, voter education was insufficient.

On 26 November and 7 December, over 100 EU observers observed the opening, voting and closing processes at 633 polling centres in 61 districts within all seven provinces. Despite the fact that the conduct of polling in 89% of polling centres visited was assessed positively, as good or very good, there was an assessment of bad or very bad conduct of polling recorded in 11% of the centres visited.

Despite presenting the ECN-issued observer accreditation cards granting unhindered access to polling and counting centres, the EU Chief Observer said that EU observers were denied access or seriously restricted in their observation in 22 and 29 polling centres respectively. Observers were also denied access to counting centres in ten districts during the first day of counting.

Positively, the media environment during the election campaign period was generally free, although a few cases of limitations on the freedom of expression and the freedom of the press were observed. Monitoring of 13 national media outlets by the EU EOM showed a reasonably

balanced coverage by public and private broadcasters and newspapers, with only the national station, Radio Nepal, allocating a disproportionate amount of airtime in favour of the Nepali Congress.

Neena Gill CBE, head of the European Parliament's delegation, which joined the EU Election Observation Mission shortly before both election days, endorsed the preliminary statement of the EU EOM and stated: *"The European Parliament is a great friend of Nepal. As the counting continues and the results are announced, I urge everyone to focus on inclusive political life, building confidence and trust, and to further strengthen the institutions that underpin democracy."*

Chief Observer, Željana Zovko, continued: *"The counting process is still underway. This is a critical part of the election and it will be important to maintain a high level of transparency and integrity throughout. EU observers are observing the count in 41 centres in both phase one and phase two districts."*

The EU EOM is the largest international observation mission in the country and is in Nepal for the longest duration. It assessed the extent to which the electoral process complied with international and regional commitments for elections, as well as with the laws of Nepal.

The mission will continue to observe the electoral process independently and impartially, including the announcement of results, as well as any complaints and appeals. It will remain in Nepal until the completion of the process. A final report, including recommendations for future elections, will be published afterwards.

ENDS

Note to Editors:

The European Union (EU) was invited to deploy an election observation mission by the Government of Nepal and the Election Commission of Nepal (ECN). It has Memoranda of Understanding with both the Ministry of Foreign Affairs and the ECN. The EU EOM is independent of EU institutions, the Delegation of the European Union to Nepal and EU member states.

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