

ELECTION OBSERVATION MISSION
NEPAL, FEDERAL AND PROVINCIAL ELECTIONS , 2017

PRELIMINARY STATEMENT

Kathmandu, December 9, 2017

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

This statement is preliminary; a final

in both phases of the elections positively. It is important to note, however, that the time of this statement

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

Following accreditation by the ECN, The Carter Center deployed an international election observation mission in October 2017 and began assessing the overall election process. All Center election observation missions are conducted in accordance with the Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers. The Center's assessment of the elections is based on benchmarks established in Nepal's legal framework and its obligations for democratic elections contained in regional and international agreements. These include the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),

As was the case during the 2008 and 2013 Constituent Assembly elections, the 2015 Constitution provides quotas, including for women (“at least one third” of each parliament should be composed of women) and a number of population groups (“clusters”). While the philosophy behind the quotas was t

before, during and after the elections. Nevertheless, legislation has some aspects that will need to be addressed better align it with international standards and address challenges encountered by the

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

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

VOTER REGISTRATION

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

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

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

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

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

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

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

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

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Despite some efforts by the ECN, which conducted sessions of voter awareness with organizations representing people with disabilities, it is widely felt that

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

VOTING

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

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

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

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

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

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

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

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

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

COUNTING

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

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

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

²¹ Especially in the first phase