

**ELECTIONS OF
MEMBERS OF HOUSE OF REPRESENTATIVES
AND PROVINCIAL ASSEMBLY
2018**

(FINAL ELECTION OBSERVATION REPORT)

General Election Observation Committee, Nepal
(GEOC)

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Babarmahal, Kathmandu, Nepal

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Chairperson Observation

The elections for the members of the House of Representatives and the Provincial Assemblies were held in two phases on November 26 and December 7, 2018. The election for the members of the National Assembly took place on February 9, 2018. Earlier, the local level elections were held in three phases. As such, the country now has elected representatives in all three tiers of government - federal, provincial and local level. A critical cycle of constitution has been completed and the country is firmly on track to windup the two-decade long political transition.

The General Election Observation Committee (GEOC) is an NGO established with the objective to carry out election observations. Since 1990, it has carried out observation of each and every parliamentary, local, constituent assembly and provincial elections. I would like to express my thanks and gratitude to all who supported us in these activities including the Election Commission that gave us the permission to observe, home administration, district election officers, political parties, candidates, voters, observers, journalists and representatives of civil society.

The GEOC had released its preliminary report about the election environment and election preparations by covering the activities of the political parties, enforcement of code of conduct, security situation and political violence. This final report is based on the information provided by our observers assigned to the field to observe whether the election was conducted in free, fair, independent and peaceful manner.

Short term and long term observers were deployed to obtain qualitative as well as quantitative information on observation. The long term observers had gathered overall information on political and election atmosphere of districts. The short term observers were provided with four types of questionnaires to ask voters, political workers and election officers whether the elections were conducted in free, fair and fearless manner as per the election laws and processes.

This report reflects of information received from 720 observers deployed to 30 districts that were covered by GEOC.

I would like to thank Mr. Gobinda Das Shrestha, who is the main author of the report and who turned around the responses received from the respondents into the shape of this report. I thank advocate Mr. Milan Shrestha, gender specialist Ms Usha Malla Pathak, and inclusion specialist Mr. Ganesh Mandal for their efforts in the report writing. They helped Mr. Shrestha in writing this report. I also thank Mr. Ashwothama Pokharel who coded and tabulated the information into data form. Mr. Madhab Ghimire helped in language editing. The executive members of the NLS and its executive director Mr. Krishna Man Pradhan deserve very warm appreciation for their regular and invaluable inputs. Mr. Milan Shrestha and his team who led the GEOC Secretariat also deserve our thanks.

On behalf of GEOC, let me sincerely thank the Royal Norwegian Embassy, Kathmandu for its financial assistance in the observation and report publication. Finally, I would also like to thank NEOC, Sankalpa and NDI for their cooperation in helping us successfully complete the election observation.

Himalaya Shumsher Rana
Chairperson
General Election Observation Committee, Nepal

February, 2018

Executive Summary

Restructuring of the system of governance is a major feature of the Constitution of Nepal promulgated in 2015. The elections for the members of House of Representatives (HoR) and Provincial Assemblies (PAs) held in two phases on November 26 and December 7, 2017, have institutionalized federalism in Nepal - local, provincial and federal. The elections for the local level conducted earlier in 2017 have already established local government in Nepal. The GEOC has observed all three elections - Local Level, Provincial Assemblies and the House of Representatives.

In the run up to the elections for the members of the House of Representatives and the Provincial Assemblies, and also on the day of the elections, GEOC observers reported violent incidents in various districts resulting in injuries among few candidates and party workers. In spite of this, given the political consciousness and determination on the part of voters, a remarkably large number of people participated in the elections. The Election Commission of Nepal (ECN) conducted the elections successfully by overcoming various challenges. The Commission received support from the government, political parties, civil society, mass media and observer groups.

GEOC, on the basis of reports from its long and short term observers released on the eve of the elections an assessment of the political and election environment in the district for information of the EC, the government and the public in general.

During campaigning and campaign financing election code of conduct was consistently flouted by major political parties in almost all districts. GEOC observer reported a case of arrest for trying to bribe voters during the silent period. Actions against violation of code of conduct were largely limited to seeking explanation from and giving a warning to the person involved. There were reports of involvement of employees of the government and local level in the election campaign.

GEOC observers reported woefully inadequate voter education across the country. Unlike two separate ballot papers for the elections of the HoR and PAs for first past the post (FPTP), voters found the use of one ballot paper both for the HoR and PA proportional representation confusing. A number of voters ended up casting their votes for the party for HoR only which was placed on the upper half of the ballot paper and failed to vote for the party on the lower half of the ballot paper meant for the PA. The Election Commission claimed that following the court's order ballot papers had to be redesigned and, as a result, very little time was left for voter education after printing and getting the ballot papers to the districts. GEOC observer found that a local teacher was providing voter education by showing two ballot papers and the teacher himself was unaware that there are three ballot papers instead of two.

While voter lists were reasonably updated as part of EC's regular activity, people expressed their grievances that people who voted in earlier elections found their names have been excluded from the voter rolls. Some people expressed their

dissatisfaction about the cumbersome registration process and lack of effective information concerning the deadline for voter registration.

The political parties selected very few women candidates for election under FPTP. While selecting the candidates by political parties, ability to spend for the election seemed to have been a primary consideration rather than their contribution in the party. People with controversial background and non-political character received priority in selecting candidates.

Most polling centres were accessible to voters and had proper signage for guiding the voters to cast their votes. GEOC observers reported that barring few instances, proper procedures of pre-polling and post-polling processes have been carried out in all polling centres. Some centres did not have enough space to ensure fair polling and maintain the spirit of secret balloting.

In 77 percent of the polling centres, polling started before 7.15 am. In 98 percent, the polling started before 8.00 am. Senior citizens, people with disability, expecting and nursing women, all participated in the voting with enthusiasm.

On the day of polling vehicles meant for election campaign were misused and were found transporting voters by major political parties. On the other hand, people in need such as senior citizens, ailing persons and people with disability had to walk on foot to get to the polling centres because of a ban on public transport on the day of polling.

While polling was found to be smooth, the legal provision that allowed a close family member to assist a blind or disabled voter was largely misused. Such misuses were observed in some polling centres in Dolakha, Gorkha, Jumla, Nuwakot, Kanchanpur, Rautahat and few other districts. A person, not a close family member, was said to have cast votes on behalf of as many as five senior citizens.

In the last week and on the eve of elections, series of bomb explosions were carried out targeting the candidates. Large number of suspected people and those with criminal background were reportedly detained. Apart from the bomb explosions by the party that boycotted the elections, the pre-election violence was also the result of inter-party conflict and clashes. Such clashes occurred on the day of the elections as well. There were reports that in places where a particular party was dominant, booth capturing have been carried out.

Despite violence in some places, polling on November 26 and December 7, 2017 was held with participation of a large number of voters. In some polling centres, however, participation was low as compared to the local level elections held a few months ago. Reasons for lower percentage can be attributed to the fact that many voters who had come home from abroad to vote for the local level elections had returned to their respective places of work outside the districts. Cold weather also contributed to low percentage in voting in some districts.

Most of the vote counting centres had ample space and were secure. All processes such as examining of the seals of ballot boxes were dully followed before counting. The process was transparent. Based on past experience, there were physical barriers placed between the area for vote counting and the area allotted for representatives of candidates. It prevented any untoward incident in counting.

Although GEOC observers in general were allowed access to the polling centres without any difficulty, a few observers were denied entry despite the identity cards issued by the Election Commission. Observers were denied access to some counting centres.

Participation of women was significant in election campaigning and on the day of polling. In many districts the number of women voters was high compared to men. The constitution of Nepal requires 33 percent women representation in the federal parliament. But the political parties nominated very few women candidates for contest in the election. The result published by the Election Commission shows that the number of elected women is only 5 out of 165 members under FPTP in the House of Representatives. Out of the total strength of 275 members including 110 from proportional representation, the respective position of the political parties is as follows: CPN-UML 121, Nepali Congress 63, Maoist Centre 53, Rastriya Janata Party 17, Sanghiya Samajbadi Forum 16 and small parties/independent 5 seats.

Recommendations

Based on the observation of the elections for the members of HoR and PA, GEOC, makes the following recommendations regarding the conduct, control and operation of the elections. There is a need for effective coordination among the ECN, the government and the political parties for the enforcement of these recommendations.

Election Commission

- Update the electoral rolls periodically. Empower the local level system for tallying the names in the register and correcting mistakes. Arrange for coordination between district election offices and local level to facilitate effective electoral roll preparation
- Distribute voters' ID card at the local level. Ensure that all voters and employees are aware of the rule that allows a voter whose name is listed in the electoral roll to cast vote by producing any specified ID
- Discuss with all stakeholders to enforce effective voters' education. Give adequate training to teachers on voters' education. Produce voters' education materials in local language and conduct long term education campaign
- Arrange to ensure employees, observers and security personnel deployed in election can also vote
- Strictly enforce election code of conduct
- Review to ensure that the code of conduct and the spending ceiling are practical. Monitor to ensure strict enforcement
- Make public the election spending under different headings for the sake of transparency
- Hold elections between mid-February to mid-April
- Strongly appeal to the government to authorize ECN to declare election dates
- Provide timely training on democratic values, legal processes and procedures about election to the election staffs and stakeholders for the effective enforcement of law related to election. Direct the government to take action against staff if found in violation of legal provisions

- Start early consideration and preparation to shift towards the adoption of electronic voting system. Give adequate training to voters on their use
- Allow the access for observers to all processes of election. Provide adequate information to election staff about the role and responsibilities of observers
- To ensure proper access to polling centers, allow for alternative transport service for senior citizens, people with disability, nursing mothers and those in need
- Create voters-friendly polling centers equipped with proper toilets, drinking water, shelter, wheel-chairs etc
- Clarify which surname of a woman (the one before her marriage or the one after her marriage) will be used when categorizing under clusters for the proportional representation. If necessary, there should be amendments in constitution and laws

Government

- In order to implement the afore-mentioned recommendations including authorizing the ECN to declare election dates, ensure proper amendments/enactment of laws
- All stakeholders should be ready to support the development of women leadership that can be ensured by facilitating election of a large number of women representatives at local level. If necessary, amend constitution to specify reservation quota
- Allow for the use of alternative transport service to carry senior citizens, people with disability and those in need to the polling centers
- Clarify which surname of a woman (the one before her marriage or the one after her marriage) will be used when categorizing under clusters for the proportional representation. If necessary, there should be amendments in constitution and laws

Security Agency

- Arrange for fully secure and peaceful election atmosphere to ensure free, fair and peaceful elections

Political Parties

- Specify parameters for picking candidates and stick to them. Ensure that there are at least 33 percent women candidates under FPTP as well. Prepare objective bases for candidacy and representation of women and enforce them strictly
- Hold regular orientations, training, interactions and discussions to help the elected representatives of local level in carrying out their duties
- Become committed and responsible in enforcing the election codes of conduct. Hold compulsory training for workers about the election laws including polling process and codes of conduct
- Respect the right of voters to peacefully take part in voting, refrain from any pressure tactics and renounce violence. Give appropriate instructions to the party workers.

CHAPTER 1

GENERAL ELECTION OBSERVATION COMMITTEE, NEPAL AND ELECTION OBSERVATION

1.1 Background

With the promulgation of new constitution in September, 2015, the country has transformed into federal from unitary state. The three-phase elections of local level held earlier and the two-phase elections held on November 26 and December 7 have led to the formation of three-tier governments. These elections have completed a crucial cycle of constitution implementation and ended the two-decade long political transition.

1.2 Objectives of the Network

The General Election Observation Committee (GEOC), Nepal was established with the objective of observing elections. Observations help in the conduct of free, fair and peaceful elections and help ensure it is credible and legitimate. It is an alliance of ten different organizations. The GEOC independently observes whether the election being conducted by ECN is held in free, fair and peaceful manner. Effective observation ensures that elections are credible. It observes the various election programs and processes that are followed by the ECN, in three phases - pre election, election -day and vote counting. It makes its observation report public.

In the past, the GEOC has observed the local elections of 2049 and 2054; parliamentary elections of 2048, 2051 and 2056; as well as the Constituent Assembly elections of 2064 and 2070 as well as by election of 2071. After the promulgation of new constitution, it also observed the local level elections held in three phases in 2074. Likewise, it observed the elections for the members of House of Representatives and the Provincial Assemblies. Following each election observation, the GEOC submits its report and recommendations to the ECN and also makes them public.

1.3 Structure of the Network

The GEOC network includes ten organizations involved in various sectors. They are: Nepal Citizens' Forum; Nepal Law Society; Ex-Employees Service Council, Nepal; Helpless Service Center; Nepal Press Institute; Rural Development Foundation; Nepal Civil Society; Madhesi Civil Society; Independent Forum; and Media Advocacy Group. The GEOC is a non-political network and it mobilizes independent intellectuals, professors, lawyers, former officials, social activists, human rights

activists, and senior journalists in its observation. Through its members, the GEOC has been carrying out various programs in all districts of the country.

1.4 Responsibility of the Network

The GEOC has shouldered the responsibility to carry out its observation of the elections of members of House of Representatives and Provincial Assemblies by mobilizing independent, impartial and neutral observers. In order to fulfil its responsibility, the GEOC has been running its Secretariat to support the observation work. The Secretariat, in coordination with the members, chooses the national, district, election constituency, village and municipal level observers. Likewise, after the observation, the GEOC submits its report to the stakeholders like ECN, political parties and concerned agencies. It makes its report public before, during and after elections by holding press conference.

1.5 Code of Conduct for Observers and their Responsibility

In order to manage and facilitate the election observers, the ECN has issued Election Observation Code of Conduct and Election Observation Guidelines for the national observers. As per the code of conduct, the observer organizations, upon receiving due permission from the ECN, can engage in independent observation. It is the duty of the observers to inform the ECN and its staffs about any information that they gather in course of observation. The GEOC, in accordance with the code of conduct, prepares questionnaires based on which it gathers information about the role and duty of stakeholders like political parties, workers, candidates, voters as well as election staffs. Based on the information, the observers prepare their report. Likewise, the observers also provide their recommendations for further improving the election management in future.

1.6 Secretariat of the Network

With the purpose of carrying out day to day activities and other necessary support for the election observation, the GEOC has set up its Secretariat at the office of the Nepal Law Society in Babarmahar, Kathmandu. There is a National Observation Council to coordinate the observation and recruit necessary human resources. An executive committee headed by Mr. Himalaya Shamsheer Rana is formed by including representatives from all member organizations.

1.7 Observation Program and Coordination

Before election, the GEOC set up a Secretariat for the management of human, physical and financial resources; determined the number of Village Palika and Municipalities for observation; recruited and trained the observers. In this period, the GEOC observed the activities of the political parties, enforcement of election code of conduct, security situation and political violence. A preliminary report was prepared on the election atmosphere and made public through press conference. Likewise, another press conference was organized on the eve of the election days to inform about the observation information collected by the observers from the districts and villages.

On the day of the election, the observers were deployed to collect information based on questionnaire. On that day the Secretariat also sought information on the situation of election from the observers. By compiling the information received from the observers from the districts and also the field reports from the national observers, a report was made public by holding press conference.

After the election, observation was made of the vote counting centers, vote counting process, participation of representatives of political parties, updated information of vote counting and declaration of election results. During this period, discussions were also held with the ECN and other stakeholders regarding complaints at the commission, disputes seen at political level and declaration of results.

The preliminary report of the observation has already been submitted to the Election Commission. In the final report of the observation, recommendations to improve future elections are also included on the basis of analysis of all the processes of election. The GEOC makes its final report public amid a function.

CHAPTER 2

METHODOLOGY OF OBSERVATION AND COVERAGE

2.1 GEOC Observation Methodology

GEOC uses both qualitative and quantitative analytical tools for election observation and has devised two sets of methodologies. For long term observation, observers conduct interviews with key district level stakeholders such as district election officer, chief returning officer, security officers, chief district officer, polling officer and political party leaders. Observers are provided with a check-list of questionnaires as guideline to capture the overall political and electoral environment before, during and after the election day of the district. On the basis of observation, outputs are then summarized in a district-specific overview of political and electoral environment and sent to the GEOC office in Kathmandu.

The short-term observation is more technical. Four sets of questionnaires have been designed for quantitative analysis. Two of these are targeted to collect the perception of voters and political party workers. The third set of questionnaires records observation of the polling process from the opening to polling, and finally closing of the polling. Short term observers have been mobilized at village and municipal level for observation of the entire process of the election. The responses are then coded and arranged in tables for analysis. The fourth is targeted to observe counting of votes and announcement of the results.

Opinion and perception of voters from all three groups of stakeholders - voters, political workers and polling officers - recorded with the help of four sets of questionnaires. The questionnaires were designed to get a balanced view from men and women, and from village and municipalities. The responses thus received are coded and produced in various tables for analysis.

GEOC maintained a Call Centre at the secretariat to collect and prepare reports of observation. The Call Centre prepared reports in an hourly basis based on information from GEOC observers in the districts. By compiling the information received from local observers and field reports from national observers, a brief report on the polling was made public through a press conference.

Based on direct observation of the process of elections, observers prepare and send their reports to GEOC along with recommendations for further improving management of the elections in future. The observation report is a synthesis of information received from 720 observers from across 30 districts of the country.

2.2 Accreditation to Observe Elections

GEOC received accreditation from the ECN to observe both phases of elections of members of House of Representatives and Provincial assemblies. It has established a secretariat to support the activities and programmes of observation. While the

Secretariat selects national observers in consultation with the members of the network, it selects village and municipal level observers on the advice of district observers. GEOC submits its report to the ECN. It makes its reports public by holding press conferences.

Each observer is issued with an identity card by the ECN for access to the polling centres to observe the process of polling. In order to manage and facilitate the work of observers, the ECN has framed Election Observation Code of Conduct and Election Observation Guidelines. Observers perform their responsibilities as per the ECN code of conduct.

2.3 Observation of the elections

GEOC observation covered 30 districts and 1,350 polling centres from seven provinces and ecological regions of Nepal, mountains (2 districts), hills (16) and Terai (12). Observers recorded information from polling to counting. Tools like direct observation and interviews were used to get information of the entire process of the elections.

GEOC observed all three stages of the elections - pre-election, polling and vote counting. The long-term observers made a quick assessment of the political and election environment in the district. A high level team of observers also made an assessment of election campaigning, and the state of compliance of code of conduct and overall security situation in the district. A preliminary report on the election environment was made public through a press conference. Similarly, another press conference was organized on the eve of the polling day to inform about the political and election environment of the district.

GEOC observers in the district observed vote counting, participation of representatives of political parties in the counting, updated information of counting and declaration of election results. During this period, discussions were also held with the ECN and other stakeholders regarding complaints about counting and declaration of results.

GEOC submits its preliminary report of observation of the election to the Election Commission. Based on its short-term and long-term observation findings, GEOC in its final report makes specific recommendations to improve future elections. GEOC makes the final report public by organizing a press conference.

2.4 Selection of observers and training

National observers are selected ensuring participation of all ten member organizations of GEOC. Seventy long term observers observed the entire election process. Similarly, 650 short term observers observed the process from the opening to closing of polling. The municipal and village level observers were selected by district observers. While selecting the observers, criteria like past experience, and inclusion of women, Dalit, Adivasi/Janajati, Muslim, Madhesis were ensured. All observers were provided with an appointment letter and were administered oath as per the ECN rule.

Observers are provided with necessary training by a core team and consultants on observation methods, electoral laws and codes of conduct. While training of national and district level observers was conducted in Kathmandu, training of municipal and village level observers were conducted in the respective districts.

2.5 Coordination among Observer Organizations

Efforts for coordination were made from the very beginning. Observer organizations, particularly the three organizations, GEOC, NEOC and Sankalpa were keen on maintaining proper coordination to avoid duplication of polling centres in observation. GEOC, NEOC and Sankalpa coordinated in the selection of village palika and municipalities for observation, and in the preparation of questionnaires to ensure uniformity to the extent possible.

Chapter 3

ELECTORAL LEGAL FRAMEWORK

The laws governing the elections of the House of Representatives, National Assembly and Provincial Assembly were either passed by the Parliament or issued or framed by the ECN in exercise of the powers conferred by the act.

3.1 Constitutional Framework

The Constitution of Nepal 2015 provides for the formation of a bicameral legislature at the centre, the House of Representatives (HoR) and National Assembly (Articles 84 and 86 of the Constitution). In the province, however, the constitution provides for a unicameral legislature, the Provincial Assembly (Article 175). As part of implementation of the new constitution the elections for the federal parliament and provincial assemblies together with the elections for the local level conducted earlier in three phases from January to September 2017 have institutionalized federalism in Nepal.

The Constitution requires the formation of a 275-member House of Representatives of which 165 are elected under first-past-the post (FPTP) electoral system and 110 under proportional representation. A voter is given three ballot papers - one for electing a member of the HoR, the second for electing a member of the Provincial Assembly. The third ballot paper has been divided into two parts, the upper half is meant for voting a political party for the HoR and the second half for the Provincial Assembly. While a voter under the FPTP system casts the vote for a candidate, the same voter under the proportional representation system casts the vote for a political party. The number of members in each province varies from 41 to 112, depending on the size and population of the respective province.

Unlike the HoR and PA, members of National Assembly are elected under a mix of single transferable vote (STV) and FPTP system. Each province, whether small or large, has eight members in the assembly. The members are divided into four clusters - women, *Dalit*, disabled or minority community and open. Five members from the first three clusters are elected according to the FTV system. The fourth is an open group of three members, not reserved for any community or gender. Anybody can contest for election under this category. The Assembly is a 59-member house, eight members are elected from each of the seven provinces and 3 members are nominated by the President on recommendation of the government.

The federal executive consists of ministers not exceeding 25 in number (Article 76) including the Prime Minister. Similarly, the provincial executive consists of a Chief Minister and ministers not exceeding 20 percent of the members of the respective provincial Assembly (Article 168). The number of members in each assembly varies from 41 in Karnali Province (or Province No. 6) to 112 in Province No. 3.

The ECN is a constitutional organ mandated by the constitution to conduct, supervise, direct and control the elections (Article 246 (1)). As per the constitution,

the Election Commission is responsible for holding elections including the president and vice president.

3.2 Electoral Laws

As per the general framework of the Constitution of Nepal, the Parliament has enacted necessary acts such as the Election Commission Act, 2017, Members of House of Representatives Election Act 2017, Members of Provincial Assembly Election Act, 2017, Act Relating to Electoral Rolls, 2017, Act Relating to Political Parties, 2017 and Act on Election (Crime and Punishment), 2017. The ECN has made laws (Regulations, Directives, Orders and Codes of Conduct) exercising the delegated power under the Election Commission Act, 2017.

(A) The Election Commission Act, 2017

The Election Commission Act 2017 and regulations under the Act provide the ECN authority to conduct and manage elections. Exercising the authority under this Act voter rolls were updated before the elections for the HoR and PAs. To further facilitate and guide this process, the Act has outlined voter eligibility and deadline for registration. The Act also authorizes the ECN to regulate election campaign expenditure and give permission to national and international observers to observe the election to help make the elections free, fair and peaceful. Separate sets of codes of conduct were formulated for political parties, the government and its departments, officials of the local government, the media, election observers, election officials and non-governmental organizations.

(B) Members of House of Representatives Election Act, 2074

The Constitution provides for bicameral legislature - House of Representatives and the National Assembly. The Act for the Election of Members of House of Representatives has been enacted to conduct elections for the members of the House. The Act covers matters such as election system; election information and officials; filing of nomination papers by candidates and its process; provisions on polling centre, ballot paper and ballot boxes; polling process; vote counting and declaration of results; and representatives of candidates and parties.

(C) Members of Provincial Assembly Election Act, 2017

The Provincial Assembly Election Act 2017 has been enacted in order to constitute provincial assemblies as envisaged by the constitution. The constitution provides for a unicameral Provincial Assembly whose members are elected through FPTP and PR system. This Act also covers matters such as election system; election information and officials; filing of nomination papers by candidates and its process; provisions on polling centre, ballot paper and ballot boxes; polling process; vote counting and declaration of results; and representatives of candidates and parties.

(D) Members of House of Representatives Election Rules 2017 and Members of Provincial Assembly Election Rules 2017

By exercising the power authorized by the respective Acts, the Members of House of Representatives Election Rules 2074 and Members of Provincial Assembly Election Rules 2074 were framed to ensure effective operation of elections. The rules basically govern matters such as election programs information; duties and responsibilities of election officials; provisions related to nomination of candidates

under both system of election; subject of election symbol; polling centres; ballot papers and ballot boxes; polling; vote counting and declaration of results; and representatives of candidates and parties.

(E) Members of National Assembly Election Ordinance, 2017

The National Assembly is a 59-member house. Eight members including three women, one Dalit, one disabled person or a person from minority community are elected from each of the seven provinces by an electoral college of the respective province. Three members are appointed by the President on recommendation of the government. The Electoral College consists of members of the provincial assembly and chairperson/mayor and vice-chairperson/deputy mayor of the local bodies within the province. Unlike the election of the members of the HoR, the members of the NA are elected by a mix of single transferable vote (STV) system and direct election.

(F) Election (Crime and Punishment) Act 2017

To check and punish any illegal activities by various stakeholders in course of election, the Election (Crime and Punishment) Act 2017 has been enacted. Submission of forged or false documents while filing the nomination papers by candidates; unauthorized use or damage of election materials; proxy voting; any activity that undermines the free and fair election; exchange of cash or kind except when allowed by the law; violation of lawful conditions put on campaigning; and misuse of government properties are punishable under the Act.

(G) Electoral Rolls Act, 2017

The active participation by voters is the key aspect of any election. Each Nepalese citizen deemed eligible by the law can be a voter. As per the constitution, it is the responsibility of the Election Commission to regularly collect, investigate and update the electoral rolls of all eligible voters. To further facilitate and guide this process, the Electoral Rolls Act, 2017 was enacted. The Act provides for eligibility of voters, collection of electoral rolls, registration process/officials, and provision for temporary voters.

(H) Act Related to Political Parties, 2017

The Act related to Political Parties, 2017 requires a political party to register for recognition. It allows for a merger of parties. It needs to be democratic and open to all. The Act covers matters such as economic and other issues of party, and process of settling disputes.

(I) Election Code of Conduct, 2017

ECN has framed code of conduct with the objective of ensuring free, fair and peaceful elections. The election code of conduct applies to agencies of the government including staffs, police, army; as well as political parties, workers, candidates; government and private media; private and non-governmental organizations. The Commission has power to monitor enforcement of the code of conduct and can levy monetary fine or cancel candidacy.

(J) Directives and Code of Conduct for Election Observation of Members of HoR and Provincial Assembly, 2017

In order to regulate and manage properly observation of elections of the House of Representatives and Provincial Assembly, the Election Commission has issued

Directives and established procedures for accreditation of organizations for observation and individual observers. The Code of Conduct has specified the roles and responsibilities of observers.

3.3 Findings on electoral laws from Observation of the Elections

(1) Voter Registration

Each year and before the election, electoral rolls are collected and updated. ECN's role is to direct, inspect and control registration of voters but it cannot decide the closing date for registration of voters. International practices require that the public be given sufficient time for voter registration and that the public is informed about the process of registering their names. GEOC observed dissatisfaction of the public in some districts that time allowed for registration was not enough and the process of taking photographs cumbersome.

(2) Right to Vote

The Universal Declaration of Human Rights 1948 and the International Covenant on Civil and Political Rights 1966, guarantees citizens the basic rights to vote. The Election Commission issued orders to allow listed voters to cast their votes on the basis of other national identification cards or documents, in the absence of a voter ID. On observation, however, it was found in some districts that not all polling officers were aware of this notice or arrangement.

Following a Supreme Court's order, the EC had proposed a provision to allow voters to reject candidates. But the government dropped the provision of "No Vote" while forwarding the Bill to the Parliament. However, the EC added an option not to vote and return the ballot paper to the Polling Officer unmarked (Rule 29 (5) and (6) of HoR and Provincial Assembly Member Election Regulations, 2017). However, only a very few voters made use of the option. Some voters expressed their displeasure about the weakness of this option which makes a voter to surrender the unmarked ballot paper to the Polling Officer thereby exposing the voter against the principle of secret ballot system.

(3) Late Enactment of Laws

Late enactment of laws affects the electoral schedule of the Election Commission. Delay in approval of National Assembly Election Ordinance, 2018 resulted in postponement of formal announcement of the result of the House of Representatives by more than two months.

(4) Lack of Adequate Training on Electoral laws

GEOC observers noted that election officials including the polling officer did not receive adequate training on the legal framework and electoral process. In many districts people other than immediate family members were allowed to cast votes on behalf of elderly voter and people with disabilities despite clear legal provision. Similarly, representatives of candidates also were found to have very little training about the provision of electoral law.

Chapter 4

OBSERVATION ANALYSIS OF MEMBERS OF HOUSE OF REPRESENTATIVES AND MEMBERS OF PROVINCIAL ASSEMBLY ELECTION

The major feature of the constitution promulgated in September 2015 is restructuring of the system of governance. In course of operationalization of the constitution, the elections for the members of the House of Representatives and the Provincial Assemblies were held in two phases on November 26 and December 6, 2017. With these elections, the three-tier of governments are now in place - federal, provincial and local level. Earlier, three phases of the local level elections were held between May and September, 2017. With these elections, it is expected to end the two-decade long political transition in Nepal.

On the eve of elections on November 26 and December 6, there were spate of violent incidents including bomb explosions and attacks targeting the candidates. In these violence perpetrated by the parties boycotting the polls, few candidates and workers were injured. However, these incidents did not affect the election atmosphere or campaigning. Although there was a bit of fear among people, their citizen awareness, determination and courage ensured the successful holding of the elections of the House of Representatives and the Provincial Assemblies. By overcoming various challenges, the ECN successfully held the elections.

Political and Election Atmosphere of Districts

The GEOC had deployed the long term observers who held interviews, interactions and on-field observations with the local people, stakeholder organizations, election staffs and security personnel in order to carry out a review of pre-election situation. Based on the review, the pre-election situation report was made public through press conference. The report assessed the situation of overall political and election environment in districts, security situation, pre-election activities like candidacy, campaigning, election spending, voters education, and state of enforcement of code of conduct. People were found excited to take part in the election in the hope of political stability, good governance and prosperity.

In this report, the situation assessment by the observers through the direct observation, and interviews/discussions with voters and officials based on questionnaire are presented in the form of headings such as pre-election, election day, vote-counting and results, security and violence, and women participation. People largely took part in these elections with the hope and belief that as per the promises made by the political parties, they will lead the country towards political stability and prosperity.

Below are presented the analyses of the situation assessment made by the observers on the basis of direct observation, and interviews/discussions with voters and officials. They are grouped under headings such as pre-election, election day, vote-counting and results, security and violence, and women participation.

4.1 Pre-Election

The processes under pre-election phase cover five sub-headings such as registration of voters' name and distribution of ID cards, voters education, registration of nomination papers by candidates, enforcement of code of conduct, and security and violence.

4.1.1 Registration of Voters' List and Distribution of ID Cards

The ECN annually updates the electoral rolls (voters' list). Just after the election of local level, the ECN updated the electoral rolls. This led to the addition of 1,355,515 voters. The total number of voters for these elections, thus, stood at 15,427,934. However, in some districts people complained that very little time was allotted for the registration of their names and the process, too, was cumbersome. People of Jumla complained they had to stand in queues for hours for this purpose.

In the districts observed by GEOC, there were many mistakes in the names registered in the electoral rolls. As usual, there were also mistakes found when the rolls were tallied with the voters' ID. For instance, there are evidence of having photo taken, but there is no name in the list. Mistakes in names and surnames, photos, and multiple cards were also seen. Since the serial number of voters were changed this time, people encountered problem in finding their names in the list.

This election, too, voters' ID were distributed from the polling centres. Observers found that the process of distribution continued just before the day of election and also on the day of election. Many people could not vote because they did not have voters' ID. The directive to allow a voter to vote on the account of any other authorized ID document if his/her name is registered in the electoral rolls could not be followed everywhere since many election officials had not received such directive on time. This problem was repeated despite what happened during the local level elections.

4.1.2 Voters Education

Voters in Dhading, Baglung and Gorkha told observers that voters' education for both the phases were weak and inadequate. Few voters said that the voters' education was weaker this time compared to the election of local level. Many said they were confused with the second ballot paper and forgot putting their mark in the second ballot paper. In Mustang, observers were told that voters found it easier because of separate ballot boxes. Election officials responded that they had very little time for printing ballot papers and transporting them because of the delay in formulation of laws. They also said that after the court order they had to increase the number of ballot papers from two to three and this took a longer time in printing - which meant they had little time left for proper voters' education. Observers saw in Barpak, Gorkha that a teacher was educating voters in local Ghale language the way of using the two ballot papers. The trainer himself was unaware that there would be three ballot papers. In Rupandehi, too, voters complained that the trainers themselves lacked knowledge. In Dolakha, voters said that the education campaign was not intense as was being reported in media. In Saptari, people said that the trainers did not come for door-to-door campaign.

When our observers asked 3250 voters, 763 or 23.3 percent said no trainer had come for voters' education in their neighbourhood.

4.1.3 Registration of Candidates

Despite the provisions for one third women representation, almost all of the fielded minimum number of women candidates under FPTP. Candidates were chosen on the basis of their proximity to leaders and their ability to spend. The main parameter was the ability to win. Consequently, even persons with non-political character and controversial (accused of murder and criminal background) candidates were picked. Even those who had joined the party just two days before were given nomination tickets. In many districts, there were no women candidates fielded in direct election. In Dolakha, Baglung and Nuwakot, there were no women candidates for the House of Representatives. There was a lone woman candidate for provincial assembly fielded by CPN-Maoist in Nuwakot. In Saptari, candidates were picked not on the basis of inclusion but on financial strength. The constitution states that there must be 33 percent women representation in federal parliament. But the parties seemed to fulfil that constitutional obligation through the PR election only. They seem to be guided by a notion that only men candidates can win in direct election. Likewise, social diversity was not considered while picking candidates. According to the Election Commission, there were altogether 5,084 candidates in this election under FPTP. Out of them, only 146 were women for the House of Representatives and 240 were women for the Provincial Assemblies - altogether 386. Under the PR system, there were 5,838 candidates - 1,224 women for House of Representatives and 1,993 women for provincial assemblies - altogether 3,217.

Table 1. Candidates under FPTP - House of Representatives and Provincial Assemblies

House of Representatives/ Provincial Assemblies	Male Candidates	Female Candidates	Total Number	Total Elected
House of Representatives	1,699 (92.1%)	146 (7.9%)	1,845	165
Provincial Assemblies	2,999 (92.6%)	240 (7.4%)	3,239	330
Total	4,698 (92.4%)	386 (7.6%)	5,084	495

Table 1a. Candidates under PR - House of Representatives and Provincial Assemblies

House of Representatives/ Provincial Assemblies	Male	Female	Total Number	Total Elected
House of Representatives	1,048 (46.1%)	1,224 (53.8%)	2,273	110
Provincial Assemblies	1,572 (44.1%)	1,993 (55.9%)	3,565	220
Total	2,620 (44.9%)	3,217 (55.1%)	5,838	330

4.1.4 Compliance of the Code of Conduct

In order to ensure free and fair election, the ECN has formulated code of conduct for the government of Nepal, government employees, local level and staffs, political parties and candidates, observers etc. It has formulated rules and guidelines on the ceiling of election spending by candidates. In reality, there were some districts where code of conduct were properly implemented but in most districts they were flagrantly violated. Even though candidates intensified door-to-door campaigns, they were found indulging in excessive spending in election materials, campaigning, vehicle use and partying. Comparatively, the observers found the code of conduct to have been better enforced in districts like Mustang, Gorakha, Dolakha, Bhaktapur, Baglung, Nuwakot, Dhankuta, Jumla and Ilam. In Kagate of Dhankuta municipality, workers of left alliance confronted candidate of another party who was distributing money during silent period. They took him along with the amount of Rs 169,500 and handed over to the police. Our observers found that the candidate was released the next day but the amount was seized.

In Nuwakot, although there was not full enforcement of the code of conduct, the party workers were found to be aware. But in some places like Kakani, the whole neighbourhood was covered with election materials and banners. There were written and oral complaints made in many districts. In Ilam, the district election office was found verbally seeking clarifications. But the action was limited. Candidates who promised not to repeat violation in future were let off without any punishment. Tendency of carrying voters were seen in all districts. In Sindhupalchowk, observers saw use of big flags, flex boards, dozens of vehicles, and partying pre election and on election day.

In Rautahat, police and administration remained mute spectator to the use of DJs till late at night. Incidents continued despite verbal complaints. In Kailali, there was massive use of banners, flags, pamphlets etc. There were information of distribution of cash and partying. Voters were carried in the vehicle of candidates. In Kanchanpur, there were reports of free distribution of fuel. In Morang, there was a free health camp run by candidate. It led to a dispute and the administration later ordered the closure of that camp.

When the GEOC observers asked 3,250 voters about the enforcement of code of conduct, 700 (21.5%) replied that it was enforced partly whereas 17 (0.5%) replied that it was flagrantly violated. In response to another question, 124 voters said that the election was not free and fair. When pressed to elaborate the reasons (they could give multiple answers), 75 percent pointed at use of money, 24 percent pointed at use of proxy voting, and 24 percent pointed at insecurity. When the same question was put before 3,251 political workers, 156 said it was not free and fair. When they were asked to elaborate (they could give multiple answers), 87 pointed at lack of implementation of code of conduct, 84 pointed at spending beyond ceiling and 58 pointed at unhealthy competition.

The government, local level and their officials, too, remained largely indifferent towards the full enforcement of code of conduct. Local level office-bearers were engaged in campaigning. The government transferred the police superintendent of Baglung Chandra Kuber Khapung on the eve of election, and transferred Chief District Officer and district police officer of Nuwakot just 5 days prior to the

election. In Dhading, local level elected representatives flouted the code and involved in campaigning. In Dhankuta, observers saw professors, teachers, and sport officials in campaigning.

4.1.5 Security and Violence

On the eve of elections there were attempts to create fear by causing explosions and launching attacks aimed at candidates. Most incidents occurred in mid-hills and Terai. On the eve of polling day and on the actual polling day, country-made explosive materials, bombs were exploded in various places. In many places, socket bombs were discovered, which were defused by security personnel. Such incidents took place in Kailali, Kanchanpur, Rolpa, Dang, Rupandehi, Nawalparasi east, Baglung, Gorakha, Dhading, Kathmandu, Nuwakot, Dolakha, Udayapur, Dhankuta, Ilam, and Saptari districts. There were reports that these incidents were perpetrated by CPN (Biplav group). In some places the party also accepted responsibility. In some Terai districts the supporters of CK Raut, too, were active. There was fear among voters. Security arrangement was tightened in view of these incidents. A large number of suspects and those with criminal background were detained.

To foil election and to sow fear among voters, the incidents of explosions were intensified in the run up to the polls and also on the polling day. Although nobody claimed responsibility, the security sources said that they were carried out by Biplav group. It was estimated that the group aimed to sow fear among voters and exhibit their strength and existence. A large number of their workers were arrested. In first phase, these incidents occurred in Dhading, Nuwakot, Dolakha and Gorkha districts. In Kakani village of Nuwakot district, mine explosion was carried out on November 17, 2017 targeting the candidate of Nepali Congress Dr. Ram Sharan Mahat. Four party workers were injured and a vehicle was damaged in the explosion. In Jibanpur village of Dhading, socket bomb was found. Likewise, in Chhepetar of Gorkha, army defused a bomb placed at ward number 10. In Baglung, although there were incidents of bomb explosions on the eve of the election, the polling day passed peacefully. A bomb exploded behind the residence of a state minister Champa Devi Khadka. Some workers of Biplav group were arrested and cases were registered against them.

Ahead of the second phase of election in Saptari, an unidentified gang attacked the candidate of Sanghiya Samajbadi Forum Mohammad Shamsud Miya with knife. A temporary policeman lost his life after a bomb explosion in Dang. The next day, Congress party workers were seriously injured in an explosion in Udayapur. Similarly, Tej Bahadur Poudel was injured when a crude bomb exploded near Fangduwa river between Dhankuta municipality and Shahidbhumi Village Palika. On the polling day 7 bomb explosions between 9 am and 10 am was reported near the polling center in Thalthale bazar of Khalsa Chhintang Shahidbhumi Village Palika in Dhankuta causing fear among voters.

In Devchuli-12, Divyajyoti Secondary School, Pragatinagar Gaudi polling centre in Nawalparasi (east of Susta) district, voters ran for safety after a bomb buried underneath exploded in the morning around 10 am. Polling resumed after one hour. A bomb was found in a bag in Siddhartha Rajmarga ward number 7 Gargipath of Siddhartha municipality in Rupandehi district and was later defused by the army.

Similarly, army personnel defused a bomb found in Siddhartha bus terminal. On the day of polling, a bomb found 200 meter west of the polling centre in Kailali Dhangadi School was defused by the army around 8.30 am. Twelve workers of Biplav group including the district in-charge was detained along with explosive materials prior to polling. In Kanchanpur, a cooker bomb exploded near the house of candidate Ramesh Lekhak. Similarly, an unidentified man threw a bomb at the house of CPN-UML's candidate for House of Representatives from Sunsari 1 constituency. In an explosion in Itahari some people including a child were injured.

These incidents showed that the security challenges continued to rise as the second phase of the election approached. Over three hundred thousand security personnel from the Nepalese Army, Nepal Police, Armed Police Force, Temporary Police and National Investigation Department were deployed in the elections. People seemed to have a feeling that most of the people from the Election Commission, security personnel had focus more on benefits rather than on security situation. The objective of security personnel should have been not only to prevent any untoward incidents but also to take swift action where needed to ensure free, fair and peaceful election. The need is to guarantee that voters are free from any tension. But in most of the incidents, the security agencies were defensive. The political parties also have an important role in supporting the security arrangements made for the elections. To win the election in any way, however, and silence maintained by top leaders on the incidents of violence fearing defeat in the election also contributed to a situation where the security agencies could not come strongly against the violence.

4.2 Polling

4.2.1 Selection of Polling Centres and Management

Although the ECN conducts survey while selecting the venues of polling, in these elections most of them were fixed in the same places where local level elections had been held. As a result, many polling centres were very small and hard to access. This matter had been raised by the GEOC in its report during the observation of local level elections, too. Likewise, despite assurances that polling centers won't be more than 5 km apart, in high hilly regions and Terai, the distance between two polling centers were found to be greater. In many polling centers, there were no facilities of taking shelter from sun or rain nor the drinking water.

As far as possible, the polling centers were women and disabled-friendly. In Mustang, observers found that polling centers were placed in large open spaces, which made the process easier. In many polling centers of Baglung, Dhading and other districts, there were facilities like drinking water, and toilet. They also allowed senior citizens and those in need to vote quickly without standing in queues.

Where the polling centers were in temple premises, due to cultural reasons the menstruating women voters were found to be in confusion. Observers saw that a polling center in ward number 12 of Dharan sub metropolitan city of Sunsari was inside the premises of Geeta Temple. Likewise, one polling center in Lalitpur, too, was inside temple premises. There were also complaints that fixing schools as polling centers disturbed the regular classes of students. Deployment of chief

judge of districts as chief election official hampered the justice dispensation process.

There was a large scale misuse of the provision that allows a close relative to assist voters who are visually-impaired. In districts like Dhading, Dolakha, Gorkha, Jumla, Nuwakot, Kanchanpur, and Rautahat, youths were seen casting votes on their own by presenting young women or old men voters as visually-impaired. Some voters were seen seeking the assistance of relatives out of fear that their votes may be invalid. They presented themselves as disabled for this purpose. There were examples where voters were prompted to tell that they need help in voting.

In a polling booth in Bageshwory School in Dhading, there were claims that a single person had cast the ballot on behalf of 11 voters. In Kanchanpur, a single person was reported to have cast the ballot on behalf of 5 senior citizens. Although needy and senior citizens could seek the aid of close relatives, in Rautahat the polling officer was allowed to vote for them following an agreement among the political parties. In fact, there is a provision in law whereby polling officer can cast the ballot as per the wish of the voter. There was no need for agreement among parties to do so. It showed lack of knowledge among officers and party representatives about such legal provisions.

In every election, there have been persistent problems related to the access to polling centers for observers. Few representative examples of what happened in some districts are as follows. In Kathmandu, observers were denied access despite producing proper ID cards. In Bhaktapur, observers were stopped from entering the polling center in the morning. In Banke-3, observers of GEOC and NEOC were stopped from entering into the Nepal RastriyaAdharbhoot School Guruwa polling center. The denial of access was continued even after it was brought to the notice of chief election official and even after it was promised. Observers were similarly stopped in the polling centers of KadamAdharbhoot School Khadkauli ward number 23 and Janaki Higher Secondary School Meghauri ward number 27 of Chitwan.

4.2.2 Voters' Participation

There were incidents of bomb explosions and attacks in many hilly and Terai districts in the run up to the two phases of elections on November 26 and December 7. In high hilly and mountainous regions, the temperatures had dropped. Despite the problems and challenges participation of voters was heavy. A large number of senior citizens, needy, disabled, nursing and pregnant women, as well as people in mourning (traditional family mourning period where they do not go out of their homes for a certain period after the death of a member in family) came forward to exercise their right to vote. Altogether there were 15,427,934 voters in this election. Out of them 10,581,613 participated in the voting, or 68.59 percent. This percent is slightly lower than the voters turn out during local level polls. One reason for this is: a large number of people who had returned home from overseas to take part in local level elections had gone back. Moreover, the candidates of local level are from the local neighbourhood and the issues of local elections are closer to the heart of voters such as local development. This means people are more interested in local level elections that were taking place after a long gap.

4.2.3 Polling

According to GEOC observers, although in some places polling started late due to procedural delays and delay in the arrival of agents of candidates, in over 77 percent of polling centers, the polling started by 7.15 am, and in 98 percent of the centers, the polling had started by 8.00 am. In almost all of the polling centers that were observed, the processes of polling - pre-polling, polling and end of polling - passed off peacefully. There was a presence of large number of security personnel in both phases of elections. In sensitive areas and in major cities and highways, the Nepalese Army also conducted patrols.

When voters were asked if the polling centers were easily accessible to the senior citizens and people with need, and if the centers had proper signs to assist the voters, 93 percent answered in affirmative. In all polling centers, there were separate queues for men and women. Priorities were given to visually-impaired and people with special needs. In all centers procedures such as displaying empty ballot boxes at the start, informing about the number of ballot papers, and marking voters with ink were properly followed apart from very few exceptions. In 99 percent of polling centers observed, there were adequate election materials. In one center, it was found that 11 ballot papers for PR were torn and serial numbers of 10 ballot papers were missed.

In some places, the electoral rolls were not up to date and some voters were denied to exercise their right. Sita Sunar of Dhading, Nima Jha of Rajbiraj municipality-2, and a voter of Likhu Village Palika Nuwakot-2 were not allowed to vote although they had voter ID - because their names were not listed in the electoral rolls. Observers also saw that some voters were not able to vote because of discrepancy in their name and surnames or mistakes in photo. Officials deployed for election lacked information that a voter can be allowed to vote by showing any valid ID if his/her name is in the list. This also led to denial of voting for some. Out of 30 districts observed by GEOC, in 18 districts 30 such voters who had their names in the list were not allowed to vote. The number of such voters was 13 in province 3 and 7 in province 4.

There were 960 voters for the Mahadeva Village Palika ward number 2 Shree Adharbhoot school Mahadeva polling centers. But the voters boycotted the polling there at the call of CK Raut. At 5 pm, the ballot boxes were sealed in the presence of district and national observers of GEOC.

In other weaknesses seen during the polling, the number of polling centers where a person was found to have cast ballot more than once stood at 18; the number of polling centers, which was captured for some time by one party stood at 8; and the number of polling centers that witnessed proxy voting stood at 36. The maximum number of polling centers that witnessed proxy voting were in Kathmandu (6) and Morang (5). The number of polling centers that witnessed violence during polling was 15. Most such incidents occurred in Sindhupalchowk (4), Baglung (2) and one each in Udayapur, Saptari, Dolakha, Bhaktapur, Nuwakot, Dhading, Syangja, Jumla and Kailali districts.

The incidents like multiple voting by a single person, proxy voting, booth capture and violence show weaknesses in the election process. They were also related to the state of security arrangement.

4.2.4 Political Violence

The incidents of violence during these elections were primarily due to two reasons - the bomb explosions and attacks by groups boycotting the polls and the clashes between workers of various political parties. Such clashes mainly occurred between workers of major parties.

On the eve of the first phase, such incidents occurred mainly in districts like Dhading, Sindhupalchowk, Dolakha, Nuwakot and Baglung. Incidents of clashes between political party workers have reduced if compared to the past but they still occur here and there. Inter-party clashes were major violent incidents of the election day. During the first phase election and on the election day, there were some disputes among the parties. On Mangsir 8, in Dhuwakot of Dhading, Nepali Congress worker Santosh Baskota was injured in clashes and had to be airlifted to Kathmandu for treatment. In Bandidevi polling center of Jharlang in Khaniyabas Village Palika of Dhading, workers of democratic alliance stopped representatives of leftist alliance from entering the center. As a result, the polling there could start only after 11 am.

Likewise, in Sindhupalchowk in Duguna and Gati of Bhotekosi Village Palika, Thumpakhar in Sunkoshi Village Palika, and Lagarche in Panchpokhari Thangpaldhap Village Palika, there were clashed between workers of democratic alliance and leftist alliance before and during election day. Police had to resort to firing blank shots to disperse the crowd after clashes ensued during polling day in Kalidevischool polling center of Balephi Village Palika and Deurali school polling center of Sunkoshi Village Palika. Polling resumed after the disputes were settled and clashes brought under control. In Lagarche of in PanchpokhariThangpaldhap Village Palika, clashes between two groups resulted in the destruction of bars erected to manage queues. There the polling resumed after 10 am. In Baglung, workers of Nepali Congress pelted stones at the workers of CPN-UML and in Amalachaur Congress workers Bimal Nepali and Shyam Nepali were injured. In Phikuri of Kispang Village Palika in Nuwakot, 3 workers of leftist alliance were injured when they were attacked with sticks by workers of Nepali Congress.

It was observed that in places where they had stronger influence, political parties tried to flex their muscles and intimidate opposition representatives. Take for instance, whereas in remote Rubi valley Village Palika there was 88 percent voter turn out compared with just 55 percent in accessible areas - clearly showing the use of proxy voting. At around 3 pm on the polling day in Suri and Jugu polling centers of Dolakha, there were clashes between supporters of leftist alliance and Nepali Congress. Police resorted to firing blank shots to disperse supporters of NC. The polling then resumed. In the Margu polling center of Baityeshwori, NC workers found that leftist alliance were in possession of 100 ballot papers for PR and were casting their votes. It led to clashes and the ballot papers were torn. The polling resumed after proper procedure. In volume, the district did not witness large scale violence and clashes compared to the past. In ward number 5 VDC building polling center in Gaurishankar Village Palika, out of 2,489 votes, the leftist alliance captured 2,093 by chasing away workers of other parties. Likewise, in 1, 6, and 7 wards of Gaurishankar, opposition workers resorted to stone pelting after leftist alliance tried to capture booth. Security personnel intervened and fired 4 rounds of black shots to bring the situation under control. Likewise, in Japhe booth in ward number 3 of Tamakoshi Village Palika, Nepali Congress workers tried to

capture the booth but were foiled by strong presence of security personnel. Polling passed off peacefully after few clashes.

On the day of second phase of the election, the number of such incidents of clashes was lesser. In Maulapur of Maulapur municipality, Rautahat, workers of RJP and Maoist center clashed. Three were injured and police intervened. The polling was subsequently resumed. In Balkot of Suryavinayak municipality in Bhaktapur, there were some damages to local houses after clashes erupted between workers of CPN-UML and Nepali Congress.

4.3.1 Vote Counting and Election Results

According to the observers of GEOC all procedures such as examination of seal of ballot boxes were properly conducted prior to the vote counting. The counting centers were big and security arrangement satisfactory. The vote counting process, too, was transparent.

After the second phase of elections, even though in many places the ballot boxes had already been transported to the counting centers in district headquarters by that night, the actual counting started in most places only the following morning. Counting of FPTP votes were followed by the PR. Compared to the counting during local level, this time the speed was much more. However, due to lack of prior information to the representatives of candidates on the provisions related to invalid votes in the guidelines, there were disputes in some places among the representatives. Complicated design of ballot papers and narrow box to put mark on election symbol also became reasons for such disputes. But it was observed that such disputes were settled through all party agreements and the counting proceeded. Having learnt lessons from the past, there were more teams for the counting. Bars were raised to separate vote counters and the party representatives - helping in the security situation.

The vote counting in Syangja district got delayed by four days. There is an interesting story behind accusations and counter accusations of booth capture in the district. The leftist alliance accused the Nepali Congress workers of booth capturing in some polling centers of Chapakot municipality of Syangja 2. The Nepali Congress, on the other hand, filed complaints of booth capturing by leftist alliance in many polling centers of Kaligandaki Village Palika and demanded re-polling there. But the ECN ordered the counting to proceed after it stated that the ballot boxes from those places had been sealed after following all due process.

There was no official data regarding the number of invalid votes in total. In the observation by GEOC, it was found that there were three key reasons for invalid votes - 86 percent were found to have put their mark outside the designated box; 82 percent were found to have put their mark in between boxes; and 64 percent were found to have used mark other than the designated swastika mark.

Given the constitutional provision that stipulates that there must be at least one-third women in federal parliament, the ECN stated that the election of the National Assembly must take place before the PR numbers (for women) for House of Representatives can be ascertained. As such, the National Assembly election was first held and subsequently the final election results were published. As per the provision, the party wise status of members of House of Representatives, out of total 165 members from FPTP and 110 members from PR altogether 275 is given

in Table 1. Accordingly, the status of parties are as follows: CPN-UML 121 members; Nepali Congress 63; CPN-Maoist Center 53; Rastriya Janata Party 17; Sanghiya Samajbadi Forum 16; others and independent 5. The results of provincial assembly elections were declared earlier. Out of 330 directly elected members of provincial assembly, CPN-UML bagged 168 members; Nepali Congress 41; CPN-Maoist Center 73; Rastriya Janata Party 16; Sanghiya Samajbadi Forum 24; others and independent 8.

Even though the elections of the House of Representatives and Provincial Assemblies were completed, the ECN held back from publishing the final results. It was because of the constitutional stipulation that there must be one third women members in federal parliament (the combined form of House of Representatives and National Assembly). The ECN said that they could not ascertain the number of women under PR category before they had the actual number of women elected in the National Assembly. So the election for the National Assembly had to be first completed. After the elections for National Assembly were held, the ECN handed over the formal election results on February 18, 2018. As such, the party wise status of representation in the House of Representatives and National Assembly are as follows. Since only 5 women had been elected under FPTP, rest of the women had to be filled from PR in order to fulfil the constitutional obligation of at least one third women in federal parliament.

Table 1. of party-wise members of House of Representatives (HoR)

Party	HoR no. of members under FPTP	HoR no. of members under Proportional Representation	House of Representatives total members
CPN-UML	80	41	121
Nepali Congress	23	40	63
CPN-Maoist Centre	36	17	53
RJP	11	6	17
SS Forum	10	6	16
Others and Independent	5	0	5
Total	165	110	275

The position of political parties in the respective Provincial Assembly has been presented in Table 2.

Table 2 Party-wise no. of members both under FPTP and PR in Provincial Assembly

Parties	Province 1	Province 2	Province 3	Province 4	Province 5	Province 6	Province 7	Total All Provinces
CPN-UML	51	21	58	27	41	20	25	243
NC	21	19	21	15	19	6	12	113
CPN-Maoist Centre	15	11	23	12	20	13	14	108
SS Forum	3	29	0	0	5	0	0	37
RJP	0	25	0	0	1	1	1	28
Others and Independent	3	2	10	4	1	1	0	21
Total	93	107	112	58	87	41	52	550

4.3.2 Results of National Assembly Members Election

Table 3 shows the respective position of parties in the National Assembly.

Table 3. National Assembly Members Party-wise Representation

Parties	National Assembly Members	National Assembly Women Representation
CPN-UML	27	11
CPN-Maoist Center	13	6
Nepali Congress	12	3
SS Forum	2	0
RJP	2	1
Nominated by President	3	1
Total	59	22

4.3.3 Women Participation

There was significant participation by women in the election campaigning and polling. Due to practical reasons, there was negligible presence of women in polling centers of remote region but their participation in the management of election was encouraging. Women police also made substantial contribution. There were reports that in many districts the number of women voters was more than that of men voters. One reason for this situation could be the high number of men who have gone overseas for employment.

Although women participation was huge, they had minimal representation in terms of power. According to the constitution, there must be one third women representation in federal parliament. But out of 165 members of House of Representatives under FPTP, only 5 women were elected. Likewise, in provincial assemblies, out of 330 members under FPTP, only 17 women were elected. The main reason for this is the lack of clear law asking parties to field women candidates in certain number. As a result, the parties had to pick up large number of women as members under PR category to fulfil the constitutional obligation.

CHAPTER 5

CONCLUSIONS AND RECOMMENDATIONS

The incidents of violence, clashes and explosions ahead of the election for the members of the House of Representatives and the Provincial Assemblies had resulted in casualties among few candidates and workers. But the sheer determination and political consciousness of the voters helped in the successful holding of the elections. The Election Commission of Nepal overcame numerous obstacles and challenges in doing so. The Commission received support from the government, political parties, civil society, mass media and observer groups.

The new constitution of Nepal promulgated in September 2015 has laid down the federal restructuring plan of the country. The constitution converted the country from a unitary state into a federal one. In the operationalization of that huge transformation, the holding of three tiers of elections was crucial. The local level elections were held in three phases last year. And now the conclusion of the elections for the members of House of Representatives and Provincial Assemblies held in two phases on November 26 and December 7 have led to the complete formation of three-tier structure of governance - at federal, provincial and local level. These elections have helped in the conclusion of an important cycle as laid down by the constitution and raised the public hope of the end to the long running period of political transition.

Following the update of the electoral rolls by the ECN, 1.4 million new voters were added in these elections. But there were still many complaints that voters were not able to register themselves because of less time allotted for the registration, lack of effective information and cumbersome registration process. Problems such as missing names in the list despite ID cards, errors in entry of names, surnames and photos were observed. In recent years, the numbers of fake votes have drastically come down because of the use of voters' ID card. But there is a need to strengthen the system of its distribution. Besides, the legal provision that allows someone who has a name in the electoral roll to cast vote by producing any other specified valid ID card need to be properly transmitted to election officers down to the level of polling centers.

Despite constitutional provisions, most of the parties fielded very few number of women candidates under FPTP. The only factor they considered while fielding a candidate seemed to be the ability to win. As such, they even picked controversial and non-political candidates. In some districts, there were zero woman candidates. At the local level elections, around 15,000 women representatives were elected because of mandatory constitutional provision. This can help in future development of women in political leadership.

The ECN prescribed a clear set of election codes of conducts to ensure free and fair elections. It also included the ceiling for campaign expenditures. Barring few districts, these codes were violated in most places. There were also reports of few arrests that were made when people tried to bribe voters during the silent period.

However, actions against such violations of codes of conduct were largely limited to seeking of explanations and warnings by the district election offices. Parties and candidates were not only indifferent but irresponsible in abiding by the codes of conduct. There were also reports of employees of the government and local level involved in such violations. Vehicles for election campaigning were misused to carry voters. On the other hand, people in need such as senior citizens, ailing person and people with disability were seen walking on foot to reach the polling centers. As a result, the government order of restriction on movement of vehicles on the election day ended up as a farcical exercise in some places.

On the issue of voters' education, the complaints of inadequacy and ineffectiveness were wide. Many voters complained that they faced confusion regarding the ballot paper for proportional representation and many left the second ballot paper empty. Likewise, there were claims that due to the time taken in implementing the Supreme Court order to print three ballot papers in total, little time were left for transporting materials of voters' education campaign to the districts. One could see that a local teacher was providing voter education by showing just two ballot papers. Observers found that the teacher himself was unaware that there would be three ballot papers. Training for volunteers of voters' education was inadequate.

In terms of accessibility, most of the polling centers were found to be accessible for senior citizens and people in need. They had proper signs for the benefit of voters. Barring few instances, all due procedures were carried out in all polling centers including the display of empty ballot box, seal and number of ballot papers. In Mahadeva polling center in Saptari, there were 960 voters but they boycotted at the call of CK Raut. The ballot boxes there were later sealed after 5 pm in the presence of observers of GEOC. Some centers were very small and narrow where the spirit of secret balloting could be compromised.

The polling started on time in most places. In 77 percent of the polling centers, polling started before 7.15 am. In 98 percent, the polling started before 8.00 am. Senior citizens, people with disability, expecting and nursing women, all participated in the voting with enthusiasm. Out of the total 15,427,934 voters in these elections, 10,581,919 or 68.59 percent participated in the polling.

There were instances of misuse of legal provisions that allow a close family member to assist blind or disabled voters. Such misuse was seen in polling centers in Dolakha, Gorkha, Jumla, Nuwakot, Kanchanpur, Rautahat and other districts. A single person was found to have cast ballot on behalf of five senior citizens in Kanchanpur. In Rautahat, even though there are clear provisions in the law that allows a voter in need to seek the help of a polling officer to cast his/her ballot, the party representatives discussed and agreed to allow the polling officer to do so. This shows the lack of knowledge about the legal provisions. They reached an agreement on an issue where they had no need to do so.

In what were seen as clear attempts to intimidate and terrorize voters, there were series of bomb explosions and attacks targeting candidates ahead of election. Subsequently, the security situation was tightened. Large number of suspected people and those with criminal background were reportedly detained. Despite the spate of violence, the elections on November 26 and December 7 were held with high level of voters' participation.

Inter-party conflict and resulting clashes were also major reason for pre-poll violence apart from the bomb explosions by party that boycotted the elections. Such clashes also occurred on the day of the election. There were reports that in places where particular parties were dominant and in places where the security presence was scant, they tried to capture the booth and sway the voting.

The elections for the House of Representatives and Provincial Assembly witnessed a slight decrease in the percentage of voters' participation compared to the local level elections held few months ago. Reasons for the decrease can be attributed to the fact that many voters who had come home from abroad to vote for the local level elections had returned as well as cold winter spell that forced people in highlands to migrate to lowlands where they were not registered.

Another important improvement this election was the size and space of polling centers. Most of the polling centers had ample space and secure. All processes such as examining of the seals of ballot boxes were followed before the vote counting. The counting process was transparent. However, due to lack of clarity on counting guidelines, there were disputes among party representatives on which ballot papers to be determined as invalid. Based on past experience, there were physical barriers erected between the counting space and the space where representatives of candidates stayed for monitoring. It helped in the security of vote counting process.

In every election, there have been problems related to access for observers to the polling centers. In Kathmandu, observers were denied entry despite showing ID cards. In Bhaktapur, observers were stopped from entering the centers based on some order by senior officias. Observers were similarly stopped in the polling centers of Kadam Adharbhoot School Khadkauli ward number 23 and Janaki higher secondary school Meghauri ward number 27 of Chitwan. In Banke-3, observers of GEOC and NEOC were stopped from entering into the Nepal Rastriya Adharbhoot School Guruwa polling center. The denial of access was continued even after it was brought to the notice of chief election official and even after it was promised.

The final election results showed that out of total 165 FPTP seats for House of Representatives, the CPN-UML won 80 seats, Maoist center won 36, Nepali Congress 23, Rastriya Janata Party 11, Sanghiya Samajbadi Forum 10 and small parties/independent 5. Likewise, out of 330 FPTP seats for provincial assemblies, CPN-UML bagged 168 seats, Maoist center 73, Nepali Congress 41, SanghiyaSamajbadi Forum 24, Rastriya Janata Party 16 and small parties/independent 8.

These elections also witnessed significant participation of women in campaigning and voting. Although women participation in election was high, their representation was low. The constitution of Nepal ensures 33 percent women representation in the federal parliament. But the results of FPTP election showed that out of 165 FPTP members of House of Representatives only 5 were women. In provincial assemblies, too, only 17 were women out of 330.

Recommendations

The observation of the elections for the members of House of Representatives and Provincial Assemblies, 2017 has come up with the following recommendations regarding the conduct, control and operation of the elections. There is a need for effective coordination among the ECN, the government and the political parties for the enforcement of these recommendations.

Election Commission

- Update the electoral rolls periodically. Ensure local level system for tallying the names in the register and correcting mistakes. Arrange for coordination between district election offices and local level to facilitate effective electoral roll preparation
- Distribute voters' ID card at the local level. Ensure that all voters and employees are aware of the rule that allows a voter whose name is listed in the electoral roll to cast vote by producing any specified ID
- Discuss with all stakeholders to enforce effective voters' education. Give adequate training to teachers on voters' education. Produce voters' education materials in local language and conduct long term education campaign
- Arrange to ensure employees, observers and security personnel deployed in election can also vote
- Strictly enforce election code of conduct
- Review to ensure that the code of conduct and the spending ceiling are practical. Monitor to ensure strict enforcement
- Make public the election spending under different headings for the sake of transparency
- Hold elections between mid-February to mid-April
- Strongly appeal to the government to authorize ECN to declare election dates
- Provide timely training on democratic values, legal processes and procedures about election to the election staffs and stakeholders for the effective enforcement of law related to election. Direct the government to take action against staffs if found in violation of legal provisions
- Start early consideration and preparation to shift towards the adoption of electronic voting system. Give adequate training to voters on their use
- Allow the access for observers to all processes of election. Provide adequate information to election staffs about the role and responsibilities of observers
- To ensure proper access to polling centers, allow for alternative transport service for senior citizens, people with disability, nursing mothers and those in need
- Create voters-friendly polling centers equipped with proper toilets, drinking water, shelter, wheel-chairs etc
- Clarify which surname of a woman (the one before her marriage or the one after her marriage) will be used when categorizing under clusters for the proportional representation. If necessary, there should be amendments in constitution and laws

Government

- In order to implement the afore-mentioned recommendations including authorizing the ECN to declare election dates, ensure proper amendments/enactment of laws
- All stakeholders should be ready to support the development of women leadership that can be ensured by facilitating the large number of women representatives elected at local level. If necessary, amend constitution to specify reservation quota
- Allow for the use of alternative transport service to carry senior citizens, people with disability and those in need to the polling centers
- Clarify which surname of a woman (the one before her marriage or the one after her marriage) will be used when categorizing under clusters for the proportional representation. If necessary, there should be amendments in constitution and laws

Security Agency

- Arrange for fully secure and peaceful election atmosphere to ensure free, fair and peaceful elections

Political Parties

- Specify parameters for picking candidates and stick to them. Ensure that there are at least 33 percent women candidates under FPTP as well. Prepare objective bases for candidacy and representation of women and enforce them strictly
- Hold regular orientations, training, interactions and discussions to help the elected representatives of local level in carrying out their duties
- Become committed and responsible in enforcing the election codes of conduct. Hold compulsory training for workers about the election laws including polling process and codes of conduct
- Respect the right of voters to peacefully take part in voting, refrain from any pressure tactics and renounce violence. Give appropriate instructions to the party workers

Annexes:

1. The constituency, name, surname, age, gender, party and number of votes obtained by elected member of House of Representatives under FPTP and nearest competitor
2. Name, surname, age, gender and party of elected member of House of Representatives under PR
3. The constituency, name, surname, age, gender, party and number of votes obtained by elected member of Provincial Assembly under FPTP and nearest competitor
4. Name, surname, age, gender and party of elected member of Provincial Assembly under PR
5. Name, surname, age, and gender of members of National Assembly
6. Total number of votes cast, number of invalid votes and percentage in the election of House of Representatives and Provincial Assemblies under the FPTP system
7. Districts observed
8. Name of national observers
9. Name of district observers

