



EUROPEAN PARLIAMENT

**DELEGATION TO OBSERVE THE  
ELECTIONS FOR A CONSTITUENT ASSEMBLY  
IN NEPAL**

**(6-12 April 2008)**

**Report by  
Mr. Josep BORRELL FONTELLES  
Chair of the Delegation**

- Annexes:**
- A. List of participants**
  - B. Programme**
  - C. Preliminary statement of the EU Election Observation Mission (12 April 2008)**

## **Introduction**

Following the receipt of an invitation addressed to the European Union by the Ministry of Foreign Affairs, the Conference of Presidents on 21 February 2008 authorised the sending of the delegation for the observation of the parliamentary elections in Nepal. The delegation would be made up of seven members appointed by the political groups in accordance with the d'Hondt system, which would also apply to the non-attached Members. The list of delegation Members is attached in Annex A.

The Constituent Assembly election held on 10 April was the first general election since 1999 and a key condition of the Comprehensive Peace agreement signed by the Communist Party of Nepal (Maoist) and the Seven Party Alliance on 21 November 2006.

At the invitation of the Nepalese authorities, the European Union set up an Election Observation Mission to observe these elections, led by MEP Jan Mulder (NL-ALDE). In total, the EU EOM deployed 120 observers from 22 EU Member States, Norway and Switzerland across 62 of the 75 districts of Nepal to assess the whole electoral process. In accordance with regular practice in these situations, the European Parliament delegation and the EU Election Observation Mission (EU EOM) worked in close cooperation.

The constitutive and preparative meeting of the delegation was held on 12 March 2008, where the delegation elected Mr. Borrell Fontelles as its Chair. The delegation also established the general lines of the programme and the deployment.

At this meeting, Mr Jan Mulder, Chief observer of the EU-EOM, reported on his recent visits to Nepal and on the activities of the EU EOM mission, in place since 2 March 2008.

A second meeting took place on 31 March, which Mr Mulder attended to inform the delegation of the situation in the country. The programme of the delegation was finalized during the meeting.

## **Background : the Comprehensive Peace Agreement**

In 1996, the Communist Party of Nepal (Maoist) began insurrection in rural areas aiming at replacing the parliamentary system with a people's republic. This led to the "Nepal Civil War" with more than 12,000 deaths during the 10 years of conflict.

Democratic procedures and institutions, including the elected House of Representatives, were suspended in 2002 by King Gyanendra. On 1 February 2005, the King declared a state of emergency and took absolute control of the Government (an action qualified as a "royal coup" by the EP in its resolution of 24 February 2005). The country was ruled by royal decrees.

Following a unilateral ceasefire declared by the Maoists in September 2005, a 12-point Agreement was negotiated in New Delhi between a platform of seven mainstream political parties (SPA) and the Maoists (CPN-M). The agreement dramatically changed the balance of power: a basic alliance against the monarchy, it developed several points of understanding as a possible structure for peace talks. In January 2006, trying to prevent pro-democracy rallies, the King took a series of measures to curtail political and civil liberties: he imposed a curfew in the capital Kathmandu, cut off communications including mobile phones and television channels and had over two hundred political leaders and activists arrested.

Massive pro-democracy demonstrations and strikes again took place across Nepal in March-April 2006. Bowing to the *Loktantra Andolan* people's movement the King was finally forced on 24 April 2006 to acknowledge his defeat, reinstate Parliament and invite the mainstream Seven-Party Alliance to form a Government.

With Parliament reinstated on 27 April and a Government appointed by the Seven Party Alliance (SPA), parliamentary democracy was formally restored. A House of Representatives' Proclamation was endorsed on 18 May drastically cutting down the King's powers and privileges, removing him as supreme commander of the army and declaring itself the supreme and sovereign body of the country. The status of the 1990 Constitution remained uncertain.

The two parties, the SPA and the CPN(M), then launched negotiations culminating in a historic meeting in Kathmandu between Prime Minister Koirala and Chairman Prachanda. This meeting turned out to be a major initiative towards bringing the rebels back to the political mainstream. It opened up the possibilities for the Maoist leaders to come out in the open and discuss their political agendas. The SPA and the Maoists agreed to draft an interim constitution and to form an interim government. Additionally they agreed to jointly decide a date for constituent assembly elections and to formally invite the UN to assist in the management of arms of both armies.

A Comprehensive Peace Agreement (CPA) was signed between the SPA and the CPN(M) on 21 November 2006, paving the way for inclusion of the rebels in mainstream politics and state institutions and placing constitutional changes at the heart of the peace building process. On 15 January 2007 an interim constitution was promulgated, the House of Representatives dissolved and replaced by an appointed Interim legislature where Maoists were largely represented. Five Maoist ministers joined the Interim Government that remained headed by PM Koirala from the Nepali Congress, on 1 April 2007. Elections were scheduled for 20 June 2007 following a mixed method combining constituency based first-past-the-post selection and nationwide proportional representation.

The elections, however, had to be postponed till 22 November 2007, due to slow progress in the preparation of the regulatory framework for the elections. A second postponement occurred when the Maoists left the Government in September 2007 after demanding that a republic be declared before the election and that a fully proportional system be used in the election instead of a mixed system. A compromise was finally agreed to in December: the election would retain a dual system and a vote took place in the Interim legislature to declare Nepal a federal democratic republic after the elections that were re-scheduled for 10 April 2008.

The interim constitution's provisions for the CA electoral system prompted protests at a perceived failure to address inequalities in representation. The electoral system has been subject to considerable pressure from all sides. The complex rules designed to ensure better representation of traditionally marginalised communities, including women, Dalits and ethnic groups, will make perfect implementation hard: once results are in, the final allocation of seats will be shaped by the need to fulfil guarantees for ethnic and regional representation and achieve inclusive participation in the constitutional reform process.

The campaign environment became gradually more violent as the political parties published their election manifestos and launched their campaigns across the country. They were daily reports of violent attacks on political rallies and candidates, on widespread voter intimidation and on publicly stated intentions to disrupt elections. The EU EOM has denounced the climate of violence, including the killings of 2 candidates and several party activists, fear and intimidation during the pre-electoral period.

There are around 17.6 million eligible voters in 240 constituencies. All of the parties have been allocated election symbols: for instance, the Maoists have hammer and sickle, the UML a sun and the Nepali Congress a tree. Technically, the CA exercise is considered to be the most complicated polls ever organised in Nepal. Each voter had to use 2 ballot papers (one for First-past-the-post and one for proportional representation). Collecting and counting all votes was expected, even without other problems, to probably take more than 10 days.

Nepal to-day stands at an historic crossroads since the 10-year armed conflict came to an end in November 2006 and a new democratic Nepal is in the making. The country's main difficulty is building the foundations for its new nationhood. It urgently needs a solid democratic system of good governance and a sustainable economic development strategy. Trade is largely dependent on India and a lack of control and accountability has led to serious problems of corruption and abuses. Social exclusion remains a key feature of Nepal's social fabric and makes it harder to achieve the Millennium Development Goals (MDGs).

## **The election observation mission<sup>1</sup>**

### **Monday 7 April**

The EP delegation met with Jan MULDER, Chief Observer, and the EU EOM Core Team for a first briefing covering the historical background to the Constituent Assembly elections and the current political situation in Kathmandu and the other provinces, particularly in the Terai region. The second part of the briefing, covering the security situation, the media coverage and the elections procedures, took place on Tuesday 8 April.

In the afternoon a reception was hosted by the Prime Minister G.P. KOIRALA for all international observers (a total of 28 international observation missions had been accredited) during which MEPs had the opportunity to exchange views and information with fellow observers including former US President Jimmy Carter. In the evening, the Head of the EC Delegation hosted a reception for the EP delegation and the diplomatic community.

### **Tuesday 8 April**

Most of the political meetings took place on that day:

#### **Meeting with representatives of the main political parties**

High-level representatives of the Nepali Congress (NC), Maoists (CPN-M), Nepal Communist Party of Nepal (CPN-UML), Madhesi Janadhikar Forum (MJF) and the royalist Rastriya Prajatantra Party (RPP) presented their analysis of the peace process, the current political situation prior to elections and their expectations. All parties supported the elections, welcomed the support of the international community and pledged to accept the results whatever they would have been (the Maoists however added that if they did not win it was because elections were not free and fair). They all recognized that there was an atmosphere of fear and intimidation during the campaign but accused each other of being responsible for the violence. Some parties condemned the interim Government for not being able to re-establish control all over the country and to guarantee security for the elections.

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<sup>1</sup> Full programme in Annex B

In conclusion the Chair, reminding the political parties that the EU has invested a lot in the Nepal peace process, invited them to create a general atmosphere that would allow voters to express their own choice freely.

#### Meeting with the EU Heads of Mission

An exchange of views took place with the representatives of the Member States represented in Kathmandu (DE, DK, FR, FIN, UK, NL). Two French senators present in Kathmandu as observers joined the meeting.

The Chair introduced the discussion by expressing his increasing concern about the security situation following the meeting that took place with the representatives of the main political parties. Mrs. Morgantini added that this meeting had confirmed the fragility of the peace process. Members States' representatives said that the main aim of the peace process which was to bring back the Maoists into the political mainstream has been achieved. The campaign had not been free and fair, with extremely poor security, but everyone hoped that the elections would be good enough to give political legitimacy to the parties. However the definition of a "good enough election" remained vague and difficult to judge if the Maoist performance would be the result of a free vote or because of voter intimidation. The weeks after the elections, when counting has to place, would be very sensitive. Acceptance by all of the results was considered as a main issue.

The EU Heads of Mission also insisted on the need to coordinate among observers before issuing any statement that could be used by parties for political purposes.

#### Meeting with the Secretary-General of the Parliament

The EP Delegation was received by Mr. Manohar Prasad Bhattarai, the Secretary-General of the Parliament who, after a short presentation on the importance of those elections for Nepal, spoke about the challenges that the Constituent Assembly, and its secretariat, will be facing in the next two years.

The CA will have a dual function: drafting a constitution and acting as a normal parliament with full legislative powers. The CA has two years to complete its work after which new elections should take place. It has not yet been decided how to organize this dual function, although it is likely that a drafting committee will be appointed to deal with the drafting of the constitution. Moreover, many of the internal rules have yet to be prepared and adopted and the CA will have to work in several different languages while the current number of staff, at about 250, is clearly insufficient for a 601-strong assembly. In view of this difficult situation for an emerging parliamentary democracy, the Chair referred to the importance attached by the EP to the promotion of parliamentary democracy and suggested that EP assistance could be provided to the newly elected Constituent Assembly. This was most welcome by the Secretary General and would require follow-up by the adequate service of the EP.

#### Meeting with the Chief Election Commissioner

The EP Delegation was received by Mr. B.R. Pokharel, the Chief Election Commissioner and the three other Commissioners of the National Election Commission (NEC). Mr. Pokharel, who had been met last year in Kathmandu by the EP Delegation for Relations with SAARC, gave a full presentation on the technicalities and legal framework of the election explaining in particular the dual system of voting and the difficult logistics due to the topography that would delay ballots counting. He was fairly confident that everything was well in place and that the

elections would proceed smoothly despite threats by several groups that they would disrupt elections. MEPs, while recognizing the impressive progress made since 2007, asked additional information on security arrangements for the transport of ballot boxes to district headquarters where counting would take place and on the quotas allocated for women and other disadvantaged groups. Enquiries were also made about media reports accusing the NEC of refusing to grant national observer status to representatives of the National Human Rights Commission. This was denied by Mr. Pokharel who spoke about misunderstandings and indeed the next day accreditation was granted.

### Meeting with the United Nations Mission in Nepal (UNMIN)

The UN mission in Nepal (UNMIN) was established by the Security Council on 23 January 2007 to support the peace process in Nepal. Requested by the SPA and the Maoists UNMIN is led by Ian Martin, Special Representative of the Secretary-General. Its mandate includes monitoring the management of arms and armed personnel of both sides; providing technical assistance to the Election Commission and assisting in the monitoring of ceasefire agreements.

Tamrat Samuel, deputy Special Representative, gave an excellent overview of the political situation in Nepal since 2005, and briefed the EP Delegation on the role of the UN in the peace process. He explained that the UN has no mandate to play an active role in the political negotiations and underlined the significance of the achievements since the CPA was signed, particularly the fact that the Maoists are adjusting from a revolutionary party to a political party in a short time. He however recognised the failure of the political parties to create an atmosphere conducive to free and fair elections and also explained in detail the difficulties to manage the control of arms and the cantonment of the PLA with a limited number of UN staff. One of the main issues after the elections will be the future of the 19 000 soldiers of the PLA which are in the 7 main cantonment sites: it was not yet decided if they will be re-integrated into the Nepal army (which is already 95 000 man strong) or demobilised. This could well become a time-bomb.

### Meeting with civil society representatives

The EP Delegation met with four representatives of local NGOs who all agreed that, despite their efforts at voter education, the public at large lacks information on the elections and on the specific tasks of the Constituent Assembly (this was said to be also true for many candidates). They insisted on the need for observers to coordinate their statements and identified the three key challenges in the post-election era as i) the future of the PLA soldiers who were in the cantonment camps; ii) the lack of justice and a culture of impunity for the crimes committed during the civil war; iii) finding answers to a difficult socio-economic situation as the expectations that the CA elections would solve all problems were probably too high. Answering to questions they said that most political manifestos included many of the NGO concerns but that they were doubtful about their implementation. As regards a better representation of marginalised groups, the CPN-M was by far the party that has included on its lists the largest number of women, dalits and other candidates from oppressed castes to answer to the quotas imposed by the interim constitution.

### Meeting with media and local journalists

Despite the fact that the Minister of Information in the Interim Government is a Maoist, the CPN-M considers that they are unfairly treated by the press which accuses them of violence and intimidation during the campaign. However the journalists met confirmed that Maoists, and particularly the Young Communist league (YCL) were responsible for most of the attacks on

other political parties (according to one Human Rights organisation, CPN-M was responsible for 97% of the registered breaches of the Code of Conduct). Journalists also claimed that the Election Commission has not been able to prove its independence and that the majority of the population is much more preoccupied by the difficulties of the daily life than by a new constitution or a state reform.

### **Wednesday 9 April**

As agreed during the constitutive meeting the EP delegation split into three different teams: Mr. Borrell Fontelles, Mrs. Morgantini and Mr. Ory remained in the capital Kathmandu. Mrs Gill and Mr. Csibi travelled to Nepalganj, a border town in the Terai region, and Mr. Kaczmarek and Mr. Didziokas went to the city of Pokhara.

#### Nepalganj

Upon arrival in Nepalganj, a meeting took place with the two Long Term Observers of the EU Mission. Unfortunately they made little effort to brief the MEPs and had not prepared a programme for the Election Day. Security wise the EP Delegation was advised not to travel to the district of Dang, east of Nepalganj, where seven Maoists had been killed the day before by the bodyguards of the NC candidate. So it was decided to spend the election day in the districts of Banke and Bardyia, west of Nepalganj. It was also decided that the EP Delegation in Nepalganj would split into two teams, as to observe as many polling stations as possible, but that, for security reasons, the two teams would remain within reach in the same districts.

The EP delegation visited two polling stations to observe the on-going preparations for Election Day and had meetings with the Chief Polling officer and the Chief Returning officer of Banke district. Despite our repeated requests, it was not possible to meet with candidates.

#### Pokhara

The two Long Term Observers of the EU Mission deployed in Pokhara met the EP delegation with carefully prepared documents on the situation in the region and all the contacts necessary. They briefed the MEPs on the pre-election campaign findings and security situation and presented a detailed deployment plan for the Election Day. Out of 4 constituencies in the Pokhara district, the LTOs proposed to focus on Kaski Nr.2 and Kaski Nr.3, which were least covered by observers. The EP delegation was to stay as one team during the Election Day.

#### Kathmandu

On 9 April, the part of the delegation which remained in Kathmandu held some meetings which could not take place on the previous days.

#### Meeting with Mr BENNET, Office of United Nations High Commissioner in Nepal (OHCHR)

Mr BENNET, despite his recent arrival in the country as representative of the Office of United Nations High Commissioner in Nepal, gave a precise overview of the human rights situation in the framework of the forthcoming elections. According to his analysis, the situation remains volatile and rather tense, with several violations of human rights in various parts of the country. He underlined the fact that the ongoing democratic process towards a Constitutive Assembly is taking place in a generally calm atmosphere, but that cases of violence and intimidations were reported and might lead in some cases to seriously undermining the process.

Followed a debate with Members of the delegation on the issue of how was to be considered responsible for those shortcomings and if they could all be attributed to the same political party. Finally, the question of the effective cantonments of the Maoist (and their weapons) was also discussed.

#### Meeting with representatives of minor political parties

As all representatives of political parties could not be met the day before, the delegation decided to give a chance to those representatives of minor groups to present their views. The debate was very interesting and alive. Some of them stated that during the campaign period they had suffered of strong pressure (if not intimidation) from major political parties, others were more keen to raise ethnic concerns (representative of the Madheshi community).

Finally, the delegation met the Long Term Observers of the EU Mission with whom they discussed about the situation in Kathmandu and agreed on a routing for election day.

#### **Thursday 10 April, Election Day**

The general assessment was that Election Day was calm, generally peaceful and that voting took place in a disciplined way. The final turnout was of 60 per cent.

On the morning of Election Day, each team observed the opening procedures in a selected polling station. In all cases observed, the polling station staff followed the opening procedures and opened the polling station on time, as stipulated in the law (at 7.00). Already at opening time, the queues were very long, but the voters waited patiently without any incidents observed. In several polling stations, the atmosphere was festive and voters spontaneously applauded when the first voter was allowed to enter. Security was provided by armed police but in a gentle way.

The teams were well received in all places. Most polling station staff seemed to be aware of the role and rights of the international observer teams under the Election Law and received the observer teams correctly in their polling stations. Polling station staff appeared to be aware of their tasks, which they performed in a dedicated and responsible way. All teams noticed the presence of witnesses from different political parties who had a copy of the voters' list. Many national observers were also met during the day.

The EP Delegation expressed some concern at the method of identification of voters. As no ID card was requested, voters had to identify themselves with a small piece of paper which apparently was distributed prior hand by the political parties. This piece of paper, that could be of different colour and size, was then used to check the identity of the person against the voters' list, first outside the polling station by volunteers and then by election staff. This issue needs to be addressed and the system improved to increase transparency and avoid any possibility of intimidation.

Closing procedure and transfer of ballot boxes to counting stations were observed by all teams. The election law foresaw that counting would not take place immediately after closing in the polling station but rather in the district headquarters. Transport of the ballot boxes from the polling stations took most of the evening and in some places part of the night. Counting started only on the morning of the 11 April (and was expected to take at least ten days to be completed for the proportional representation ballot) and it was therefore not possible for the EP Delegation to observe it.



## **Friday 11 April**

### Exchange of views of the delegation with Mr MULDER and the EU-EOM

The Chief Observer gave a summary of his preliminary statement which basically acknowledged a largely successful election day despite a tense campaign.

Members commented on this analysis and pointed out some key points such as the population enthusiasm, the good technical preparations for election day despite minor problems but also the issue of voter identification which was considered as a main weakness in the procedure. The transport of ballots boxes to the district level for counting, and its security aspects, was discussed as well as the problem of the citizens who had migrated inside the country and who were not allowed to vote in the FPTP system.

### Exchange of views of the delegation with Mr MULDER, the EU-EOM and the EU Head of Missions (plus the representatives of Norway and Switzerland)

The Chief Observer repeated the summary of his preliminary statement for the EU Heads of Mission. He insisted on the good work done by the Election Commission and on the positive atmosphere during election day. He said that this election had most characteristics of an internationally recognized election but acknowledged that the election campaign had not been free and fair. The Chair of the EP Delegation agreed with the analysis of the EU EOM Chief Observer. He also said that he had been positively impressed by the good atmosphere among voters but expressed concerns at the weak voters' identification system and at the complexity of the counting process.

The EU Heads of Mission agreed that there has been a clear contrast between the climate of the campaign and election day, particularly in the Terai region. They also insisted that it was important to send a positive message about election day in view of the next stages of the peace process.

### Cocktail hosted by the EP delegation with the EU-EOM, the European Commission's Delegation, representatives of the Member States and other international observers

The European Parliament delegation hosted a cocktail, attended by many international observers and international representatives in Kathmandu, including the EU Heads of Mission and Ian Martin, the Special Representative of the UN Secretary General in Nepal. This contributed to the high visibility of the European Parliament and provided a timely opportunity for exchanging views on the process and the situation in the country.

## **Saturday 12 April**

### Press Conference by Chief Observer Mr Jan Mulder and EP delegation Chair, Mr. Borrell Fontelles

The EU EOM Preliminary Statement (attached as Annex C) was released at a very well-attended press conference headed by Chief Observer Mr Jan Mulder MEP, and by the Chair of the European Parliament Delegation Mr. Borrell Fontelles MEP.

## Conclusions

While the delegation of course endorsed the preliminary statement, at the press conference Mr Borrell stated that:

- The delegation was composed by 7 MEPs, including a vice President of the Institution and was present in the country for a short period around election day;
- On a personal base, Mr Borrell expressed his feeling that these elections reminded him of the Spanish elections which took place in 1977, the first one after 40 years of dictatorship;
- On Election Day the delegation split into three groups, in Kathmandu, Pokhara and Nepalganj. All groups witnessed enthusiastic high participation and a general commitment for democratic and transparent process;
- Nepalese people (including large number of women) voted with pride and dignity in a generally peaceful atmosphere and sometimes even with emotion;
- The EP delegation welcome the good cooperation of all actors involved in running election day procedures, although the delegation highlighted the problem of identification of voters as one of the issues to be addressed in the future;
- Election day was an important step but the delegation expects and encourages same cooperation with renewed commitment during counting and transparency of publication of results;
- Similarly, the delegation expects at the end of these steps a full acceptance by all parties of the results;
- The Constituent Assembly is an historical opportunity for Nepal (Multi party democracy, challenging choices of model of State to be defined, forum for constitutional reform);
- The EP is committed to cooperate and support the work of the newly elected Assembly, possibly through its newly created service for improving parliamentary capacity building.

The newly elected Constituent Assembly will need to develop working procedures with regard to its dual function and recruit a large number of additional staff. The EP attaches great importance to the promotion of parliamentary democracy and in view of this difficult situation the Chair suggested that EP assistance could be provided to the Constituent Assembly. This requires follow-up by the adequate services of the EP.

Last but not least, the EP Delegation wishes to congratulate the Nepali people for the civic spirit of the voters and their eagerness to have a say in the future of the country. There was a general commitment for a democratic process. Voters, and particularly women, turned out in high numbers and were patient and peaceful. The EP Delegation also wants to congratulate the approximately 240,000 election officials working hard for long hours in the 21,000 polling stations, and the people responsible for organising and executing the first national-level elections since 1999.

Finally, on 21 May, Mr Borrell met with Mrs Benita Ferrero-Waldner, Commissioner responsible for External Relations and the European Neighbourhood Policy, in order to debrief on the EU EOM to Nepal, to review issues related to EU/EP election observation activities, identify possible improvements in the way missions are carried out and identify new initiatives to be launched in the forthcoming months. It was also agreed to organize a second joint seminar focusing on issues like enhancing visibility and political dimension of Election Observation Missions.

# EUROPEAN PARLIAMENT

## ELECTION OBSERVATION DELEGATION IN NEPAL

### ELECTION OF THE CONSTITUENT ASSEMBLY (10 April 2008)

#### List of participants

##### Members

Mr Josep BORRELL FONTELLES, PSE, Spain (*Chairman*)  
Mr Csaba ORY, EPP-ED, Hungary  
Mr Filip KACZMAREK, EPP-ED, Poland  
Mrs Neena GILL, PSE, United Kingdom  
Mr Magor Imre CSIBI, ALDE, Romania  
Mr Gintaras DIDŽIOKAS, UEN, Lithuania  
Mrs Luisa MORGANTINI, GUE/NGL, Italy

##### Political Groups

Mr Jesper HAGLUND, EPP-ED  
Mrs Ruth DE CESARE, PSE  
Mrs Egle KROPAITE, UEN

##### Secretariat

Mr Marco AGUIRIANO, Director  
Mr Pietro DUCCI, Head of Unit  
Mr Xavier NUTTIN, Administrator  
Mrs Claudine STAUB, Assistant

##### Interpreters

Mr. Peter SZABO  
Mr. Peter SZUCS

##### Abbreviations :

EPP-ED	European People's Party/European Democrats	GUE/NGL	European United Left/Nordic Green Left
PSE	Party of European Socialists	UEN	Union for Europe of the Nations Group
ALDE	Alliance of Liberal and Democrats for Europe	I-D	Independence/Democracy
Verts/ALE	Greens/European Free Alliance	NI	Non-attached



**EUROPEAN PARLIAMENT**  
**PARLIAMENTARY ELECTIONS IN NEPAL**  
**ELECTION OBSERVATION DELEGATION**

**7-12 April 2008**

**PROGRAMME**

**Members**

Mr Josep BORRELL FONTELLES, PSE, Spain (*Chairman*)  
Mr Csaba ORY, EPP-ED, Hungary  
Mr Filip KACZMAREK, EPP-ED, Poland  
Mrs Neena GILL, PSE, United Kingdom  
Mr Magor Imre CSIBI, ALDE, Romania  
Mr Gintaras DIDŽIOKAS, UEN, Lithuania  
Mrs Luisa MORGANTINI, GUE/NGL, Italy

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Mr Pietro DUCCI - Local Contact: +977 9841 932421  
Mr Xavier NUTTIN - Local Contact: +977 9841 932420  
Mrs Claudine STAUB - Local Contact: +977 9841 932417

**Interpreters**

Mr. Peter SZABO  
Mr. Peter SZUCS

## **Monday, 7 April**

Arrival of Members in Kathmandu and transfer to the hotel  
Hyatt Regency Kathmandu  
PO Box 9609, Taragaon, Boudha  
Tel 00 977 01 449 12 34  
Fax 00 977 01 449 00 33 -  
email: [manju.subba@hyatt.com](mailto:manju.subba@hyatt.com)

- 16.00-17.00 Briefing by the Core Team of the EU Election Observation Mission  
*Venue: Hyatt Regency Hotel – Kirtipur Hall*
- 17.15-18.30 Cocktail hosted by the Prime Minister, Mr Koirala  
*Venue: Residence of the Prime Minister*
- 18.30-20.00 Cocktail hosted by the EC Delegation  
*Venue: Dwarika's Hotel*

## **Tuesday, 8 April**

- 09.00 at the latest** Departure from the hotel
- 09.30-10.30 Meetings with political parties
- Upendra Yadav, President Madhesi Janadhikar Forum
  - Amrit Bohara, Central Committee member, CPN-UML
  - Shovakar Parajuli, The Chief Secretary, Nepali Congress
  - Ex Maoist minister Khim Lal Devkota, Maoist party (CPN-M)
- Venue: Yak and Yeti Hotel – Dynasty Hall*
- 10.45-11.15 Meeting with EU Head of Missions  
*Venue: Yak and Yeti Hotel- Dynasty Hall*
- 11.30-12.00 Meeting Manohar Prasad BHATTARAI, Secretary General, House of Representatives  
*Venue: Parliament House Singha Durbar*
- 12.15-13.00 Lunch of the EP delegation with the Chief Observer, Mr Jan MULDER  
*Venue: Restaurant La Soon*
- 14.00-14.30 Meeting with Mr Bhoj Raj POKHAREL, Chief Election Commissioner  
*Venue: Election Commission Kantipath*
- 15.00-16.00 Common briefing by Ian MARTIN, UNMIN to EU-EOM, Carter Center and ANFREL  
*Venue: Hotel Annapurna*

- 16.30-17.10 Meetings with civil society representatives  
 - Mr. Arjun Karki, NGO Federation  
 - Mr Rem Bishwakarma, Dalit NGO Federation  
 - Dr. Sumitra Manandhar Gurung, National Coalition Against Discrimination,  
 - Ms. Mandira Sharma, Advocacy Forum  
*Venue: Yak and Yeti Hotel - Dynasty Hall*
- 17.15-17.45 Meetings with local journalists  
 - Mr. Ajaya Bhadra Khanal, Editor, Himalayan Times  
 - Mr. Bishnu Nisturi, President, Federation of Nepalese Journalists  
 - Mr. Ameet Dhakal, News Editor, Kathmandu Post  
 - Ms. Prativa Tuladhar, TV  
*Venue: Yak and Yeti Hotel – Dynasty Hall*
- 17.45-18.30 Briefing with the Core Team (second part)  
*Venue: Yak and Yeti Hotel- Dynasty Hall*

### **Wednesday, 9 April**

#### **Deployment**

##### ***Nepalganj***

**7.30 at the latest** Departure from the hotel

09.00 Departure to Nepalganj (flight BHA451) / Arrival 10.00

##### ***Hotel:***

*Hotel Sneha*

*Surkhet Road*

*Nepalganj*

*Tel. 081-520119, 520487*

*Fax. 081-522573*

*Price: 2.600 NPR, around 26 € per night*

##### ***Pokhara***

**8.45 at the latest** Departure from the hotel

10.10 Departure to Pokhara (flight YT129) / Arrival 10.40

##### ***Hotel:***

*Shangrilla Village Resort*

*Gharipatan*

*Tel. 061-522122*

*Fax. 061-5211995*

*Price: around 86 USD/night*

Briefing on the situation in Nepalganj and Pokhara areas by Long Term Observers



### **Kathmandu**

- 10.30-11.00 Meeting with Richard BENNETT, Office of United Nations High Commissioner in Nepal (OHCHR)  
*Venue: Yak and Yeti Hotel – Senate*
- 11.00-12.00 Meeting with political parties (second part)  
*Venue: Yak and Yeti Hotel – Senate*
- 12.30 Briefing on the situation in Kathmandu area by Long Term Observers  
*Venue: Yak and Yeti Hotel – Senate*

### **Thursday, 10 April**

Election Day

- 07.00 Opening of the polling stations
- 17.00 Closing of the polling stations

### **Friday, 11 April**

- 10.15 Return from Nepalganj (flight BHA452) / Arrival in Kathmandu at 11.15
- 10.55 Return from Pokhara (flight YT130) / Arrival in Kathmandu at 11.25
- 14.00 Debriefing of the delegation on the election observation from different teams  
*Venue: Hyatt Regency Hotel*
- 15.00-15.30 Exchange of views of the delegation with Mr MULDER and the EU-EOM  
*Venue: Residence of the French Ambassador*
- 15.30 Exchange of views of the delegation with Mr MULDER, the EU-EOM and the EU Head of Missions  
*Venue: Residence of the French Ambassador*
- 18.00-20.30 Cocktail hosted by the EP delegation with the EU-EOM, the European Commission's Delegation, representatives of the Member States and other international observers  
*Venue: Garden of Dreams*

### **Saturday, 12 April**

- 13.00-15.00 Joint press conference, presentation of the preliminary statement
- End of the mission



**EUROPEAN UNION  
ELECTION OBSERVATION MISSION  
NEPAL CONSTITUENT ASSEMBLY ELECTION 10 APRIL, 2008**

**PRELIMINARY STATEMENT**

**Largely successful election day despite tense campaign**

**Kathmandu, 12 April 2008**

*The European Union Election Observation Mission (EU EOM) has been present in Nepal since 2 March 2008 following an invitation from the Interim Government of Nepal. The EU EOM is led by Jan Mulder, Member of the European Parliament. The EU EOM deployed the largest international mission with 120 observers from 22 EU Member States and Norway and Switzerland present in 62 of the 75 districts. The observers were deployed throughout Nepal to observe and assess the electoral process in accordance with international standards for elections as well as the laws of Nepal. The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation commemorated at the United Nations in October 2005. The EU EOM was joined by a seven member delegation from the European Parliament, led by Josep Borrell Fontelles, Member of the European Parliament, who endorse the views expressed in this statement. On election day, observers visited 517 polling stations in 83 constituencies to observe voting. The EU EOM is currently observing the counting and will remain in country to observe post-election developments and the tabulation of results. This statement is preliminary; a final report will be published within a period of two months after the end of the electoral process.*

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**Executive Summary**

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- **The 10 April 2008 election to the Constituent Assembly represents a crucial step towards the restoration of representative democracy in Nepal. So far, it has generally been organised in a professional and transparent manner meeting many international standards. The people of Nepal turned out in large numbers to select their representatives demonstrating popular support for Constitutional reform and a return to accountable and elected multiparty democracy. On election day there were a limited number of incidents of violence, intimidation and overt attempts to disrupt the poll in parts of the country, but generally polling went smoothly. In contrast, the campaign environment was tense across the country and the freedoms of expression, movement and assembly were at times seriously undermined. There were also several incidents of violence and killings.**
- **As the counting process continues across the country the European Union Election Observation Mission (EU EOM) sincerely hopes that all political parties will patiently await the results and respect the rule of law. The Election Commission should also ensure that the publication of final results includes a breakdown of**

turnout at polling station level, as an essential safeguard to guarantee transparency. If the parties have complaints about polling procedures the EU EOM would encourage them to submit these to the Election Commission and follow the due legal process.

- Election day generally went smoothly across many parts of the country and the environment on election day was largely calm, though there was a limited number of incidents that led to the cancellation of polling in a number of the affected polling stations. Voting was generally conducted in a peaceful and orderly manner throughout 239 constituencies where polling took place. Polling procedures in 89 per cent of polling stations visited by EU observers were assessed as very good or good. The polling staff proved to be committed, efficient and generally well trained in most polling stations visited.
- The legal framework generally, has so far, provided for a democratic and inclusive election process in line with international standards. The Interim Parliament and Election Commission has introduced numerous improvements to the legal framework to provide comprehensive and in most areas, detailed provisions, for the conduct of the election. However, whilst improvements are evident, the legal framework has a number of shortcomings that are not fully in line with best practice. These include a lack of a consolidated election act, clear deadlines for the publication of results and concise rules for the display of results. There is also a lack of clarity in the mechanisms for appeals
- The Election Commission has acted as an independent body with integrity and competence. Logistical and technical preparations were generally conducted in an effective manner and key components were delivered according to the timetable. The Election Commission acted in a largely transparent manner consulting political parties and other stakeholders on key issues demonstrating flexibility as well as developing an open media strategy. It did, however, fail to fully enforce the Code of Conduct in light of numerous breaches during the campaign period.
- The most recent voter registration drive was conducted in January-February 2007. This programme was generally considered successful, despite some obstacles. The exercise increased the number of registered voters to a total of 17.6 million, representing an increase of 15 per cent from 2006. Even with the postponement of the previously planned elections, the sequence of events did not allow for an update of the register. This meant that persons who reached the age of 18 after the cut off date of 15 December 2006 were excluded from voting in this election. There is also a lack of adequate mechanisms to audit the voter register to identify multiple entries and other anomalies.
- During the campaign period political parties and candidates did not always enjoy the full rights afforded by the principles of freedom of assembly, freedom of movement and freedom of expression due to lack of law and order and poor security environment across much of the country. There were numerous incidents of violence

and a significant number of clashes between cadres of political parties. The campaign environment has been characterised by a high degree of tension leading to campaign activities being restricted in some areas. All these incidents have contributed to a general atmosphere of fear and intimidation and at times seriously undermined the right to campaign freely. According to EU observers there were complaints of widespread voter intimidation and some attempts at vote buying by political parties.

- There was a wide range of coverage in the mass media of the election campaign and freedom of speech was largely respected for most of the campaign period. In this respect, the overall climate for journalists remained relatively good compared to the period that preceded the election campaign. The media did, however, experience pressures from political parties claiming bias in the media in an effort for the individual parties to receive greater amounts of coverage. There were also a number of assaults on journalists and one was kidnapped during the final days of the campaign period.
- The Interim Constitution and the Constituent Assembly Election Act recognise and provide extensive protection for the rights of women and traditionally marginalised groups. These are to be elected through the provision of a quota system that will give unprecedented levels of representation. However, the design of the quota system may not necessarily guarantee a fully broad based representation in the Constituent Assembly as originally intended.
- A parallel mixed electoral system, combining constituency based first-past-the-post and nationwide proportional representation election systems, was adopted to establish a 601 member Constituent Assembly. Twenty six of these members will be appointed by the new Interim Government. There were no overly restrictive requirements for candidates to stand for election and it was contested by a total of 9,648 candidates. This is a significant increase from previous elections. A total of 3,947 candidates from 55 political parties contested 239 of the 240 seats allocated by the first-past-the-post race after elections in one constituency were rescheduled. The closed lists of 54 political parties were approved by the Election Commission for the proportional representation race with 5,701 candidates contesting 335 seats.
- The Election Commission delivered an ambitious voter education programme. The official initiative was complemented with a broader campaign facilitated by civil society organisations that included civic education and public outreach. Despite the scale of these efforts, the level of awareness of the Constituent Assembly election amongst the public remains insufficient.
- A large number of international and domestic observers were accredited to observe the election. According to the Election Commission over 60,000 domestic observers were accredited from 148 organisations. A total of 28 international observation missions also registered to monitor the elections with 856 international observers.

- **During the campaign period approximately 230 formal complaints were submitted to the Election Commission. Numerous informal complaints about breaches of the Code of Conduct have also been brought to the attention of the EU EOM. The majority of formal complaints were related to partisan governmental employees, misuse of state resources and electoral violence. So far, in all cases where infringements of the Code of Conduct were confirmed by the Election Commission it has not applied any sanctions against the offenders. The rejection of the relevant courts of jurisdiction in appeals related to the decisions of the Election Commission means there are no adequate appeal mechanisms currently in place.**
- **The EU EOM will continue to closely observe the electoral process until its completion. This will include the counting and tabulation of results that should be conducted in an accountable and transparent manner. It will also assess the performance of the election administration in their response to any complaints submitted to them by the political contenders as well as adherence to the principles of the Code of Conduct by political parties.**

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### Statement of Preliminary Findings

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#### BACKGROUND

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The Constituent Assembly election held on 10 April was a key condition of the Comprehensive Peace Agreement (CPA) signed by the Communist Party of Nepal (Maoist) (CPN-M) and the Seven Party Alliance on 21 November 2006. The Constituent Assembly is elected to draft a new Constitution that will be the basis for creating new structures for a democratic and inclusive Nepali state. For the first time in the history of the country a more participatory and inclusive process has been designed to bring about fundamental constitutional reform. It is also the first national election in Nepal to take place since 1999. The successful completion of the election offers the opportunity to fulfil one of the principal provisions of the CPA and represents an important step towards the restoration of representative democracy in the country.

The volatile and often conflictual nature of Nepalese politics, the lack of law and order coupled with the poor human rights record and a culture of impunity in the country have been profound challenges for the organisation of the election.<sup>1</sup> In September 2007 fundamental disagreements about the status of the monarchy, security sector reform and the election system between the CPN-M and other signatories of the CPA led to the withdrawal of the CPN-M ministers from the Interim Government. Demands by traditionally marginalised communities for greater political representation and subsequent civil unrest in parts of the country including the Terai also coincided with the breakdown of consensus amongst the main political parties. This added to the deterioration of the political climate for the planned election in November 2007. These

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<sup>1</sup> See reports of the National Human Rights Commission of Nepal and United Nations Office of the High Commissioner for Human Rights in Nepal.

conditions caused the postponement of the election. This followed an earlier postponement of the election that was scheduled to take place in June 2007 because of time constraints.

After an agreement in December 2007 between the Interim Government and CPN-M to proclaim Nepal a republic by constitutional amendment during the first sitting of the Constituent Assembly, the CPN-M re-entered the Interim Government. Changes to the balance of seats elected by proportional representation and first-past-the-post system were also part of the agreement, increasing the number elected by proportional representation. The re-engagement of the CPN-M meant that the election could take place with the participation of all major political parties. Agreements between the Interim Government and the United Democratic Madhesi Front on 28 February 2008 and the Federal Republican National Front on 1 March further cleared the way for even broader participation with a commitment of these groups to the election.

A parallel mixed electoral system, combining constituency based first-past-the-post and nationwide proportional representation election systems, was adopted to establish a 601 member Constituent Assembly. Twenty six of these members will be appointed by the new Interim Government. Polling was scheduled to be conducted in 20,889 polling stations across the country.

## **LEGAL FRAMEWORK**

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Elections in Nepal are governed by a diverse range of legislation that includes the Interim Constitution of Nepal, five statutory Acts, a Code of Conduct and numerous detailed regulations issued by the Election Commission.<sup>2</sup> Nepal has either ratified or acceded to all of the major treaties containing international standards for elections.<sup>3</sup>

The legal framework generally, has so far, provided for a democratic and inclusive election process in line with international standards. The Interim Parliament and Election Commission have introduced numerous improvements to the legal framework to provide comprehensive and in most areas, detailed provisions, for the conduct of the election. Where there were gaps in the legal framework, the Election Commission introduced regulations in most areas to provide for an improved framework. Improvements include the introduction of rules for campaigning such as a prohibition on vote buying, intimidation or obstruction and the use of state resources in campaigning activities as well as ceilings for campaign expenditure. Adequate legal measures for handling complaints have also been introduced providing recourse for aggrieved parties. Finally, a key innovation in the election law has been the introduction of a quota system reserving a number of seats for women and marginalised groups.

However, whilst some improvements are evident the legal framework does contain a number of shortcomings. The legal framework is highly fragmented and in the absence of a consolidated

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<sup>2</sup> The Election of Members of the Constituent Assembly Act (2007); The Law on the Functions, Duties and Powers of the Election Commission (2007); The Act Relating to Electoral Rolls (2006); The Election Offences and Punishment Act (2007) and The Constituent Assembly Court Act (2007).

<sup>3</sup> The International Covenant on Civil and Political Rights (ICCPR); Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); the Convention on the Elimination of All Forms of Racial Discrimination (CERD); and the Convention on Economic, Social and Cultural Rights (CESCR).

election act, legislation is contained in numerous laws and regulations and therefore lacks clarity. Once the number of seats won by each list is determined by the Election Commission, the central committees of political parties are able to select winning candidates among those candidates nominated from anywhere in their closed lists. This seriously dilutes the relationship between voters and elected representatives and lacks transparency.<sup>4</sup> Furthermore, the ‘others’ category in the quota system has no adequate and specific rules for which ‘others’ the quota system should apply. The interpretation of the Interim Constitution to include all groups in this category that were not included specifically in the quotas means that the representation of the underprivileged groups that this category could have benefited is undermined. The quota system was also not extended to parties that fielded below 101 candidates in the proportional representation election, so in a scenario whereby the smaller parties receive large amounts of votes, the quota could be weakened.

Although legislation addresses most aspects of the election process legal provisions for some fundamental parts are absent. The Election Commission therefore relied on *ad hoc* regulations that were open to change and some were issued very late which did not provide legal certainty. Notable areas that lack clear legal guidelines include an absence of provisions for special needs voting. This includes migrant workers, internally displaced persons and those unable to access polling stations due to physical incapacity or hospitalisation. The EU EOM also has concerns that there is a lack of an appeal mechanism to challenge the Election Commission decisions, after rejection of the Supreme Court of jurisdiction (see Complaints and Appeals below).

## **ELECTION ADMINISTRATION**

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The Election Commission of Nepal is established as an independent body responsible for organising all elections and referenda in Nepal. The Chief Election Commissioner and four Commissioners were appointed in the second half of 2006 by the Prime Minister for a six-year period, upon recommendation of the Constitutional Council. The Election Commission decisions are implemented by an administrative structure of approximately 240,000 election officials working in all five regions, 75 districts and 240 constituencies. Significant technical assistance was provided by the United Nations Mission in Nepal (UNMIN) on a nationwide basis.

Wide ranging powers are afforded to the Election Commission to manage the entire election process. These include developing and enacting regulations, preparing voter lists, registering political parties, conducting voter education and adjudicating on complaints with powers of sanction. The Election Commission has acted as an independent body with integrity and competence. It consulted political parties and other stakeholders on key issues demonstrating flexibility, as well as, developing an open media strategy. Whilst this provided a largely transparent process granting greater access to observers to the decision making process and meetings of the Commissioners would have enhanced accountability and transparency.

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<sup>4</sup> Article 25 ICCPR guarantees the free expression of the will of the electors. United Nations Human Rights Commission, General Comment No. 25 paragraph 7: “Where citizens participate in the conduct of public affairs through freely chosen representatives, those representatives are able to exercise governmental power and are accountable through the electoral process for the exercise of that power.”

Logistical and technical preparations were generally conducted in an effective manner and key components were delivered according to the timetable. District Election Officers and Returning Officers, were generally perceived by political parties and civil society organisations to have prepared well. EU EOM observers assessed the cascade training for some 44,000 polling officers and assistants positively.

## **VOTER REGISTRATION**

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The most recent registration drive was conducted in January-February 2007 mobilising 22,630 registration clerks throughout the country. The exercise increased the number of registered voters to a total of 17.6 million, representing an increase of 15 per cent from 2006 with some degree of variance between regions. Despite the current register being generally accepted there are serious concerns about the quality and accuracy of the voter register. A number of eligible voters from marginalised groups have not been able to register. Given the fluid migration patterns of Nepali society and the number of internally displaced persons, the permanent residency criteria to qualify for registration excluded sections of eligible voters from the voter register.

Even with the postponement of the previously planned elections the sequence of events did not allow for an update of the register. This meant that persons that have reached the age of 18 after the cut off date of 15 December 2006 were excluded from voting in this election. It also led to the disenfranchisement of individuals that acquired citizenship since this date. There is also a lack of adequate mechanisms to audit the voter register to identify multiple entries and other anomalies.

## **REGISTRATION OF CANDIDATES AND PARTIES**

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There were no overly restrictive requirements for candidates to stand for election and it was contested by a total of 9,648 candidates, representing a significant increase from previous elections. A total of 3,947 candidates from 55 political parties contested 239 of the 240 seats allocated by the first-past-the-post election, after a candidate died in a constituency where the poll was rescheduled. Only the three major political parties, the Nepali Congress (NC), CPN-M and the Communist Party of Nepal-Unified Marxist Leninist (CPN-UML) fielded candidates in all 240 constituencies. A large number of 258 candidates withdrew from the nominations after local consultation between the parties and in some incidences intimidation.

A total of 55 political parties filed closed lists of candidates for the 335 seats allocated in the proportional representation race. Seven political parties filed lists to contest all 335 the seats. Many of them initially failed to meet the complex quota requirements. One party was disqualified for failing to comply with the female quota before the seven-day period for corrections expired. The Election Commission received only three objections against four candidates but scrutinised all 6,000 candidates for eligibility. From the 54 final closed lists 285 candidates' names were removed. One hundred and eleven of these were contained in the two lists submitted by the Rastriya Prajatantra Party (RPP) and Rastriya Prajatantra Party Nepal (RPP-Nepal). Most of these candidates failed to submit a certificate of citizenship or were found to be underage. The remaining candidates had registered on closed lists of two political parties at the same time or for both the first-past-the-post and proportional representation races.



## **CAMPAIGN ENVIRONMENT**

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During the campaign period political parties and candidates did not always enjoy the full rights afforded by the principles of freedom of assembly, freedom of movement and freedom of expression due to the lack of law and order and the poor security environment across much of the country. There were numerous incidents of violence and a significant number of clashes between cadres of political parties. The environment has been characterised by a high degree of tension with campaigning activities at times restricted in some areas. Serious incidents during the campaign period included nine killings, the majority of which were CPN-M cadres. Immediately prior to election day, the police killed eight people in Dang during clashes between cadres of CPN-M and NC and three more people were killed in Surkhet including a candidate. A number of people also died after an explosion of an improvised explosive device in Rautahat. There were also a number of bomb explosions, numerous assaults on candidates and party activists and abductions during the campaign period. The clashes between rival supporters of political parties led to numerous injuries of those involved. All these incidents have contributed to a general atmosphere of fear and intimidation and have seriously undermined the right to campaign freely. Reports of voter intimidation were also widespread with voters experiencing pressure both in their homes and in public places.

Despite the high levels of violence political parties did campaign in many parts of the country though the conditions for campaigning varied in the districts. An upsurge in violence in certain areas led the authorities to ban public meetings in some places. Several curfews were imposed following clashes between supporters of CPN-UML, NC and CPN-M. In some cases this resulted in both sides refraining from campaigning in the strongholds of their opponents to avoid hostile receptions. Much of the disruption to campaign activities and assaults to candidates and activists involved CPN-M and affiliated groups as well as armed groups in the Terai. However, EU observers also reported there were also other political parties which instigated violence, especially CPN-UML and NC in areas where they were dominant.

The campaign period has witnessed numerous breaches of the Code of Conduct by the political parties. There have been complaints to EU EOM observers of misuse of state resources for campaign purposes, attempts to buy votes and children involved in campaign activities. In addition to the violence and intimidation, a clear reflection of how openly the Code has been violated, is the publicly displayed posters and banners evident throughout the country in clear breach of its provisions. A culture of impunity has prevailed throughout the campaign period with only a few incidents where perpetrators were detained by a police force that lacks both capacity and a culture of proactively enforcing the law. The Election Commission failed to react in an appropriate manner in cases of violation of the Code of Conduct. It took a more mediatory role, so as to react to the sensitive nature of the election, in a volatile environment where sanctions for violations may have inflamed an already tense situation.

## **MEDIA ENVIRONMENT**

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There was a wide range of coverage in the mass media of the election campaign and freedom of speech was largely respected for most of the campaign period. In this respect, the overall climate for journalists remained relatively good compared to the period that preceded the election

campaign. The media did however, experience pressures from political parties claiming bias in the media in an effort for the individual parties to receive greater amounts of coverage. There were also threats and some cases of intimidation of journalists in Achham and Chitwan. Towards the end of the campaign period CPN-M supporters reportedly also kidnapped a journalist in Kaski and assaulted another journalist in Parbat.

The coverage of the campaign by state owned media was not balanced.<sup>5</sup> Nepal Television's coverage provided CPN-M with the largest share of coverage with a 39 per cent share of news bulletins' coverage of political actors afforded to this party, followed by NC and CPN-UML with each party receiving 27 per cent and 17 per cent share of news coverage respectively. The coverage of Radio Nepal and the state owned newspaper *Gorkhapatra* also demonstrated a lack of balance in their news coverage in terms of time and space. Radio Nepal afforded CPN-M 43 per cent share of its news coverage of political actors, while NC received 27 per cent, CPN-UML 17 per cent and RPP less than 6 per cent. A talk show aired on Radio Nepal, 'Guatna Ra Bichar,' was particularly controversial and was the source of a complaint filed to the Election Commission due to the dominance of CPN-M in the programme. The Election Commission subsequently issued a Directive to Radio Nepal requesting the station to abide by the Code of Conduct. This had little impact on the programme's content during the campaign period. The newspaper, *Gorkhapatra* granted a 43 per cent share of its coverage of political actors to CPN-M, with NC receiving 20 per cent, CPN-UML 16 per cent and RPP receiving less than 4 per cent.

CPN-M was also afforded the largest share of coverage in the private broadcast media receiving a total of 42 per cent of coverage on the radio stations monitored, though some of this coverage was critical of the party. CPN-UML received 22 per cent, NC 22 per cent and RPP less than 2 per cent share. A similar trend is evident in the coverage of private television channels with CPN-M receiving 37 per cent share of coverage, CPN-UML 22 per cent and NC 24 per cent. The Election Commission also established a system to grant free access to Nepal Television and Nepal Radio for party political broadcasts based on three phases according to which parties were allocated airtime proportionally to the number of candidates they fielded. There were also incidents when the moratorium was breached by television broadcasters.

## **PARTICIPATION OF WOMEN AND TRADITIONALLY MARGINALISED COMMUNITIES**

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The Interim Constitution and the Constituent Assembly Election Act recognise and provide extensive protection for the rights of women and traditionally marginalised groups to be elected through a provision of a quota system that will give unprecedented levels of representation for these groups. As a result women will fill a minimum of 24 per cent of the seats in the Constituent Assembly. However, the implementation of the quotas for traditionally marginalised communities was not adequately developed during the preparatory phase of the design of the system in order to guarantee fully a broad based representation in the Constituent Assembly.

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<sup>5</sup> The media monitored by the EU EOM between 23 March-7 April 2008 consisted of the state owned broadcasters Nepal Radio and Nepal Television and the private broadcasters Kantipur TV, Image Channel TV, Sagarmatha TV, Radio Nepal, Kantipur FM, Ujyalo FM and Nepal FM (06:00-10:00 & 18:00-22:00 hours). The state owned newspaper *Gorkhapatra* and the private newspaper titles *Kantipur Daily*, *Nepal Samacharpatra*, *The Himalayan Times* and *Naya Patrika* were also monitored daily.

Therefore, the representation of these groups could be less than what was originally intended. The domination of political parties by male members of elite groups remains an obstacle to the participation of women and traditionally marginalised communities in political life.<sup>6</sup> Some sections of the traditionally marginalised communities and female candidates also faced particular financial and social constraints in campaigning. An outdated and inaccurate census that requires updating also meant that the quotas may not reflect real social demographics.

The level of participation of women and traditionally marginalised groups in higher levels of the election administration was also low. There were only two female Returning Officers from a total of 240. Participation of women in polling station committees was also very low. Despite this women took an active role in observing the elections and there were a significant number of female domestic observers.

### **VOTER EDUCATION**

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The Election Commission delivered an ambitious voter education programme with assistance from UNMIN and other members of the international community. A large number, 8,568, of Voter Education Volunteers (VEVs) worked on the programme conducting public outreach to local communities. Although VEVs have encountered numerous obstacles and cases of intimidation over the past months, the programme was delivered in all 75 districts, reportedly without any major obstruction or incidents. The official initiative was complemented with a broader campaign facilitated by civil society organisations. A number of novel formats for voter education have been employed including street drama and the production of television and radio programmes across national and local media. Despite the scale of these efforts the level of awareness of the Constituent Assembly election amongst the public remains insufficient.

### **CIVIL SOCIETY AND ELECTION OBSERVATION**

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A large number of domestic and international observers were accredited to observe the election. According to the Election Commission over 60,000 domestic observers were accredited from 148 organisations. A total of 28 international observation missions also registered to monitor the elections with 856 international observers.

### **COMPLAINTS AND APPEALS**

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During the campaign period approximately 230 formal complaints have been submitted to the Election Commission. Numerous informal complaints about breaches of the Code of Conduct have also been brought to the attention of the EU EOM. The majority of formal complaints were related to partisan governmental employees, misuse of state resources and electoral violence. The Election Commission also received four complaints against three NC nominated candidates who were found to be governmental employees. The three candidates were disqualified. In all cases

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<sup>6</sup> Out of 3947 candidates for the first-past-the-post system, only 367 candidates are women (9.29 per cent): CPN-M nominated 42 (17.5 per cent), CPN-UNL 26 (11.35 per cent), Nepali Congress 26 (10.8 per cent) and People's Front Nepal 28 (13.7 per cent), Nepal Workers Peasants Party 27 (27.5 per cent). Sixteen of the 54 parties whose nominations were accepted did not nominate a single woman. In 16 districts and 67 constituencies there is not a single female candidate.

where infringements of the Code of Conduct were confirmed the Election Commission did not apply any sanctions against the offenders. Two appeals against decisions of the Election Commission were submitted to the Courts: one to the Constituent Assembly Court and another to the Supreme Court. In both cases the two Courts concluded that they did not have jurisdiction to assess the complaints. The Constituent Assembly Court because it had no right to make a judgement on the disqualification of candidates. The Supreme Court rejected a petition referring to Article 118 (4) of the Interim Constitution 2007 that forbids raising any case in court, with the intention to disrupt, the Constituent Assembly election.

## **POLLING**

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Election day generally went smoothly across many parts of the country and the environment on election day was largely calm. There was, however, a number of incidents of violence, intimidation and overt attempts to disrupt the poll that led to the cancellation of polling in a number of the affected polling stations. Voting was generally conducted in a peaceful and orderly manner throughout 239 constituencies where polling took place. A large number of voters turned out to cast their ballots. The effort invested in logistical preparations meant that polling stations generally opened on time.

Polling procedures in 89 per cent of polling stations visited by EU observers were assessed positively. This was despite complex polling procedures. The polling staff proved to be committed, efficient and generally well trained in most polling stations visited. Efficient processing of voters, use of controls and safeguards by polling staff and the secrecy of the vote were also assessed as very good or good in almost 90 per cent of polling stations visited. Voters also demonstrated a good understanding of the voting process in a large majority of polling stations observed. EU observers assessed the overall environment positively, although the presence of either political party supporters canvassing voters outside of polling stations or non-officially prescribed filtering of voters was observed. Closing was also assessed as very good or good in 77 per cent of polling stations visited and the transfer of ballots to district counting centres was carried out throughout the night and continues.

## **COUNTING**

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The process of counting ballots is currently underway in the districts of Nepal. The transparency and efficacy of the counting and tabulation of results will be crucial to the successful completion of the election process. The EU EOM will continue to observe these processes until their completion in order for it to make its final assessment.

The EU EOM wishes to express its appreciation to the Interim Government of Nepal and the Election Commission of Nepal for their cooperation and assistance in the course of the observation. The EU EOM is also grateful to the Delegation of the European Commission in Nepal and to the International Organization for Migration for their support throughout.

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