

THE  
CARTER CENTER



OBSERVING THE  
2008 NEPAL CONSTITUENT  
ASSEMBLY ELECTION

APRIL 2008

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## FOREWORD

By FORMER U.S. PRESIDENT JIMMY CARTER

I was pleased to return to Nepal to observe the country's historic constituent assembly election on April 10, 2008. After two previous postponements, the Nepali people finally had the opportunity to elect directly a body charged with drafting a new constitution for their country. Nepal has been ravaged by deadly conflict since 1996, and the constituent



Former U.S. President Jimmy Carter makes a public statement in a June 2007 pre-election visit to Nepal.

V. GAWALI

assembly election represents a remarkable step forward on its path to peace. I commend the Nepali people for their dedication and support throughout both the electoral process and the larger peace process.

It is rare in a country's history that its people are able to agree to change the basic structures governing their lives as Nepalis

are set to do with their constituent assembly. The members of the new assembly are the most diverse body Nepal has ever elected. For the first time in the country's history, women, southern plains people called Madhesis, indigenous people, and those from low castes and poorly developed regions are all included in unprecedented numbers. Nepal is now in the top tier of countries in the world for its percentage of female representatives in Parliament.

The Carter Center has been committed to advancing sustainable peace and democracy in Nepal since 2003, and I have personally visited the country during the past year to support the ongoing peace process between the Communist Party of Nepal-Maoist (CPN-M) and the government. Long-term observers for The Carter Center were initially deployed in March 2007 to track the administrative preparations, campaign period, and pre-election environment prior to the then-anticipated June 2007 elections; they remained in the country through the April 2008 election and beyond to monitor the vote count, complaints process, and postelection period.

Nepal's constituent assembly election was characterized by significant voter turnout of more than 60 percent and by a generally calm and orderly atmosphere given the country's post-conflict environment. Though the campaign period leading to the election was plagued with intermittent violence and violations of the electoral code of conduct, election day itself was a largely festive and peaceful affair with only isolated instances of violence and fraud. The participation of women voters was notable, as was the overall enthusiasm of the Nepali public. The Election Commission of Nepal performed admirably under difficult circumstances and was well-prepared to conduct the election, having earned the respect of all major stakeholders.

There remains a need for improvement to Nepal's electoral system and administrative structures. It is widely agreed by all international and domestic observers that the voter roll must be revised and updated to ensure that citizens are not disenfranchised in the future, and plans should be considered for mobile, absentee, and out-of-country voting. Additionally, the failure to require voter identification as well as the unwarranted participation of party volunteers outside the polling centers in checking voters' names on the voter list both led to cases of



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electoral fraud such as underage voting, multiple voting, and proxy voting.

The electoral system, which was the result of intense negotiations over a period of months, served to increase greatly the diversity of the constituent assembly members but was overly cumbersome and confusing for voters. The system of selecting winners from party proportional representation lists *after* the election is nontransparent and centers excessive power in the hands of party leadership, and it should be eliminated for all future elections. Though counting at district centers was intended to facilitate the secrecy of the vote, it presented logistical and administrative problems that delayed the count. These problems were exacerbated by the lack of sufficient guidelines and training for the process as well as the failure in many cases to reconcile the number of ballots with the number of voters. Finally, although the complaints process was reasonable in theory, it was underutilized, confusing, and nontransparent in practice, resulting in multiple claims of electoral fraud that were never processed through official channels. To protect the credibility of election results, this system should be revised.

I congratulate the newly elected constituent assembly members as well as the CPN (Maoist), which earned the greatest share of seats in the assembly. I urge the Nepali people to remain committed to the path of peace and democracy that they have chosen and to continue to exercise patience during this transitional period. Moreover, I urge all groups responsible for continued violence and intimidation to cease this behavior immediately in the greater interest of their country and urge all perpetrators to be brought swiftly to justice in order to fight against the culture of impunity that has taken root.

Nepal continues to face challenges as it moves forward: it needs to consolidate peace, strengthen

democratic institutions with a focus on the security sector, ensure genuine inclusion of marginalized groups, and curb impunity. Most importantly, the new government should focus on fostering economic growth that will benefit the Nepali people broadly to ensure all Nepalis receive an economic peace dividend. In all of these areas, Nepal can continue to count on the effective support of the international community.

My wife, Rosalynn, and I thank former Deputy Prime Minister of Thailand Dr. Surakiart Sathirathai for co-leading the Center's observation delegation; former U.S. Ambassador A. Peter Burleigh for his invaluable advice, support, and assistance to the Center's activities in Nepal; and Kathmandu field office director Darren Nance and his staff for their hard work. We are especially grateful to our long-term observers, all of whom worked in very demanding conditions as they moved throughout Nepal and some of whom were with our mission for nearly 15 months. We appreciate the many individuals who volunteered their time and skills to serve as observers. As always, we thank Carter Center staff in Atlanta who made this project possible. We also are grateful to the other international observer delegations such as the European Union and the Asian Network for Free Elections as well as the many domestic observer groups for their willingness to share information and coordinate, which strongly enhanced the overall observation effort.

Finally, we wish to acknowledge the generous financial support provided by the governments of Denmark, the United Kingdom, and Belgium and by the Canadian International Development Agency and the McConnell Foundation. The Carter Center's constituent assembly election observation project would not have been possible without this vital support, which allowed us to remain engaged throughout the entire electoral process.



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D. HAKES

The Carter Center delegation to Nepal included more than 60 observers representing more than 20 countries.



## TERMS AND ABBREVIATIONS

|                     |   |              |  |
|---------------------|---|--------------|--|
| <b>APF</b>          | Armed Police Force  | <b>NEFIN</b> | Nepal Federation of Indigenous Nationalities |
| <b>ANFREL</b>       | Asian Network for Free Elections                            | <b>NEMA</b>  | National Election Monitoring Alliance        |
| <b>CA</b>           | Constituent Assembly  | <b>NEOC</b>  | National Election Observation Committee      |
| <b>CDO</b>          | Chief District Officer                                      | <b>NGO</b>   | Nongovernmental Organization                 |
| <b>CPA</b>          | Comprehensive Peace Agreement                               | <b>NP</b>    | Nepal Police                                 |
| <b>CPN-M</b>        | Communist Party of Nepal-Maoist*                            | <b>PLA</b>   | People's Liberation Army (Maoist)            |
| <b>CPN-UML</b>      | Communist Party of Nepal-Unified Marxist-Leninist           | <b>PR</b>    | Proportional Representation                  |
| <b>DEAN</b>         | Democracy Election Alliance Nepal                           | <b>RJP</b>   | Rastriya Janashakti Party                    |
| <b>DEO</b>          | District Election Officer                                   | <b>RO</b>    | Returning Officer                            |
| <b>DEA</b>          | U.N. Mission in Nepal District Electoral Adviser            | <b>RPP</b>   | Rastriya Prajatantra Party                   |
| <b>EC</b>           | Election Commission   | <b>RPP-N</b> | Rastriya Prajatantra Party-Nepal             |
| <b>ECDC</b>         | Electoral Constituency Delimitation Commission              | <b>SP</b>    | Sadbhawana Party                             |
| <b>EU EOM</b>       | European Union Election Observation Mission                 | <b>SPA</b>   | Seven-Party Alliance                         |
| <b>FPTP</b>         | First Past the Post   | <b>STO</b>   | Short-Term Observer                          |
| <b>GEOC</b>         | General Election Observation Committee                      | <b>TAF</b>   | The Asia Foundation                          |
| <b>Jana Andolan</b> | People's Movement   | <b>TMDP</b>  | Terai Madhesi Democratic Party               |
| <b>JTMM</b>         | Janatantrik Tarai Mukti Morcha                              | <b>ULF</b>   | United Left Front                            |
| <b>LTO</b>          | Long-Term Observer  | <b>UDMF</b>  | United Democratic Madhesi Front              |
| <b>MPRF/MJF</b>     | Madhesi People's Rights Forum/<br>Madhesi Janaadhikar Forum | <b>UNMIN</b> | United Nations Mission in Nepal              |
| <b>NA</b>           | Nepalese Army (Formerly Royal Nepal Army or RNA)            | <b>VDC</b>   | Village Development Committee                |
| <b>NC</b>           | Nepali Congress   | <b>VEVs</b>  | Voter Education Volunteers                   |
| <b>NDI</b>          | National Democratic Institute                               | <b>YCL</b>   | Young Communist League                       |

\* Throughout this report, "CPN-M" and "Maoists" will be used interchangeably to refer to the Communist Party of Nepal-Maoist.



## ACKNOWLEDGMENTS

The Carter Center is grateful for the support provided by a number of individuals and organizations without whom the international election observation mission in Nepal would not have been possible.

The Center thanks the government of Nepal, the Election Commission of Nepal, and Girija Prasad Koirala, Sher Bahadur Deuba, Prachanda, and M.K. Nepal for inviting the Center to observe Nepal's constituent assembly process.

The Center is also thankful for the support of the governments of Denmark, the United Kingdom, and Belgium; the Canadian International Development Agency (CIDA); and the McConnell Foundation, which enabled the Center to continue its mission in Nepal for the duration of the electoral process. The Center would like to extend special thanks to Johan Sorenson of the Embassy of Denmark, Jemima Gordon-Duff of the British Embassy, Arnaud Dusaucy of the Belgian Embassy, and Ed Doe of CIDA for their assistance.

The Center is grateful for the collaborative efforts of the many international groups that actively supported the peace process and the constituent assembly election, especially the United Nations Mission in Nepal (UNMIN) and the UNMIN Election Assistance Team, the European Union Election Observation Mission, the Asian Network for Free Elections, the U.N. Electoral Experts Monitoring Team, the National Democratic Institute, The Asia Foundation, the International Foundation for Electoral Systems, International Institute for Democracy and Electoral Assistance, the International Crisis Group, and the Nepal Elections Portal.

The Center also recognizes the important work of Nepal's domestic observer organizations, which together deployed thousands of observers in support of a successful constituent assembly election.

Sincere thanks go to the dedicated staff of long-term observers who worked under extremely difficult conditions without complaint in support of Nepal's transition to sustainable peace and multiparty democracy. Roger Bryant, Jason Katz, John Clayton, and Jenny Anderson all served as long-term observers in the field for The Carter Center for the entirety of the Nepal mission, and their support and commitment were crucial. Long-term observers Cecilia Bylesjo, Stefanie Gross, Sam Jones, Bujar Islami, Guillaume Lavoie, Yael Tranier, Gezim Kiseri, Noor Tawil, Michele Camerota, Sam Frantz, Olexiy Lychkovakh, Pablo Zapetero, Natalia Contreras, Dejan Danilovic, Taboh Gideon Chefor, Sara Laurini, Luc Lapointe, Mark Naftalin, Rosaini Sulaiman, and Girum Tesfaye are also recognized for their substantial contributions to the Center's observation efforts. Additional thanks go to the Carter Center short-term observer delegates who volunteered their time, expertise, and insights to the Center's mission in Nepal.

The Center extends special thanks to Dr. Surakiart Sathirathai, who served as co-leader with President and Mrs. Carter during the April 2008 election observation mission. The Center also recognizes the extraordinary contribution of Ambassador A. Peter Burleigh, who served as a special adviser throughout the Nepal project. Ambassador Burleigh's invaluable assistance and advice were critical to the mission's success.

This project would not have been possible without the extraordinary commitment of the Center's staff in Nepal. Field office director Darren Nance rapidly established a close rapport with contacts at the highest level of Nepali politics as well as managed a highly committed team of long-term observers, high-level delegations, and field office staff. He was aided by several other excellent expatriate staff, including election project coordinator Sarah Levit-Shore, long-term observers coordinator Almir Memic and security officer Diarmuid O'Donovan.



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Carter Center Democracy Program staff in Atlanta had overall responsibility for the mission. The Democracy Program is directed by Dr. David Carroll, and the Nepal project was managed by Associate Director Dr. David Pottie with critical assistance from John Koogler, Claire Colbert, and Tynasha Green. Interns who assisted on the project include Mai Terawaki, Jina Kim, Nate Antill, and Stuart Paterson. Conflict Resolution Program staff Matthew Hodes, Brian McQuinn, and Cassandra Grant were responsible for the initiation of the Center's activities in Nepal and provided important guidance and support in the transition to the election observation mission.

Nepali staff anchored the Center's field office through their outstanding efforts and commitment to a sustained peace process in Nepal. They displayed professionalism and shared a genuine kindness in their diverse contributions to the Center's efforts to

operate in a challenging geographic, cultural, and political environment. The Center extends gratitude to Basanta Nath Pant, Aditya Adhikari, Surendra (Toya) Nath Sapkota, Naresh Gongal, Sabita Thapa, and Bhupendra Gurung. Additionally, the Center recognizes the dedication and hard work of Dr. Duman Thapa, Varsha Gyawali, and Padam Shah, all of whom made significant contributions during their time with the Center.

The primary drafters of this report were Sarah Levit-Shore, Aditya Adhikari, and Darren Nance with assistance in Atlanta from Claire Colbert, Chris Olson Becker, and David Pottie. Finally, the Center wishes to thank the Nepali officials, political party members, civic activists, journalists, and citizens in all of Nepal's 75 districts who have generously offered their time and energy to facilitate the Center's efforts to observe the constituent assembly election process.



## EXECUTIVE SUMMARY

Nepal's constituent assembly (CA) election is an important milestone on the country's path to permanent peace and prosperity. The Nepali people have demonstrated their dedication to ending the decade-long conflict and their interest in a new and inclusive leadership that will tackle the difficult issues involved in drafting a new constitution and restructuring the Nepali state, and will work to address the critical need for poverty alleviation and widespread development in Nepal.

For the first time in Nepal's electoral history, significant affirmative-action measures to include representatives of marginalized groups (e.g., women, Madhesis, Janajatis, Dalits, and others) were undertaken. Final election results indicate efforts to achieve diversity in the CA were successful, with women and minorities holding record numbers in the new assembly.

The Center commends both the statesmanship of Nepal's political leadership and the commitment of the Nepali people, which have allowed the country to achieve great progress in the peace process in a short time. It is this shared perseverance in the face of serious post-conflict challenges that ultimately resulted in the generally successful election of April 10, 2008.

The Carter Center notes its sadness for the people who died or were injured during the election campaign and on April 10 due to election-related violence; it strongly condemns these acts and hopes that electoral violence will be a thing of the past.

Finally, the Center wishes to thank the Nepali officials, political party members, civic activists, journalists, and citizens, as well as representatives of the international community, who have generously

offered their time and energy to facilitate the Center's efforts to observe the constituent assembly election process.

### BACKGROUND

At the invitation of the government of Nepal, the major political parties, and the election commission, The Carter Center established a field presence in Nepal in January 2007 to observe the constituent assembly election process. The mission was funded by the governments of the United Kingdom, Belgium, and Denmark and by the Canadian International Development Agency. Thirteen long-term observers (LTOs) representing eight different nationalities were deployed in March 2007 and remained in country—despite two postponements—until May 2008, visiting all 75 of Nepal's districts at both the headquarters and village level.

The Center's observers met at the central and local level with political party leaders, election officials, security forces, leaders of marginalized groups, civil society activists, domestic observers, and journalists. The Center published periodic public statements regarding the election process, which were widely distributed and also covered by local and international media. Throughout its mission, the Center remained in close contact with other international actors and domestic election observers.

Former U.S. President Jimmy Carter visited Nepal twice prior to the election itself, meeting with the Election Commission, political party leaders, government officials, security officials, marginalized-group representatives, and members of the international community. Each time, he expressed his support for Nepal's peace process, urged continued

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*Final election results indicate efforts to achieve diversity in the CA were successful, with women and minorities holding record numbers in the new assembly.*

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commitment to a successful constituent assembly election, noted concern about the security environment and implementation of previous agreements, and voiced support for the inclusion of marginalized groups.

On election day, the Carter Center's observers visited more than 400 polling centers in 28 districts. The mission was led by Carter Center co-founders former U.S. President Jimmy Carter and Mrs. Rosalynn Carter; Dr. Surakiart Sathirathai, former deputy prime minister of Thailand; Ambassador A. Peter Burleigh, Carter Center senior adviser; Dr. John Hardman, Carter Center president and chief executive officer; Dr. David Pottier, Carter Center Democracy Program associate director; and Mr. Darren Nance, Carter Center Nepal field office director.

### PRE-ELECTION FINDINGS

Pre-election safety and security was an issue foremost on the minds of voters and political parties. Freedom of movement varied greatly around the country, but was particularly limited in the Tarai due largely to the increase in armed groups, and in some hill and mountain areas mainly due to Communist Party of Nepal-Maoist (CPN-M) and Young Communist League (YCL) violence, harassment, and threats. Observers noted some instances of voter intimidation. Violence and harassment by all parties increased in the campaign period directly before the election. Security forces suffered from a lack of capacity, authority, and public confidence in the pre-election period.

Overall, the electoral legal framework was sound, allowing for both geographical and political representation, as well as a marked increase in representation of marginalized groups. However, the framework was widely dispersed across many different pieces of legislation and was complex, making it difficult for average voters to understand. Additionally, the system of selecting winning proportional representation (PR) candidates *after* the election provides excessive control to party leadership.



*Nepalis took to the street days before the election to protest election-related violence.*

Preparations by the Election Commission of Nepal were remarkably effective despite difficult security and logistical challenges. The voter registration process suffered due to circumstances largely beyond the commission's control and left a large number of young, landless, and migrant voters disenfranchised on election day. Constituency delimitation was a controversial process that, although imperfect, was ultimately accepted by all parties. Voter and civic education efforts could be increased and improved upon for future elections.

In general, political party campaigning was positive and evident, though parties respected the electoral code of conduct to varying degrees, particularly in regard to security violations, use of government resources, and campaign materials. The code of conduct was weakly enforced by the Election Commission, leading to continuing violations. All of Nepal's political parties appeared to suffer from overcentralization, making it difficult for voters at the local level to make an informed choice among candidates.

The media remained highly active during the election period, despite attacks on journalists, particularly in the Tarai. At the district level, marginalized groups participated in the electoral process to varying degrees but were not well-represented in senior posi-



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tions within party or election commission structures. Civil society was not a significant force, aside from some civic education efforts and their contribution as domestic observers.

### ELECTION DAY AND POSTELECTION FINDINGS

In contrast to expectations, the election itself was remarkably peaceful. In addition, the election process for the most part was orderly and in accordance with the established procedures. Voter turnout for the first-past-the-post (FPTP) election was 61 percent and for the PR side was 63 percent, including substantial numbers of women voters.

There were a small number of areas in which Carter Center observers directly witnessed problems that affected the security environment for voters, including YCL violence, intimidation, and control of some polling stations. An isolated number of problems were also reported in the Tarai. Re-polling was called for in 106 polling centers out of a total of 20,888.

Most polling stations opened on time or with only a brief delay and followed the correct procedures. Essential election materials were on hand. Polling station layout generally respected voter secrecy, indelible ink was correctly applied, distribution of ballots was done effectively, and voters were largely appropriately guided through the polling center. For the most part, election officials were impartial and discharged their responsibilities smoothly, and polling centers were well-organized. However, polling staff in some locations failed to take control of their polling centers and in isolated instances were reported to have behaved in a partisan manner.

Although polling staff followed procedures adequately, there were a number of flaws inherent in the procedures that compromised the quality of the election. The most important of these flaws was that there was no requirement for polling staff to personally

check the identification documents of each voter, which enabled instances of electoral malpractice. Party volunteers outside the polling centers, in most cases, essentially took on the role of identifying voters, thus giving these volunteers undue influence on the polling process. In some cases, this also violated the prohibition on campaigning as some voter identification slips were adorned with party symbols. It also inhibited secrecy of the vote and resulted in some voters receiving inaccurate information from volunteers unfamiliar with the election rules and regulations.

Although the majority of reports received by The Carter Center indicate that the electoral process overall was a credible reflection of the will of the people, observers reported some

instances of electoral fraud such as booth capturing, vote buying, proxy voting, underage voting, multiple voting, and voter impersonation, as well as isolated instances of polling officers refusing to report electoral malpractice out of fear of retribution from a particular party or individual.

Overall there was an adequate security presence of the national police at polling locations across the country. They were visible but generally not intrusive. The Nepal Police (NP), Armed Police Force (APF) and the Temporary Police coordinated their efforts and were to a large extent able to allow for sufficient freedom of movement for voters.



*A voter presents her identification card to a polling station official in Bhaktapur, Nepal.*



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

Candidate and party agents from multiple parties were present in nearly all stations visited and, in general, played an active but at times overly intrusive role in the process. For the most part, domestic observers appeared to be impartial; however, in many cases they were observed sitting far away from the polling area, making it difficult for them to actively observe the polling center and potentially allowing them to miss instances of electoral irregularities or violations. The different domestic observer groups (DEAN, NEOC, GEOC, NEMA, etc.) initially struggled to coordinate their efforts, but ultimately collaborated to build a foundation for future elections.

Overall the counting process was orderly, impartial, transparent, and to the satisfaction of all parties. However, there was no clear standard methodology across the country, with significant variation in the procedures at different counting centers, particularly in regard to invalid votes. Additionally, counting staff largely failed to perform reconciliation of ballots cast with the number of voters recorded, an important safeguard on the election. Finally, in some cases ballots were not mixed during counting as specified by procedures.

On the whole, the complaints and appeals process appeared confusing and somewhat nontransparent to

those external to the Election Commission, and as a result, it was widely underutilized.

The international community provided dedicated support to the people and government of Nepal throughout the election process. International observer organizations present on election day included the EU, ANFREL, Asia Foundation, and others. Numerous donors contributed financial support, technical expertise, and in-kind donations that were critical to the election's success. Unfortunately, the U.S. government and U.S.-funded organizations were hampered in their ability to fully support the peace process and the election due to constraints imposed upon them by U.S. policy proscribing any interaction or material support or services to the CPN-M, which is included on the U.S. list of terrorist organizations.

### RECOMMENDATIONS

- Create a more inclusive and accurate voter list.
- Mandate voter identification with a voter ID card and end involvement of party volunteers in the voter identification process.
- Improve the security environment, rule of law, and freedom of movement.
  - Increase local election staff capacity and ensure inclusivity of marginalized groups.
  - Strengthen the complaints and appeals process and enforce the code of conduct.
  - Simplify the electoral legal framework, discard the postelection candidate selection system, and consistently apply vote-counting procedures.
  - Increase substantive political party outreach to voters and improve internal party democracy, decentralization, and inclusivity.
  - Expand voter and civic education efforts with greater Election Commission oversight.
  - Increase training for domestic observers.
  - Implement previous commitments made during the peace process and ensure genuinely inclusive political participation.



D. HAKES

*Election observers watch ballot counting in Kathmandu.*



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

### FACTS ABOUT NEPAL'S CONSTITUENT ASSEMBLY ELECTION

- Under Nepal's mixed electoral system, 240 constituent assembly (CA) members were elected using a first-past-the-post (FPTP) system, and 335 members were elected using a proportional representation (PR) system, for a total of 575 elected members. An additional 26 members were appointed, bringing the CA's total number to 601.
- Nepal was divided into 240 geographic constituencies for the FPTP race and one single constituency encompassing the entire country for the PR race.
- Altogether there were 9,821 polling locations and 20,888 polling centers in Nepal's 75 districts. These were staffed by approximately 234,000 polling officials on election day.
- A total of 41.2 million ballot papers were printed in Nepal in preparation for the election. In 44 constituencies, these ballots were delivered by helicopter.
- More than 10 million valid votes were cast in the April 10, 2008, election, out of a voter list of 17.6 million voters.
- In total, there were 3,947 candidates running in the FPTP election and 6,000 candidates running in the PR election.
- Of the 74 political parties registered, 55 ultimately submitted candidates for the CA election with 25 of them winning representation.
- The Communist Party of Nepal-Maoist (CPN-M) is the largest party in the assembly with 38.2 percent of the seats, followed by the Nepali Congress (NC) with 19.1 percent, the Communist Party of Nepal-Unified Marxist-Leninist (CPN-UML) with 18.1 percent, and the Madhesi People's Rights Forum (MPRF) with 8.8 percent.
- Out of 575 elected seats in the CA, there are 196 Madhesis, 192 Janajatis, 191 women, 47 Dalits, and 22 representatives from "backwards regions," which is the term used by Nepalis to describe the nine districts in Nepal that are the lowest on the development index out of all 75 districts (Achham, Kalikot, Jajarkot, Jumla, Dolpa, Bajhang, Bajura, Mugu, and Humla).
- Out of the 29 women elected directly under the FPTP system, 23 are CPN-M party members.



## NEPAL'S PATH TO PEACE AND DEMOCRACY

Nepal is a south Asian nation of approximately 28 million people occupying a horizontal strip of land between two giant neighbors, India and China. It is an immensely diverse country by all measures including geography, ethnicity, language, religion, and caste. Nepal as a nation was born in 1768 when Prithvi Narayan Shah conquered the city of Kathmandu and its surrounding territory and declared the land a unified state. Shah's descendants ruled as hereditary monarchs until 1846, when another family, the Ranas, took over absolute power and ruled as hereditary prime ministers for more than a century. Throughout its history, Nepal was never colonized by an external power, though it did fight a war with the British from 1814 to 1816, which established Nepal's current territorial boundaries.

A constituent assembly election to draft a permanent constitution for the people of Nepal was first proposed after the Rana oligarchy was toppled in 1950 by a movement led by the Nepali Congress party, supported by then-King Tribhuvan. However, political turmoil and instability occurred between 1950 and 1959, and the election was not held. A constitution was finally drafted by a group of people handpicked by the late King Tribhuvan's son, King Mahendra, and a general election was held in 1959. Although the Nepali Congress won a majority in this election, King Mahendra staged a coup soon thereafter and took direct control over the government in 1960. The system of direct governance by the monarch and a number of advisory councils was called the Panchayat system and continued until 1990.

All political parties were outlawed during this period.

In 1990 a mass popular uprising (*Jana Andolan*) against the Panchayat regime took place. This uprising was led by the Nepali Congress and a coalition of parties called the United Left Front, all of which had been underground during the previous three decades. The protesting parties succeeded in reaching an agreement with King Birendra (son of Mahendra) to dismantle the Panchayat system and install a system of governance

D. FORNIE



Kathmandu is home to about 700,000 people. Its population has tripled in the last 20 years.



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

D. HARKES



*Nepalis march in a political rally prior to the election.*

based on the British model. The king would remain as a constitutional monarch, while the government would be elected every five years. A new constitution was drafted by a group of people selected by the king and the leaders of the political parties. Although the leaders of the small left parties protested at the manner in which the constitution was drafted and renewed demands for a constituent assembly, they were ignored.

General elections were subsequently held, first in 1991, then in 1994 and 1999. For most of this decade, the Nepali Congress led the government, and the Communist Party of Nepal (United Marxist-Leninist; CPN-UML) was the main political opposition. The Rastriya Prajantantra Party, made up of former Panchayat-era politicians, was also a player. Constant squabbling and factionalism between and within parties led to political instability, numerous changes in government, and the formation of unwieldy temporary coalitions. As governments were in power only for short periods of time, no proper policies were formed or implemented, leading to a high

degree of disillusionment among the Nepali public toward their new democratic leaders.

In 1996, a small left party, the Communist Party of Nepal-Maoist, which had previously participated in parliamentary politics, began an armed rebellion against the government in the western hills of Nepal. Over the next decade the insurgency expanded across the country, attacking police posts and other government bases. At the same time, in 2001 the palace was struck by tragedy when the crown prince killed his father (King Birendra), mother, several other members of the royal family, and himself in a violent massacre.

Immediately after the violence, the dead king's brother, Gyanendra, was installed as the new king. However, his public legitimacy suffered due to conspiracy theories surrounding the palace deaths.

In 2002, King Gyanendra took his first step toward reclaiming absolute power for the monarchy when he dismissed Prime Minister Sher Bahadur Deuba, ostensibly for Deuba's failure to hold an election. The king then declared a state of emergency and mobilized the army to crush the Maoist rebellion. After appointing and disbanding a number of governments, in February 2005 King Gyanendra staged a carefully planned coup with the help of the army, put many political leaders from the mainstream parliamentary parties under house arrest, and assumed direct rule. He justified his actions by arguing that he had been forced to take over power due to the political leaderships' incompetence in controlling the Maoist uprising and promised to restore democracy within three years. Military action against the Maoists intensified. In total, more than 13,000 people were killed during the decade-long conflict.



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

### THE PEACE PROCESS AND THE CONSTITUENT ASSEMBLY ELECTION

Peace talks were held between the government and the Maoists in 2001 and 2003, but both sessions failed. However, in November 2005, nine months after King Gyanendra's takeover, a group of parliamentary parties called the Seven-Party Alliance signed a 12-point Memorandum of Understanding with the Maoists in which they pledged to create a nationwide democratic movement against the autocratic monarchy. The agreement was signed in India with the support of the Indian government, and a crucial component was both sides' commitment to a constituent assembly election to draft a new constitution for the country.

The parties thus put mounting pressure on the king, and after a 19-day mass uprising in April 2006 known as the *Jana Andolan II*, the king formally gave up direct rule and reinstated the 1999 House of Representatives, which had been dissolved in 2002. Negotiations between the Maoists and the Seven-Party Alliance continued, and a comprehensive peace agreement (CPA), was signed in November 2006. The House of Representatives was dissolved and replaced by an interim legislature-parliament including the Maoists in January 2007, and, in another landmark step in April 2007, the Maoists joined the interim government. The United Nations Mission in Nepal (UNMIN) was created in January 2007 following invitations from all parties for assistance with monitoring of the arms management process

and the provision of technical assistance to the Election Commission in preparation for the constituent assembly election.

UNMIN's 90 arms monitors supervised the registration and storage of weapons from both the People's Liberation Army (PLA) and the Nepal Army (NA) as well as supervised the registration of Maoist army personnel and their placement in seven cantonments (and 21 subcantonments) across Nepal. Monitored 24 hours a day by the UNMIN, the cantonments and subcantonments are located in Kailali, Surkhet, Rolpa, Nawalparasi, Chitwan, Sindhuli, and Ilam. PLA and NA troops have generally complied with the collection of weapons, and there have been no reports of break-ins to the weapons storage units in the Nepal Army's Chhauni barracks; however, statistics on the number of Maoist weapons registered and stored versus the number of Maoist army personnel differ substantially, causing some to believe that the Maoist army is retaining weapons in the event of future conflict. The mission of the Joint Monitoring Coordinating Committee, composed of representatives from the

D. HAKES



Nearly 200 women were elected to the constituent assembly.

Maoist and Nepal armies and chaired by UNMIN, is to prevent further violence; members have pledged to ensure their parties' compliance with the CPA and the Agreement on the Monitoring of the Management of Arms and Armies (AMMAA).

At the same time as the peace process between the Seven-Party Alliance and the Maoists was unfolding, historically marginalized groups around the country,



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

and particularly the Madhesi people living in the southern plains region called the Tarai, began increasingly to press for their rights and for inclusion in the country's affairs. During their "people's war," the Maoists had raised the consciousness of these groups regarding their exclusion from power, but upon the party's entry into government these groups felt that the Maoists were unable or unwilling to deliver effectively upon their previous promises. Subsequently, throughout 2007 many of these groups, including Madhesis, women, Dalits (untouchables), and Janajatis (indigenous peoples), protested against the government, demanding changes to state structures and the election system and increased representation in government bodies.

In January 2007, mass demonstrations in the Tarai took place, with residents protesting discrimination by the government against Madhesis, leading to more than 30 deaths. This is generally considered the start of the Madhesi people's movement, or Madhesi Andolan. Despite promises from the prime minister, tensions were again exacerbated in March 2007 when a clash between supporters of a prominent Madhesi organization, the Madhesi People's Rights Forum (MPRF), and the Maoists resulted in the massacre of nearly 30 Maoist cadres. Following this, unrest in the Tarai continued for many months, with the periodic occurrence of strikes, shutdowns (*bandhs*), bouts of violence, and the proliferation of armed groups.

The constituent assembly election was initially scheduled for June 2007. However, a lack of preparation by the political parties and insufficient political will on all sides, as well as the ongoing turmoil in the Tarai, led to the election's postponement until November 2007. In the late summer, the government signed several prominent agreements with leading Madhesi and Janajati groups, promising to meet key demands for greater inclusion in the political and electoral process in order to pave the way for the winter election.

However, in September 2007, the Maoists pulled out of government, citing demands of their own that they claimed had not been met, including changes

to the electoral system, declaration of a republic, and implementation of previous agreements. Over the following months, hectic negotiations between the mainstream political parties (chiefly the Nepali Congress and CPN-UML) and the Maoists took place. With no agreement forthcoming, the election was postponed a second time. After months of wrangling, the political parties finally reached an agreement in December 2007 that included a modification to the election law and a provision to abolish the monarchy at the first sitting of the constituent assembly. The Maoists rejoined government, and a new election date of April 10, 2008, was declared.

Yet, once again, protests by marginalized groups regarding the almost complete failure of the government to implement any of its previous commitments threatened to derail the election. A general strike in the Tarai, meant to pressure the government, was launched on Feb. 13, 2008, and lasted for 16 days. The strike was led by the United Democratic Madhesi Front (UDMF), a coalition of three separate Madhesi parties including the MPRF, the Sadbhawana Party, and the Terai Madhes Democratic Party. The UDMF's main demands were the creation of a single, autonomous Madhes state with the right to self-determination and an amendment to the election law. The strike was effectively enforced, crippling the supply of crucial goods to Kathmandu and other hill areas of the country. During the course of the strike, protestors clashed regularly with the police in many Tarai districts, leaving at least five people dead and hundreds injured. Finally, on Feb. 28 an agreement was signed between the government and the UDMF, all protests were called off, and the groups promised to participate in the election. Two days later, the government also signed an agreement with the Federal Republican National Front, a coalition of ethnic and regional groups that had been agitating in the eastern hills and mountains. Flexibility on the part of the Election Commission allowed an extension of the candidate registration deadlines, ensuring that these groups would be able to take part in the election.



OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

## ROLE OF THE CARTER CENTER IN CONFLICT RESOLUTION

The Carter Center has been involved in Nepal since 2003 when it received a private request to explore the possibility of assisting in ending Nepal's ongoing conflict. The Center followed up with several Conflict Resolution Program (CRP) staff assessment missions to Nepal to determine whether the Center's support could be of use.

In 2004, members of the Nepali government's High Level Peace Committee (HLPC) met with President Carter and formally invited the Center's assistance. Because the Center only becomes actively engaged when it is invited by all parties to a conflict, the Center then began work to establish whether the Communist Party of Nepal-Maoist would also welcome the Center's involvement. In the aftermath of King Gyanendra's Feb. 1, 2005, coup, the Center began a series of workshops on conflict resolution with key stakeholders in Nepal.

The workshops explored best practices in nego-

tiation in order to give participants—some of whom were directly involved in ongoing negotiations between the Seven-Party Alliance and the CPN-M—a clear vocabulary and understanding of lessons learned from around the world. Given that two previous peace process negotiations in 2001 and 2003 had failed, the hope was that by exposing the Nepali negotiators to renowned experts in the field and equipping them with increased skills and capacity, the chances of a successful future negotiation process could be increased. The Center also remained available for informal consultations from its Atlanta headquarters and through its in-country representative, Dr. Duman Thapa.

Following the April 2006 *Jana Andolan*, the positive relationships built with Nepali and international stakeholders by the conflict resolution project in Nepal led to invitations for The Carter Center to observe the constituent assembly election.

On April 10, 2008, Nepalis across the country voted peacefully in their nation's first-ever constituent assembly election. The election was held under a mixed electoral system combining a first-past-the-post (FPTP) system and a proportional representation (PR) system to allow for both geographical and party-based representation. To the surprise of many analysts, the Maoists performed more strongly than predicted, coming in as the largest party with 38.2 percent of the total elected seats. The Maoists were

followed by the Nepali Congress with 19.1 percent, the CPN-UML with 18.1 percent, and the Madhesi People's Rights Forum with 8.8 percent. Due to the large number of parties participating in the election, it was possible to win an FPTP seat with as little as 30 percent of the vote; thus the Maoists won 50 percent of the FPTP seats but only 29.9 percent of the PR vote. On May 28, Nepal's constituent assembly met for the first time and voted to abolish the monarchy, transforming Nepal into a federal democratic republic.



## TIMELINE OF EVENTS

**1768**

King Prithvi Narayan Shah of Gorkha conquers Kathmandu after conquering numerous other small kingdoms at the base of the Himalayas. The foundation of modern Nepal is formed.

**1846**

Jung Bahadur Rana wrests power from the Shah kings. Nepal is ruled by the Rana family for the next century.

**1950**

The Nepali Congress and other Nepali parties based in India form an alliance with the ceremonial Shah king to overthrow the Rana regime.

**1951**

The Rana family is overthrown. Negotiations lead to a political arrangement where a coalition of Nepali Congress and Rana family members form a government. A series of unstable coalition governments follow.

**1959**

King Mahendra promulgates a new constitution, and a general election is held. The Nepali Congress forms a government after winning a majority.

**1960**

King Mahendra stages a coup, dismisses the Nepali Congress government, and takes over direct power.

**1962**

A new constitution formalizing direct rule by the king is drafted. The new regime is known as the Panchayat system.

**1990**

A people's movement (*Jana Andolan*) against the Panchayat regime is led by the Nepali Congress and the United Left Front. King Birendra agrees to dismantle the Panchayat system, and a new democratic constitution is drafted. The new constitution eliminates most of the king's direct powers but retains his constitutional status.

**1991**

The Nepali Congress party wins the general election. Girija Prasad Koirala becomes prime minister.

**1996**

The Communist Party of Nepal-Maoist begins an armed rebellion against the government.

**2001**

King Birendra and his family are killed by Crown Prince Dipendra, who then shoots and kills himself. Gyanendra, brother of Birendra, is crowned king.

**2002**

King Gyanendra dissolves Parliament and dismisses Prime Minister Sher Bahadur Deuba for his inability to hold an election. A series of governments led by prime ministers handpicked by the king follow.

**2005, February**

King Gyanendra stages a coup, takes over direct power, and declares an emergency and his intention to militarily crush the Maoists.

**2005, November**

The Maoists and the major parliamentary parties sign an agreement aimed at staging a people's movement to end direct rule by King Gyanendra.



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

### **2006, April**

The second people's movement (*Jana Andolan II*) under the leadership of the political parties and the Maoists takes place. Massive street protests force King Gyanendra to step down. Girija Prasad Koirala of the Nepali Congress is appointed prime minister.

### **2006, November**

The government and the Maoists sign a peace agreement, bringing an end to the decade-long "people's war."

### **2007, January**

An interim legislature-parliament is formed with the participation of the Maoists. Protests against the government by Madhesis take place in the Tarai (southern plains region). Madhesis demand regional autonomy and increased representation in state structures.

### **2007, April**

The Maoists join the interim government led by Prime Minister Koirala.

### **2007, May**

The scheduled June 2007 constituent assembly election is postponed to November due to lack of preparation and political will.

### **2007, September**

The Maoists quit the interim government and agitate for immediate abolition of the monarchy and changes to the electoral law.

### **2007, October**

The scheduled November 2007 election is postponed as the Maoists refuse to participate without their demands being addressed.

### **2007, December**

The government reaches a compromise with the Maoists, and the Maoists rejoin the government.

### **2008, February**

Madhesi groups begin a general strike in the Tarai, demanding commitment to regional autonomy by the government and changes to the election law. They reach an agreement with the government in late February.

### **2008, April**

The election takes place. The Maoists win the largest percentage of seats (38.2 percent) followed by the Nepali Congress (19.1 percent), the CPN-UML (18.1 percent), and the Madhesi People's Rights Forum (8.8 percent).

### **2008, May**

First meeting of the constituent assembly. Nepal becomes a federal, democratic republic.

*Source: Adapted from the BBC*



## OBSERVATION METHODOLOGY

Reflecting an emerging consensus among organizations that promote and support democracy around the world, The Carter Center believes that domestic observers are key to the long-term sustainability of democratic election processes in emerging democracies. At the same time, the Center believes that international observers can play a critically important supportive role by focusing both international and domestic attention on the electoral process, helping to reinforce the credibility of domestic observer groups, and increasing popular confidence in the election.

In this context, the overarching purpose of the Carter Center’s international election observation mission in Nepal was to facilitate the sustainable and peaceful democratization of the country. The Carter Center conducts its election observation in accordance with the Declaration of Principles of International Election Observation and Code of Conduct for International Election Observers (endorsed at the United Nations, Oct. 27, 2005). The specific objectives of the mission were to:

- Demonstrate the international community’s interest and support for a credible election in Nepal that meets minimum international standards as reflected in a variety of public documents and declarations;
- Reinforce the efforts of Nepali civil society and domestic monitoring organizations in the electoral process and increase the credibility and perceived impartiality of their work as appropriate;

- Provide an impartial assessment of the electoral process and, where relevant, provide recommendations for ways to improve the process in future elections;
- Provide a foundation for other peace-building and democratization initiatives in Nepal.

The Center believes that the quality of election observation can be enhanced by having observers in the field for a substantial period of time both before and after the election. The period leading up to and immediately following an election is critically important, as it can demonstrate the commitment of political parties and other key stakeholders to

ensuring a fair and democratic electoral period and election-day process. The activities of political parties, election officials, state security forces, and civil society members in the pre-election period directly impact the conduct and outcome of the election. For instance, political parties may engage in various kinds of election malpractice

(manipulation of the voter list, intimidation of voters, distribution of bribes, etc.) during the pre-election period that may not be visible to observers who are in the field only on election day.

In addition, a long-term observation presence enables the development of relationships with political parties, government officials, and other stakeholders in the election process. It leads to increased understanding of the political and social environment. An international observation presence also helps complement and provide support to domestic

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*The overarching purpose of the Carter Center’s international election observation mission in Nepal was to facilitate the sustainable and peaceful democratization of the country.*

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## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

observer groups. Finally, in cases where there is the threat of violence and intimidation, an international observation presence can help reduce fear among the population.

### ESTABLISHMENT OF FIELD PRESENCE AND DEPLOYMENT OF LONG-TERM OBSERVERS

At the invitation of the government of Nepal, the major political parties, and the election commission, The Carter Center established a field presence in Nepal in January 2007 to observe the constituent assembly election process. The mission was funded by the governments of Belgium, the United Kingdom, and Denmark and by the Canadian International Development Agency and the McConnell Foundation. Thirteen long-term observers (LTOs) representing eight nationalities were deployed in March 2007 in anticipation of the planned June 2007 election. Observers were deployed in pairs to each of

Nepal's five development regions and were based in the hub cities of Biratnagar, Kathmandu, Pokhara, Nepalgunj, and Dhangadhi. An additional pair of observers formed a roaming team that was responsible for visiting the more remote and less accessible areas in Nepal's hill and mountain districts.

Observers traveled throughout their regions, visiting all 75 districts in the pre-election period. They met with political party leaders, election officials, security forces, leaders of marginalized groups, civil society activists, domestic observers, journalists, and international organizations. During the pre-election period, they held discussions on four key areas: (1) pre-election safety and security; (2) pre-election preparations, including election administration and voter education; (3) political parties, campaigns, and code of conduct; and (4) civil society, marginalized groups, election observers, and the media. They also attended various public events, such as mass meetings and campaign rallies, and

J. CLAYTON

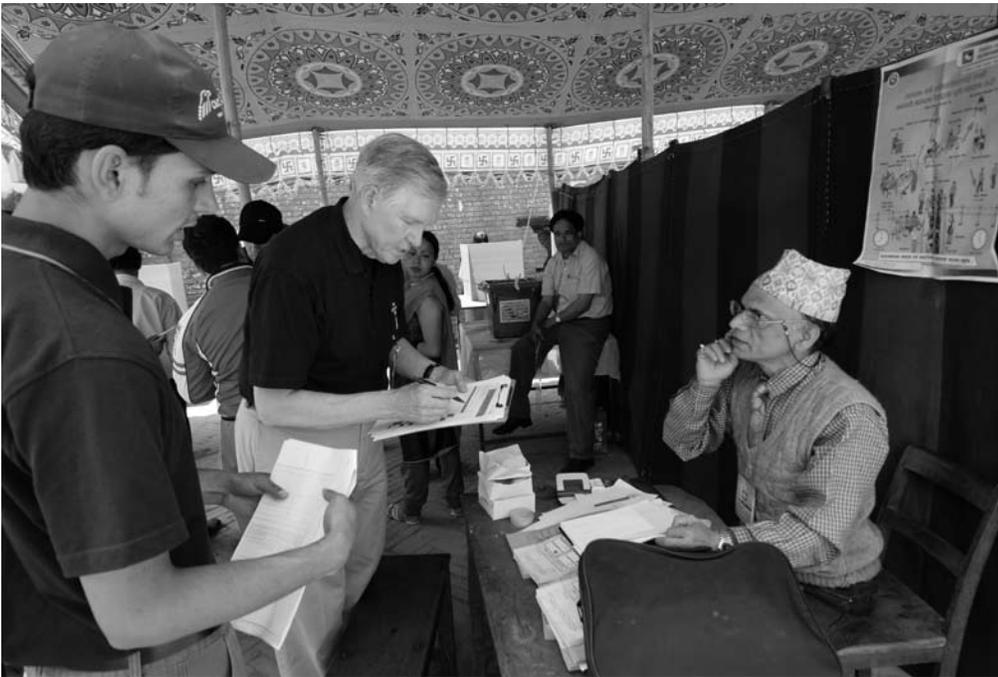


*With Mount Everest looming in the background, long-term observer Jason Katz uses a satellite phone to call the Carter Center's field office in Kathmandu.*



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

D. HARGES



*Dr. John Hardman (center), president and CEO of The Carter Center, takes notes while he observes a polling station in Kathmandu as an interpreter looks on.*

gathered crucial logistical information to support the future deployment of short-term observers (STOs). LTOs submitted weekly reports to headquarters in Kathmandu. Though the election was delayed twice, The Carter Center maintained a long-term observation presence for the entire period from March 2007 to May 2008. The LTOs remained in Nepal following the election to observe counting, re-polling, handling of complaints, and other related aspects in the post-election period.

The field director and his Kathmandu office staff maintained relationships with and interviewed party leaders, government and election officials, civil society leaders, and members of the international community at the central level. With input from LTO weekly reports, the Center released periodic public statements regarding the election process that were widely distributed and also covered by local and international media.

At both the central and district levels, the Center maintained close working relationships with the United Nations Mission in Nepal (UNMIN), the National Democratic Institute (NDI), The Asia Foundation (TAF), the International Foundation

for Electoral Systems (IFES) and other international organizations involved in the election process. Closer to the election, the Center held meetings with other international observers including the European Union Election Observation Mission (EUEOM) and the Asian Network for Free Elections (ANFREL). Meetings were also held with domestic observer groups including Democracy and Election Alliance of Nepal (DEAN), National Election Monitoring Alliance (NEMA), National Election Observation Committee (NEOC), General Election Observation Committee (GEOC), and others. In these meetings, members shared their findings and provided updates on their activities. On election day and in the post-election period, the Center coordinated with the other observer groups regarding the deployment of STOs, so as to maximize geographical coverage.

### SHORT-TERM OBSERVERS

Fifty-four STOs arrived in Nepal a few days before the election date. They were provided a thorough briefing in Kathmandu where they received information on the political situation in Nepal, deployment logistics,



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

reporting requirements, and security guidelines. Most teams met with Carter Center LTOs in the field who provided them with a specialized regional briefing about issues specific to their deployment areas.

STOs arrived in their areas of responsibility a number of days prior to the election, which allowed them to schedule meetings with various local stakeholders and gain a better understanding of the election environment. It also allowed them time to reach more remote locations prior to election day. STOs were deployed to ensure maximum possible coverage of diverse locations, including all of Nepal's five development regions and across the mountains, hills, and Tarai.

Four STO teams were deployed by helicopter to reach extremely remote locations. The Kathmandu field office maintained contact with all STOs twice daily and three times on election day. Following the election, many STO teams remained in the field to observe some or all of the counting process and then returned to Kathmandu for a debriefing prior to their departure from Nepal.

### LEADERSHIP TEAM

A team consisting of high-level political leaders and senior Carter Center staff led the observation delegation to Nepal. The leadership team included Carter Center co-founders former U.S. President Jimmy Carter and Mrs. Rosalynn Carter; Dr.

Surakiart Sathirathai, former deputy prime minister of Thailand; Ambassador A. Peter Burleigh, senior adviser to The Carter Center; Dr. John Hardman, president and chief executive officer of The Carter Center; Dr. David Pottie, associate director of the Carter Center's Democracy Program; and Darren Nance, field director of The Carter

Center in Nepal. In the days preceding and following the election, the team met with political leaders, election commissioners, and leaders of domestic and international observation delegations. On election day, members of the team visited multiple polling locations in the Kathmandu Valley. The team's presence served to bring additional public attention and legitimacy to Nepal's electoral process and the Center's observation efforts. On April 12, 2008, President Carter, Dr. Sathirathai, Dr. Hardman, Dr. Pottie, and Mr. Nance presented the Carter Center's preliminary findings at a press conference in Kathmandu.

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*Observers traveled throughout their regions, visiting all 75 districts in the pre-election period.*

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## THE PRE-ELECTION PERIOD

Following the Center's invitation to observe the constituent assembly election, a field office was established in Kathmandu in January 2007, and in March the first teams of long-term observers (LTOs) were deployed around the country. LTOs visited with key stakeholders at the district and local level to discuss four key areas: (1) pre-election safety and security; (2) pre-election preparations including election administration and voter education; (3) political parties, campaigning, and the code of conduct; and (4) civil society, marginalized groups, election observers, and the media. LTOs also were responsible for preparing for the arrival and deployment of short-term observers. The Center's long-term presence in Nepal through two electoral postponements enabled LTOs to develop a deeper understanding of the important issues to voters, political parties, and election officials. Additionally, two pre-election visits by Carter Center co-founder and former U.S.

President Jimmy Carter provided an opportunity to share information with key actors in Nepal.

### PRE-ELECTION SAFETY AND SECURITY

Nearly all interlocutors at the local level were quick to note that the safety and security environment was much improved following the *Jana Andolan II* and the subsequent peace process between the Maoists and the government. However, the pre-election environment was marred by insecurity and violence, undermining freedom of movement. In the hills and mountains, the Maoists and the YCL were mainly responsible for such activities; however, the party also suffered a disproportionate number of election-related killings in the month prior to the election. In the Tarai, pre-election freedom of movement was greatly inhibited by threats and violence from armed groups but improved significantly following the late February 2008 agreement between the government and agitating Madhesi parties.

D. HAKES



*Nepalis take to the streets on motorcycle and foot for a political rally in the days leading up to the election.*



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

**Freedom of Movement**

Throughout the pre-election period, the ability of parties to move freely varied, but all major party cadres reported continued campaigning regardless of security concerns. Maoist and YCL presence created both real and perceived threats in the hills and mountains, while Madhesi armed groups posed the greatest threats in the Tarai. Additionally, the overall security environment deteriorated significantly in the weeks immediately prior to the election (see subsequent section for details).

In the early pre-election period, parties perceived as royalist (Rastriya Prajatantra Party [RPP], Rastriya Janashakti Party [RJP], and Rastriya Prajatantra Party-Nepal [RPP-N]) were the most prominent targets of threats and harassment. In many places they reportedly could not leave district headquarters, and LTOs reported several instances of physical harassment. Freedom of movement for all non-Maoist parties worsened in September 2007, when the Maoists pulled out of government, and then improved again in late December 2007 after an agreement was reached with the government and the Maoists rejoined government. During this period campaigning overall was low because most parties did not expect the November 2007 election would take place.

Mobilization of party cadres and supporters for campaigning increased dramatically in March 2008. Across the country, candidates reported to LTOs that despite security concerns, they generally were able to go out and campaign. In a number of districts, political party officials claimed to have a congenial relationship with workers from other parties. This enabled a climate where, in the event of violence or tension, they were able to hold meetings with rival party officials to attempt to resolve the issue. Relationships between rival political parties at the district level

were somewhat collaborative. For example, observers reported instances of parties informing each other of when and where they would be holding mass meetings so that other parties would not be present in that area at that time and potential clashes could be avoided. Even when tensions were high, there were a number of cases where the district leadership succeeded in resolving disputes at the local level.

Reports of parties threatening, intimidating, and using violence against their rivals, particularly in

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*In some areas, claims by party workers in district headquarters that it was too dangerous for them to venture out were contradicted by statements from villagers who said that the security situation was calm and party workers simply did not want to visit them.*

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party stronghold areas, increased throughout the pre-election period. The Maoists and the YCL were responsible for the majority of incidents of intimidation, harassment, and violence against members of rival political parties, particularly in the hill and mountain districts. YCL cadres attacked Nepali Congress (NC) mass meetings in, for example,

Darchula and Tanahu districts in February 2008 and elsewhere around the country. In Gulmi and Gorkha, the Maoists were said to have threatened bodily harm to other parties in the area. In village development committees (VDCs) of Dadeldhura district, some NC cadres were allegedly expelled by the Maoists. In Baitadi district, eight UML cadres were reportedly intimidated and injured by a group of Maoist supporters. In the more remote villages of the hill and mountain districts, it was often only the Maoists, specifically YCL cadre, who had a presence, and activists of other political parties at times stated that they could not venture out into villages because they feared that the YCL would beat, abduct, or even kill them. In Jajarkot, for instance, the YCL prohibited the RPP candidate from speaking to villagers and confiscated the party's electoral material.

Claims of infringement on freedom of movement were assessed to be more numerous than actual instances, however. Observers noted that on some



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

occasions when party activists cited Maoist intimidation and violence as a reason for their inability to visit more remote villages, these allegations appeared to be simply an excuse for party workers to avoid walking to areas that were harder to reach. For example, claims by party workers in district headquarters that it was too dangerous for them to venture out were often contradicted by statements from villagers who said that the security situation was calm and party workers simply did not want to visit them. In general, observers reported that perceived fear on the part of political activists was often more disabling than the reality of violence. Moreover, as the election neared, an increasing number of candidates from all parties noted that they were campaigning all over their constituencies regardless of fear or intimidation.

Finally, it is important to note that the Maoists were not the only party to use tactics of fear and intimidation to protect their strongholds. For example, in Baglung, the Rastriya Janamorcha (RJM) allegedly terrorized other political party agents and kept them from campaigning in Constituency 2. In Doti, UML and Maoist district committee members complained that they were unable to campaign freely in an NC candidate's VDC. An increasing number

of interparty clashes in which the Maoists were not involved were reported as the election neared.

### Insecurity and Violence in the Tarai

In contrast to the hills and mountains, the greatest threats to freedom of movement and a secure electoral environment in the Tarai were posed by Madhesi armed groups, such as the Janatantrik Tarai Mukti Morcha (JTMM) and others, as well as the increasing proliferation of criminal gangs. The central and eastern Tarai were reportedly most affected by these groups, and saw a proliferation of improvised explosive devices (IEDs), physical attacks, abduction, extortion, and threats. Political parties, election officials, government officials, and in some cases civil society and nongovernmental organization (NGO) workers complained of poor freedom of movement during the campaign period. There were also rivalries between competing parties, such as the MPRF and the NC, in some districts that at times escalated into disruptive behavior. As a result of all of these factors, candidates from many parties often resorted to traveling with their own personal security details during campaigning.

Security levels improved dramatically in the Tarai after the UDMF-government agreement in late February 2008. Although various armed groups criticized the agreement, announced programs to disrupt the electoral process, and continued to engage in extortion, abduction, and, in some cases, murder, these activities were drastically curtailed in comparison to earlier periods. Indian officials also helped to ensure that it became more difficult for armed groups to find safe haven in Indian territory across the border. Residual fear and anxiety remained among the populace, particularly in the eastern Tarai, but the buildup of campaigning and the decreased level of armed group activity gradually alleviated these fears.

### Intimidation of Voters

Voter intimidation is often difficult for observers to assess and to verify, given that it generally takes place out of sight, and voters are not always willing to disclose it. In this context, Carter Center observ-

S. Gross



*After years of civil war and a tenuous peace, security for voters and observers during the pre-election period was a major concern.*



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

ers noted that most voters did not report intimidation prior to the constituent assembly election, though some did refer to “psychological fear” remaining from the people’s war. However, on some occasions, parties did resort to threats and intimidation of voters. Again, the primary responsible party was the Maoists and the YCL. Throughout the campaign period, Carter Center observers received reports of the YCL telling villagers that the Maoist party would be able to learn who they had voted for using various devices such as computers, binoculars, and cameras and that the villagers would face dire consequences if they did not vote for the Maoists. Party leaders at the central and local level also made statements warning that the Maoists would go back to war or launch a revolution if the party did not win the election.

In the Tarai, by contrast, attempts at voter intimidation were clearly observed: in the weeks prior to the election, armed groups released programs detailing their plans to disrupt the polls and outlining the dangers faced by those who attempted to vote.

### **Deterioration of Security Environment Prior to the Election**

Around the country, observers noted that the security situation deteriorated in a number of districts as the election approached. Heavy clashes between political parties resulted in severe injuries to multiple people in Rolpa, Jajarkot, Surkhet, Dang, Baglung, Manang, and Tanahu in late March and early April. A Rastriya Janamorcha candidate was assassinated in Banke, and two Maoist cadres were assassinated in Rolpa on March 19, 2008. Another Maoist cadre was assassinated in Kapilvastu on March 22. A UML candidate was killed in Surkhet on April 8, and on the same day in Dang, a group of Maoists were fired upon by an NC leader’s armed police guard, leading to the deaths of seven CPN-M cadres and injuries to more than 12. On April 9, a YCL cadre was shot by the Nepal Police in Surkhet.



J. CLAYTON

*Months before the election, Jason Katz and his interpreter, Kamal Adhikari, talk to Maoists at a checkpoint run by the Young Communist League in Lukla, Solukhumbu.*

In addition, in contravention of previously signed agreements, armed combatants from the Maoist People’s Liberation Army (PLA) left their cantonments in various areas around the country to campaign. This activity contributed to creating a general climate of fear and intimidation in nearby areas and a rise in tensions between rival party supporters during the last days of the campaigning period.

While the Maoists and YCL were responsible for the largest number of physical attacks, abductions, and harassment immediately prior to the election, they also suffered the greatest amount of lethal violence during this period. The U.N. Office of the High Commissioner of Human Rights reported that of 21 election-related deaths reported between March 7 and April 9, 2008, 12 were CPN-M cadres. To the credit of the Maoist party, in the case of attacks such as the Dang killings, Maoist leaders called on their cadres not to retaliate, and this prevented the further exacerbation of an already fragile security situation.

### **Security Forces**

Observers reported that in the district headquarters, the security presence (police and armed police) was



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adequate, and major political party candidates generally received protection from the police during their campaigns if they requested it. However, there was a severe lack of security presence in all areas outside district headquarters across the country. Security forces were not visible to local populations, and, to a large extent, candidates did not view them as a force that could control potential violence and intimidation. Furthermore, the capacity and effectiveness of the police force in both district headquarters and outside were frequently called into question by a variety of interlocutors, who cited lack of equipment, poor training, low morale, weak community relations, and, most importantly, insufficient political backing from the central level. More remote areas lacked state presence, with the YCL often more prominent and sometimes having better communication equipment in these areas.

Although police protection was available to candidates of all political parties on request, a large number of candidates did not trust the ability of the police to protect them and thus sought protection from private guards, various thugs and criminals, and members of party-affiliated youth wings. Among the

Maoist and Madhesi parties in particular, there was a feeling that the police were biased toward the NC and would only protect candidates from that party. In addition, in some cases candidates from minor parties who had requested police protection complained that their requests were ignored. The lack of trust that party activists felt toward the police can be illustrated through the following example an observer team witnessed in Lamjung district. At a CPN-UML rally on April 2, 2008, there was a substantial police presence; however, UML party supporters carried arms in readiness for any attack from Maoist cadres who were campaigning 400 meters away.

There were, however, a number of cases in the pre-election period where security presence played a significant role in creating an environment conducive for the holding of the election. In early December 2007, the Armed Police Force (APF) deployed a special task force to the Tarai to control the activity of armed groups and criminal elements. Initially, the task force was received with resentment by the Madhesi people in the areas in which it was deployed, and it was perceived as a partisan force that took action only against Madhesis. However, after the government signed an agreement with the UDMF in late February 2008, it was recognized that the presence of the task force, coupled with the new spirit following the signing of the agreement, had led to a decline in the activity of armed and criminal groups, and there

was a greater appreciation for the task force's role among the local population.

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*The Carter Center's LTOs noted that, overall, the Election Commission was respected as a neutral actor throughout the pre-election period, maintained transparency, and was able to generate largely positive working relationships with all political actors.*

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### PRE-ELECTION PREPARATIONS

The Carter Center's LTOs noted that, overall, the Election Commission was respected as a neutral actor throughout the pre-election period, maintained transparency, and was able to generate largely positive work-

ing relationships with all political actors. The large majority of political party and civil society members with whom observers spoke during the pre-election period expressed satisfaction with the work of the commission and district election offices. While some complaints were raised (for example, the Maoists in Lamjung district, smaller parties in Banke district, and Madhesi parties in the Tarai during their protest movement), these were negligible as compared to the broader context.

### Electoral Legal Framework

Overall, the electoral legal framework was sound,



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with Nepal's selection of a mixed electoral system intended to provide both geographical and political representation. Additionally, quotas on the proportional representation (PR) system ensured that there would be significantly higher representation of women, Madhesis, Janajatis, Dalits, and "backwards regions" than ever before in Nepal's history. All critical legislation was passed prior to the election; however, the political parties bill, which seeks to discipline political parties by banning frequent strikes and making their financial dealings more transparent, remains outstanding; it should be enacted prior to any future elections.

The main criticism of the legal framework was that it was dispersed over a wide variety of acts and regulations, creating confusion among local election officials, political parties, and observers, as well as generating the potential for possible contradiction between different documents. The complex electoral formula and quota system was also criticized, given how difficult it was for average voters to understand. The absence of a required consistent check by polling staff of each voter's identification documents (described in detail in other sections of this report) was also of serious concern. Additionally, the absence of a provision for spoiled ballots was problematic. Other significant areas of concern include the system of selection of winning PR members after the election, the reinterpretation of the interim constitution's "other groups" quota, the ability of candidates to run in two FPTP constituencies, and the failure to include candidate and party names on the ballots. (For more on these issues, see Appendix A.)

### Election Administration

Pre-election preparations progressed relatively smoothly, despite occasional delays in delivery of materials at the local level. There had been some worries regarding logistical and technical preparations for the election, given Nepal's difficult terrain and the inability to rely on the army as in previous elections. In addition, the 16-day strike in the Tarai in February 2008 further delayed election preparations, which were already suffering from the continuous obstruc-



D. HANES

*Stacks of election materials wait at the election commission office before being dispatched to polling stations.*

tions of strikes and protests during previous months. The Election Commission's flexibility in extending the candidate registration deadlines to allow the participation of Madhesi and other parties following the resolution of the strike was admirable because it increased the commission's administrative burden and placed it under significant time pressure.

Observers noted, however, unrealistic logistical planning in some areas, particularly at the district level and below, and minimal contingency planning. Additionally, some reported criticism regarding insufficient training for polling officers and other staff. Further, in some districts, after the appointment of returning officers (ROs), the division of responsibility



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between the RO and the district election officer (DEO) was not clear. A main concern, not unique to the Election Commission, was the overcentralization of responsibility. DEOs were rarely empowered to make decisions or suggestions based on local conditions, occasionally leading to instances where plans made at the center were inappropriate on the ground. During the absence of DEOs, the remaining staff was often idle and felt unable to use their own initiative. Finally, observers reported that among the Election Commission senior staff at the local level (e.g., DEOs, ROs), there were an overwhelming number of high-caste Brahmin men.

### Voter Registration

The voter registration process was intended to update the voter list after several years of not being used. Consequently, the Election Commission conducted an extensive voter registration exercise beginning in January 2007 in which the voter roll ultimately was increased by 15 percent. Voter enumeration teams were charged with visiting all families door to door

and updating the lists to correct previous mistakes, include newly eligible voters, and eliminate voters who had passed away or moved from the area. The voter registration process itself went fairly smoothly, with most enumeration teams having undergone sufficient training and adequately aware of their role. However, The Carter Center received reports that in some areas teams did not in fact go door to door, but rather one person from the village individually updated the roll.

Additionally, there were many complaints about the voter registration process due to strict rules for migrant voters, including the requirement to obtain a “leaving certificate” from one’s permanent home VDC for any voter who wished to register in a new location.

*A large group of young, newly eligible voters (i.e., those who turned 18 between mid-December 2006 and mid-December 2007) were missing from the voter list.*

In a post-conflict environment, this served to disenfranchise a large number of internally displaced people, migrant voters, and those unable to return to their permanent homes for financial, logistical, or security reasons. Unhappiness with these restrictions led the Maoists (and, according to some reports, other small parties) to seize and burn voter lists in Kathmandu Valley and elsewhere.

Landless people, freed Kamaiyas, and others also were frequently disenfranchised as it appeared they were rarely visited by voter enumeration teams. The ongoing Madhesi movement in the Tarai also caused some difficulty during the voter registration process. Moreover, because the process took place in some cases concurrently with the government’s widespread citizenship registration drive, there were some areas where voter registration and the citizenship process were confused, particularly in the Tarai. There were also allegations that Indian nationals had in some cases received Nepali citizenship certificates and were then added to the voter role.



D. HAKES

*Voter education was held to educate people on how to use automated voting machines, which were used in one Kathmandu constituency on election day.*



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

Perhaps most significantly, new voters were added to the voter registration list only if they had turned 18 prior to mid-December 2006. This was reasonable for a June 2007 election, but because the election was ultimately delayed until April 2008, this meant that a large group of young, newly eligible voters (i.e., those who turned 18 between mid-December 2006 and mid-December 2007) were missing from the voter list. Because the short-term postponements of the election never allowed sufficient time for a second update to the voter list, the EC was unable to rectify the situation.

Positively, the EC did make a provision to include People's Liberation Army (PLA) and Nepali Army soldiers on temporary voter lists to ensure that they could participate in the election even though they were confined to cantonments and barracks, respectively. However, individuals on the temporary voter lists were eligible to vote only in the PR election.

### Constituency Delimitation

Constituency delimitation was a contentious issue in the lead-up to Nepal's constituent assembly election. Noting significant inequalities in the numbers of voters per constituency in the Tarai as compared to the mountains and hills, Madhesis demanded a redrawing of constituencies that would accurately reflect their population numbers. In February 2007 an amendment to the interim constitution established the Electoral Constituency Delimitation Commission (ECDC), which was charged with reviewing boundaries and redrawing as needed based on population size. However, the ECDC's first report was widely condemned as gerrymandered, and thus in a second amendment, the commission was charged with reviewing its report. The second ECDC report increased the number of

constituencies from 205 to 240, with most new constituencies added in the Tarai and Kathmandu Valley. Neither report was ever made publicly available as far as The Carter Center is aware, and the ECDC was accused of operating in a nontransparent and unaccountable manner. Though Madhesis remained displeased with the final report, the new constituencies were considered an improvement over the previous boundaries, and thus these groups did not press the issue, allowing the 240 constituencies to be used as the basis of the first-past-the-post election system on April 10, 2008.

### Voter and Civic Education

Given the special nature of the constituent assembly election as well as the complicated mixed electoral system, there was a significant need for voter education and civic education. The Election Commission embarked on an unprecedented voter education cam-

campaign that relied on 9,000 voter education volunteers (VEVs) around the country. This effort was recognized as an improvement over previous efforts; however, it still was unable to meet the vast need. By far, the greatest complaints about the VEVs were that they targeted only easily accessible villages for training and avoided or were unable to visit more remote areas.

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*Some voters appeared confused about the voting process. Also, a large section of voters was not adequately aware of the difference between a general election and a constituent assembly election, and political parties at times exploited this lack of knowledge.*

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Although voter education posters were found in some very remote villages, the villagers there said that election officials had simply put up the posters then left without providing further explanation about the election. Observers also reported that there was a need for additional voter education programs targeted to marginalized groups such as Dalits and women, and that in some areas language was a problem in voter education efforts, impairing the effective transmission of information, particularly in regard to voter education posters.



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D. HARKES



A billboard sponsored by the YCL to promote its party leader stands in Kathmandu prior to the election.

Both VEVs and NGO workers also were faced with allegations of political bias among their educators. VEVs often were teachers, many of whom are affiliated to political party unions. Also, in some cases observer reports indicated that DEOs were pressured by political parties to accept a certain number of politically affiliated individuals. There were instances during the first round of voter education prior to the scheduled November 2007 election where YCL cadres obstructed VEVs from their tasks. However, there were no such reported instances in the round of voter education conducted prior to the April 2008 election. Voter education efforts were hindered in Tarai districts by the February general strike.

Some NGOs engaged in civic and voter education in particular suffered from a lack of coordination and oversight. It was unclear in some cases whether they communicated or coordinated with the Election Commission. Political parties appear to have played a significant role in educating voters about the election and method of voting. However, LTO reports indicate that generally only the Maoist party made a serious effort to visit the more remote villages.

In addition, FM radio was a crucial means through which a large majority of Nepal's population received information about the election.

Observers across the country noted that as the election neared, most voters had adequate knowledge regarding the date of the election and the location of their polling centers. However, especially in the more remote areas, some voters appeared confused about the voting process. A large section of voters was not adequately aware of the difference between a general election and a constituent assembly election, and political parties at times exploited this lack of knowledge. Predictably, marginalized groups were least likely to possess sufficient awareness.

#### POLITICAL PARTIES, CAMPAIGNING, AND THE CODE OF CONDUCT

Although political parties claimed readiness for the election prior to the postponement of the scheduled November 2007 election, there was little evidence of campaigning or electoral strategy. Movement toward election preparation began in earnest only after the Dec. 23, 2007, agreement between the Maoists and the government. The joint Seven-Party Alliance (SPA) mass meetings, held in major towns across the country in the last two weeks of January to demonstrate commitment toward an April election, were the first signs of any real campaigning. However, these mass meetings and those held by the Nepali Congress beginning in January were marred in the Tarai by obstructive protests by Madhesi political parties, bomb explosions, and threats of violence by armed groups.

#### Campaigning

In general, campaigning was positive and evident, despite the security concerns noted above. Intense campaigning by all major political parties began only in March 2008, after the agreement signed between



OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION



S. Gross

*During a pre-election visit to Nepal's Eastern Development Region, Roger Bryant, a Carter Center long-term observer, waits as a family prepares dinner in a home where he stayed.*

the government and the United Democratic Madhesi Front (UDMF) led to the amelioration of tensions in the Tarai and gave a clear indication to all parties that the government was committed to holding the election in April. However, most observers noted that few parties made sufficient effort to campaign seriously in remote or rural areas, instead choosing to focus on urban district headquarters. By far, the Maoist party was the best organized and most committed to reaching out to people at the VDC and ward level, and in several areas, observers heard comments from voters that “the Maoist party is the only one that has come to visit us.”

### Code of Conduct

Though parties pledged to respect the Election Commission's code of conduct, which governed the actions of political parties during campaigning, they did so only to varying degrees. Because the code was weakly enforced by the commission, parties quickly realized that they would not be held responsible for their actions. This led to continued violations. The most egregious violations were clearly the instances of violence and intimidation noted above. However, other large-scale pre-election violations included misuse of government resources (particularly vehicles) for campaigning, destruction of campaign material of rival political parties, and alleged attempts to



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

buy votes. By far the most widely visible and widely reported violations were smaller in scale, particularly the painting of party campaign slogans on public walls and other public spaces in clear contravention of the code, and banners, posters, and flags that were larger than the prescribed size. Although all major political parties were involved in such lower level violations, the Maoists appear to have been responsible for the majority of such violations. In some cases, for example in Lalitpur district, the public complained that they were afraid to remove from their property flags and graffiti that had been applied late at night by the YCL.

### Political Party Structure

Nepal's political parties suffer from intense over-centralization. All decisions are made in Kathmandu, and information appears to flow almost entirely one way: from Kathmandu down. In the lead-up to the constituent assembly election, Carter Center observers were told literally hundreds of times by party members around the country that they were "awaiting instructions from Kathmandu." Some district offices did not receive manifestos or were insufficiently aware of the content of their party's manifestos, and had difficulty distinguishing their party's policies from those of other parties. In general, at the district level, parties followed central-level directives, had little idea of future planning, and had even less ability to communicate with central leaders.

### CIVIL SOCIETY, MARGINALIZED GROUPS, OBSERVERS, AND THE MEDIA

Civil society at both the national and local levels in regard to the election appeared to be largely dormant. Civil society groups were generally only observed as active if they had received donor funds to do

voter awareness. However, civil society did make a contribution by furnishing a large number of domestic observers to participate in the national and local observer networks.

Marginalized groups were active in the pre-election period to varying degrees. Most prominent were strikes organized to pressure the government to accept demands related to changes to the electoral system and increased representation in state structures. Observers in the field repeatedly noted the absence of marginalized groups in their meetings with local actors, including political parties, election officials, and government officials. This was particularly the case at senior levels. (See also the box on Marginalized Groups on p. 48.)

The Election Commission estimates that more than 61,000 domestic observers were deployed through 148 organizations across the country. Given this impressive number of domestic observers, there were variations in the levels of training observers

received. There were also some problems regarding coordination among different observation organizations, initially resulting in competition among them to gain members and donor funding. However, as the election neared, coordination among the various networks increased. The Carter Center believes strongly that domestic observers play a key role in ensuring sustainable, democratic elections, particularly in post-conflict countries, and was encouraged to see Nepalis and the international community supporting the domestic observer effort. Additionally, domestic observer organization pre-election reports received relatively good coverage in the Nepali news media.

Nepal also saw a record number of international observer organizations, which altogether deployed more than 800 observers on election day. The largest international observer groups were the European Union, the Asian Network for Free Elections, and

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*The CA election "should be viewed as only an interim step in a much larger, longer, and more important process—the constituent assembly itself."*

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## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

S. SHRESTHA



*President Carter meets with members of the Nepali Election Commission in a 2007 pre-election visit.*

The Carter Center. Coordination among international observers was strong, with dedicated effort to maximize the international presence on the ground and ensure coordination and information sharing in the field.

The media remained highly active during the pre-election period, despite violence directed at individual journalists, particularly in the Tarai. Though The Carter Center did not engage in media monitoring, other organizations report that media coverage was relatively well dispersed among the larger parties, with the smaller parties suffering from an inability to achieve access. Many people in Nepal outside of large cities receive their news from FM radio stations. Often, FM stations and other local media are dominated by a single party, but there is enough variety in party-affiliated media to give voters exposure to several different perspectives.

### PRESIDENT CARTER'S PRE-ELECTION TRIPS TO NEPAL

In June and November 2007, former U.S. President and co-founder of The Carter Center Jimmy Carter visited Nepal to lend support to the peace process and encourage continued progress toward the constituent assembly election.

#### **June 2007**

During his June 2007 trip, President Carter met with the prime minister, leaders of major political parties including the Maoists, members of the Election Commission, prominent civil society leaders, representatives of marginalized groups, and members of the international community. In a press conference held prior to his departure, President Carter affirmed the Carter Center's support to Nepal and highlighted two areas that needed additional attention to make the election a success.

First, he noted the poor security environment, saying that "the present law-and-order situation is unacceptable." He made clear that Maoist Chairman Prachanda had committed personally to improving the behavior of the YCL and that the leadership of the MPRF had reaffirmed its commitment to non-violence. He also stressed the need to ensure that the Nepal Police "have sufficient morale, capacity, and authority to carry out their important work in a fair manner that is respectful of human rights." Next, President Carter focused on the need to include genuinely Nepal's historically marginalized groups in the country's transformation. Finally, he noted the



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importance of realizing that the CA election “should be viewed as only an interim step in a much larger, longer, and more important process—the constituent assembly itself.”

His trip was well received by the Nepali and international media and was credited with providing a confidence boost to the electoral process, which had stalled due to the postponement of the election. On June 14, the day after President Carter’s arrival, the interim legislature-parliament passed the Constituent Assembly Members Election Act, a crucial piece of electoral legislation.

### November 2007

After the Nov. 22, 2007, election date was again postponed, President Carter once more visited Nepal to support a breakthrough in the deadlock between the Maoists and other political parties. As during his

previous visit, President Carter met with key members involved in Nepal’s peace and electoral processes, including addressing members of the interim legislature-parliament. In his remarks, he focused on implementation of previously signed agreements, noting:

The Comprehensive Peace Agreement and many others have been negotiated among government leaders, the Maoists, and the traditionally marginalized groups. It is crucial that these agreements be implemented and not separated from the effort to schedule an election. The two are inseparable, and neither can be consummated without the other. The failure to keep promises already made has disillusioned the public and created distrust among political leaders. *(The full text of President Carter’s remarks is included at the end of this report.)*



D. HAKES

A Carter Center interpreter speaks with a woman of the low-ranking Dalit caste about her impressions of the election, in which members of her caste were guaranteed representation in the new constituent assembly.



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

In a press conference held Nov. 24, 2007, he again pointed to the mistrust between the Maoists and other parties as the main cause of the deadlock that had led to a second electoral postponement. President Carter listed several specific steps that the government and the Maoists could take to rebuild trust. For the government, these included paying allowances to Maoist combatants in cantonments, making public the whereabouts of those who disappeared during the war, providing compensation to conflict victims, and taking steps toward integrating and rehabilitating Maoist combatants and reforming the Nepal army. For the Maoists, these included accounting for the funds received to date from the government, taking steps toward discharging disqualified Maoist combatants, ceasing violence, making public the whereabouts of the disappeared, and returning all seized land. President Carter concluded by reaffirming, "Despite the current frustration, I remain deeply impressed by the courage and the dedication of the Nepali people to resolve their differences peacefully and by the speed with which they have moved from war to peace."

Finally, after hearing the positions of both the government and the Maoists on the present political disagreements, President Carter also proposed a

possible compromise solution intended to generate discussion and open-minded thinking on the topics obstructing progress: changes to the electoral system and the establishment of a republic. This proposal helped to pressure all sides to come to an agreement, and some aspects of it were included in the parties' final December 2007 agreement.

### **President Carter and U.S. Policy on Nepal**

During all of his trips to Nepal, President Carter was repeatedly asked about the U.S. government policy toward the Maoists. He constantly noted that he no longer held any position in the U.S. government and thus could speak only as a private citizen. In that capacity, he stated his personal view that the U.S. government should review its policy toward the Maoists and allow its representatives and U.S.-funded organizations on the ground to recognize and interact with Maoist party members. The idea of engaging in dialogue with all actors, even those with whom you disagree, is a core principle for both President Carter and The Carter Center.



## ELECTION DAY AND POSTELECTION PERIOD

On election day, the Carter Center’s observers visited more than 400 polling centers in 28 districts. In contrast to expectations, the election itself was remarkably peaceful. In addition, the election process for the most part was orderly and in accordance with the established procedures, though some violations, such as booth capturing, clashes, intimidation, vote buying, underage voting, multiple voting, and proxy voting were noted in particular areas. Voter turnout for the FPTP election was 61 percent and for the PR side was 63 percent, including substantial numbers of women voters. The discrepancy between FPTP and PR turnout is explained by the fact that temporary voters, including PLA soldiers in cantonments, Nepal army soldiers in their barracks, and civil servants, were eligible to vote only in the PR race.

Immediately following the election, Prime Minister Koirala publicly congratulated the people of Nepal for a “successful” constituent assembly election and was joined in his positive sentiments by Maoist Chairman Prachanda and UML General Secretary M. K. Nepal. On April 12, 2008, The Carter Center released a preliminary election statement summarized below.

### LARGELY PEACEFUL ELECTION DAY ENVIRONMENT

Given Nepal’s post-conflict environment, the pre-election threats and violence, and the generally weak capacity of the security forces, Nepal’s constituent assembly election day was remarkably peaceful—much to the surprise of the Nepali people themselves as well as outside observers. In the vast majority of polling centers observed, Carter Center observers reported that the election took place in a festive environment with voters

dressing up for the occasion and enthusiastically exercising their right to vote in an orderly and calm manner. Long queues were evident in the early morning, and by midafternoon nearly all polling was finished. Voters respected the prohibition on vehicular movement and calmly waited for their turn at the polling booth. Even some areas that had been identified by observers as sensitive (e.g., VDCs in Banke and Bardiya districts) were remarkably calm.

There were several areas, however, in which Carter Center observers directly witnessed problems that affected the security environment for voters. For example, in Rukum, Darchula, and Taplejung, YCL presence outside polling centers was significant. For the most part the YCL refrained from disruptive activity and claimed to be providing water and other assistance to voters in the queue. Although voting was largely peaceful, this presence likely created an atmosphere of intimidation in favor of the Maoists.

Less widespread but more serious incidents also occurred on election day, including booth capture, interparty clashes, and harassment. In Rukum, the



*Voters in Bhaktapur line up in preparation for poll center opening.*

D. HAKES



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

D. HAKES



*President and Mrs. Carter complete a polling center opening form while waiting for voting to begin in Bhaktapur.*

YCL appeared to be controlling the polling centers visited by LTOs and were armed with *lathis* (stick-like weapon) and acting as “security,” in direct violation of the election code of conduct. State security forces did not intervene and also allowed the YCL to dictate the process of identifying voters. Polling officials were aware of the violations but did not take any action or cancel the election.

Though abductions were not directly witnessed, observers heard reports that the Maoists had threatened activists from rival political parties and in some cases had abducted them so they could not vote. Such reports were heard, for instance, in Rukum, Rolpa, and Taplejung. In Gorkha, NC activists claimed that their party agents were unable to be present at polling locations in seven northern VDCs of Constituency 3 on polling day because their accreditation letters were seized by the Maoists. Gorkha district in particular was a source of numerous complaints over alleged Maoist booth-capturing and other irregularities in all three constituencies, all of which were reportedly overturned by the EC for lack of evidence. Given the above incidents and reports, it is possible to

extrapolate that in a limited number of other areas, such as more remote hill districts or Maoist strongholds, similar behavior likely took place; however this was not directly observed by The Carter Center.

Threats from armed groups in the Tarai had long been a cause for worry, with many politicians in the pre-election period advocating that the election be held in two phases so that massive security deployment could be enabled in the heavily affected Central and Eastern Tarai districts. Ultimately it was decided that the election would be held on a single day across the country, and security was stepped up in these districts prior to the election. The Nepali and Indian border police coordinated to close the border and maintain law and order. Though not directly witnessed by the Center’s observers, polling in parts of Sarlahi, Saptari, and Siraha districts, for example, was cancelled as a result of, in some cases, physical disruptions. However, fears of low voter turnout owing to violence by armed groups in the Tarai were unfounded; rather, voter turnout in the Tarai ultimately proved to be higher than the national average.

Finally, four people died in election-related violence on April 10, 2008. The Center strongly condemns this violence and urges that the perpetrators be brought swiftly and fairly to justice.

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*A pilot test of electronic voting machines in Kathmandu went well, a promising sign for future elections.*

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### GENERALLY ORDERLY AND IMPARTIAL ELECTION ADMINISTRATION

Most polling stations opened on time or with only a brief delay and followed correct procedures. Essential election materials were on hand. Polling station layout generally respected voter secrecy, indelible ink was correctly applied, distribution of ballots was done effectively, and voters were largely appropriately guided through the polling center. Observers in most cases characterized polling as “slow but orderly.”

For the most part, election officials were impartial, discharged their responsibilities smoothly, and had



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

well-organized polling centers. The setting up of boundaries for male and female queue lines and of areas for polling, observers, and party agents was generally completed on April 9, the day before the election. In some instances, meetings had been held between political party agents and polling officers on the day before the election to create a peaceful environment and to outline the formal procedures to resolve disputes that might arise on election day. Advisory notes to the public prohibiting alcohol and loud music were posted throughout villages. During the election process, polling staff were generally cooperative and happy to respond to questions from both domestic and international observers. A pilot test of electronic voting machines in Kathmandu went well, a promising sign for future elections. Assistance to voters with disabilities varied; more specific guidelines

polling officials seemed to prioritize getting through the day calmly over dealing with the consequences of confronting problems within their polling centers. Observers noted that some officials appeared “reluctant to challenge irregularities.” This likely can be at least in part attributed to officials’ concerns regarding their personal safety and ability to enforce controversial decisions. In some cases, political parties colluded to take advantage of this environment.

However, there were also an isolated number of cases reported in which polling officials acted in a partisan manner. Polling was halted or postponed in cases such as these that were observed. For example, in Constituency 2 of Arghakhanchi, polling was suspended after a polling official was accused of soliciting votes for a particular party within the center. In Constituency 1, Baglung, the process was

halted after a ballot paper issuer allegedly gave out multiple FPTP ballot papers to a single voter.

Finally, in the large majority of cases, proper closing procedures for auditing the number of ballots and sealing ballot boxes were followed. In some instances in the Tarai, however, overcrowding and chaos in the polling center made it difficult to follow proper procedures for closing.

### FLAWED ELECTION PROCEDURES

Although polling staff followed procedures adequately, there were a number of flaws inherent in the procedures that compromised the quality of the election. The most important of these flaws was that there was no clear requirement for

polling staff to check the identification documents of each voter. In the majority of cases the official polling staff member responsible for verifying the identification of each voter deferred this responsibility to the political party volunteers outside the polling center and simply accepted any voter who had a slip with a name on it from a party volunteer. This occurred

D. HARKES



*A poll worker gives a voter a ballot.*

and greater attention to this issue will be beneficial in the future.

However, some polling officers, particularly in the Central and Eastern Tarai and in hill and mountain districts that were Maoist strongholds, were unable to take complete control of the polling center and evict unauthorized persons from the vicinity. In such cases,



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

even in instances when blatant underage, proxy, or multiple voting was taking place.

In a number of cases it was observed that none of the polling officials at the center were local to the area. While this possibly helped increase the safety of polling officials who could leave the area after the election, it also created an atmosphere where these officials were forced to defer to the judgment of party agents regarding the identity of voters because they did not themselves recognize the individuals in question.

Other, more minor, flaws with the procedures included the provision that ballots for the FPTP and PR sides of the electoral race be given separately, which slowed polling; lack of an alphabetized and well-organized voter list, which would have increased efficiency and enabled the official ID checker to more easily control the list; the failure in some cases to protect the secrecy area from sight of onlookers; the absence of a provision for spoiled ballots; the absence of candidate or party names on ballot papers; and polling centers set up in areas exposed to adverse weather conditions, such as outdoor locations that were extremely hot or windy.

### INSTANCES OF ELECTORAL MALPRACTICE

Although the majority of reports received by The Carter Center indicate that the electoral process overall was a credible reflection of the will of the people, observers reported some instances of electoral fraud such as booth capturing, vote buying, proxy voting, underage voting, multiple voting, and voter impersonation, as well as isolated instances of polling officers refusing to report electoral malpractice out of fear of retribution from a particular party or individual. As described above, the lack of requirement to show any form of identification to polling officers enabled electoral malpractice, of which party volunteers outside the polling centers took advantage. Carter Center observers received credible reports of party workers, particularly the Maoists, using voter lists prior to the election to verify the names of voters registered to vote but not presently living in the area



D. HANES

*Many polling stations had long lines as polls opened on April 10 in Nepal. Here, an early voter casts his vote in Bhaktapur.*

and organizing groups of people to vote in the absentee voters' names.

Proxy voting and multiple voting were often perpetrated by those clearly not of voting age. In some instances noted by observers, voters involved in multiple voting changed their clothes each time they voted to avoid detection. There also were methods used to allow for easy cleaning of the indelible ink applied to the cuticle. Polling officials generally made no attempt to verify the identity of the voter once he or she had been issued a slip by party volunteers, even when there was a clear mismatch between the age or gender of the supposed voter and the individual attempting to vote in that person's name. There were



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

also cases in which a voter arrived at a polling center and discovered that someone else had already voted in his or her name. In such instances the individual was occasionally allowed to vote through tendered ballot; however, this procedure took significant time.

Other kinds of fraud, such as a political party taking control of a polling location and allowing only party supporters to vote, also reportedly took place in some areas, though this was not directly witnessed by Carter Center observers. At a polling center close to the cantonment in Kailali district Constituency 4, Maoist activists relocated voters within the queues. At another polling station in Rukum, local residents and a domestic observer informed Carter Center observers that polling staff had shut the location for an hour because a group of YCL had taken over the polling center and voted “over 100 times.” However, when the team reached the polling center and spoke with the polling official, they were told that there had been no problems. Finally, in some parts of the Eastern Tarai, for example in Saptari, parties colluded to carry out electoral malpractice by making deals to distribute names on the voter list between themselves. In two locations in the same district outright vote buying (Rs. 25 per vote) was observed outside the polling center.

### ADEQUATE POLICE PRESENCE

Overall there was an adequate security presence of the national police at polling locations across the country. They were visible but generally not intrusive. The Nepal Police (NP), Armed Police Force (APF), and temporary police coordinated their efforts and were to a large extent able to allow for sufficient freedom of movement for voters. In general, police presence appeared to contribute to curtailing violent activity and creating a fear-free voting environment. Additionally, in the Eastern Tarai, police were reported to have performed the essential task, in the absence of effective volunteers, of guiding voters within the polling center.

However, in some hill and mountain districts the large presence of political party cadres and youth

groups outside the polling locations may have placed adverse psychological pressure on voters despite the police presence. In areas such as Rukum and Rolpa, where Maoist presence and control was reportedly strong, security forces were present and very visible, but observers noted that the police allowed the YCL to exercise control over the polling center, perhaps due to fear or intimidation. Nonetheless, besides these isolated incidents, there were few reports of clear intimidation or violence.

Reports also show that there was a greater degree of disorder caused by unruly crowds and blatant electoral fraud at polling centers in the Eastern Tarai than in other areas of the country. There were insufficient police to deter or cope with the chaos at some of these locations, and in some instances (in Saptari district, for example), police seemed unwilling to take action to control crowds. Observers in several polling centers noted that police should have taken a more active role.



D. HAKES

*A poll worker checks a ballot at a polling station.*

By contrast, there were also some reports of police becoming involved in the election process to an inappropriate extent. Observers noted some polling officials let police decide who would be allowed to



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

vote and who needed to be cleared from the location. On other occasions, police became involved in assisting with the folding and posting of ballots and even closely overseeing ballot marking by voters behind the security screen, thus compromising the secrecy of the vote.

### INTRUSIVE POLITICAL PARTY ACTIVITY

Candidate and party agents from multiple parties were present in nearly all stations visited. As mentioned above, party volunteers outside the polling centers essentially took on the role of polling officials in identifying voters, thus giving them undue influence on the polling process. In some cases this also violated the prohibition on campaigning as some voter identification slips were adorned with party symbols. It also inhibited secrecy of the vote and resulted in some voters receiving inaccurate information from volunteers unfamiliar with the election rules and regulations.

In most cases, party agents inside the polling center maintained a cooperative and collaborative attitude

throughout election day, in some instances sharing sensitive information like the seal numbers on ballot boxes. Minor disputes were resolved through consensus between the polling officers and party agents. There were a few reports from Rukum and Dailekh of political parties deliberately arriving late for the opening of polls in some locations and then disrupting the process by inquiring why it had started without their presence. In an instance in Dailekh, this forced polling to be annulled and re-polling to be scheduled. There also were reports from locations in the Eastern Tarai, in Saptari for instance, regarding collusion between party agents on the issue of proxy voting. In Kapilbastu and Darchula it was reported that multiple agents from a single party were present in the polling center, in contravention of electoral regulations. Finally, in Lalitpur, Rukum, and Taplejung, it was observed that CPN-M cadres had sample ballots that were prestamped, and these were being shown to voters outside the polling centers as a demonstration of how to vote.

D. HAKES



*By afternoon, most voting lines had dissipated, such as at this polling station in Kathmandu.*



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

M. OMBGAARD



Carter Center observer Vince Juaristi (second from left) talks to voters in Baitadi, in the Far-Western region.

### IMPARTIAL BUT PASSIVE DOMESTIC OBSERVER PRESENCE

On election day, domestic observers were generally well coordinated and appeared to be deployed in a way that maximized coverage of polling centers. Domestic observers were present in 86 percent of polling centers visited by Carter Center observers. For the most part they appeared to be impartial. In many cases, however, they were observed sitting far away from the polling area, making it difficult for them to actively observe the polling center and potentially allowing them to miss instances of electoral irregularities or violations. Domestic observers may have felt inhibited and intimidated due to the lack of respect accorded to them by political parties and polling officials, or they simply may not have had a thorough understanding of their role.

Following the election, Carter Center observers received some reports, including from DEOs, of political bias by domestic observers as well as individual

observers who appeared to act as party agents or were inappropriately politically affiliated, in particular to the CPN-UML. For instance, in Surkhet district, the district coordinator for NEOC was discovered to be a campaign adviser for a UML candidate in the district, and the EC had his accreditation revoked a few days before the election. In Kapilbastu a domestic observer reportedly made frequent calls to a party headquarters office throughout election day. However, such instances were exceptional. Despite fears about the professionalism and impartiality of domestic observers expressed prior to the election, the Carter Center's observations did not confirm these concerns.

### ORDERLY AND RAPID COUNTING PROCESS, BUT LACKED APPROPRIATE SAFEGUARDS

Overall, the counting process was orderly, impartial, and transparent, and to the satisfaction of all parties. In the majority of cases there was constant dialogue between counting officials, party agents, and ROs during the counting of ballots, and minor problems were resolved through consensus and compromise. The process proceeded faster than expected, and the immediate release of results by constituency helped

to quell fears of manipulation. Nonetheless, the provision that ballot counting take place at the district level caused delays because it took time to transport ballot boxes from remote areas to district headquarters. In some cases, the start of counting was delayed or an ongoing count was interrupted while the parties decided on such issues as definitions of invalid ballots or what to do if there was an audit discrepancy.

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*Overall, the counting process was orderly, impartial, and transparent, and to the satisfaction of all parties.*

*The process proceeded faster than expected, and the immediate release of results by constituency helped to quell fears of manipulation.*

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There was no clear standard methodology used across the country, and procedures varied significantly among counting centers. In Biratnagar, the method was changed halfway through a count to speed up the process. In Banke and in Parsa, rules for counting



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

## MARGINALIZED GROUPS

For the first time in Nepal's electoral history, significant affirmative action measures to include representatives of marginalized groups (such as women, Madhesis, Janajatis, Dalits, and "backwards regions") in the legislature were undertaken. In addition, the interim government committed to increase participation of marginalized groups in the education sector, civil service, army, and other state bodies. Marginalized groups increasingly asserted their rights to representation, which will remain necessary to ensure a continued trend toward inclusivity.

Before the election, various marginalized groups expressed dissatisfaction with the election law. Madhesis, Janajatis, and, to a lesser extent, women and Dalits campaigned for a fully proportional electoral system, which to them meant a system in which the established quotas for marginalized groups would be applied to all CA seats. In addition, Madhesi and Dalit groups claimed that their share of the population was higher than that reflected in the 2001 census, and so they campaigned for a new census to be undertaken before the election. Although the government did not take into account Dalit demands, it was able to come to an agreement with Janajati and Madhesi groups by allowing for some modifications to the election law and redrawing some constituencies. As the election law specified that all parties had to fulfill quotas for marginalized groups on the PR side of the election, candidate lists for all parties included a much higher proportion of all of these historically disadvantaged groups than in any other previous election.

However, there were still complaints that there was a lack of representation of marginalized groups on the FPTP side of the election. In some cases these groups also protested the distribution of tickets and selection of candidates. Among the major parties, the Maoists made the greatest effort to make their FPTP candidate lists inclusive and to run these candidates in constituencies where they had a genuine chance of victory. Of the 29 women elected in FPTP constituencies, 23 were from the Maoist party.

Members of some marginalized groups were visibly active in the election campaign. This was particularly

true of Madhesis, who attempted to transform the mass public support generated in their February general strike into successful electoral campaigns. The campaign involvement of women, however, was generally low in proportion to men. In some cases, female candidates avoided travel to more remote areas to campaign—preferring to delegate such responsibilities to their husbands or other relatives. Additionally, the general absence of marginalized group representatives at political party meetings and functions was striking.

Though there are no official figures on voter turnout of marginalized groups, observers reported that turnout among women was high. In some cases women consisted of more than 50 percent of voters present in the polling centers visited by the Carter Center's observers. The large number of polling locations in diverse areas also should have contributed to relatively easy access by marginalized groups. However, some groups such as members of a freed Kamaiya settlement felt that their polling location was too far away. Finally, there were few women and minority polling officials, particularly in more senior positions and among party agents on election day.

Final results indicate efforts to achieve diversity in the CA were successful: women hold 33.22 percent of total seats, Madhesis 34.09 percent, Dalits 8.17 percent, Janajatis 33.39 percent, and representatives from "backward regions" 3.83 percent. More work will be needed to ensure that these new representatives are able to participate substantively in the constitution drafting process and in governance. Additionally, more targeted quotas could be considered for future elections (using a less logistically complex electoral formula) to maintain and improve upon the inclusivity achieved. Finally, using ranked PR lists would allow voters to see which marginalized group candidates are high on a given party's list and thus could choose to give their vote accordingly. Ranked PR lists are thus likely to help ensure that the individuals from marginalized groups given party tickets are genuine representatives of these groups, because parties would have a stronger incentive to select popular candidates in order to woo voters to their lists.



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION



D. HAKES

*Dr. Surakiart Sathirathai, former deputy prime minister of Thailand and co-leader of the Carter Center delegation, inspects an electronic voting machine.*



D. HAKES

*An election worker displays a polling station's unused ballots as part of closing procedures.*

differed from constituency to constituency. While it does not appear that a lack of standard procedure led to major discrepancies or malpractice, the possibility for this exists. Additionally, there was widespread failure to reconcile the number of ballots to the number of recorded voters, another important safeguard of the counting process.

Carter Center observers did note complaints that training for counting staff was cursory and took place at the last minute. This did not appear, however, to hamper the count itself for the most part. In isolated instances, political parties tried to delay the counting process due to political attempts to invalidate the poll. In other isolated cases, it was reported that counting began before potentially valid complaints could be processed.

### RE-POLLING PROCESS PLAGUED BY ELECTORAL IRREGULARITIES

After identifying areas where major irregularities had taken place, the Election Commission reran polls in 106 polling centers out of 20,888. All re-polling was

concluded within two weeks of the election date. The Carter Center observed re-polling in Mahottari, Sarlahi, Saptari, Siraha, and Surkhet districts. Many of the electoral irregularities noted during election day were repeated and amplified during re-polling, which was more chaotic than the initial election

day due in part to a lack of clear instructions from the central election commission regarding re-polling procedures. As on April 10, excessive involvement of party agents and volunteers led to electoral malpractice.

Specifically, Carter Center observers noted problems with election administration in Saptari, Siraha, Sarlahi, and Mahottari, and to a lesser degree

in Surkhet. Underage voting was the most widespread violation observed, though multiple voting and voter impersonation were also frequent. The Center's observers noted a lack of interest on the part of polling staff to address at times blatant violations. Security forces, often present in excessive numbers, and domestic observers also did not raise concerns.

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*After identifying areas where major irregularities had taken place, the Election Commission reran polls in 106 polling centers out of 20,888.*

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## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

### UNDERUTILIZED AND AD-HOC COMPLAINTS AND APPEALS PROCESS

Complaints regarding irregularities in the election were submitted by candidates, other members of political parties, and voters through the ROs at the constituency level, who would then at their own discretion forward the complaint to the central Election Commission. The election commissioners then would decide on the validity of the case on the basis of the report submitted by the RO. According to the EC, 64 complaints were registered after the election, of which most were deemed invalid. The complaints that did reach the EC appear to have been handled promptly though in a rather ad-hoc manner.

Observers reported that the complaints and appeals process appeared confusing and opaque to potential complainants, and as a result, it was widely underutilized. Carter Center observers received multiple reports of serious election complaints that did not reach the central EC, in some cases because complainants did not have faith in or did not understand the system or because ROs refused to forward the complaints. There also were some cases where representatives of political parties were disappointed that they did not receive a response from the RO and DEO or their complaints were dismissed without sufficient investigation.

As of October 2008, a total of 16 cases had been brought forward to the constituent assembly court, of which six were decided and 10 were still pending.

### SUPPORTIVE INTERNATIONAL COMMUNITY

The international community provided dedicated support to the people and government of Nepal throughout the constituent assembly process. Most visibly, this support took the form of the United



D. HANES

*In the days before the election, the election commission organized ballot boxes and other polling station materials like voter lists, ink to mark the thumbs of voters, and ballots to be delivered across the region.*

Nations Mission in Nepal (UNMIN), which included an Electoral Assistance Team (EAT) component as well as multiple divisions dedicated to supporting the ongoing peace process. UNMIN district electoral

advisers provided technical assistance in all of Nepal's 75 districts and generally provided useful support and advice, with their level of involvement largely dictated by individual election officials' preferences. The EAT at the central level was embedded within the Election Commission and provided significant expert advice on challenging technical issues related to the

complicated constituent assembly electoral system. The international donor community also substantially supported the election through critical direct funds and in-kind contributions.

Unfortunately, the U.S. government and U.S.-funded organizations were constrained in their ability to engage with all political actors in the Nepali peace process. The Maoists remained on the U.S. Terrorist Exclusion List and the Specially Designated Nationals

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*Observers reported that the complaints and appeals process appeared confusing and somewhat nontransparent to those external to the Election Commission, and as a result, it was widely underutilized.*

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## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

and Blocked Persons List. This meant its members are barred from traveling to or owning any property in the United States; in addition, U.S.-funded organizations are prohibited from any interaction with or material support to the CPN-M. Carter Center observers reported that in some cases, this policy exacerbated community tensions when Maoist party members were excluded from party training and other initiatives.

### ACCEPTANCE OF RESULTS

To the surprise of the international community and many Nepali citizens, the Communist Party of Nepal (Maoist) won the most seats in the constituent assembly with 220. The Nepali Congress secured 110 seats, followed closely by the Communist Party of Nepal (UML) with 103 seats and the Madhesi People's Rights Forum (MPRF) with 52 seats. The vote count for the FPTP race was completed on April 22 and for the PR race on April 24. Parties were instructed to submit candidate names for the PR side on May 2 and to fulfill all the relevant quotas. Most parties submitted lists that correctly fulfilled all the quota criteria, and the EC announced the final list of names of those elected on May 8, 2008. A list of 574 elected candidates was submitted to the prime minister and the parliamentary secretariat the same day. The name of one candidate was missing as the CA Court had ordered a hold on the election results of Mahottari-6. Additionally, five candidates won in two constituencies, requiring five by-elections.

Prior to the election, many analysts had speculated that the CPN-M would not perform well at the polls. Thus, the strong Maoist lead in both the FPTP and the PR races led some rival political parties to cite voter intimidation and election fraud as the chief reasons for the party's victory. However, some members of these parties also looked inward to analyze the causes of

their own poor performances. No party formally challenged the election results, though in private conversation there is varying willingness to admit that the election reflected the will of the Nepali public. Some party leaders have set a positive example by holding themselves accountable for their parties' defeat, such as M. K. Nepal's resignation as UML general secretary following the release of the results. Another surprising outcome was the strength of the Madhesi parties, which were expected to suffer from internal competition but instead performed quite well with the MPRF in the lead.

The postelection selection of winning PR candidates resulted in some protests by NC, UML, CPN-M, and MPRF party cadres; however, such protests were not widespread.

Finally, the Nepal Federation of Indigenous Nationalities (NEFIN) expressed unhappiness that 28 out of 59 Janajati groups were not on the selection lists of any of the parties, despite an August 2007 agreement that all 59 groups would be recommended. An additional number were included in the 26 nominated constituent assembly members, but this did not meet the requirements of the previous agreement.



D. HAKES

*The Carter Center announced its initial findings about the fairness of the election at a press conference on April 12, 2008.*



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

## ELECTION RESULTS

| PARTIES                                   | TOTAL SEATS* | FPTP SEATS | PR SEATS   |
|---|--------------|------------|------------|
| Communist Party of Nepal (Maoist)         | 220          | 120        | 100        |
| Nepali Congress                           | 110          | 37         | 73         |
| Communist Party of Nepal (UML)            | 103          | 33         | 70         |
| Madhesi People's Rights Forum (MPRF)      | 52           | 30         | 22         |
| Tarai Madhesh Democratic Party            | 20           | 9          | 11         |
| Sadbhavana Party (Mahato)                 | 9            | 4          | 5          |
| Rastriya Prajatantra Party                | 8            | -          | 8          |
| Communist Party of Nepal (ML)             | 8            | -          | 8          |
| Janamorcha Nepal                          | 7            | 2          | 5          |
| Communist Party of Nepal (United)         | 5            | -          | 5          |
| Rastriya Prajatantra Party Nepal          | 4            | -          | 4          |
| Rastriya Janamorcha                       | 4            | 1          | 3          |
| Nepal Majdoor Kishan Party                | 4            | 2          | 2          |
| Rastriya Janashakti Party                 | 3            | -          | 3          |
| Rastriya Janamukti Party                  | 2            | -          | 2          |
| Communist Party of Nepal (Unified)        | 2            | -          | 2          |
| Nepal Sadbhavana Party (Anandi Devi)      | 2            | -          | 2          |
| Nepali Janata Dal                         | 2            | -          | 2          |
| Sanghiya Loktantrik Rastriya Manch        | 2            | -          | 2          |
| Samajbadi Prajatantrik Janata Party Nepal | 1            | -          | 1          |
| Dalit Janajati Party                      | 1            | -          | 1          |
| Nepal Pariwar Dal                         | 1            | -          | 1          |
| Nepal Rastriya Party                      | 1            | -          | 1          |
| Nepal Loktantrik Samajbadi Dal            | 1            | -          | 1          |
| Chure Bhawar Rastriya Ekta Party Nepal    | 1            | -          | 1          |
| Independents                              | 2            | 2          | -          |
| <b>TOTAL ELECTED SEATS</b>                | <b>575</b>   | <b>240</b> | <b>335</b> |

\* Two Maoist seats, two MPRF seats, and one Nepali Congress seat remain vacant until by-elections are held.

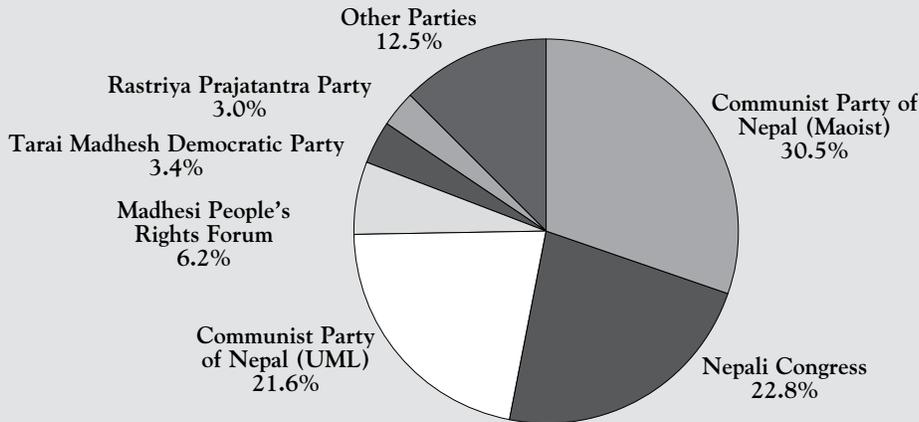
Source: Nepalnews.com



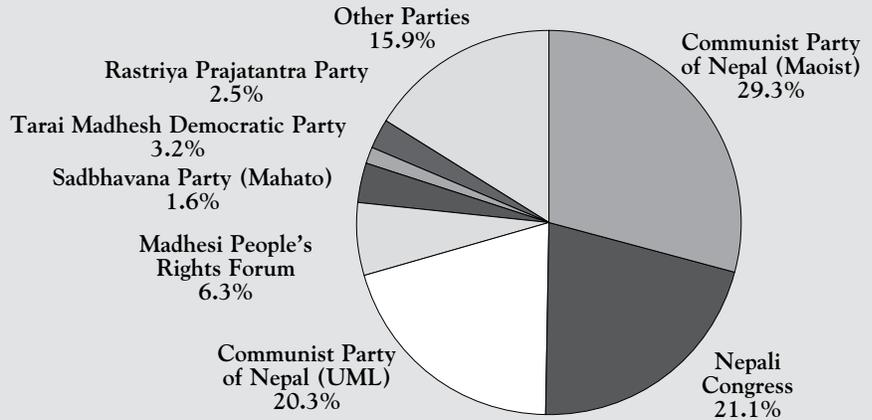
OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

PERCENTAGE SHARE OF VOTES

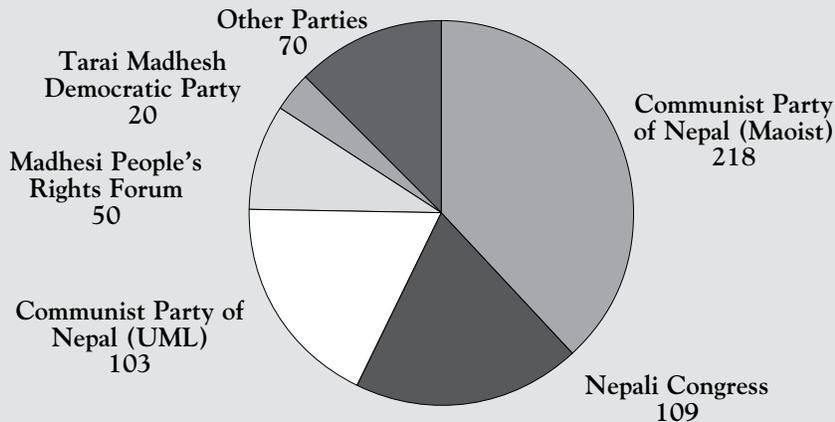
FIRST PAST THE POST



PROPORTIONAL REPRESENTATION



NUMBER OF CONSTITUENT ASSEMBLY SEATS WON





## THE CONSTITUENT ASSEMBLY AND NEW GOVERNING COALITION

Following the announcement of the final election results on May 8, Prime Minister G. P. Koirala announced that the CA would have its first meeting on May 28, 2008, in accordance with the guidelines laid out by the interim constitution. The newly elected members of the CA took their oaths of office on May 27, many choosing to do so in their native languages.

Because the agreement between the government and the Maoists in December 2007 stated that Nepal would be transformed into a federal democratic republic at the first meeting of the CA, this action was the main agenda at the CA's first meeting. After significant delay due to ongoing political negotiations between the major parties over future governance and power-sharing arrangements, the CA members were called to convene just after nine o'clock in the evening. The historic proposal for Nepal to become a federal democratic republic was tabled by Home Minister Krishna Prasad Sitaula on behalf of the prime minister. The proposal received overwhelming support, with 560 CA members voting in favor and four against. (The four members represented the RPP-N party, the only one explicitly in favor of constitutional monarchy.) The CA decided that King Gyanendra and his family would leave Narayanhiti Palace within 15 days, he would be accorded all the rights of a common citizen, and the palace would be turned into a museum open for the public.

It had initially been hoped that a new government would be in place by the time the CA met, but agreement on the shape of the new government was not feasible within the time limit. Additionally, during the May 28 session, 37 members of the CA were missing: the 26 nominated members had not been selected prior to the CA's first meeting, five

members were representing two constituencies each because they had won in two districts, and six members were absent.

It is natural that deliberation over the structure of the new state be contentious and take time. It will be important, however, for the new government and the political parties to avoid a politics-as-usual approach. With the CA functioning as both a parliament and a constitution-drafting body, there will be a temptation to mix the negotiations over day-to-day governance with those about particular constitutional clauses. This would be a disservice to the Nepali people. Nepal's new constitution must be a far-reaching document, relevant for many years to come, and not held hostage to the political debates of today.

As the most inclusive elected body in Nepal's history, the CA is well positioned to draft a permanent constitution that addresses the aspirations of Nepal's diverse people. For the new constitution to be genuinely representative, however, it is important that the major leaders of the political parties genuinely engage with the newly elected representatives and not only use them to rubber-stamp decisions taken at the highest levels behind closed doors.

The CA also should devise mechanisms to allow the people of Nepal to continue to participate in the constitutional process; their role should not end with the election.

Finally, all of the newly elected representatives should take seriously their shared responsibility to work effectively and transparently, to engage in broad consultation with all sectors of society at every stage of the drafting process, to reflect accurately the will of their constituents, and to remain personally accountable to the people of Nepal.



## CONCLUSIONS AND RECOMMENDATIONS

Nepal's constituent assembly election is an important milestone on the country's path to permanent peace and prosperity. The Nepali people have demonstrated their dedication to ending the decade-long conflict and their interest in a new and inclusive leadership that will tackle the difficult issues involved in drafting a new constitution and restructuring the Nepali state and will work to address the critical need for poverty alleviation and widespread development in Nepal.

The challenge for these newly elected leaders now is to deliver on their pre-election promises and remain in close contact with the electorate as they do so. Nearly two decades ago, Nepal's people took part in the *Jana Andolan I* (People's Movement I) but were disappointed by the advent of a brand of democracy that resulted in an overemphasis on personal gain and power struggles at the central level. Subsequent events provide a useful warning for any individual or political party that believes repeating such negative past behaviors will lead to success in the future. Following the *Jana Andolan II* and the constituent assembly election, it is clear that the people of Nepal expect leaders who will be transparent, effective, and accountable, and who will act in the best interest of their country.

The Carter Center commends both the statesmanship of Nepal's political leadership and the commitment of the Nepali people, which have allowed the country to achieve great progress toward peace in a short time. It is this shared perseverance in the face of serious post-conflict challenges that ultimately resulted in the generally successful election of April 10, 2008. Despite tensions during the pre-election period in the Tarai, hills, and mountains, election day itself was largely peaceful and well-administered. Although observers recorded instances of electoral malpractice and serious incidents of violence and intimidation by parties in the pre-election period, these were not sufficient to subvert the election, and all parties

accepted the results. Problems with re-polling, counting, and the complaints process surfaced post-election but did not significantly alter public faith in the final election results.

The Carter Center offers the observations and recommendations that follow in the spirit of cooperation and respect and with the hope that they will provide useful points for future action. These recommendations build upon the Carter Center's election and pre-election statements and are based on information gathered by the Center's staff and observers in meetings at both the local and central level with electoral authorities, government officials, political party and civil society leaders, security officials, Nepali



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*In this rural area in the days leading up to the election, a polling station official marks mock ballots to show the correct procedure for election day.*

citizens, and representatives of the international community over the course of more than 15 months of observation.

### I. CREATE A MORE INCLUSIVE AND ACCURATE VOTER LIST

One of the most significant areas for improvement is the need to review and improve the voter list prior



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to any future election. It is clear that the present list is flawed. Given that its last cutoff date was mid-December 2006, all 18-year-olds were disenfranchised in the April 10, 2008, constituent assembly election. Additionally, migrants unable to return to their permanent home, landless people, and those whose names were inappropriately left off the list were unable to vote. Moreover, many Nepalis' names are on the list several times in several different locations. Revising the voter list so that it is in a logical order (i.e., alphabetically) will also reduce the need for external party volunteers to assist with locating voter names and will speed the process overall. A thorough and impartial review of the voter list is essential to the success of future elections. Following the April 10 election, the Election Commission itself noted voter list improvement as a high priority; donors should seize this opportunity to support such an important activity.

### 2. MANDATE VOTER IDENTIFICATION WITH A VOTER ID CARD AND END INVOLVEMENT OF PARTY VOLUNTEERS IN THE VOTER IDENTIFICATION PROCESS

Failure to require that polling staff check each voter's identification documents led in some cases to serious electoral fraud such as underage voting, proxy voting,

and multiple voting. The government should launch a campaign to provide all eligible voters with a voter identification card, including a photograph. This card should then be required for presentation to polling staff (*not* party volunteers) on election day to prevent fraud.

Party volunteers should have no role in the voter identification process. The practice of allowing party volunteers to be the first contact with voters and "assist" with finding names on the voter list and providing a voter identification slip should end—it allows too much control to political parties over a key safeguard of the election that should be the sole jurisdiction of impartial election staff. Because most polling staff are not local, it is difficult for them to identify when party agents are colluding to perpetrate fraud. Additionally, the practice has the potential to violate the prohibition on campaigning, to compromise the secrecy of the vote, and to facilitate the provision of inaccurate information by party volunteers unfamiliar with the election rules and regulations.

### 3. IMPROVE THE SECURITY ENVIRONMENT, RULE OF LAW, AND FREEDOM OF MOVEMENT

Though election day itself appeared relatively peaceful, the pre-election period was at times marred by incidents of violence, including fatalities and other physical violence, as well as threats and intimidation. In the month prior to the election, the CPN-M suffered a disproportionate share of the most deadly attacks but was also primarily responsible for the physical attacks and threatening behavior. It is imperative that the new government focus on providing a secure environment for Nepali citizens and properly enforcing the rule of law to limit impunity and corruption. A key priority will be strengthening the Nepal Police and the Nepali people's confidence in the police, which will require intensive effort and, likely, donor support. Security challenges are different in the Tarai as compared to the hills and mountains and should be treated as such. The government must involve local community leaders in generating

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*Bundled election materials await transport to individual polling stations.*



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*A voter places his completed ballot in the box.*

appropriate security plans and should follow through on its commitment to engage in talks with armed groups. A corollary is the need for overall security-sector reform, including addressing the difficult issues of PLA in cantonments, YCL extortion and violence, “right-sizing” of the Nepal army, and creation of community-appropriate policing plans. It is clear that both improvement of the security environment and security-sector reform can be accomplished given adequate political will by the government and political parties.

Freedom of movement was a key issue in the pre-election period. All political parties should be able to campaign everywhere in the country, regardless of their ideology. Carter Center observers received complaints that certain political parties—most often the CPN-M and its affiliated wings, but other parties as well—were not allowing rival party cadres to campaign in their strongholds. Freedom of movement also was affected severely by the presence of a multitude of armed groups in the Tarai. As the election drew closer, candidates told Carter Center observers that they intended to campaign regardless of the threat to their personal safety, but this is not an adequate solution and often led to candidates traveling with their own independent “security forces,” which also provoked problems. At times, allegations

regarding poor freedom of movement appeared to provide a useful excuse for party workers who did not want to go out to the villages to campaign. However, it also clearly represented a real and at times significant obstacle to campaigning.

### 4. INCREASE LOCAL ELECTION STAFF CAPACITY AND ENSURE INCLUSIVITY OF MARGINALIZED GROUPS

The Carter Center commends the Election Commission (EC) at the central, regional, and district levels for its professionalism, impartiality, and ability to generate respectful working relationships with all political actors. Throughout the country, the vast majority of reports indicate that the EC is respected as a neutral actor—no small feat in the Nepali context. The Center also notes positively the significant contribution provided by the United Nations Mission in Nepal (UNMIN) electoral advisers at the central and local levels.

On election day, Carter Center observers noted examples where it appeared that polling staff were not fully in control or responsible for their polling station, delegating power to political party agents—particularly during re-polling. In some cases, polling officers appeared more concerned with signing ballots than enforcing procedures. All staff should understand their roles and be capable of exerting ownership over their stations. Additionally, the Center does not see a need for parties to have copies of the voter list ahead of election day; this only facilitates proxy voting, and the election staff themselves should be responsible for the list. Approved party agents within the polling center could receive list copies on election day to double-check voter identification. Finally, some polling centers should have had curtains to protect the secrecy of the vote, and all polling personnel required more clearly differentiated IDs in order to easily determine the role of each person in the polling center. Those with IDs should be required to display them prominently so that unauthorized persons are easier to identify.



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Overall, election preparation went well, but observers noted a lack of contingency planning and in some cases an ad-hoc approach to logistics arrangements. Planning and training should be conducted well in advance to allow for familiarization and troubleshooting. The differentiation of roles between DEOs and ROs was confusing in some cases and led to some problems, as did the occasional overinvolvement of CDOs. Additionally, EC structure should be more decentralized to allow more appropriate planning at the local level. Finally, observers reported that among the EC staff in the field, there were an overwhelming number of high-caste men. The lack of representation among women and marginalized groups did not inspire confidence in the expressed intentions of the government over the past two years to open the official sphere to previously marginalized groups.

#### 5. STRENGTHEN THE COMPLAINTS AND APPEALS PROCESS AND ENFORCE THE CODE OF CONDUCT

Carter Center observers at the local and central level report that the EC's complaints and appeals process was widely underutilized in the postelection period. This was due to several factors, including a lack of knowledge and understanding about how to use the process, a lack of faith in the fairness of the system, and concerns about "disrupting" the election after the fact. These problems were exacerbated by the fact that the EC's process was not transparent and somewhat confusing to navigate. It is essential to have a strong complaints and appeals process in order to build trust in the election after the fact and to decisively dismiss false claims of fraud that could otherwise cast doubt on the results. Along with the voter list and voter identification, this is a high-priority area for improvement for the EC. Additionally, it appeared that there was a gap in responsibility for violations that took place outside of the polling center, with polling officials not responsible for addressing the violations but often the local administration also failing to take up the responsibility.

Observers also noted many complaints prior to the election that the code of conduct was not being enforced. Though often these related to smaller, but more visible, violations such as wall paintings, larger issues such as threats and intimidation, interparty violence, misuse of state resources, and other issues were noted. Little action was taken by the EC to enforce the code, though it had the ability to fine and to cancel candidacies. It is understood that in the postconflict environment, the EC was in a difficult position to take a hard line on the code. However, such an attitude likely will be considered unacceptable by the Nepali people in any future election. For the future, the code of conduct should be reviewed to remove provisions that cannot be implemented or are overly specific, to clarify specifically what penalties are suitable for various violations, and to specify which body will be responsible for monitoring and enforcing the penalties. Additionally, both the code of conduct and the complaints and appeals process should be included in all official voter education to ensure that citizens and candidates are informed of their rights and responsibilities.

#### 6. SIMPLIFY THE ELECTORAL LEGAL FRAMEWORK, DISCARD THE POSTELECTION CANDIDATE SELECTION SYSTEM, AND CONSISTENTLY APPLY VOTE-COUNTING PROCEDURES

For the most part, the electoral legal framework provided for a democratic process in line with international standards. In the Carter Center's view, the most important failing of the electoral framework was the provision for selecting winning candidates on the proportional representation (PR) side of the electoral system *after* the election has taken place. As the Center has previously noted, this is a nontransparent, heavily criticized mechanism that gives excessive control to party leadership. Additionally, the legal framework was confusingly spread among many different acts and regulations that in some cases repeated or contradicted each other. The frame-



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*While voters wait for polling to begin, domestic and international observers watch as a polling official seals an empty ballot box.*

work should be simplified, and the election system made less complicated. Other areas for improvement include issuing all ballots at the same time to increase efficiency, adding names of candidates and parties on all ballots, creating a provision for spoiled ballots, and disallowing candidates to stand in more than one constituency.

Unlike the polling process, it appeared that there was insufficient planning regarding training and selection of counting staff. The most serious concern was the failure in almost all cases to reconcile the ballots cast with the number of voters who voted on election day. This opened the process to fraud because it resulted in no independent check on ballot-box stuffing; reconciliation should be mandatory in future elections. In some areas the vote count was tense or unnecessarily delayed due to negotiations between political parties over a determination of invalid ballots. Finally, both the use of centralized ballot counting at district counting centers and the provision that counting can begin only after all ballot boxes from a particular constituency arrive at the counting center should be reexamined.

## 7. INCREASE SUBSTANTIVE POLITICAL PARTY OUTREACH TO VOTERS AND IMPROVE INTERNAL PARTY DEMOCRACY, DECENTRALIZATION, AND INCLUSIVITY

Though political parties claimed to be campaigning at the village level, Carter Center observers noted that many did not sufficiently reach out to voters in rural or remote locations. Of all parties, CPN-M appeared best organized for the election and the most visible and active. Additionally, parties at the district level often had difficulty describing what policies their parties were advocating or how their particular party differed from the other parties contesting the election. Consequently, it was difficult for voters to make an informed choice among the various parties' candidates. Because larger parties often dominate, rules governing controls on the amount of money and media time each party can expend should be strictly implemented.

Lack of internal party democracy has resulted in party decisions that are controlled by the party elite and are not accepted or understood by local cadres (for example, the distribution of FPTP tickets and the selection of PR winners). All of Nepal's political parties need to make a greater effort to democratize internally—especially with regard to party finance—to allow for debate, dissent, and the fair and transparent competition of ideas and people. This will help reduce the public perception of corruption and nepotism. Nepali political parties also suffer from intense overcentralization. All decisions are made in Kathmandu, and information appears to flow almost entirely one way—from Kathmandu down. Observers were told literally hundreds of times by party members around the country that they were “awaiting instructions from Kathmandu.” When asked about local-level policies or initiatives, there was little response. Reports also indicate that party membership is generally noninclusive. Women hardly ever were seen by observers in party meetings, and most parties had some ethnic representation but little



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*After poll closing, officials use wax to seal unused ballots in bags to be delivered to constituency counting centers.*

Dalit participation. Though the quotas in the CA will provide inclusivity at the central level, a similar concept also should be applied at the local level.

### 8. EXPAND VOTER AND CIVIC EDUCATION EFFORTS WITH GREATER ELECTION COMMISSION OVERSIGHT

Carter Center observer reports indicate that there was an inadequate level of awareness and understanding among the Nepalese regarding the CA election once outside district headquarters. EC voter education volunteers (VEVs) did a reasonably good job but were comparatively few in number and sustained accusations of political bias. Additionally, weak oversight of the VEVs and NGOs conducting voter education led to some occasions where educators took money for their services but then did not in fact perform their jobs. Certain NGOs also suffered from a lack of coordination, oversight, monitoring, and follow-up.

Including civic education in school curricula is one additional way in which young people can learn about elections and bring this knowledge home to their parents. Voter education could also be strengthened by positioning impartial volunteers (such as VEVs)

outside the polling center on election day to educate voters waiting in line about the voting process and their rights. Finally, during voter education, a greater effort should be made to cover the complaints and appeals process in order to clarify the system for voters and make the process more transparent and accountable, thus potentially leading to its greater use in the future.

### 9. INCREASE TRAINING FOR DOMESTIC OBSERVERS

Prior to the election there was concern from the EC and others regarding the role of domestic observers in the election process, due to previous elections in which domestic observation had been uncoordinated and in some cases overtly politically biased. Following the CA election, though there were some reports of political bias, it appears that these fears were largely unfounded. Domestic observers were present in large numbers around the country, did not interfere with the electoral process, and presented generally impartial reports. However, Carter Center observers noted that domestic observers were often very passively observing the polling stations at which they were stationed. They tended to sit far away from the election staff and polling agents, where it was difficult to see what was happening. In several cases, particularly during re-polling, domestic observers rated polling stations as excellent despite obvious and rampant electoral fraud. It was unclear how widespread domestic observation efforts were in the postelection period during counting and re-polling. Overall, the domestic observation effort was a positive one and provides a useful foundation for future growth and development, given adequate financial and technical support. The role of a strong and effective domestic observer force cannot be underestimated, particularly in a country such as Nepal where international observer presence will always be limited by challenging geography.



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### 10. IMPLEMENT PREVIOUS COMMITMENTS MADE DURING THE PEACE PROCESS AND ENSURE GENUINELY INCLUSIVE POLITICAL PARTICIPATION

Throughout the peace process, implementation of signed agreements—among the leading political parties and between the government and marginalized groups—has been a constant challenge. There is no better way to build trust and confidence with the Nepalese than by all sides genuinely living up to the commitments to which they have previously agreed. There are a number of critical and as yet outstanding or inactive committees to be formed, including those on land, the disappeared, and security-sector reform. Additionally, violence, intimidation, and harassment

by CPN-M and YCL cadres are unacceptable and will do immense damage to the party's support domestically and internationally.

Finally, a key component of many of the agreements signed is for genuine inclusivity of marginalized groups such as women, Madhesis, Dalits, Janajatis, “backwards regions,” religious minorities, and others. The *Madhesi Andolan* was a struggle for the basic rights that have been denied to many in the Tarai for years, and paper promises will not eliminate the people's sentiment for change and inclusion. Thus, the spirit that has led to the most inclusive elected body Nepal has ever had must be replicated and reinforced in other democratic institutions at the local and central level. If political elites now go back to business as usual, the likelihood of additional protests,



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*Nepalis pass time in Patan Durbar Square, a historical site in the southwest part of the Kathmandu Valley.*



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serious disruptions, and possible violence is high. Now is the time to demonstrate that the commitment to inclusion is genuine and to take short- and long-term measures to ensure its implementation.

### CONCLUSION

The transition from war to peace is an immensely difficult process, and one that is not always successful. Despite fits and starts, Nepal's peace process has moved extremely rapidly and, in so doing, has created expectations that are difficult to live up to. The political leadership and the people of Nepal are to be commended for their continued commitment to peaceful dialogue to reach a solution to the obstacles encountered. The Carter Center encourages all parties

to review the events of the last two years as well as the challenges that plagued the previous period of multiparty democracy in Nepal and to determine ways to govern effectively and responsibly, improve cooperation, generate renewed trust, and deliver a long-lasting constitution that will accurately represent the will of the people.

The Center thanks the Nepali officials, political party members, civic activists, and citizens, as well as representatives of the international community, who have generously offered their time and energy to facilitate the Center's efforts to observe the constituent assembly election process.



## APPENDIX A

# THE ELECTORAL FRAMEWORK AND METHOD OF VOTING

Nepal's interim constitution provided for a constituent assembly (CA) election to select a body of representatives to draft a new constitution. During the drafting of the new constitution, the CA also functions as the legislature-parliament. The interim constitution called for the creation of a 601-member constituent assembly, with 575 of these members directly elected and 26 appointed by the cabinet after the election.

The interim constitution also states that the election to the constituent assembly should be held according to a “mixed” system. This was interpreted to include a first-past-the-post (FPTP) election component and a proportional representation (PR) election component.

When the Constituent Assembly Members Election Act was first promulgated in June 2007, it provided for 240 seats (50 percent of the total elected seats at that time) to be elected through FPTP and 240 (50 percent) through PR. However, after the Maoists pulled out of government and demanded a fully PR system, a compromise was reached in December 2007 to modify these provisions. According to the modification, which was incorporated into the interim constitution through an amendment, the FPTP system was used to elect 240 members (42 percent) of the constituent assembly, and the PR system was used to elect 335 members (58 percent). The remaining 26 members were appointed, not elected.

On election day, each voter received two different colored ballots: one blue ballot to vote in the FPTP election and one pink ballot to vote in the PR election.

The interim constitution states that one-third of all candidates for the constituent assembly election, including both FPTP and PR candidates, had to be women.

### FIRST-PAST-THE-POST (FPTP) ELECTION

For the purpose of the FPTP election, Nepal was divided into 240 geographic electoral constituencies. Each constituency was to elect one member to the constituent assembly.

The FPTP ballot showed the electoral symbols (but not the names) of the candidates registered to stand for election. Candidates could be representatives of political parties or independents. Each voter cast one vote for his or her preferred candidate. The votes cast for each candidate were then counted, and the candidate with the most votes was declared the winner.

Candidates were allowed to compete in up to two constituencies. Candidates who won in both constituencies were required to select the one he or she wished to represent, and a subsequent by-election would be held in the other constituency.

The election law stated that in the FPTP race, political parties “must pay proper attention to the representation of oppressed groups, poor farmers, laborers, and the disabled,” but the law did not include any specific guidelines. This provision was not enforced.

### PROPORTIONAL REPRESENTATION (PR) ELECTION

Only political parties registered with the Election Commission could stand for election under the PR system; no independents were allowed to run.



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When submitting lists of candidates to the Election Commission, political parties were required to ensure a certain level of representation on these lists for women, Dalits, indigenous ethnic groups, “backward regions,” Madhesis, and other groups (see details below). Lists that did not comply with these quotas were rejected by the Election Commission and were then corrected by the parties within seven days and resubmitted.

The type of proportional system used for the constituent assembly election was a “closed list” system, meaning that voters cast a vote for their party of choice but did not have control over which individuals the party selected to become members of the constituent assembly. Each voter could cast one vote for one party on the PR ballot.

The votes cast for each party were totaled for the entire country. The 335 PR seats were allocated to the parties according to the proportion of the total votes that each political party received using a formula called the modified St. Laguë divisor system.

Finally, once a party knew how many seats it had won, it had to choose the candidates to be elected from the party list of candidates, which had been submitted to the Election Commission prior to the election. The political parties could pick from anywhere on their lists and not according to any ranked system. However, parties did have to ensure that the candidates they chose met the quota requirements for

representation of women, Dalits, indigenous ethnic groups (Adivasi-Janajati), “backward regions,” Madhesis, and others.

## PROPORTIONAL REPRESENTATION QUOTAS

According to the Constituent Assembly Members Election Act, 2007, political parties had to submit lists that had names that covered at least 10 percent of the total number of seats under the PR system. That is, there had to be at least 34 candidates submitted on a candidate list. The candidate lists were also required to fulfill the following quotas for representation of various groups. (See chart below.)

Because the percentages total well over 100 percent, it was necessary for some candidates to fall in more than one of the categories. For example, a party could meet several quotas by having a Madhesi Dalit female as its candidate.

It should be noted that these quotas, except the female quota, were originally only applicable to political party closed lists covering more than 20 percent of the seats to be elected under the PR election. That is, lists with 67 or more candidates were legally bound to adhere to the quotas, while those with 66 or fewer candidates were not. However, in a Feb. 28, 2008, agreement between the government and a group of agitating Madhesi parties, this percentage was raised to 30 percent. Thus, the quotas were

## PROPORTIONAL REPRESENTATION QUOTA PERCENTAGES

| Sectoral Group or Region              | Female % | Male % | Total % |
|---------------------------------------|----------|--------|---------|
| Women                                 |          |        | 50      |
| Dalit                                 | 6.5      | 6.5    | 13      |
| Indigenous groups (Adivasi-Janajatis) | 18.9     | 18.9   | 37.8    |
| Backward region*                      | 2        | 2      | 4       |
| Madhesi                               | 15.6     | 15.6   | 31.2    |
| Other groups                          | 15.1     | 15.1   | 30.2    |

\* The category “backward region” refers to nine districts in Nepal: Achham, Kalikot, Jajarkot, Jumla, Dolpa, Bajhang, Bajura, Mugu, and Humla. These areas were chosen because they are at the bottom of the development index for Nepal’s 75 districts.



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only applicable to candidate lists with 101 candidates or more. Lists with 100 or fewer candidates were exempt from all of the quotas except for the 50-percent-women requirement.

### VOTE TABULATION AND RESULTS

All of the ballots were counted at the district level, not at the polling location. Ballot boxes were transported to a counting location at the district headquarters where they were sorted by constituency. The rationale for this process was that it would help increase the safety of Nepali citizens by making it more difficult for any party or individual to determine how a particular village or area voted.

Once all of the ballot boxes from a single constituency reached the counting location, counting of those ballots began. The FPTP ballots were counted first, and the results were announced locally. Then the counting of the PR ballots began, and these results were also announced locally. However, the final PR results were not known until all of the constituencies had been counted, and these results were reported to the central Election Commission. The Election Commission then announced the final election results and informed the political parties of how many PR seats they had been allocated out of 335. The parties then had seven days to select their winning PR candidates in accordance with the quotas described above.

### CONCERNS ABOUT THE ELECTORAL FRAMEWORK

The mixed electoral system chosen for the election of members to the constituent assembly is used in a number of established democracies and is seen as a robust electoral system combining the advantages of both first-past-the-post/majoritarian systems and

proportional electoral systems. In addition, the incorporation of substantial quotas for historically marginalized groups was an important and positive step. However, observers including The Carter Center raised concerns about some aspects of the system. Several of these concerns include the following:

The system of selecting the 335 winning candidates for the PR race after the election gives excessive control to party leadership, significantly decreases transparency for the voter, and increases the likelihood of intraparty conflict following the election when many candidates realize they will not be granted seats.

The reinterpretation of the “other groups” quota to mean “everyone else in Nepal” creates a quota for historically advantaged groups, such as dominant castes and ethnicities. The intended meaning of “other groups” in the interim constitution is other disadvantaged groups not covered by the existent quota categories, such as Muslims.

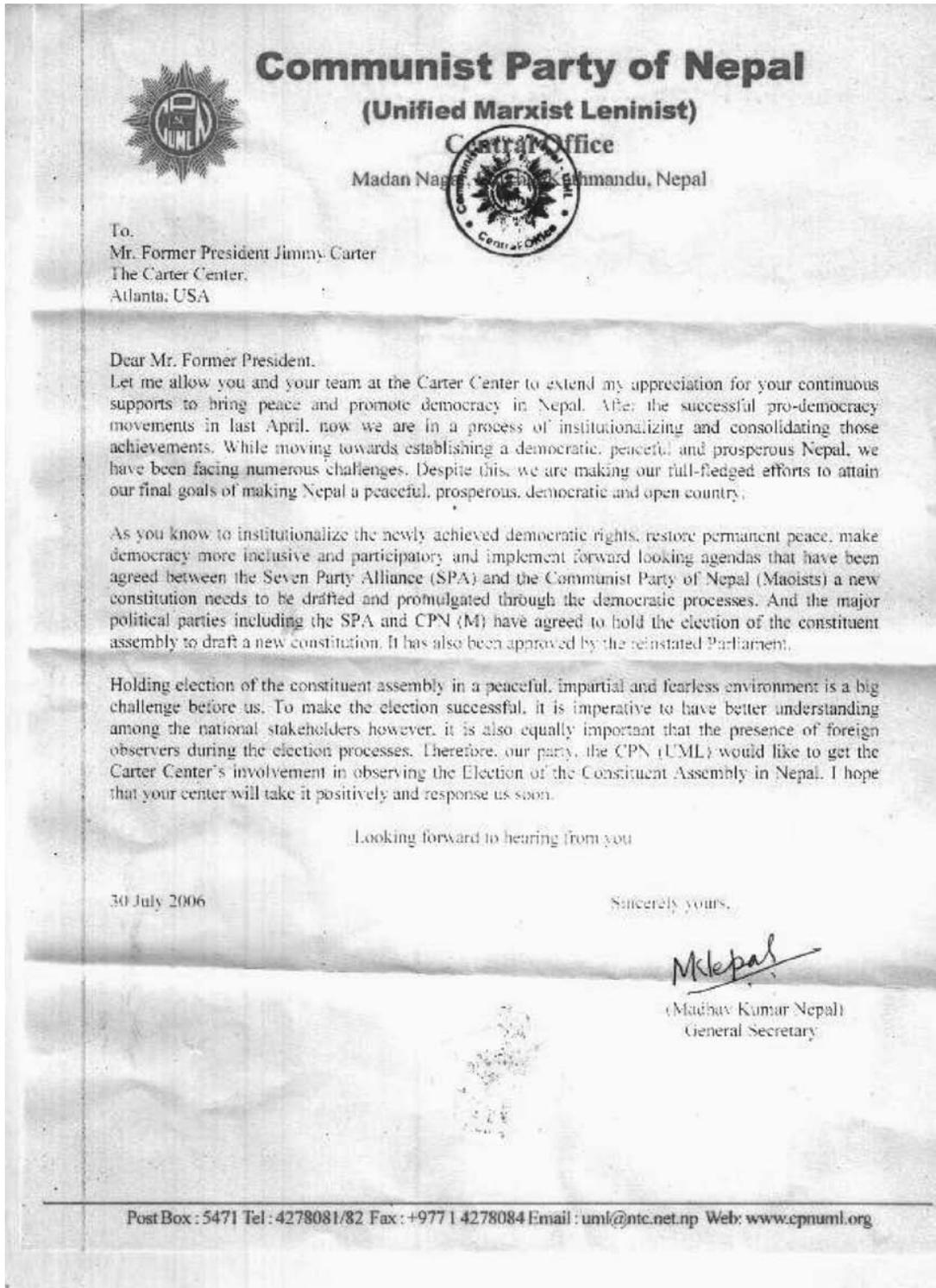
The system of allowing a candidate to run for election in two separate FPTP constituencies makes the likelihood of by-elections much greater and lengthens the time required to bring closure to the electoral process.

The decision to put only the electoral symbol of candidates on the FPTP ballots and to eliminate candidate names makes the ballot less informative than it could be. The rationale for using symbols is sound: a large percentage of the Nepali population is illiterate; therefore, it is essential that candidate and political party symbols be used on ballots. However, there are many Nepalis who are literate, and the ballot should provide as much information as possible, including candidate names.

*Note. Adapted from Nepal Election Portal ([www.nepalelectionportal.org](http://www.nepalelectionportal.org))*

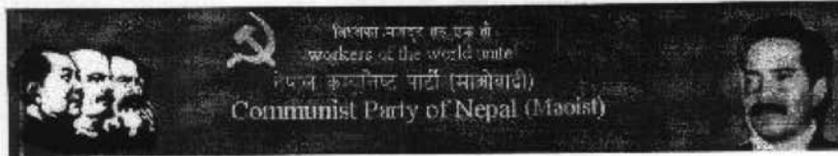


## APPENDIX B LETTERS OF INVITATION





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Mr. ex President Jimmy Carter  
The Carter Center  
Atlanta

I would like to extend my sincere appreciation to you and the Carter Centre team for your ongoing support to Nepal. As you know, Nepali people are passing through an historical, yet a critical transition phase and many challenges remain in our efforts towards democracy, peace and progress in the country.

In the past few months, Nepal has witnessed extraordinary developments in the political sphere, and our party has shown its sincere commitments towards peace & democracy by entering into peace talks with the government and signing the code of conduct on May 26, 2006 and eight-point agreement on June 16, 2006.

In light of the commitment of our party towards a free and fair election to the Constituent Assembly, we shall be happy to invite the Carter Center's involvement in observing the Constituent Assembly election. It is my hope that the people of Nepal can continue to count on your goodwill.

July 29, 2006

With warm regards and best wishes,

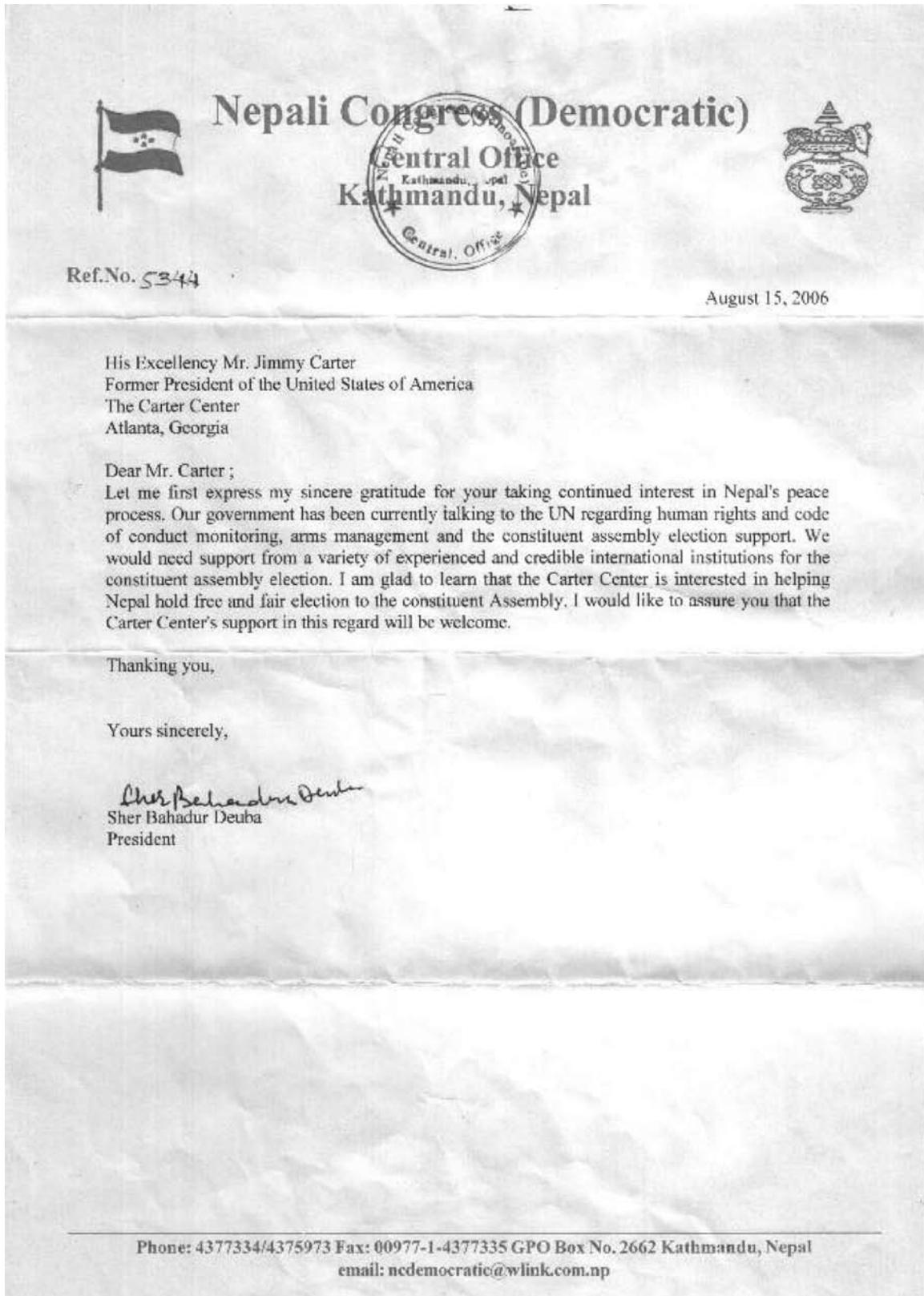
Sincerely yours,

Prachanda  
Chairman  
Communist party of Nepal (Maoist)



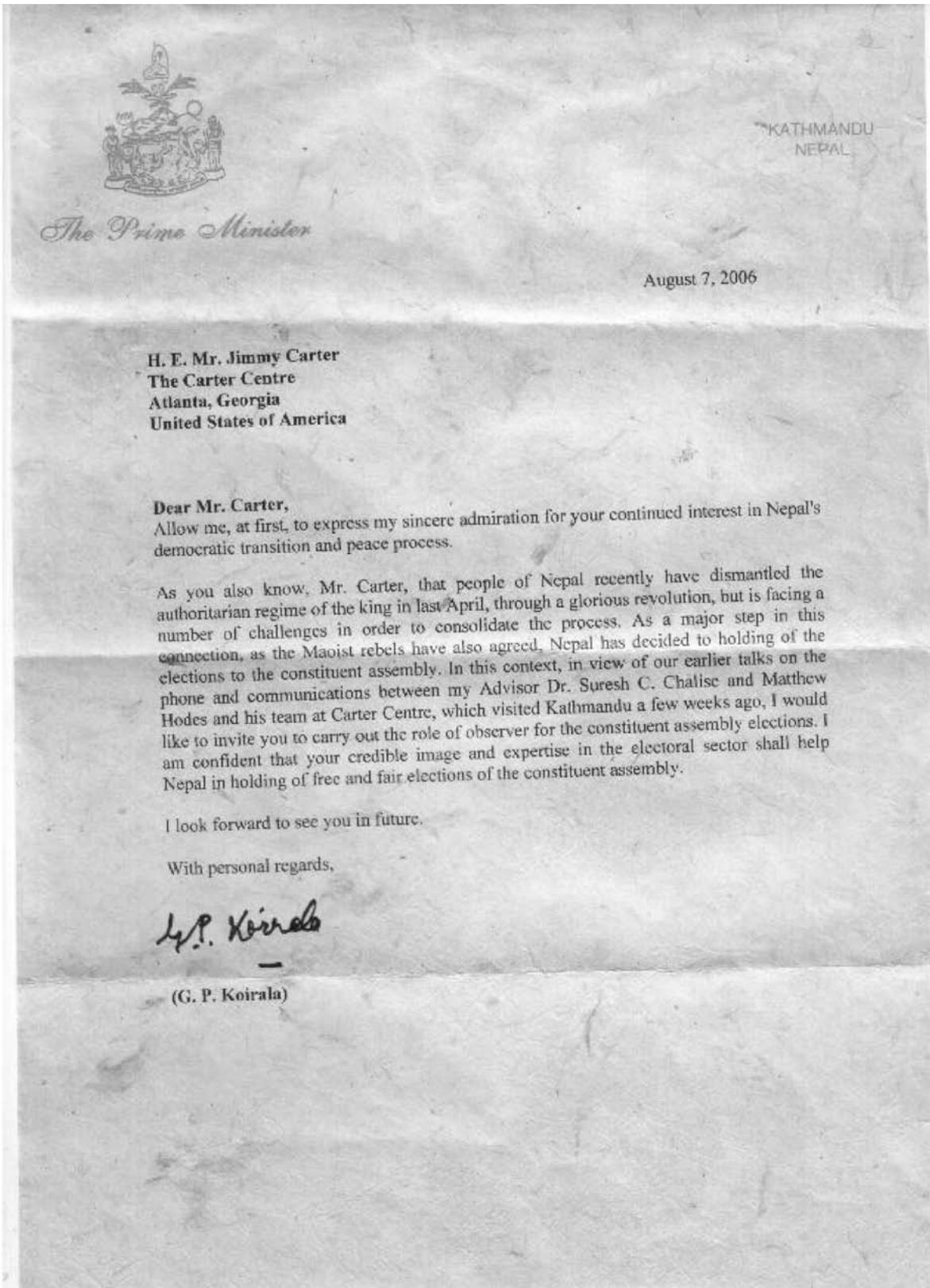
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OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION





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APPENDIX C  
SELECTED PRESS RELEASES AND PUBLIC REPORTS

NEWS

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ONE COPENHILL, ATLANTA, GA 30307

FOR IMMEDIATE RELEASE

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In Atlanta: Deborah Hakes, +1 404-420-5124

In Kathmandu: Darren Nance, The Carter Center – Nepal, +977 1 4445055

**THE CARTER CENTER DEPLOYS ELECTION OBSERVERS IN NEPAL**

**March 9, 2007**

**ATLANTA...** The Carter Center launched an international election observation mission in Nepal with the deployment this week of thirteen long-term observers in all five development regions around the country. The long-term observers come from eight countries: Bosnia and Herzegovina, Canada, Croatia, France, Germany, Sweden, United Kingdom, and the United States of America. The purpose of the mission is to observe the process leading up to, including, and following the constituent assembly elections to help ensure that voting takes place in a conducive environment free from fear, violence, or fraud. A Carter Center international election observation mission field office, established in Kathmandu in early January, will manage the observation mission.

“The Carter Center welcomes this opportunity to support the Nepalese people in their transition to sustainable peace and multi-party democracy and encourages all parties to the process to participate

actively and ultimately to respect the will of the people,” said David Carroll, director of the Carter Center’s Democracy Program.

The Carter Center has been active in Nepal since 2003 and was invited by the government of Nepal, several political parties, and the election commission of Nepal to observe the constituent assembly election process. Carter Center representatives have met with political parties, election officials, civil society, domestic observer groups, and the international community, all of whom have encouraged an international observation presence by the Center in order to help build confidence in the electoral process.

“It is our hope that the political leadership of Nepal and all actors in the process will continue to seek open dialogue and compromise in the pursuit of a transparent, inclusive, and credible electoral process that best enables the people of Nepal to exercise their



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

democratic rights," said Darren Nance, Carter Center Nepal field office director.

The Carter Center conducts its activities in a non-partisan, professional manner in accordance with applicable law and international standards for election monitoring set forth in the Declaration

of Principles for International Election Observation. It will remain in close communication with other international and domestic observer delegations and will publish periodic statements on its findings and recommendations on its Web site, [www.cartercenter.org](http://www.cartercenter.org).



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# NEWS

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**Pre-Election Statement:  
Carter Center Election Observation Mission in Nepal  
April 16, 2007**

**Summary:**

The Carter Center congratulates Nepal's sustained commitment to the peace process and applauds efforts to address political differences through dialogue. Following the Election Commission of Nepal's April 13 announcement indicating that a June constituent assembly election is not technically feasible, it is now up to Nepali political leaders to focus their efforts on putting the proper conditions in place for the conduct of a sound electoral process in a realistic timeframe.

While delay beyond June generates understandable uncertainty, a flawed electoral process could also undermine the peace process. The election commission has undertaken electoral preparations despite difficult circumstances, including the lack of an electoral legal framework from the government from which to operate. Additionally, the poor law and order situation limits freedom of movement for election and government officials, political parties, and Nepali citizens. The Carter Center therefore

supports political efforts to create an environment that is conducive to conduct an electoral process, to include the voices of Nepal's diverse communities, and to deliver constituent assembly election results that enjoy credibility in the eyes of the Nepali people.

The Carter Center was formally invited by the government of Nepal to observe the constituent assembly election process. The Center has deployed long-term observers representing eight different nationalities throughout the country; these observers have visited 50 of Nepal's 75 districts. The goal of the Center's mission is to demonstrate international support for Nepal's peace process and provide an independent assessment of the conduct of the constituent assembly elections.

The challenges listed below are based on the Center's observations. These priorities are explained in more detail in the longer report that accompanies this statement and the Center will share further assessments as the election process continues.



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

### Key points:

**A. Improve security environment.** Carter Center observers report unacceptable levels of continued fear, intimidation and physical violence. The poor law and order situation should be addressed in order to ensure a credible electoral process.

**B. Allow democratic space.** All political parties regardless of their ideology should be allowed to move and campaign freely in Nepal. Violations of this principle should be condemned publicly by all stakeholders when they occur.

**C. Adopt critical electoral legislation.** At present, the constituent assembly election law and other key legislation and decisions remain outstanding. As a matter of urgent priority, the interim government must adopt the legal framework that will provide the necessary base for the election commission and other participants to conduct the elections.

**D. Widen political inclusion.** The constituent assembly election is unlike an ordinary parliamentary election and in order for the results to be accepted broadly, extra care should be taken to include the perspectives and participation of previously under-represented groups.

**E. Launch voter awareness campaign.** There is a widespread lack of awareness among the Nepali people about the purpose and meaning of the constituent assembly election. A national voter awareness campaign is necessary to address this gap.

**F. Ensure a credible voter register.** Seized voter lists, civil unrest in the Terai, migrant voter issues, problems related to the citizenship process and the lack of a publicly displayed preliminary voter list threaten to undermine credibility of the voter register. Wherever feasible, measures must be undertaken to accommodate these concerns or minimize their ultimate impact.

**G. Prioritize transparency in the electoral system.** A proposal to allow parties to shift the order of candidate names on party lists after the elections would remove transparency for voters and could give political party elites disproportionate control over their candidate lists. The consequences of this and alternative approaches should be debated thoroughly before passage of the electoral law.



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**The Carter Center International Election Observation  
Mission in Nepal: Second Pre-election Statement**

**June 8, 2007**

This statement presents the observations and continued findings of the Carter Center's international election observation mission in Nepal. In March 2007, the mission deployed 13 long-term observers (LTOs) representing nine different nationalities throughout Nepal to assess the political and electoral environment in the period leading up to the constituent assembly election. The Center's observers have now visited more than 70 of Nepal's 75 districts, reaching not only to district headquarters but also to the village level.

The observations and recommendations below build upon the Carter Center's April 16 pre-election statement and are based on information gathered by the Center's headquarters staff and long-term observers in meetings with electoral authorities, government officials, political party and civil society leaders, security officials, Nepali citizens, and representatives of the international community.

The Carter Center conducts election observation activities in a nonpartisan, professional manner in accordance with applicable Nepali law and inter-

national standards for election observation as set forth in the Declaration of Principles for International Election Observation. The Center coordinates closely with other international and domestic observer delegations and publishes statements of its findings and recommendations on its Web site: [www.cartercenter.org](http://www.cartercenter.org). The goal of the Center's mission in Nepal is to demonstrate international support for and provide an independent assessment of the constituent assembly election process. The Center hopes that its activity will help ensure a credible process that is accepted by the people of Nepal and which serves to consolidate the gains of the ongoing peace process.

**KEY POINTS:**

**I. Sustain focus on electoral preparations**

The Carter Center is encouraged by the recent Eight Party agreement regarding a late November/early December timeframe for the constituent assembly election as well as the resumption of business in the interim legislature-parliament. Furthermore, the June



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

7 registration of a second bill to amend the interim constitution and discussions in the State Affairs Committee on the constituent assembly electoral system indicate that the political deadlock of the past several months is potentially coming to an end. While the Center is heartened by this resumption of electoral activity, concerns remain about the multiple outstanding issues that need to be addressed in an increasingly short time frame in order to facilitate a winter election. In order to ensure that the electoral legislation is widely accepted and facilitates progress in the electoral process, there is a critical need for consultation and buy-in from marginalized groups on the mechanism for inclusivity and the delimitation of new electoral constituencies. Following such agreement, the Center hopes that electoral legislation will be passed promptly and a new election date declared. The 110 day threshold the election commission has requested will expire in early August, and the decision of a date will enable the commission to best plan its efforts and reaffirm the Nepali public's faith that an election is forthcoming.

As the political leadership debates various electoral issues, the Center reiterates its recommendation to reconsider the issue of ranked candidate lists in the proportional representation system. The system presently being discussed would allow parties to give elected seats to any candidate within their proportional representation candidate list after the election result has been declared, rather than allocating the seats starting from an already ranked candidate list. The former system, if adopted, would remove the ability of voters to know who they are likely to elect from a given party and would provide political parties with disproportionate control over their candidates. As both systems will allow for the quotas for marginalized groups presently being discussed to be preserved, the Center encourages the political leadership to select the process which will be most transparent for voters.

The Center hopes that the Eight Party Alliance's recent initiatives indicate recognition that conducting the constituent assembly election is a shared responsibility. A collective and serious plan to deal with the pressing issues currently facing the country is necessary as is the announcement of a new election date. Given the intended transitional nature of the present government and the challenging political situation, commitment and cooperation by key stakeholders is essential in order to ensure continued progress.

The Center encourages the government of Nepal to focus on the common purpose of creating a conducive environment for the constituent assembly election, including action on all outstanding electoral legislation and decisions together with the new election date following widespread consultation and buy-in from marginalized groups.

### **2. Continue substantive dialogue with marginalized groups**

The Carter Center commends the government for its stated commitment to resolving issues of concern to marginalized groups through peaceful dialogue. The Center further notes the positive steps taken by the government via the Ministry of Peace and Reconstruction to initiate such dialogue with Madhesis, women, and Janajatis. The Center encourages the government to initiate similar talks with Dalit representatives, as they too represent a marginalized group that should be specifically targeted for inclusion. Reports from the June 1 negotiation session between the government and the Madhesi Janadhikar Forum (MJF) indicate that thus far the talks are going well, and it is hoped that this trend will continue and be repeated with other groups. Initiation of negotiations is a promising step. However, there remains significant work necessary to resolve the challenging issues that are being discussed.



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

It is possible that the issue of marginalized groups' electoral system demands may need to be separated from the wider package of concerns raised by these groups in order to allow both the electoral and the negotiation processes to proceed in parallel.

The Center notes the importance of public recognition by high-level government actors that the concerns of marginalized groups are legitimate and merit attention. It is hoped that not only at the central level but also at the district and village level significant effort will be made to educate and include marginalized communities in the constituent assembly process. Finally, the Center recognizes the commitment of individual district election officers who have undertaken activities to address issues of inclusion—such as mapping out linguistic regions within their district—to facilitate the implementation of effective voter education efforts, and supports the broader continuation of such activity.

The Center encourages the government to continue and strengthen its effort towards the swift resolution of key relevant issues regarding Madhesis, Janajatis, women, Dalits, and other marginalized groups.

### **3. Develop and implement a comprehensive and effective public security plan**

The Carter Center remains worried about the poor security environment in the country. The Center's long-term observers continue to receive reports of violence, vandalism, intimidation, and harassment by various groups. Terai-based groups specifically continue to conduct violent and unlawful activities, thus severely limiting activity of both Nepali citizens and government officials. Additionally, Maoist cadres and the Maoist-affiliated Young Communist League (YCL) persist with activities that violate the May 2006 Code of Conduct. Though Maoist and YCL cadres are also involved in good works around the country, their continued aggressive behavior

negatively affects the ongoing transition process. Moreover, despite repeated encouraging public statements by the Maoists at the central level about the return of property and displaced people and the re-establishment of police posts, the Center has found there are still significant areas of the country in which these processes are not moving forward or have in fact begun to backtrack. Finally, increased general criminality and lawlessness are also prevalent and add to the weak security environment.

Maintaining public security in the midst of a conflict transformation process is not a simple task, and Nepal's security environment must be viewed within this broader context. However, the safety of the populace is critical to the wider credibility of the ongoing peace process. All parties must jointly ensure that previous agreements including the Code of Conduct and agreed upon mechanisms for property return and re-establishment of police posts are fully implemented. Reports from Carter Center observers indicate that the Nepal police still lack sufficient capacity and morale, and this should be addressed in any future security plan. Additionally, the YCL should be encouraged to continue its good works and positive collaboration with the state security structure but needs to first eliminate all negative activity in order to demonstrate to the people of Nepal its desire to contribute positively to the development of the country.

The Center reiterates the need for all stakeholders to come together to develop and implement a comprehensive and effective public security plan in order to ensure a secure environment for the constituent assembly election.

### **4. Encourage political and electoral activity at the local level**

At present, Carter Center observers note a striking absence of political and electoral activity at the



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

local level. Repeatedly, across all districts and in organizations ranging from political parties to government offices to civil society groups, Center observers are told that local organizations are “waiting for instructions from the central level.” While central coordination is clearly necessary in order to ensure efforts are effective, there are a large number of active supporters whose energy is not being utilized. Devolving some degree of authority to local level actors and encouraging them to initiate planning and outreach on any number of topics—including civic education—can only serve to benefit these organizations as well as the Nepali people.

The Carter Center notes the importance of local level participation in the political and electoral process and supports any activities that expand the opportunities for grassroots activism and outreach.

### CONCLUSION

Nepal is in the midst of a challenging transition process, and The Carter Center heartily commends all key stakeholders as well as the people of Nepal for the progress that has been achieved thus far.

The Center reiterates its view that there is an urgent need for joint action toward a set of common goals: sustaining focus on electoral preparations and passing critical legislation, continuing substantive dialogue with marginalized groups, implementing an effective public security plan, and encouraging political and electoral activity at the local level. There is a serious amount of work for Nepali leadership to do in a short time if constituent assembly elections are truly to take place in November. The Center believes that the above recommendations will help serve to consolidate the gains of the peace process and facilitate the conducting of a credible constituent assembly election in the agreed timeframe.

The Center offers the above observations and recommendations in the spirit of cooperation and respect, and with the hope that they will provide useful discussion points for future action. The Center wishes to thank the Nepali officials, political party members, civic activists, and citizens, as well as representatives of the international community who have generously offered their time and energy to facilitate the Center's efforts to observe the constituent assembly election process.



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## STATEMENT BY FORMER U.S. PRESIDENT JIMMY CARTER

June 16, 2007

I'm happy to be back in Nepal and to be briefed by the Carter Center's long-term observers, political leaders, marginalized groups, and election officials here. I admire deeply what's been accomplished by the people of this great country over the past year. The Carter Center is here to support you in any way that we can, and to that end, our long-term observers have been deployed since March visiting over 70 districts to learn about the electoral and political environment.

### Constituent assembly election

Nepal is in the midst of a historic transformation, and this difficult process requires shared commitment from the government, civil society, marginalized groups, and most importantly the public. The country has set itself the essential goal of holding a constituent assembly election, and I support the significant progress toward that objective that has been made during my short time here. I urge the government to swiftly complete all necessary electoral preparations in order to hold an election in the month of Mangsir (November/December), including announcing a date and resolving any outstanding issues such as

the electoral constituencies. Compromise will be necessary to avoid conflict during this period.

Additionally, I would like to highlight two areas that I believe deserve increased focus in order to allow for an honest and credible election and future progress toward peace and reconciliation:

### Improved security environment

In the meetings that I have had over the past four days as well as in the reports I have received from the Carter Center's long-term observers, everyone is concerned about the problems of insecurity and violence in Nepal. The present law and order situation is unacceptable. A safe and secure environment is a core requirement for progress in the transition process. I have spoken with Chairman Prachanda, leader of the Maoists, about the problems with the Young Communist League (YCL), and he has personally assured me that he takes this matter very seriously. He acknowledged that there have been some problems and said that he himself will take the responsibility to end this bad behavior. I welcome these assurances, and my staff will be monitoring the



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

YCL closely to ensure that their future behavior is in line with these promises. I have also been assured by Madhesi Janadhikar Forum leadership that their group is committed to nonviolence and peace, and I also intend to continue monitoring this commitment.

Additionally, every democratic country in the world has a strong police force as part of its civil administration. The role of the police is to protect the people and make them feel safe. The Nepal police do not appear to have adequate political support nor the confidence of the Nepali people, and this is of critical concern to me. I hope the government and political parties at all levels will work closely together on this issue to ensure that the police have sufficient morale, capacity, and authority to carry out their important work in a fair manner that is respectful of human rights. Chief district officers must also have the authority to act independently and quickly to deploy the police.

### **Need for inclusivity**

For the first time in Nepal's history, marginalized peoples are exercising their democratic right to be heard and to participate fully and equally in Nepali society. Their concerns are legitimate, and I support them. When these rights are exercised in a peaceful way, it is an important and healthy part of the

democratic process. I do not believe that the road of violence will ultimately lead to success.

It is important to realize that this election should be viewed as only an interim step in a much larger, longer, and more important process—the constituent assembly itself. It is there that the complex issues being raised, such as restructuring the state, should be vigorously debated. Continued dialogue and compromise are needed in order to ensure that a representative constituent assembly is able to take up these critical issues.

Serious divisions will recur unless competent and responsible people are chosen after the election to fill party quotas on the proportional representation list. Those selected should represent the interests of their own marginalized group.

I want to close by repeating how impressive a path the Nepali people have chosen. I urge you to stand up to your growing reputation in the world and unite around the long-term goals of sustainable peace, prosperity, and participation in a representative democracy for all Nepalis. I offer you my best wishes and continued support and express my respect for what is being accomplished here in Nepal.

Thank you.



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**Carter Center Urges Nepal to Continue Progress  
for Nov. 22 Elections**

**The Carter Center International Observation Mission in Nepal:  
Third Pre-election Statement**

**Aug. 10, 2007**

This statement presents the observations and continued findings of the Carter Center's international election observation mission in Nepal. Since March 2007, the Center's 13 international long-term observers (LTOs) have visited all of Nepal's 75 districts, in many cases multiple times, reaching not only to district headquarters but also to the village level. The goal of the Center's mission is to demonstrate international support for and provide an independent assessment of the constituent assembly election process in order to help consolidate the gains of the ongoing peace process.

**OVERVIEW**

The Carter Center continues to believe that a Nov. 22, 2007, election remains an achievable goal for Nepal. However, time is now short, and a credible electoral process will require urgent, unified, and effective action on several fronts. The primary burden of effort rests upon the governing Eight

Party Alliance (EPA), though there are important roles for marginalized groups, individual political parties, civil society, and the international community to play. A second electoral delay may cause the legitimacy of the present interim government—the sole mandate of which is to conduct a constituent assembly election—to fall into question. Pre-conditions imposed on the process at this late stage do not help to instill broad public confidence. The Center is encouraged by the unity that has been maintained throughout the peace process thus far, and is hopeful that the governing alliance will sustain such coordination throughout the constituent assembly election.

“Now is the time for the government of Nepal to demonstrate its genuine intention to hold a credible constituent assembly election on Nov. 22, 2007,” said former U.S. President Jimmy Carter. “The parties must come together to convince the people of their dedication to this goal, take immediate steps to gain



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

the confidence of marginalized groups, and address the poor security environment so that the peace process continues to progress.”

### KEY POINTS

#### **Demonstrate commitment to a credible constituent assembly election in November**

The Eight Party Alliance government should take immediate and visible steps to restore the faith of the Nepali people in its commitment to the November constituent assembly election. A joint statement by all political parties pledging to conduct the election on time, backed up at the local level by prompt implementation of political party election preparation and programs, will demonstrate the government's dedication to the task at hand.

#### **Take practical, concrete steps to address the concerns of marginalized groups**

The Center congratulates the government and the Janajatis on the recently agreed 20-point understanding and hopes that this will set a positive precedent for other agitating groups. Additionally, the Center believes the government should promptly implement all agreements reached up to now with marginalized groups, continue ongoing negotiations, and take further confidence-building action in line with the spirit of the interim constitution. Additionally, leaders of marginalized groups should keep in mind the short time period left before the CA election and seek reasonable compromises so that their constituents are ultimately able to reap the benefits of the constituent assembly process.

#### **Agree on a comprehensive security plan for the Terai and the rest of the country**

The Center reiterates the need for the eight-party government, in direct consultation with all relevant

stakeholders such as Madhesi community leaders, to jointly develop a comprehensive and effective security plan in order to ensure a conducive environment in the Terai and around the country throughout the constituent assembly election process. Additionally, continued Maoist and YCL violence and aggressive behavior force the public to question the Maoists' genuine interest in participating fully in the democratic process; all acts in violation of the Comprehensive Peace Accord must cease immediately.

#### **Maintain electoral focus and momentum**

Given that the election is only approximately 100 days away, any final adjustments to the electoral law must take place immediately. Additionally, the Election Commission should remedy the existing technical gaps in the electoral law, clarify provisions that are causing confusion, and consider extending the period for political party registration. The government is also encouraged to make all outstanding legal and electoral decisions related to the Constitutional Court and the electoral constituencies immediately. Finally, the Center highlights its serious concern regarding party selection of winning proportional representation candidates after the election and encourages parties to publish ranked candidate lists voluntarily.

#### **Ensure a widespread, coordinated and, effective voter education campaign and domestic observer presence**

The Center encourages the government, the Election Commission, political parties, civil society, and the international community to collaborate in order to implement a successful and far-reaching voter education campaign. Additionally, domestic observer groups should coordinate together to generate plans for impartial and comprehensive monitoring throughout Nepal.



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**Nepal's Peace Process at Critical Juncture;  
Carter Center Appeals to all Nepali Political  
Actors to Work Together for Elections**

**The Carter Center International Observation Mission in Nepal:  
Fourth Pre-Election Statement**

Oct. 3, 2007

Nepal's peace process is at a critical juncture following the Sept. 18 departure of the Maoists from the interim government and the rapid approach of key electoral deadlines. The Carter Center is encouraged by the renewed commitment of all parties to maintaining unity and pursuing intensive negotiations to resolve contentious issues. However, the recent CPN (Maoist) threats regarding Nepal's electoral process as well as both the government and the Maoists' failure to live up to previous commitments remains a serious concern. All involved parties should focus on their collective responsibility to reach timely, thoughtful decisions that best serve the interests of the Nepali people. The legitimacy of all parties will be in question if such action is not taken promptly.

In this regard, recent activities by the CPN (Maoist) around the country are of particular concern. The protest program announced on Sept. 18 was clearly intended to derail the electoral process. The Center is also receiving reports of Maoist obstruction of voter

awareness programs, seizure of voter education materials, and harassment of political rivals. This behavior is unacceptable. While the electoral process is only one part of the larger peace process, the Maoists' actions do not instill faith in the Nepali people and call into question their dedication to peace and democracy. Moreover, the attack and continuing threats made on Kantipur print and television media by a Maoist-affiliated trade union is an incursion on press freedom, a principle explicitly agreed to by the Maoists in the Comprehensive Peace Agreement (CPA) and the interim constitution. The Maoist leadership has an obligation to publicly condemn and stop this activity.

The Carter Center is also concerned by the government's reluctance to follow through on its own obligations under the CPA, as this has exacerbated the current environment of mistrust. To move past the present political impasse, leaders on both sides should seek common ground in the spirit of their earlier commitments. Government and Maoist



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

leadership should recognize their interdependence; it is in the national as well as the democratic parties' interest for the Maoists to successfully transition into mainstream politics. In order to rebuild trust, both sides should also strive to implement the agreements they have already signed together as soon as possible and to the best of their abilities. Government action on key cantonment and security sector issues as well as Maoist cessation of violence and return of seized land will do much to bridge the present gap.

At the same time, implementation of the agreements signed with the Madhesi Janadhikar Forum, the Nepal Federation of Indigenous Nationalities, and other groups also needs to be a high priority. No other single action could so swiftly generate goodwill among marginalized groups and facilitate continued progress toward peace and inclusive democracy. Ongoing delay threatens to further erode the government's credibility among large sections of the Nepali population and the international community.

The people of Nepal have a democratic right to participate freely in a credible and inclusive electoral process to choose their own representatives, as promised to them in the CPA and the interim constitution. The election commission has done a commendable job in its role of overseeing electoral preparations. The Carter Center appeals to all Nepali political actors to remember the impact of their present decisions on the wider peace process and to act for Nepal's greater good, not simply according to narrow partisan interests. All political actors have demonstrated an admirable capacity to do so over the past two years. At this critical moment, parties have an opportunity to decisively renew their unity and commitment to achieving sustainable peace and multi-party democracy and to fulfill their promise to the people of Nepal.



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FORMER U.S. PRESIDENT AND CO-FOUNDER OF THE CARTER CENTER  
JIMMY CARTER'S ADDRESS TO NEPAL'S PARLIAMENTARY MEMBERS

November 2007

TO MEMBERS OF THE NEPALI PARLIAMENT:

It is a great honor for me to return to Nepal, where my wife and I first came as tourists. I was then 60 years old, and it was a thrill to visit the Pokhara region and to climb well above the Mount Everest base camp to a peak called Kala Patthar. Having just left the White House, I was privileged to meet the royal family and political leaders, as well as the wonderful Sherpa guides and to have leisurely visits among the monasteries in the high mountains. We then enjoyed the beauties of the Terai, on the border with India.

I have come this year representing The Carter Center, with no official status, no authority, and no relationship to the government of my nation. Our team has been here for most of this year, having been formally invited by the government, the major political parties, and the national election commission to observe the election of a constituent assembly to write a new constitution.

Our center has monitored 69 other elections around the world, and we look forward to this demonstration of your commitment to a transition from disharmony, discrimination, and conflict to peace, justice, and democracy.

Our experienced observers have visited all of Nepal's 75 districts, most several times, to evaluate election preparations, voter education efforts, the security environment, and access to the political process. They have met with leaders in district headquarters and at the village level and with as many private citizens as possible.

In June and on this visit, I have had an opportunity to consult with Prime Minister Koirala and other leaders of the major political parties, with members of the election commission, with Madhesi representatives, Dalit and women's activists, prominent members of civil society, leaders of the indigenous nationalities, chief of the army staff, PLA deputy commanders, UNMIN head Ian Martin, and several ambassadors.

The international community is observing this process of peace and reconciliation with great admiration but with growing concern because of postponement of two scheduled elections and the government's failure to implement multiple terms of the Comprehensive Peace Agreement.



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

I am so proud and grateful, however, that parties formerly in conflict now persist in resolving differences within this legislative body through private negotiation and public debate. You know better than anyone that the alternative to success is the disillusionment of the Nepali people and a return to civil strife and possible bloodshed.

The Comprehensive Peace Agreement and many others have been negotiated among government leaders, the Maoists, and the traditionally marginalized groups. It is crucial that these agreements be implemented and not separated from the effort to schedule an election. The two are inseparable, and neither can be consummated without the other. The failure to keep promises already made has disillusioned the public and created distrust among political leaders. They are clear to all of us:

There is an agreement for the government to pay a monthly salary to PLA soldiers in cantonments, to provide adequate living conditions in the camps, and to make arrangements to assist those discharged to resume normal life. This has not been done.

There is an agreement by the Maoists to discharge individuals from the cantonments who are ineligible and to account for funds received from the government. This has not yet been done.

It was agreed that all land seized during the conflict would be returned, but only modest progress has been made. A dedicated and competent land commission is necessary to complete this process.

Peace was to have been maintained, but there are frequent reports of violence harassment, and extortion by members of the Young Communist League. Such violence is unacceptable and is damaging the image of Maoists at home and abroad.

Additionally, large sections of Nepal, particularly in the Terai, are insecure due to violence by armed groups as well as a lack of government security presence and proper action by the police to maintain law and order. Without firm backing and direction from Kathmandu, fearful government employees are leaving their posts.

There has been no promised reform of the Nepal army, and the "special committee for the integration and rehabilitation of the combatants of the Maoist army" has been inactive.

The status of people who disappeared during the war is still not known, and compensation for war victims' families is long overdue.

The Comprehensive Peace Agreement mandated the establishment of a national peace and rehabilitation commission, but it has not been established.

The exciting and innovative agreements signed with the Madhesis, indigenous people, and other marginalized groups have yet to be implemented.

These are serious matters and cannot be separated from the election process. However, this lack of progress should not be a source of discouragement. The leaders of Nepal have demonstrated time and again your wisdom, patience, and determination to succeed. The agreements already reached have defined a future for your nation that is clear and inspirational.

You have already made the major decisions, and a clear pathway to peace and democracy has been defined. A general consensus seems to prevail that this will be a republic, and this declaration needs to be made legally irrevocable.



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## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

Basic rights of the formerly marginalized peoples depend on proportional representation and quotas based on the most recent census. The primary political struggles now are about the minimal future strength of the major political parties. I have been in politics, and I understand these motivations to remain in office, but your paramount responsibility at this crucial time in this nation's history is the overall well-being of the general population.

The government holds executive power, and members of parliament have a duty to take strong action to implement the agreements already reached, to establish committees to monitor progress, and to keep the

public informed. My hope is that you will soon reach reasonable compromises on the controversial issues and will set a firm and timely date for the constituent assembly election.

Yours is a sovereign nation, and all the decisions about its future are in your hands. However, you should utilize fully the great interest of the United Nations and the international community and, when appropriate, accept financial assistance and support.

These are historic moments, as you fulfill the great responsibilities that have been placed in your hands. We wish you well.



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STATEMENT BY FORMER U.S. PRESIDENT JIMMY CARTER

Nov. 24, 2007

The people of Nepal have embarked on a remarkable and historic transition. I am proud and grateful to witness parties formerly in conflict demonstrating their commitment to resolving their differences through peaceful means.

I intended to come here this week to observe a constituent assembly election that would allow the Nepali people to select their own representatives to draft a new constitution. This new constitution will be an opportunity to ensure a peaceful, just, and democratic Nepal that for the first time in the country's history adequately represents the needs and aspirations of Nepal's diverse population, including Madhesis, indigenous people, women, Dalits, and others.

However, I am disheartened that despite the people's intense desire to exercise their democratic right to participate in an election, the elections have been twice postponed due to political disagreements among Nepal's leaders.

I have talked to Prime Minister Koirala and other leaders of the major political parties, members of Parliament, members of the Election Commission,

Madhesi representatives, prominent members of civil society, leaders of the indigenous nationalities, chief of the army staff, People's Liberation Army deputy commanders, United Nations Mission in Nepal head Ian Martin, and several ambassadors. It has become clear to me that the current political stalemate hinges not only on the issues of the electoral system and the future of the monarchy, but on a deeper underlying mistrust that has arisen among the major political parties.

The mistrust seems to originate in the government's perception that the Maoists are not genuinely interested in participating in a credible democratic election and the Maoists' view that the government is solely interested in preserving the status quo and remaining in power.

Additionally, I believe that this mistrust has been exacerbated by the failure on both sides to implement key provisions of the Comprehensive Peace Accord and subsequent agreements signed with marginalized groups. These promises cannot be separated from the election process, and they should be fulfilled in order to rebuild the trust among political leaders.



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

The following issues merit review and full implementation:

- The government has promised to pay former combatants who have now been in the cantonments for a year, provide decent living conditions, and make arrangements to assist those discharged to assume normal life. This commitment has not been adequately fulfilled.
- The Maoists have agreed to account for the funds received for the cantonments and to immediately discharge all minors. This has also not been fulfilled.
- Additionally, the Maoists have agreed to return all land seized during the conflict. This commitment has not been respected, and there are reports that they have recently begun seizing new land. I encourage the Seven-Party Alliance (SPA) to create immediately a land commission to oversee the return of property and determine compensation as appropriate.
- The Maoists have also committed to cease violence and maintain peace around the country. However, Carter Center observers have received frequent reports of violence, harassment, and extortion by Maoist cadres and members of the Young Communist League. Such violence is unacceptable and is damaging the image of Maoists at home and abroad. These activities must cease immediately. No other single action would so swiftly indicate to the Nepali people and the international community the Maoists' commitment to genuine participation in the democratic process.
- The status of people who disappeared during the war is still not known, and compensation for war victims' families is long overdue. I was encouraged to read this morning that the government intends to introduce a bill to make public the status of the disappeared.
- The momentous agreements signed with the Madhesis, indigenous people, and other marginalized groups have yet to be implemented.
- There has been no promised reform of the Nepal army, and the committee for the integration and rehabilitation of the combatants of the Maoist army has been inactive.

Additionally, domestic security will need to be strengthened in order to create a conducive environment for the election. Large sections of Nepal, particularly in the Terai, are insecure due to violence by armed groups and a lack of government security presence. It is my hope that the government and the SPA will take specific, effective action in coordination with community leaders to curb this violence.

Currently, nearly all of the leadership's time and energy is occupied solely with the questions of an electoral system and the timing of a declaration of a republic. I am submitting to the political leaders an unofficial compromise proposal on these two issues that may serve as a basis for further discussion. But a successful constituent assembly election and implementation of previous agreements are inextricably linked. The government must demonstrate tangible evidence that steps are being taken to implement these agreements in order to restore the people's confidence in the peaceful political process and to rebuild trust among political leaders.

In the coming days, political parties need to be flexible in seeking a solution to the present political impasse. I have been assured that by Dec. 15, the parties will reach a consensus on the outstanding areas of disagreement and proceed to an election hopefully to be held by mid-April 2008. I directly appeal to the leadership of all political parties to take this historic opportunity to carry the peace process forward to its logical next step: the free and fair election of a constituent assembly within this timeframe.



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Despite the current frustration, I remain deeply impressed by the courage and dedication of the Nepali people to resolve their differences peacefully and by the speed with which they have moved from war to peace. The Carter Center will continue to

follow this process, and I am hopeful that the current impasse will be amicably resolved and will lead to a successful and timely electoral process.



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## **Carter Center Calls on Nepal's Government and All Parties to Focus on April 10 Elections**

**Feb. 17, 2008**

The Carter Center has heard from Nepalis nationwide that they want peace, prosperity, and a representative, transparent, and accountable government. Nepal's political leaders need to respond to these expectations by holding a credible election for the constituent assembly on April 10, 2008.

Nepalis are concerned by the ongoing problems in the Terai, the poor security environment around the country, and recent election-related violence and threats. The responsibility to address these challenges quickly and effectively falls directly on the government.

The Carter Center is encouraged by ongoing talks with Madhesi leaders and hopes that this indicates the government's renewed commitment to addressing the challenges the country is facing as it prepares for the April 10 election.

"The government must convince Madhesis and other marginalized groups that it is ready to treat them with the dignity and respect they deserve," said former U.S. President Jimmy Carter. "At the same

time, Madhesis should recognize that the constituent assembly election offers them unprecedented access to political power. With less than two months before the election, I encourage all sides to seek compromise in the best interest of Nepal."

The Carter Center also notes with concern the reports of threats and violence related to election campaigning.

"All parties, no matter what they stand for, should be allowed to campaign freely everywhere in Nepal," said Carter Center field office director Darren Nance. "This is a basic principle of democracy, and all of Nepal's political parties should publicly and repeatedly express their commitment to uphold it."

In its fifth pre-election statement, available below, The Carter Center shares its observations and recommendations about the ongoing electoral process in Nepal, based on more than a year of continuous international election observation by long-term observers and headquarters staff. Key recommendations in the statement include:



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## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

- Resolve the immediate concerns of Madhesis and other marginalized groups
- Improve the security environment in the Terai and around the country
- Mobilize party machinery for peaceful campaigning
- Ensure freedom of movement for all, regardless of ethnicity or political ideology
- Continue election preparations with a focus on logistics and security
- Instill confidence that winning candidates from the proportional representation party lists will be selected in a transparent and responsible manner
- Intensify effective civic and voter education
- Maintain an impartial, well-trained, and coordinated domestic observation effort



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**The Carter Center International Election Observation  
Mission in Nepal: Fifth Pre-election Statement**

Feb. 17, 2008

Following more than a year of continuous observation, including visits to all of Nepal's 75 districts, The Carter Center has recently redeployed a team of 13 long-term observers (LTOs) in preparation for the April 10 constituent assembly election. The observers represent eight different nationalities including Chile, United States, Canada, United Kingdom, Cameroon, Italy, Bosnia and Herzegovina, and Singapore. The LTOs will travel throughout Nepal to assess the political and electoral environment in the period leading up to, including, and immediately following the election. They will be joined by a larger delegation of observers closer to election day.

**Introduction**

After two postponements in 2007, Nepal's constituent assembly election is now scheduled for April 10, 2008. The Carter Center is encouraged that all parties have pledged their renewed commitment to a credible and successful election on this date and have taken positive steps to achieve this goal, including holding Seven-Party Alliance (SPA) mass meetings around the country, creating a High-Level Government

Steering Committee as called for in the 23-point agreement, and visible campaigning and other electoral preparations by political parties and the Election Commission of Nepal. These actions have created positive momentum and have demonstrated unity of purpose, common vision, and shared responsibility within the SPA. This is a victory for the peace process, and Nepal's political leaders are congratulated for their hard work and dedication.

The Center also commends the government and Madhesi leaders for recently initiating talks after many months of violence and unrest in the Terai. These talks appear to be a serious effort to resolve the ongoing challenges in order to pave the way for a successful April 10 election. Such challenges are exemplified by the recent bombing of the district election office in Nepalgunj as well as the other bombings that have taken place during political party mass meetings with the declared intention of derailing the election until Madhesi demands are met. The Carter Center strongly condemns this violence. Additionally, the recent general strike in the Terai has once again shut down daily life and is hampering



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the delivery of election materials and the deployment of election officials. The government and Madhesi leaders should agree swiftly on effective action to resolve the multi-faceted challenges in the Terai in order to end the continuing instability. Until they do so, the entire country will continue to suffer from the direct and indirect effects of the unrest.

Additionally, while the ongoing talks with Madhesi leaders are a positive sign, Carter Center observers report that many Nepalis remain skeptical about the government's genuine commitment to an April 10 election. The prior postponements have created mistrust and cynicism amongst the public, and behind closed doors, even some politicians express doubt that the election will take place as scheduled. The Nepali people are worried about the consequences of another delay in the present fragile political environment.

As the party holding the key ministries of Home Affairs, Peace and Reconstruction, Finance, Defense, and the post of prime minister, the Nepali Congress is perceived by many to carry a significant share of the burden of responsibility for the challenges the country is presently facing regarding peace, security, implementation of agreements, and inclusion of marginalized groups. At the same time, the Maoists are blamed for continuing violence, harassment, and intimidation, particularly against other party cadres. The combined efforts of these two parties together are necessary to hold the election successfully. However, ultimately all parties in the SPA will be held accountable. Implementing previous agreements is one clear and immediate way that the government could help to build confidence within the SPA and with marginalized groups and that would create positive momentum for both the election and the wider peace process.

There is a strong sentiment among all Nepalis for just and sustainable peace, prosperity, and representative democracy. The constituent assembly election is a key

part of the roadmap laid out in multiple agreements for achieving these goals. The Carter Center urges focused attention on the following issues in order to create a conducive environment for the election, and to ensure that this election achieves its intended purpose. These observations are based on information gathered by the Center's long-term observers and headquarters staff in national and local level meetings with Nepali officials, civil society leaders, marginalized groups, individuals, and international organizations.

### **Key points:**

#### **I. Resolve the immediate concerns of Madhesis and other marginalized groups**

The Carter Center is encouraged by ongoing talks with Madhesi leaders, and hopes that this indicates the government's renewed commitment to addressing the challenges the country is facing as it prepares for the April 10 election. Now is the time for the state to convincingly demonstrate to Madhesis that it is ready to treat them with dignity and respect. At the same time, Madhesi leaders must also recognize that the Madhesi people stand to gain significantly from the constituent assembly election. With less than two months before the polls, not all demands can or should be resolved right now. Compromise will be required on all sides to ensure that the historic opportunity presented by the constituent assembly election is not missed. This election is the beginning, not the end of the process.

The Center also notes specific concern about the demand to change political party quota obligations in the election law. The implications of such a change for women, Dalits, other marginalized groups, and Madhesis themselves should be carefully analyzed to ensure that their numbers in the constituent assembly would not be reduced as a result. Additionally, such an amendment could slow electoral preparations.



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### **2. Improve the security environment in the Terai and around the country**

The overall security environment is poor, particularly in the Terai. Maoist and Young Communist League cadres carry out violence, extortion and harassment around the country, while the Janatantrik Terai Mukti Morcha factions, other armed Madhesi groups, and criminal organizations create terror in the Terai. This behavior is unacceptable and harms the rights, livelihoods, and physical safety of the very people these groups purport to represent. Developing appropriate methods to deal with these groups must be one of the top priorities in the talks between the government and Madhesi leaders. Security problems are exacerbated by the weak state of the Nepal Police and the Armed Police Force, which Carter Center observers report do not have the trust of the communities in which they work nor the capacity to operate effectively. Many Madhesis perceive the Terai-based Special Task Force (STF) in particular as a non-representative police presence that takes unjustifiable measures against Madhesi civilians. Improving security will require increased effort on all fronts, and must be accompanied by a political solution to the problems in the Terai.

### **3. Mobilize party machinery for peaceful campaigning**

Political campaigns are one clear way for parties to signal to voters their commitment to a peaceful and credible election in April. The Center is encouraged by the increased visible campaigning that has already taken place and hopes that political parties will further intensify their campaign activities and actively include local level party leaders. However, political parties must respect the guidelines prescribed in the electoral code of conduct and cease campaigns based on threats and intimidation of voters and opposition parties. Carter Center observers report that Maoist and YCL cadres in particular need to curb such

activity. Additionally, the Center notes with concern the reported decision to re-activate the United Revolutionary People's Councils which previously served as parallel governments and were dissolved under the Comprehensive Peace Agreement.

### **4. Ensure freedom of movement for all, regardless of ethnicity or political ideology**

Carter Center observers report that real and perceived security threats impede freedom of movement around the country, as evidenced by recent bombings and attacks on political party mass meetings and election offices in the Terai. The Maoist party at the local level is reportedly responsible for curtailing the ability of other parties to campaign freely in certain areas. Such activity forces the public to doubt their commitment to a free and fair election. Additionally, in the Central and Eastern Terai large areas south of the highway are "no-go" zones for party representatives and officials alike due to violence by armed Madhesi groups. It is a main principle of democracy that all parties, regardless of their political ideology or ethnic composition must be allowed to campaign freely. Violence and intimidation undertaken to impede the free movement of rival political parties should cease immediately.

### **5. Continue election preparations with a focus on logistics and security**

The Carter Center commends the Election Commission at the central, regional and district levels for its professionalism and its impartiality towards all official and political actors. The Center also notes the Commission's appreciation for the work of the United Nations Mission in Nepal (UNMIN) electoral advisors at the central, regional and district level. Center observers express concern, however, about logistical plans for the election at the district level. In the lead-up to the planned November



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election, preparations in remote districts appeared heavily reliant upon central support—especially in regard to election security. The current plan for recruiting and mobilizing a large number of temporary security personnel also gives rise to renewed concern that the new recruits will be politically aligned. The Center is encouraged by the Commission's efforts to enhance logistical and security preparations but believes that given the inherent challenges these areas will require the continued attention of the Commission and other relevant agencies, particularly at the local level.

### **6. Instill confidence that winning candidates from the proportional representation party lists will be selected in a transparent and responsible manner**

The Center continues to believe that an important failing of the electoral law is the adoption of a closed-list system which allows political party leaders to select winning candidates on the proportional side of the electoral system after the election. As the Center has previously noted, this is a non-transparent, heavily criticized mechanism that gives excessive control to the party elite and could lead to conflict after the election when candidates who expect to be rewarded with party seats are not. The Center strongly urges the parties to ensure that, at a minimum, the selected candidates are genuine representatives of their constituencies and to reconsider this system for future elections. Additionally, all parties regardless of their quota obligations should ensure that their lists are diverse along gender, caste, ethnic and other lines.

### **7. Intensify effective civic and voter education**

According to Carter Center observers, the level of awareness and understanding among the Nepali

people regarding the meaning and purpose of the constituent assembly election remains low. The impact of previous civic education efforts by domestic NGOs seems to have been limited and suffered from a lack of coordination, monitoring, oversight, and follow-up. The Election Commission's voter education program appeared to have been better implemented, but all actors must plan efforts to ensure that education effectively reaches a diverse and multi-lingual audience. Additionally, an emphasis on oral dissemination of information is suggested given Nepal's literacy rate.

### **8. Maintain an impartial, well-trained, and coordinated domestic observation effort**

Domestic observers are an important component of Nepal's constituent assembly election. During the November election preparations, domestic observation had only just begun so it was difficult for the Center to assess its effectiveness. The Center trusts that during the upcoming electoral process, different observer groups will coordinate their efforts and maximize their effectiveness by fully training observers who are impartial and well-informed about election procedures and legislation.

The Carter Center offers these observations and recommendations in the spirit of cooperation and respect in the hope that they will provide useful discussion points for future action. The Center wishes to thank the Nepali officials, political party members, civil society members, individuals, and representatives of the international community who have generously offered their time and energy to facilitate the Center's efforts to observe the constituent assembly election process.



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### **Carter Center Urges an End to Election-Related Violence in Nepal**

**March 18, 2008**

The Carter Center's international election observation mission in Nepal has observed the pre-electoral environment in the country for the past 14 months. The Center is encouraged by the level of electoral preparations and campaigning presently taking place, as this represents a marked increase from the two previous election periods in June and November 2007. Additionally, following the signing of the United Madhesi Democratic Front (UMDF) agreement, the security situation has improved significantly in the Terai, though many districts remain fragile. All across the country, the Center's long-term observers report that the people of Nepal want to participate in the constituent assembly election and expect that a successful election will bring sustainable peace, democracy, and prosperity to Nepal.

However, political parties and the government need to continue and increase activities that reassure voters of their commitment to the April 10 election. Following the two previous postponements, the Nepali public has grown skeptical about the government's genuine commitment to the April date. Additionally, the Center is deeply concerned by reports of continued Maoist and Young Communist

League (YCL) violence in the hill and mountain districts, as well as announced plans to disrupt the election by armed groups in the Terai. The Center strongly condemns these activities and notes their potential to significantly hamper the electoral environment, decrease voter turnout, and call into question the election's credibility.

With only 22 days remaining before the constituent assembly election, the Carter Center's international election observation mission in Nepal puts forward the following recommendations in order to ensure a credible and successful electoral process. Specifically, The Carter Center:

Calls on all parties to sustain their commitment to the April 10 constituent assembly election and increase peaceful campaigning efforts particularly at the village level;

Urges an immediate cessation of Maoist and YCL violence, threats, and harassment, which have increased in recent weeks and which threaten the credibility of their party, the election, and the peace process;



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Notes concern over reported plans by the Maoists and other parties to mobilize up to 200 supporters per polling station on election day, given the potential for intimidation of voters and conflict between parties;

Requests the government to fully implement the agreement signed with the UMDf as well as other agreements, including swift action on the provision to create a conducive environment for talks with the armed Madhesi groups in order to ward off their potential to act as spoilers to the process;

Encourages moderate Madhesi leaders to use their authority to publicly and privately insist that the armed groups cease violence intended to disturb the election;

Calls on the government to strengthen its support for the Nepal Police and the Armed Police Force in order to facilitate their ability to provide a secure electoral environment, and to implement appropriate security measures in consultation with local community leaders, while sustaining their commitment to the protection of human rights;

Advises the political parties, the government, and the Election Commission to act strongly on their shared obligation to respect and vigorously enforce the electoral code of conduct;

Suggests a public and transparent agreement regarding the rules of conduct for the People's Liberation Army (PLA) and Nepal Army (NA) during the electoral period in order to address fears that either group will attempt to leave their areas and influence the process;

Advocates for continued intensive voter education in order to familiarize voters with the purpose of the constituent assembly election and the new electoral system;

Suggests that the Election Commission and the government clearly and in a coordinated manner explain to the public the postelection transition plan, including the length of time needed to process the election results, the process for forming a government following the election, and the procedure for initiating the work of the constituent assembly;

Encourages domestic observer networks to rigorously train their observers in order to ensure the presence of an impartial and effective domestic observation effort;

Calls on the international community to use its collective voice to consistently condemn election-related violence and violations of the electoral code of conduct.



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**Nepal Constituent Assembly Election:  
Preliminary Statement by The Carter Center**

**April 12, 2008**

The Carter Center found that the majority of Nepali voters participated in a remarkable and relatively peaceful constituent assembly election on April 10, 2008. Preliminary reports indicate that the administration of this election was well executed, bearing testimony to the hard work of election officials and the determination of Nepal's people to ensure that their country continues on the path to sustainable peace and democracy. It is now essential for Nepal to remain calm, to await final results, and where there are disputes, to follow appropriate legal procedures. The Carter Center will continue to observe the district counting and national tabulation until complete and, when appropriate, comment further on the electoral process.

**Key points:**

Polling stations were well-organized and electoral workers carried out their responsibilities competently and professionally. Carter Center observers reported some irregularities during the conduct of the poll, but these are unlikely to affect the overall success of the vote.

Candidate and party agents from multiple political parties and non-partisan domestic observers were present in nearly all polling stations visited.

Violent incidents, threats, and electoral malpractice marred an otherwise peaceful campaign, but these negative practices did not deter high voter turnout or public confidence in the election.

To the people of Nepal: The Carter Center commends the enthusiasm and determination of Nepal's people to help consolidate peace and democracy by participating in the election of a body that will write a new constitution. The Carter Center encourages all Nepalis to remain actively involved in the drafting of the constitution to ensure that the process is transparent, accountable, and inclusive.

To the leaders of Nepal: The Carter Center notes the statesmanship and dedication of political leaders to the election process, which has enabled Nepal to return to the path of peace. In response to their diligent efforts, the public has declared its unequivocal commitment to the democratic process. It is



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now up to Nepal's political leadership to rapidly and transparently convene the constituent assembly, to agree on a new cabinet, and to refocus national attention on the urgent need for economic development and the strengthening of transparent, inclusive, and democratic institutions.

To the Election Commission: The Carter Center offers its congratulations on the Commission's impressive ability to conduct its work impartially and effectively in a challenging post-conflict environment. The Center recognizes with admiration the Commission's crucial role in Nepal's electoral process.

To the international community: The Carter Center hopes and expects that there will be continued focus on assistance to Nepal beyond the election. The international community should accept the expressed will of the Nepali people and engage accordingly with all relevant Nepali actors.

### Background

The Carter Center was invited to observe the constituent assembly election by the Election Commission of Nepal, the Nepali Congress, the CPN-UML, and the Maoists, and was welcomed by all major political parties. The Carter Center has been involved in Nepal since 2003.

The Carter Center established an election observation presence in Nepal in January 2007 and deployed teams of long-term observers who visited all of Nepal's 75 districts at both the district headquarters and the village level, traveling to most districts multiple times. The Carter Center's observers were able to travel throughout the country without restriction, observing all phases of the election process, and they received a warm welcome from the people of Nepal. A delegation of more than 60 observers from 21 nations arrived shortly before election day, led by former U.S. President Jimmy

Carter, Rosalynn Carter, former Deputy Prime Minister of Thailand Dr. Surakiart Sathirathai, and Carter Center President and CEO Dr. John Hardman.

Throughout the election preparations, Carter Center observers met with political parties, election officials, civil society, and domestic observers, all of whom encouraged international observers from the Center to help build confidence in the election.

### Election Preparations

Despite significant logistical and security challenges, preliminary information indicates that the administration of this election has been a success. The Carter Center congratulates the Election Commission for the organization of the election, with crucial support from the international community, including the U.N. Mission in Nepal and other international organizations and donors.

The Carter Center recognizes that due to the insufficient time available to update the voter roll prior to the April 10 election, a significant number of eligible young voters were not registered. Additionally, voters who were unable to return to their permanent residence or those who do not have a permanent residence were also disenfranchised by the current electoral legislation. Though it was not possible for this election, The Carter Center urges these problems with the voter roll to be addressed promptly and the voter registration system to be amended to ensure the inclusion of all of Nepal's eligible voters.

The Carter Center also notes that the constituent assembly electoral system—a combination of 240 single-member constituency seats and 335 quota-based proportional representation seats—is complicated and could potentially lead to difficulties in the electoral process. In addition to voters not being adequately aware of how their votes translate into seats, it is possible that parties may face challenges



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in preparing their selection list for proportional representation candidates. However, the introduction of quotas for women, Madhesis, Janajatis, Dalits, and backwards regions promises to create a far more inclusive and elected body than has ever existed previously in Nepal.

Agreements signed between the government and marginalized groups, including the United Democratic Madhesi Front (UDMF), chart a widely agreed path for future steps. The Carter Center is encouraged by these agreements and urges all relevant actors to implement their commitments in order to continue to build trust and strengthen the foundations of Nepal's democracy.

### Campaigning

The campaign period was largely peaceful, with many parties campaigning at the village level, though there is room for improvement to ensure that all Nepalis can participate freely in the political process.

Campaigning was marked by several serious incidents of violence and intimidation. Three candidates died in election-related violence, and an additional number of people were killed during the campaign period. Of those killed, a large number were Maoist cadres. Widespread clashes between supporters of rival political parties, threats to voters by the Maoists and other parties that their vote would not be secret, and violence and threats by armed groups in the Terai also contributed to an adverse electoral climate. Finally, during the campaign period, Carter Center observers received some reports of "no go" zones where particular parties refused entry to any rival parties attempting to campaign in these strongholds.

### Polling

On election day, Carter Center observers visited more than 400 polling centers in 28 districts.

Nepali voters, election officials, security forces, party agents, and observers participated in an election that was largely peaceful, orderly, and in accordance with the established election procedures. Although figures are not available at this time, voter turnout appears to have been high and to have included many women voters. Reports of rigging, threats, and other forms of electoral malpractice continue to emerge in the post-election period. The Carter Center hopes that the Election Commission will take such complaints by political parties seriously, and investigate, re-count, and re-poll where necessary.

Most polling stations opened on time or with only a brief delay and followed the correct procedures. Essential election materials were on hand, polling centers were well-organized for the most part, and election officials observed discharged their responsibilities smoothly. Although it was required that at least one member of the polling station staff be female, there were very few female polling officers. Polling station layout respected voter secrecy, and indelible ink was correctly applied to inhibit multiple voting. However, Carter Center observers reported some instances of various kinds of electoral fraud such as underage voting, multiple voting, and voter impersonation, as well as isolated instances of polling officers refusing to report electoral malpractice out of fear of retribution from a particular party or individual.

Candidate and party agents from multiple parties as well as domestic observers were present in nearly all stations visited. The security presence of national police was visible but not intrusive.

Party tables located outside the 100-meter restricted area around polling stations were visible at a number of locations. Carter Center observers were informed by party officials, polling staff, and security forces present that these tables were intended to facilitate the polling process by locating voter names on the



## OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

voter list. However, these tables were staffed by party supporters, often displaying party insignia, thus potentially hindering the secrecy of the vote, and in some cases providing voters with inaccurate information about their right to vote.

Finally, The Carter Center is concerned about several important election procedures and hopes that Nepal will review these before future elections. These include the provision allowing candidates to stand for election in two constituencies, the absence of a required consistent check for voter identification, the absence of candidate or party names on ballot papers, the absence of a provision for spoiled ballots, the use of unranked closed party lists for the proportional representation ballot, the use of centralized ballot counting at the district level, and the provision that counting can begin only after all ballot boxes from a particular constituency arrive at the counting center.

### Counting and Results

Nepal's choice of ballot counting at district counting centers requires special care to ensure the counting procedure remains accessible to party agents and observers. The procedure calls for mixing ballot papers from multiple polling stations and The Carter Center has been informed that official results are unlikely to be available for at least several days.

In the meantime, The Carter Center calls on Nepal's political leaders to send clear, unequivocal public messages to remind their supporters to respect the electoral process and to await with patience the announcement of final, official results. The Carter Center hopes any concerns or petitions arising from the conduct of the election will be resolved openly and quickly and that political parties and observers will work together so all sides can accept the final results with confidence.

The challenges for Nepal will continue. Political leaders will have to move decisively to establish working mechanisms for the constituent assembly to enable it to fulfill its core responsibility to draft a new constitution in accordance with the wishes of the people of Nepal. Public safety, security sector reform, economic development, the promotion of human rights, inclusivity of marginalized groups, implementation of previously signed agreements, and the strengthening of national institutions are among the key areas requiring action.

The Carter Center will continue to follow the ongoing ballot counting process and announcement of official results. Additional public statements may be issued and The Carter Center will produce a final report of overall findings. The Carter Center conducts its election observation in accordance with the Declaration of Principles of International Election Observation and Code of Conduct adopted at the United Nations in 2005.



THE CARTER CENTER

OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

NEWS

THE  
CARTER CENTER



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FOR IMMEDIATE RELEASE

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**THE CARTER CENTER CONGRATULATES NEPAL'S  
NEW CONSTITUENT ASSEMBLY**

**May 30, 2008**

The Carter Center congratulates the people of Nepal, the government, and the political parties on the first sitting of the Constituent Assembly on May 28, 2008. This is a testament to the commitment and dedication of the Nepali people and their political leadership to sustainable peace and multi-party democracy.

The newly elected Constituent Assembly also has taken the historic step of voting to transform Nepal into a federal, democratic republic. This inaugurates a new phase in Nepali history, and one in which The Carter Center expects that all of Nepal's people, particularly historically marginalized groups, will be able to freely exercise their due rights in an environment respectful of the rule of law and focused on the achievement of peace, progress, and prosperity for all.

The Constituent Assembly has been tasked with drafting a permanent constitution that addresses the aspirations of Nepal's diverse people. As the most inclusive elected body in Nepal's history, it is well positioned for this critical job. The Carter Center encourages all members of the assembly to take seriously their shared responsibility to work effectively and transparently, to engage in broad consultation with all sectors of society at every stage of the drafting process, to reflect accurately the will of their constituents, and to remain personally accountable to the people of Nepal.



## APPENDIX D

# ELECTION-DAY DEPLOYMENT TEAMS AND MAP

| Region      | Districts   | Team                | Observer Team       | Nationality |
|-------------|-------------|---------------------|---------------------|-------------|
| Far-Western | Kailali     | LTO                 | Luc Lapointe        | Canada      |
|             |             |                     | Natalia Contreras   | Chile       |
|             | Darchula    | STO                 | Samuel Frantz       | U.S.        |
|             |             |                     | Halfdan Ottosen     | Denmark     |
|             | Baitadi     | STO                 | Mette Damgaard      | Denmark     |
|             |             |                     | Vincent Juaristi    | U.S.        |
| Dadeldhura  | STO         | Olexiy Lychkovakh   | Ukraine             |             |
|             |             | Laura Trivino Duran | Spain               |             |
| Mid-Western | Banke       | LTO                 | Sara Laurini        | Italy       |
|             |             |                     | Girum Tesfaye       | Canada      |
|             | Mugu        | STO                 | Yael Tranier        | France      |
|             |             |                     | Friso Heker         | Germany     |
|             | Rukum       | LTO                 | John Clayton        | U.K.        |
|             |             |                     | Jennifer Anderson   | U.S.        |
|             | Bardiya     | STO                 | Calvin Benn         | Guyana      |
|             |             |                     | Barbara Rowlandson  | Canada      |
|             | Rolpa       | STO                 | Matthew Easton      | U.S.        |
|             |             |                     | Ammar Aldwaik       | Palestine   |
| Surkhet     | STO         | Dianne Aker         | U.S.                |             |
|             |             | Sanne van den Bergh | Netherlands         |             |
| Western     | Kaski       | LTO                 | Taboh Gideon Chefor | Cameroon    |
|             |             |                     | Rosaini Sulaiman    | Singapore   |
|             | Mustang     | STO                 | Joanne Cassidy Cole | Canada      |
|             |             |                     | Damian Murphy       | U.S.        |
|             | Nawalparasi | STO                 | John B. Hardman     | U.S.        |
|             |             |                     | Tazreena Sajjad     | Bangladesh  |
| Kapilbastu  | STO         | Erik Oliver         | U.S.                |             |
|             |             | Firouzeh Afsharnia  | U.S./Iran           |             |

*(continues)*

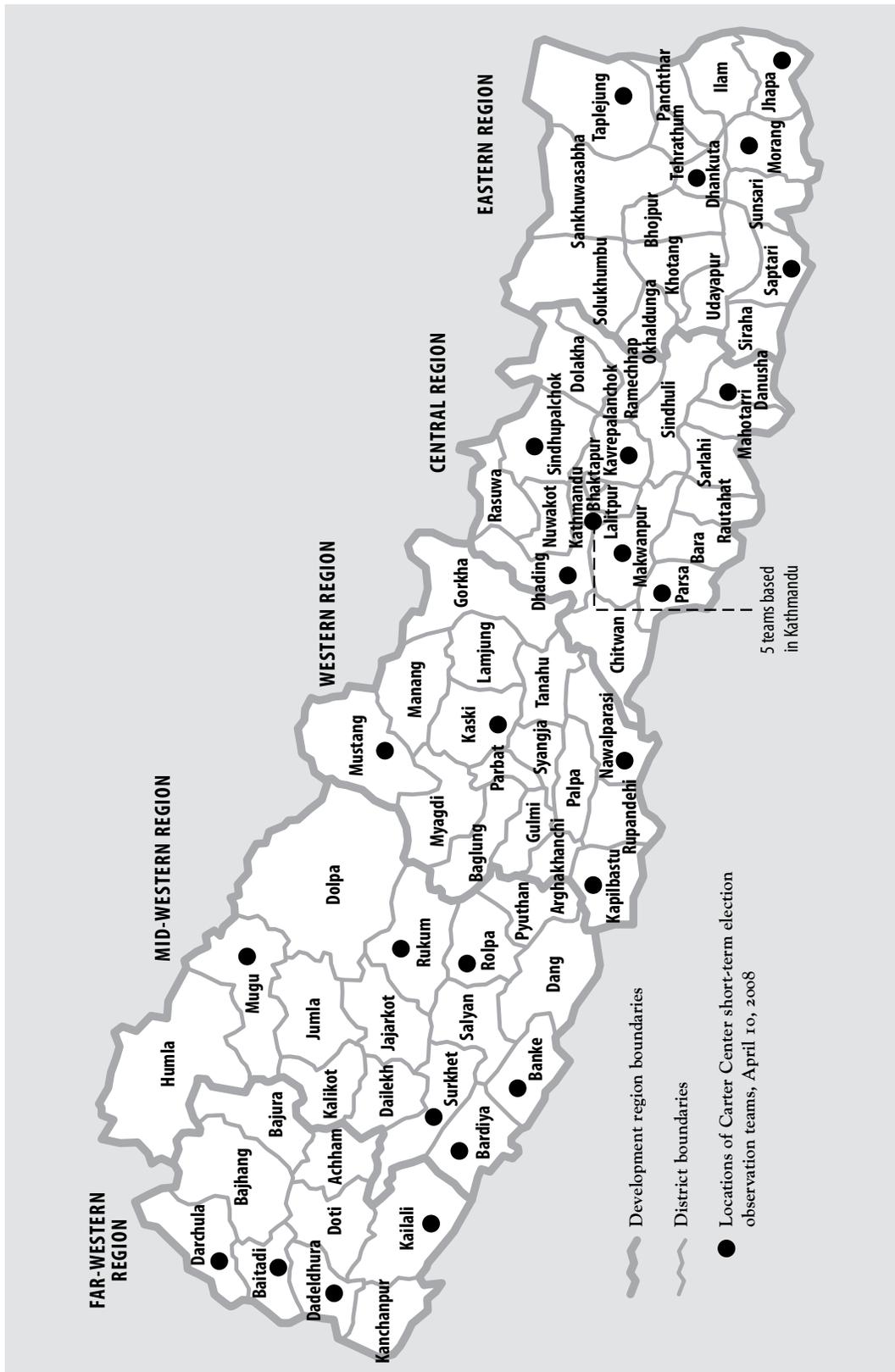


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| Region    | Districts      | Team                      | Observer Team         | Nationality            |
|-----------|----------------|---------------------------|-----------------------|------------------------|
| Central   | Kathmandu      | LTO                       | Jason Katz            | U.S.                   |
|           |                |                           | Mark Naftalin         | United Kingdom         |
|           | Danusha        | STO                       | Ralph Frank           | U.S.                   |
|           |                |                           | Admira Dini Salim     | Indonesia              |
|           | Parsa          | STO                       | Ashraf Shuaibi        | Palestine              |
|           |                |                           | David Gellner         | United Kingdom         |
|           | Makwanpur      | STO                       | Bernando Roa          | Philippines            |
|           |                |                           | Laura Hardman         | U.S.                   |
|           | Sindhupalchok  | STO                       | Brian Moore           | U.S.                   |
|           |                |                           | Becky Carter          | U.S.                   |
|           | Kavrepalanchok | STO                       | Chip Carter           | U.S.                   |
|           |                |                           | Don Mosley            | U.S.                   |
|           | Dhading        | STO                       | Jeff Carter           | U.S.                   |
|           |                |                           | Mashuq Azkerazada     | Afghanistan            |
|           | Kathmandu      | STO                       | President Carter      | U.S.                   |
|           |                |                           | Mrs. Carter           | U.S.                   |
| Kathmandu | STO            | Dr. John Hardman          | U.S.                  |                        |
|           |                | Dr. Surakiart Sathirathai | Thailand              |                        |
| Kathmandu | STO            | Frank Moore               | U.S.                  |                        |
|           |                | Nancy Moore               | U.S.                  |                        |
| Kathmandu | STO            | Tom Bryant                | U.S.                  |                        |
|           |                | Paul Costello             | U.S.                  |                        |
| Eastern   | Morang         | LTO                       | Roger Bryant          | United Kingdom         |
|           |                |                           | Dejan Danilovic       | Bosnia and Herzegovina |
|           | Saptari        | STO                       | Matt Hodes            | U.S.                   |
|           |                |                           | Shireen Hassim        | South Africa           |
|           | Dhankuta       | STO                       | Hill Hardman          | U.S.                   |
|           |                |                           | Narina Rajaonarivo    | Madagascar             |
|           | Jhapa          | STO                       | Bob Hope              | U.S.                   |
|           |                |                           | Perin Arkun           | Turkey                 |
|           | Taplejung      | STO                       | Willemijn Nieuwenhuys | Netherlands            |
|           |                |                           | Sam Jones             | United Kingdom         |



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# APPENDIX E OBSERVATION FORMS

| THE CARTER CENTER  |   | Nepal Constituent Assembly Elections April 2008<br>Polling Center Opening Form                  |    |  |
|--|---|---|----|--|
| <p><b>Instructions:</b> Read the questions carefully. Circle the appropriate answer. If you cannot answer the question, or it is not relevant, leave it blank. Please provide details of any violations or irregularities on the back of the form. When possible, ask domestic observers and/or political party agents for their observations.</p> <p><b>Election day reporting will be done by phone. Be ready to report answers by telephone circled which are NOT in a shaded box.</b></p>  | Region:   | STO Team:   |    |  |
|  | District:   | Polling Center ID No. _____<br>Constituency _____<br>Arrival Time _____<br>Departure Time _____ |    |  |
|  | <b>Opening Procedures - Complete for each Polling Center in which the opening was observed:</b> |   |    |  |
|  | 1. Were all polling staff present at 06:30?<br>If no, which staff were absent: _____            | YES   | No |  |
| 2. Approximately how many voters were present at 07:00?  |   |   |    |  |
| 3. If there were voters present, were they in a controlled and orderly line?   | YES   | No  |    |  |
| 4. Were the POLICE present at the Polling Center?<br>How many were there? Inside: _____ Outside: _____   | YES   | No  |    |  |
| 5. Did all polling staff sign a Letter of Appointment?   | YES   | No  |    |  |
| 6. Were all election materials delivered safely and securely?  | YES   | No  |    |  |
| 7. Was the ballot box presented as empty to all present, including party agents, candidates and observers?   | YES   | No  |    |  |
| 8. Was the ballot box sealed correctly and the seal numbers recorded by polling staff?   | YES   | No  |    |  |
| 9. Did the Polling Officer allow the polling staff to cast their votes before polling opened?  | YES   | No  |    |  |
| 10. Are the premises suitable for polling?   | YES   | No  |    |  |
| 11. Did the Polling Center open by 07:00? If not what time did it open? _____<br>If no, please check all the boxes that give applicable reasons:<br><input type="checkbox"/> Polling staff lack of understanding of procedures <input type="checkbox"/> Insufficient number of polling staff<br><input type="checkbox"/> Insufficient materials <input type="checkbox"/> Electoral campaigns<br><input type="checkbox"/> Late arrival of materials <input type="checkbox"/> Other: _____<br><input type="checkbox"/> Infringement or obstruction of EC _____ | YES   | No  |    |  |
| 12. Were there any party agents present? If so, from which organizations? _____  | YES   | No  |    |  |
| 13. Were there any domestic observers present? If so, from which organizations? _____  | YES   | No  |    |  |
| 14. If you answered "No" to any of the above questions, please explain: _____<br>_____<br>_____  |   |   |    |  |
| <b>Overall Assessment of the Polling Center:</b>   |   | STO Assessment  |    |  |
| <p><i>Instructions for this section:</i> Put a "✓" next to the statement that best describes your assessment of the election environment and voting process for the area you observed. If your response is "poor" or "very poor", please provide further explanation on the back of the form.</p>  |   |   |    |  |
| 1. <b>Very Good</b> – No significant incidents or irregularities.  |   |   |    |  |
| 2. <b>Good</b> – A few incidents or irregularities that had no significant effect on the integrity of the process.   |   |   |    |  |
| 3. <b>Average</b> – Many incidents or irregularities but none that had a significant effect on the integrity of the process.   |   |   |    |  |
| 4. <b>Poor</b> – Incidents or irregularities that significantly affected the integrity of the process.   |   |   |    |  |
| 5. <b>Very Poor</b> – Incidents or irregularities occurred which affected the integrity of the process rendering the results from the Polling Center objectionable.  |   |   |    |  |



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|  <b>Nepal Constituent Assembly Elections April 2008<br/>Polling Center Form</b>   |  |   |
|--|--|---|
| <b>Instructions: Read the questions carefully. Circle the appropriate answer. If you cannot answer the question, or it is not relevant, leave it blank. Please provide details of any violations or irregularities on the back of the form. When possible, ask domestic observers and/or political party agents for their observations.</b><br><br><b>Election day reporting will be done by phone. Be ready to report by phone all answers circled which are NOT in a shaded box.</b>   | <b>Region:</b> _____<br><br><b>District:</b> _____                         | <b>STO Team:</b> _____<br><br>Polling Center ID No. _____<br>Constituency _____<br>Arrival Time _____ : _____<br>Departure Time _____ : _____ |
|  | <b>Outside Polling Center - Complete for each Polling Center observed:</b> |   |
| 1. How long has the first person been waiting to vote? _____   |  |   |
| 2. Approximately how many voters were waiting in line? _____   |  |   |
| 3. Was the line controlled and orderly? _____  |  | YES No  |
| 4. Were the POLICE present at the Polling Center?<br>How many were there? Inside: _____ Outside: _____   |  | YES No  |
| 5. Were there any party youth wings present? If so which: _____  |  | Yes NO  |
| 6. Were there any party or other political banners, party posters, demonstrations, canvassing, or gatherings within 100 meters of the polling station?   |  | Yes NO  |
| 7. Are the premises suitable for polling?  |  | YES No  |
| <b>Inside Polling Center - Complete for each Polling Center observed:</b>  |  |   |
| 8. Were all polling staff present and adequately performing their roles?<br>If no, please check the polling staff that were absent:<br><input type="checkbox"/> Polling Center Queue Controllers <input type="checkbox"/> First Ballot Paper Issuer<br><input type="checkbox"/> Identification Officer <input type="checkbox"/> Second Ballot Paper Issuer<br><input type="checkbox"/> Polling Officer <input type="checkbox"/> Assistant Polling Officer<br>Please explain if any of the above were not performing their roles adequately: _____<br>_____ |  | YES No  |
| 9. Were there any female officials present? If so, how many: _____   |  | YES No  |
| 10. List parties with party agents present, note numbers of female and youth agents: _____<br>_____  |  |   |
| 11. Did any parties have more than one agent present in the polling station?<br>If so, from which parties: _____   |  | Yes NO  |
| 12. Were polling staff responsive to party agents' concerns (if any)? If no, explain: _____  |  | YES No  |
| 13. Were unauthorized people present inside the Polling Center? If so, who: _____  |  | Yes NO  |
| 14. Were national observers present? If so, from which organizations: _____  |  | YES No  |
| 15. Were sufficient election materials present? If not, what was missing: _____  |  | YES No  |
| 16. Was the Polling Center overcrowded?  |  | Yes NO  |



OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

| Voting  |                       |    |
|---|-----------------------|----|
| 17. Were voters checked for signs of ink on their fingers when entering the Polling Center?   | YES                   | No |
| 18a. Number of voters on voter list? _____ 18b. Number of voters who have voted? _____  |                       |    |
| 19. Were voters IDs being checked?  | YES                   | No |
| 20. Were there any problems concerning names on voter list?   | Yes                   | NO |
| 21. Were the ballots issued to the voters signed by the Polling Officer?  | YES                   | No |
| 22. Were the voter's fingers marked with indelible ink?   | YES                   | No |
| 23. Were there sufficient ballots for the voters?   | YES                   | No |
| 24. Were some people unable to vote? If so, why?<br><input type="checkbox"/> Name not on voter list <input type="checkbox"/> Evidence that he/she already voted<br><input type="checkbox"/> Other: _____  | Yes                   | NO |
| 25. Were there any irregularities?<br><input type="checkbox"/> Under-age voting <input type="checkbox"/> Multiple Voting<br><input type="checkbox"/> Foreigners Voting <input type="checkbox"/> Threats<br><input type="checkbox"/> Eligible voters turned away <input type="checkbox"/> Other: _____ | Yes                   | NO |
| 26. Did the polling staff appear to be impartial?   | YES                   | No |
| 27. Did the polling staff appear to be adequately trained?  | YES                   | No |
| 28. Were people with special needs dealt with correctly?  | YES                   | No |
| 29. Did the process appear to be running smoothly?  | YES                   | No |
| 30. Did you observe any disputes? If yes, please explain, including how they were handled: _____<br>_____   | YES                   | NO |
| 31. Were party agents and/or observers able to observe the polling process adequately?  | YES                   | No |
| <b>Overall Assessment of the Polling Center:</b>  | <b>STO Assessment</b> |    |
| <small>Instructions for this Section: Put a "✓" next to the statement that best describes your assessment of the election environment and voting process for the area you observed. If your response is "poor" or "very poor", please provide further explanation on the back of the form.</small>    |                       |    |
| 1. <b>Very Good</b> – No significant incidents or irregularities.   |                       |    |
| 2. <b>Good</b> – A few incidents or irregularities that had no significant effect on the integrity of the process.  |                       |    |
| 3. <b>Average</b> – Many incidents or irregularities but none that had a significant effect on the integrity of the process.  |                       |    |
| 4. <b>Poor</b> – Incidents or irregularities that significantly affected the integrity of the process.  |                       |    |
| 5. <b>Very Poor</b> – Incidents or irregularities occurred which affected the integrity of the process rendering the results from the Polling Center objectionable.   |                       |    |



OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

|  <b>Nepal Constituent Assembly Elections April 2008<br/>Polling Center Closing Form</b>   |                          |   |
|--|--------------------------|---|
| <p><b>Instructions:</b> Read the questions carefully. Circle the appropriate answer. If you cannot answer the question, or it is not relevant, leave it blank. Please provide details of any violations or irregularities on the back of the form. When possible, ask domestic observers and/or political party agents for their observations.</p> <p><b>Election day reporting will be done by phone. Be ready to report by phone all answers circled which are <u>NOT</u> in a shaded box.</b></p> | <b>Region:</b><br><br>   | <b>STO Team:</b><br><br>  |
|  | <b>District:</b><br><br> | Polling Center ID No. _____<br>Constituency _____<br>Arrival Time _____ : _____<br>Departure Time _____ : _____ |
| <b>Closing of the Polling Center</b>   |                          |   |
| 1. Were those in the line at 1700h allowed to vote?  | YES                      | No  |
| 2. Were those who arrived after 1700h prevented from voting?   | YES                      | No  |
| 3. Was closing of the Polling Center peaceful and free of disruptive or violent incidents? If no, explain: _____   | YES                      | No  |
| 4. Were all the unused signed ballots and unused unsigned ballots placed in sealed envelope?<br>No. of used ballots: _____ No. of signed unused ballots: _____ No. tendered ballots: _____   | YES                      | No  |
| 5. Did the record include the serial numbers of the ballot box seals, names of election official, party agents present, and any complaints or objections?  | YES                      | No  |
| 6. Were the ballot boxes slits sealed with orange seals before being transported to the Counting Center?<br>Ballot boxes seal numbers: _____   | YES                      | No  |
| 7. Was the Record of Election Operation filled out by Polling Center officials before transported?<br>If no, explain what was missing: _____   | YES                      | No  |
| 8. Were sensitive and non-sensitive materials packed appropriately?  | YES                      | No  |
| 9. Was the Polling Officer present in the Polling Center during the closing process?   | YES                      | No  |
| 10. Were security personnel present at the Polling Center during the closing process?  | YES                      | No  |
| 11. Were the party agents and observers satisfied with how the officials handled the closing process?  | YES                      | No  |
| 12. Was there any intimidation inside or outside the Polling Center?<br>If yes, please specify: _____  | Yes                      | NO  |
| 13. Did the party agents or observers follow the ballot box from the Polling Center to the Counting Centre?  | YES                      | No  |
| <b>Retrieval and Reception (if you have followed the Ballot Box on E-Day)</b>  |                          |   |
| 14. Did the reception of the ballot boxes accurately follow the specified procedures?  | YES                      | No  |
| 15. Did the reception team read out the security seals?  | YES                      | No  |
| 16. Have there been any reported incidents of seal numbers that differ from the numbers on the closing documents?<br>If yes, specify which party agents reported the incident: _____   | Yes                      | NO  |
| 17. Did the Returning Officer sign the ballot box delivery form and attach it to the documents?  | YES                      | No  |
| 18. Was the information on the documents correct? If not, explain problems/errors: _____   | YES                      | No  |
| 19. Did the total number of used ballots match those listed in the documents?<br>If there was any discrepancy, please specify: _____   | YES                      | No  |
| 20. Did the reception process go smoothly? If no, specify: _____   | YES                      | No  |
| 21. Were all the correct procedures for closing the Polling Center followed?<br>If not, please specify: _____  | YES                      | No  |



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| Overall Assessment of closing, including retrieval where applicable:   | STO Assessment |
|--|----------------|
| <i>Instructions for this section:</i> Put a "✓" next to the statement that best describes your assessment of the election environment and voting process for the area you observed. If your response is "poor" or "very poor", please provide further explanation on the back of the form. |                |
| <b>1. Very Good</b> – No significant incidents or irregularities.  |                |
| <b>2. Good</b> – A few incidents or irregularities that had no significant effect on the integrity of the process.   |                |
| <b>3. Average</b> – Many incidents or irregularities but none that had a significant effect on the integrity of the process.   |                |
| <b>4. Poor</b> – Incidents or irregularities that significantly affected the integrity of the process.   |                |
| <b>5. Very Poor</b> – Incidents or irregularities occurred which affected the integrity of the process rendering the results from the Polling Center objectionable.  |                |



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| THE CARTER CENTER   |  | Nepal Constituent Assembly Elections April 2008<br>Summary Polling Form |  |
|---|--|---|--|
| <b>Instructions: Read the questions carefully. Compile numeric totals for all polling centers visited.</b><br><br><b>Election day reporting will be done by phone. Be ready to report all answers by telephone on election night.</b>   |  | Region:   | STO Team:                                |
|   |  | District:   | Total number of Polling Centers visited: |
| <b>Opening of Polling Centers:</b>  |  | Entry   |  |
|   |  | No. of Yes  | No. of No                                |
| 1. Were all polling staff present at 06:30?<br>If no, which staff were absent: _____  |  |   |  |
| 2. Were the POLICE present at the Polling Center?<br>How many were there? Inside: _____ Outside: _____  |  |   |  |
| 3. Did the Polling Center open by 07:00? If not what time did it open? _____<br>If no, please check all the boxes that give applicable reasons:<br><input type="checkbox"/> Polling staff lack of understanding of procedures <input type="checkbox"/> Insufficient number of polling staff<br><input type="checkbox"/> Insufficient materials <input type="checkbox"/> Electoral campaigns<br><input type="checkbox"/> Late arrival of materials <input type="checkbox"/> Other: _____<br><input type="checkbox"/> Infringement or obstruction of EC _____ |  |   |  |
| <b>Polling Center</b>   |  |   |  |
| 4. Were the POLICE present at the Polling Center?<br>How many were there? Inside: _____ Outside: _____  |  |   |  |
| 5. Were all polling staff present and adequately performing their roles?<br>If no, please check the polling staff that were absent:<br><input type="checkbox"/> Polling Center Queue Controllers <input type="checkbox"/> First Ballot Paper Issuer <input type="checkbox"/> Polling Officer<br><input type="checkbox"/> Identification Officer <input type="checkbox"/> Second Ballot Paper Issuer <input type="checkbox"/> Assistant Polling Officer<br>Please explain if any of the above were not performing their roles adequately: _____              |  |   |  |
| 6. Were national observers present? If so, from which organizations: _____  |  |   |  |
| 7. Were party agents from at least two parties present?   |  |   |  |
| 8. Were voters checked for signs of ink on their fingers when entering the Polling Center?  |  |   |  |
| 9. Were there sufficient ballots for the voters?  |  |   |  |
| 10. Were there any irregularities? If yes, please specify: _____<br><input type="checkbox"/> Under-age voting <input type="checkbox"/> Multiple Voting<br><input type="checkbox"/> Foreigners Voting <input type="checkbox"/> Threats<br><input type="checkbox"/> Eligible voters turned away <input type="checkbox"/> Other: _____   |  |   |  |
| <b>Closing of the Polling Center</b>  |  |   |  |
| 11. Were those in the line at 1700h allowed to vote?  |  |   |  |
| 12. Were those who arrived after 1700h prevented from voting?   |  |   |  |
| 13. Was closing of the Polling Center peaceful and free of disruptive or violent incidents? If no, explain: _____   |  |   |  |
| 14. Were the party agents and observers satisfied with how the officials handled the closing process?   |  |   |  |
| 15. Was there any intimidation inside or outside the Polling Center?<br>If yes, please specify: _____   |  |   |  |
| <b>Overall Assessment:</b>  |  | STO Assessment  |  |
| <b>Instructions for this section:</b> Collate your summary results and enter total for each category. If your response is "poor" or "very poor", please provide further explanation on the back of the form.  |  |   |  |
| 1. <b>Very Good</b> – No significant incidents or irregularities.   |  |   |  |
| 2. <b>Good</b> – A few incidents or irregularities that had no significant effect on the integrity of the process.  |  |   |  |
| 3. <b>Average</b> – Many incidents or irregularities but none that had a significant effect on the integrity of the process.  |  |   |  |
| 4. <b>Poor</b> – Incidents or irregularities that significantly affected the integrity of the process.  |  |   |  |
| 5. <b>Very Poor</b> – Incidents or irregularities occurred which affected the integrity of the process rendering the results from the Polling Center objectionable.   |  |   |  |



OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

|  <b>Nepal Constituent Assembly Elections April 2008<br/>Counting Center Form</b>   |                        |   |
|---|------------------------|---|
| <p><b>Instructions:</b> Read the questions carefully. Circle the appropriate answer. If you cannot answer the question, or it is not relevant, leave it blank. Please provide details of any violations or irregularities on the back of the form. When possible, ask domestic observers and/or political party agents for their observations.</p> <p><b>Election day reporting will be done by phone. Be ready to report by phone all answers circled which are NOT in a shaded box.</b></p> | <b>Region:</b> _____   | <b>STO Team:</b> _____  |
|   | <b>District:</b> _____ | Polling Center ID No. _____<br>Constituency _____<br>Arrival Time _____ : _____<br>Departure Time _____ : _____ |
| <b>Retrieval and Reception</b>  |                        |   |
| 1. Did the reception of the ballot boxes accurately follow procedures?  | YES                    | No  |
| 2. Did the reception team read out the security seal numbers?   | YES                    | No  |
| 3. Have there been any reported incidents of seal numbers that differ from the numbers on the closing documents?<br>If yes, specify which party agents reported the incident: _____   | YES                    | No  |
| 4. Did the Polling Officer sign the ballot box delivery form and attach it to the documents?  | YES                    | No  |
| 5. Was the information on the documents correct? If not, explain problems/errors: _____   | YES                    | No  |
| 6. Did the total number of used ballots match those listed in the documents?<br>If there was any discrepancy, please specify: _____   | YES                    | No  |
| 7. Did the reception process go smoothly? If no, specify: _____   | YES                    | No  |
| <b>Counting</b>   |                        |   |
| 8. Was the count delayed due to re-polling?   | YES                    | No  |
| 9. Were you able to observe all aspects of count process?   | YES                    | No  |
| 10. Were all ballot boxes received and processed before the count started?  | YES                    | No  |
| 11. What time did the count start? _____ Date: _____  |                        |   |
| 12. Were ballots from different polling centers mixed before counting?  | YES                    | No  |
| 13. Did the counting staff count all the ballots face down to confirm the total number of ballots in the box?   | YES                    | No  |
| 14. Did the counting staff read and separate the ballots into groups by category of valid ballots, null ballots, blank ballots and contested ballots?   | YES                    | No  |
| 15. Did the total number of ballots of each of these categories equal the total number of ballots?  | YES                    | No  |
| 16. Did the counting officers fill in the counting form and sign it?  | YES                    | No  |
| 17. Were the decisions to invalidate ballots made in accordance with the rules?   | YES                    | No  |
| 18. What was the percentage of spoiled ballots? _____   |                        |   |
| 19. Were disputed ballots papers put aside for verification? Specify procedures used to verify: _____   | YES                    | No  |
| 20. Was the count a continuous process?   | YES                    | No  |
| 21. Where count was not finished were the ballots placed in boxes and securely stored?  | YES                    | No  |
| 22. At the end of the count, did party agents sign the final documents?   | YES                    | No  |
| 23. Were the counting staff familiar with the procedures that they were required to follow?   | YES                    | No  |
| 24. Were the party agents present throughout your time at the count? List which parties: _____  | YES                    | No  |



OBSERVING NEPAL'S 2008 CONSTITUENT ASSEMBLY ELECTION

|  |              |   |                       |
|--|--------------|---|-----------------------|
| 25. Were domestic observers present throughout your time at the count?   | YES          | No  |                       |
| 26. Were party agents and observers able to observe all aspects of the counting process?   | YES          | No  |                       |
| 27. Did the polling officials respond to party agents complaints? If no, explain:<br>_____   | YES          | No  |                       |
| 28. Did unauthorized people entered the counting center at any time?<br>If yes, please identify and explain: _____   | YES          | No  |                       |
| 29. Did POLICE provide adequate security at the counting center?   | YES          | No  |                       |
| 30. Was the count process free of intimidation or incidents? If no, explain:<br>_____  | YES          | No  |                       |
| 31. In your opinion, was the count process transparent? If no, explain why:<br>_____   | YES          | No  |                       |
| 32. Please list vote counting results from Constituency No. _____  |              |   |                       |
| <b>Record of the vote count:</b>   |              |   |                       |
| <b>FPTP - Name of the first 5 candidates</b>   | <b>Votes</b> | <b>PROPORTIONAL REPRESENTATION - List first 5 parties</b> | <b>Votes</b>          |
| 1  |              | 1   |                       |
| 2  |              | 2   |                       |
| 3  |              | 3   |                       |
| 4  |              | 4   |                       |
| 5  |              | 5   |                       |
| <b>Overall Assessment of Counting Process:</b>   |              |   | <b>STO Assessment</b> |
| <i>Instructions for this Section:</i> Put a "✓" next to the statement that best describes your assessment of the election environment and voting process for the area you observed. If your response is "poor" or "very poor", please provide further explanation on the back of the form. |              |   |                       |
| 1. <b>Very Good</b> – No significant incidents or irregularities.  |              |   |                       |
| 2. <b>Good</b> – A few incidents or irregularities that had no significant effect on the integrity of the process.   |              |   |                       |
| 3. <b>Average</b> – Many incidents or irregularities but none that had a significant effect on the integrity of the process.   |              |   |                       |
| 4. <b>Poor</b> – Incidents or irregularities that significantly affected the integrity of the process.   |              |   |                       |
| 5. <b>Very Poor</b> – Incidents or irregularities occurred that so affected the integrity of the process rendering the results objectionable.  |              |   |                       |



## THE CARTER CENTER AT A GLANCE

**Overview:** The Carter Center was founded in 1982 by former U.S. President Jimmy Carter and his wife, Rosalynn, in partnership with Emory University, to advance peace and health worldwide. A nongovernmental organization, the Center has helped to improve life for people in more than 70 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; improving mental health care; and teaching farmers to increase crop production.

**Accomplishments:** The Center has observed 72 elections in 28 countries; helped farmers double or triple grain production in 15 African countries; worked to prevent and resolve civil and international conflicts worldwide; intervened to prevent unnecessary diseases in Latin America and Africa; and strived to diminish the stigma against mental illnesses.

**Budget:** \$76.5 million 2007-2008 operating budget.

**Donations:** The Center is a 501(c)(3) charitable organization, financed by private donations from individuals, foundations, corporations, and international development assistance agencies. Contributions by U.S. citizens and companies are tax-deductible as allowed by law.

**Facilities:** The nondenominational Cecil B. Day Chapel and other facilities are available for weddings, corporate retreats and meetings, and other special events. For information, (404) 420-5112.

**Location:** In a 35-acre park, about 1.5 miles east of downtown Atlanta. The Jimmy Carter Library and Museum, which adjoins the Center, is owned and operated by the National Archives and Records Administration and is open to the public. For information, (404) 865-7101.

**Staff:** 160 employees, based primarily in Atlanta.



MARTIN FRANK



THE  
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