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**TECHNICAL ELECTION ASSESSMENT
AND OBSERVATION
OF THE
MID-TERM PARLIAMENTARY ELECTION OF THE
KINGDOM OF NEPAL
NOVEMBER 15, 1994**

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TABLE OF CONTENTS

- I. EXECUTIVE SUMMARY
- II. INTRODUCTION TO NEPAL
- III. IFES' EXPERIENCE WITH DEMOCRATIZATION
- IV. ELECTIONS 1991: REVISITED
 - A. The Political Landscape
 - B. Role of the CEC in the Mid-Term Election
 - C. Election Results
 - D. The New Government
- V. 1994 IFES ACTIVITIES IN NEPAL
- VI. IFES RECOMMENDATIONS 1991 vs. 1994
 - A. Election Commission & Voter Specific
 - B. Documentation of the Nepalese Experience
 - C. Civic Education
 - D. National Election Observation Committee (NEOC)
 - E. Political Party Poll Watchers
 - F. The Donor Community
- VII. CEC RECOMMENDATIONS
- VIII. GENERAL CONCLUSIONS
- IX. APPENDICES
 - A. NEOC Intro & Preliminary Report
 - B. International Observer Geographic Information
 - C. Election Results
 - D. International Observers & General Comments
 - E. 1992 Local Election Report
 - F. DANIDA Support Activities (1994)
 - G. Women's Participation Summary
 - H. Independent Candidate Press Release
 - I. Election Commission Report
 - J. Official Guidelines for Polling Officers
 - K. Election Act (No. 2047) - 1991
 - L. Msc. Press Articles

I. EXECUTIVE SUMMARY

On July 1, 1994, King Birendra Bir Bikran Shal Dev in his annual message to the Parliament put forward the Congress Party program for the year. On July 10, thirty six Congress Party members absented themselves from voting on accepting the King's message and by a vote of 74-86 a vote of confidence was denied. Prime Minister Girija Prasad Koirala submitted his resignation and requested that the King dissolve the House and declare new elections. Prime Minister Koirala was asked by the King to lead a "caretaker" government and November 13 (later changed to the 15th) was selected as the date for mid-term parliamentary elections.

Once again, political campaigns got underway and the Election Commission made ready for the difficult task of organizing for the administration of these quickly called elections.

A 127 member international observer delegation from 28 countries was assembled under the auspices of the National Election Observation Committee (NEOC), who also hosted the 1991 group (see Appendix A). The delegation was dispatched to some 46 locales the day before the election or in the case of those in the Kathmandu Valley the day of the balloting.

IFES fielded a two-person delegation, former Ambassador to Nepal and IFES Boardmember Leon Weil and Mark Freeman, an International Development Specialist with Meridian House. Mr. Freeman also lived in Nepal from 1980-1983 in the development arena. Mr. Freeman also served as a consultant to IFES in 1990 with preparations leading up to the 1991 elections. Both Ambassador Weil and Mr. Freeman served as official observers for the 1991 IFES delegation.

On 17 November, after listening to group reports from each constituency visited, a general report was issued by the international observer delegation supported by NEOC once again declaring that the elections conducted "...were in most constituencies fair and free with minor irregularities." However, in contrast with the 1991 elections, the report cites the Nepali Congress Party as stating that "...most cases of irregularities seemed to have been committed by the present ruling party, although other major parties were also reported". Irregularities cited included "proxy voting, underage voting, multiple voting, sale of votes, and entry of unauthorized persons into the polling stations".

The delegation also mentioned problems with the voting lists, intimidation, booth capturing and other procedural and security issues. Interestingly, only about 60 voting stations were re-pollled which is only about 10 more than in 1991. This is a very low percentage considering the more than 7,412 polling stations in operation. NEOC obviously had good intelligence gathering ability to see as to where the problem constituencies were and made sure the observers were dispatched to these districts. As presented in appendix B, many districts which were visited by the international observers were briefed through "*Geographic/Demographic Features*" handouts.

It became quickly apparent to the international observers that these mid-term elections were also a referendum on the performance of the Nepali Congress Party.

The first election returns from the Kathmandu Valley revealed the strength of the United Marxist Leninist party (UML). The UML captured all seven (7) seats and would eventually, with the assistance of a small Communist wing, take all thirteen (13) seats in the Valley. Unlike 1991, when the UML got off to a similarly fast start, this momentum held fast. The UML garnered 88 seats making it the largest party while the Congress Party slipped to 83 seats. The right of center National Democratic Party gained 20 seats and nearly 18% of the popular vote. This was in marked contrast to the 1991 elections where the Congress Party was able to command an absolute majority of the seats in the 205 member lower house (please refer to Appendix C for 1991 and 1994 results). A more detailed analysis of the 1994 election is offered in a subsequent section of this report.

The other winner of the 1994 election was the King. It is generally recognized that the Crown played a restrained and constructive role during the course of the election. The King's decision to ask Man Mohan Adhikary, the UML president, to form a minority government, was perceived as a positive step as well. This followed an attempt by the Congress Party to form a coalition government which failed. An Indian journalist was quoted by the New York Times as stating that "the real winner of the elections was the King. By sticking strictly to the Constitution, and showing no favor or disfavor to any side, he showed himself as the real upholder of democracy."

II. INTRODUCTION TO NEPAL

Nepal, a country of some 20 million people, is one of the oldest independent countries in South Asia. Located between the two Asian giants India and China, the country came into existence in 1769 when its lands were unified by the expanding Gorkha Principality during the reign of King Prithvi Narayan Shah.

After unification, Nepal was ruled by peremptory command under the Shah Kings. The power of the Shah kings, however, diminished as a result of a bloody coup led by Jung Bahadur Rana in 1848. Under Rana family rule, the family's eldest male member enjoyed a Prime-Ministership with absolute powers, reducing the Shah kings to mere figureheads. The Rana family reign came to an end following a revolution in 1950-51, which introduced democracy to Nepal for the first time. The revolutionary leadership, however, proved unable to properly govern the country. As a result, the young democracy fell prey to reactionary monarchist forces in 1960, when King Mahendra seized power and reintroduced political autocracy to Nepal. Under King Mahendra's "Panchayat" (councils) system, political parties were effectively banned. As Nepal experienced a complete reversal of its short-lived democratic experiment, rule of law

and human rights became academic.

The people of Nepal revolted against absolutist monarchy in the Spring of 1990. The pro-democracy movement was led by an alliance of a centrist democratic-socialist parties and a seven-party communist alliance known as the United Left Front. Together, they succeeded in bringing down the authoritarian Panchayat system and restored Nepal as a multi-party democracy. The interim government formed in the aftermath of the popular uprising on April 6, 1990, and led by Nepali Congress Party President and Interim Prime Minister Krishna Prasad Bhattarai, promulgated a new constitution in November 1990 and held parliamentary elections in May 1991. International observers, including the IFES team, reported that the elections had been conducted freely and fairly. The Nepali Congress Party won a majority in the parliament and formed the government with Girija Prasad Koirala as Prime Minister. One of the most interesting outcomes of the 1991 Nepali elections is that of the communists, who succeeded in securing 40% of the membership in the Nepali Parliament.

As is often the case in emerging democracies, Nepal's government has faced unrealistic popular expectations which it simply could not meet. The country's fundamental unfamiliarity with democracy, as well as its severe poverty and totally inadequate infrastructure, initially all posed serious threats to Nepal's newly recovered democracy. Although these problems are working themselves out within the democratic system, other threats have emerged in the form of inter- and intra-party conflicts.

It is in this context that Caretaker Prime Minister Koirala, until recently Prime Minister, a staunch anti-communist and proponent of economic liberalization, weathered numerous attacks on his leadership. These were led in turn, and sometimes jointly, by NC Party President Bhattarai and ailing Supreme Leader Ganesh Man Singh, whose greater willingness to be accommodating to the communists threatens to split the ruling party, as well as by the Nepali communists themselves. The communists, moreover, been bent on creating considerable agitation and unrest since the death of two of their leaders over a year ago. These deaths had been ruled accidental but are considered by the communists to be political in nature. This unrest has, in turn, resulted in increased calls for royal intervention led by the royalist right.

Nepal has faced a particularly unstable political and constitutional situation since July 10 when Prime Minister Koirala resigned suddenly, after losing a Parliamentary no-confidence vote 86 to 74, and recommended that mid-term polls be held. King Birenda dissolved Parliament on July 11 and, accepting the Premier's recommendation, called new elections for November 13. He then asked Koirala to stay in office in a caretaker capacity until that time. On July 12, Mr. Koirala accepted the responsibility of overseeing the elections and expressed his hope that the elections will be conducted in a free, fair and impartial manner.

III. IFES' EXPERIENCE WITH DEMOCRATIZATION

IFES was uniquely qualified as a technical advisor during the November 1994 Nepalese elections. Since its inception, IFES has played various technical roles in over 70 countries and observed over 50 elections on four continents. In addition to its electoral expertise, IFES has had previous country experience in Nepal and considerable regional experience elsewhere in Asia, where it has sent several missions over the course of the last five years, including the assessment and observation activities performed in Mongolia, Pakistan, India, and the Central Asian republics of Kazakstan, Uzbekistan, Tajikistan and Kyrgyzstan.

IFES sent the three-member Pre-Election Assessment mission to Nepal in October 1990, which evaluated the country's preparations for its first multi-party elections since 1959. Planning by the Election Commission of Nepal indicated that elections would be held as scheduled during the spring of 1991. The team noted that civic education efforts and an international observer presence would strengthen the election process. IFES observations and recommendations may be obtained in two publications: "The 1991 Nepalese Elections: A Pre-Election Survey" (November 1990) and a January 1991 Addendum to that report. Following IFES' assessment, USAID/Kathmandu awarded a grant to a local organization for civic education efforts. Then, on May 12, 1991, the Nepalese elections were monitored by a team of international observers including the eight-member U.S. Observer Mission which IFES sponsored which was led by former U.S. Ambassador to Nepal Leon Weil. The IFES-led team ultimately concluded that the elections were held in a generally free and fair environment. These conclusions are detailed in a third IFES report, "The Kingdom of Nepal Parliamentary Elections: May 12, 1991".

As a result of its 1990-1991 Nepalese election experience, IFES retained many contacts in the country's democratization circles and remains familiar with their capabilities. IFES has working relationships with the Nepalese Forum for the Protection of Human Rights (FOPHUR), the National Election Observation Committee (NEOC), the Human Rights Organization of Nepal (HURON), the Himalayan Institute of Development (HID), and the Service Extension and Action Research for Community Hill (SEARCH).

In August/September 1991, IFES sponsored a U.S. visitor program for Chief Election Commissioner Surya Prasad Shresta and Election Commission Secretary Achyut N. Rajbhandari to study the U.S. Election System and the political dimensions of an election. At that time, Mr. Shresta expressed his desire to be involved with IFES' efforts to establish an election administrators' network throughout Asia. Subsequent IFES conversations with Chief Commissioner Shresta and members of Nepal's Parliament also resulted in requests for a national identity card project in order to improve voter registration which, unfortunately, could not be conducted in 1991.

Former IFES Deputy Director Sarah Tinsley returned to Nepal in January 1992 as a resource person during the USAID Asia Regional Conference on Democracy entitled "Perspectives on Democracy: AID's Role in Asia." IFES took this opportunity to renew its links to the Hon. Julia Chang Bloch, then-U.S. Ambassador to Nepal, the Hon. Kelly C. Kammerer, then-USAID Mission Director to Nepal, and Mr. Surya Prasad Shresta, Chief Election Commissioner of Nepal. This enabled IFES to conduct a useful follow-up assessment to its 1991 election observation mission.

In February 1993, IFES was approached with the idea of developing a public opinion polling project to be financed by USAID/Kathmandu, an idea that had been discussed for more than a year. The Nepal Opinion Survey Center (NOSC), a public opinion polling organization created by HID, was asked by USAID to conduct a public opinion poll in the Kathmandu valley in preparation for a larger national poll. The U.S. Embassy in Kathmandu had suggested to IFES that it consider offering a proposal regarding that polling project. In December 1993, IFES also explored the possibility of launching joint civic education activities in Nepal through its contacts with HID Director Prakash Sapkota. Regrettably, neither of these projects came to fruition.

Furthermore, in addition to its previous experience in Nepal, IFES has repeatedly been involved in elections throughout Asia and the Central Asian Republics. In Mongolia, for instance, IFES and the Asia Foundation (TAF) received a formal request from the Government's Justice Minister to provide legal assistance in drafting the electoral law, as well as poll worker training and technical assistance in establishing the electoral process. IFES subsequently provided observers for the June 1992 elections to the Great People's Hural and the Mongolian Presidential election of June 6, 1993.

IFES activities in Mongolia, however, represent only one of the foundation's several accomplishments in Asia. In 1989, IFES sent an observer mission to that year's election in India. In 1990, IFES provided the same service in Pakistan. In 1991, a comprehensive post-election Technical Election Assessment Mission was sent to Sri-Lanka after the country's May 11 elections. In 1992, at the request of UNTAC and the UNDP, IFES drafted a report analyzing the UNTAC Cambodia June election plan. Also in 1993, funded by USAID, IFES fielded a pre-election assessment team to Kyrgyzstan in anticipation of the 1995 Parliamentary elections. This year, IFES provided a USAID-sponsored comprehensive technical assessment of the March 1994 Parliamentary and local elections in the Republic of Kazakhstan, a technical assessment and observation in Tajikistan in the fall of 1994, a follow-on pre-election technical assessment in Kyrgyzstan in December 1994, and a voter education and observation mission for Uzbekistan in December 1994.

IV. 1994 IFES ACTIVITIES IN NEPAL

In the fall of 1994, IFES proposed to build upon the experience gained during the IFES election monitoring activities in Nepal prior to and during the historic 1991 parliamentary elections by fielding a two-member team for the November 15, 1994 elections. This two-member IFES team assessed the progress made by Nepalese election officials in implementing the recommendations of IFES and other international delegations during the last round of elections in 1991 and has produced the following technical evaluative report.

In this report IFES provides a comparative analysis between the 1991 and 1994 elections covering such issues as voter registration and lists; ballot marking and transport; campaign finance; election-day campaigning; poll watcher access; election crime and punishment; performance of poll workers; and the presence of domestic and international monitors.

Ultimately, IFES hopes to have an impact in the following areas:

1. Increase the awareness on the part of Nepalese election authorities, political parties and international donors of any continuing difficulties hindering the conduct of free, fair and credible elections in Nepal and measures for overcoming these difficulties;
2. Add to the amount of technical and legal information available to the Government of Nepal for its future efforts to hold free, fair and credible elections;
3. Improve the dialogue among international donors and Nepalese election officials regarding technical and legal issues surrounding the elections; and
4. Improve the understanding of the international donor community by using the technical election assessment report as an authoritative briefing paper on the Nepalese electoral process as well as a review of international technical assistance that has proven effective in promoting democratic electoral reform in that country.

V. THE ELECTIONS OF 1991: REVISITED

In 1991 the international election observer delegation concluded that Nepal's first parliamentary elections were "free and fair" and one delegate summed up the feelings of the group when he declared "I welcome Nepal to the Third World Democracies" (appendix D).

The 1991 elections resulted from violent street demonstrations held in 1990 that resulted in King Birendra's decision to relinquish his virtually absolute powers and to institute a constitutional monarchy. A constitution was drafted and an interim government formed between leaders of

the Nepali Congress Party and the United Marxist-Leninist Party which governed until the May 12 elections. Political parties outlawed by the King's father were quickly reestablished and fought a spirited campaign. Political observers opined that no one party would command a majority in the newly elected parliament and that a coalition government would have to be formed. There also was widespread concern that the elections would be marred by violence and other forms of gross electoral misconduct.

When the dust settled, the Nepali Congress Party had won an absolute majority and the Election Commission had conducted an election considered by most parties as peaceful and without serious incident. There were those who even thought that Nepal offered a useful case study for other emerging democracies in carrying out their own elections.

IFES produced a detailed report of the 1991 elections entitled: *The Kingdom of Nepal Parliamentary Elections: May 12, 1991* describing the constitutional framework, determination of electoral constituencies, constitutional and legal provisions detailing Election Commission responsibilities, voter eligibility, Election Commission preparations for the vote, the role of political parties, conduct of the campaign, local security and administration, voter registry and the actual events on election day. This included such topics as organization of the polling center, polling officials, voter identification, the ballot and vote counting. The reader is advised to consult this earlier publication for a detailed account of the electoral process in Nepal.

The delegation fielded by the IFES also presented their findings and offered a series of recommendations designed to further strengthen Nepal's electoral process.

A. The Political Landscape - 1994

This time the election experts more accurately gauged the mood of the voter. This election was seen as a referendum on the performance of the Congress Party and it was widely predicted that, unlike the 1991 election, no one party would command a majority of the seats in the new parliament. They were right on both counts.

The Koirala Government embarked on consolidating political control in 1991 after taking office during the local elections campaign period in 1992¹ - one year after the general elections. In an analysis prepared by a Nepali NGO for the Danish Embassy, numerous serious irregularities were cited including the direct use of government prerogatives to influence the outcome. (Two successive general strikes called in 1992 by the United People's Front with the general approval of the UML did not meet with public approval and certainly had some effect on the outcome).

¹ Please refer to appendix E for the "Report on the Study & Research on The Local Elections in Nepal: 1992" presented by Development Research for a Democratic Nepal (DREFDEN) - July 1992.

The bulk of the criticism, however, centered on the conduct of the Nepali Congress Party and its workers. As mentioned in the DANIDA-sponsored report: "The ruling party seemed to have taken full advantage of its incumbency to manipulate elections in its favor" (appendix F). The report goes on to state that these local elections were waged with all the fury of a national campaign with the Prime Minister flying about the country in his government helicopter promising government help with local problems. A reference in the DANIDA report also touches on the another problem which will be revisited in the recommendations portion of this report, namely, the fact that Chief District Officers (CDOs) were assigned the role as returning officers and came under severe criticism allegedly assisting in the manipulation of the vote. These charges extended to the use of security and administrative personnel to advance the cause of the ruling party. Some CDOs stated to the evaluators that they had no choice but to go along for fear of losing their jobs.

For the first time since the resumption of a parliamentary form of government, elements in the Royal Nepal Army were cited as attempting to influence the vote in certain constituencies. Twelve election-related deaths occurred, other acts of violence cited, and several reported instances of more traditional vote rigging. Charges were brought by the opposition but little seems to have been done about them and as in 1991 neither individuals nor party officials were charged or punished for illegal actions.

Politically, the landscape also was shifting, marked by dissension within the Nepal Congress Party and the use of general strikes by the opposition as a means of expressing political dissatisfaction with the ruling government. Two general strikes were called in 1992 alone, causing major disruptions to both the national economy and the tourist trade. Strife among the three historic leaders of the party (Prime Minister Koirala, Krishna Prasad Bhattarai, president of the Congress Party, and Mr. Ganesh Man Singh, spiritual leader of the party) broke out with Singh charging the Koirala wing of the party with assuming control of the government power through the appointment process, as well as taking over Ministries and Departments. During the party's national convention two years ago in Jhapa, Singh asked Koirala to resign, charging that he was being corrupted by the power bestowed on him by the electorate. By the end of the year, calls for his resignation intensified after Nepal's Supreme Court ruled against the Koirala government on a water resources issue -- a subject of discussions between the governments of India and Nepal.

Discontent within elements of the Nepali Congress Party reached new heights when party president K.P. Bhattarai was defeated in the Kathmandu special election. Koirala and his supporters were accused of sabotaging Bhattarai's campaign in order to consolidate power within the party and to prevent any thoughts on Bhattarai's part of challenging Koirala's position as party leader. During this same period of time, leading up to the surprise 1994 mid-term elections, charges increased from numerous internal and foreign observers of Nepal's government that the Koirala administration was increasingly marked by cronyism, corruption,

collusion with the Indian government and savaging the civil service system. These charges ranged from the firing of hundreds of civil servants and replacing them with members of the Koirala family and associates, to widespread corruption and ties to India that called into question whether Nepal's sovereignty was being undermined.

These events culminated in Ganesh Man Singh urging dissident Congress members to back a vote of no confidence based on the King's July 1 message. Interestingly, the dissolution of the parliament was only one of the means available for a realignment of political interests in the Parliament. In fact, many thought the King would call on another parliamentary leader to form a new government. Some pro-UML lawyers even brought suit questioning whether the King had the constitutional authority to dissolve the Parliament. However, the King opted to follow Koirala's advice and the Court upheld the decision to dissolve the Parliament.

B. Role of the Election Commission in the Mid-Term Elections

The political picture during the mid-term elections affected strongly the ability of the Election Commission to mount the massive effort required to prepare for this year's election. Four major handicaps were encountered that were not faced in organizing for the 1991 elections. The first was the inability of the Election Commission to update their voting lists from their last enumeration held in the fall of 1993. Lists were only partially based on the election lists of 1991. There was a general reluctance toward deletion of voters once they were registered. Consequently, the 1994 voters lists were likely to have included a considerable number of people who had died over the past three years. This situation presented the opportunities that led to allegations of proxy voting. The existing lists were hastily re-compiled and displayed at the 75 district centers for two days. Numerous errors resulted, including double listing and omissions. Voters who had reached their eighteenth birthday in this interim period were disenfranchised. Weather conditions also posed serious problems as the monsoon in many parts of the country made travel most difficult. Two national holidays intervened, including the most important religious holiday of the year during which many Nepalese return to their villages and government shuts down for about ten days. As a result, the Commission had just 91 working days to prepare for this mid-term election. Finally, the harvest was taking place making it difficult for farmers and their families to leave their fields to vote.

The IFES team learned that an additional problem confronted the Commission. The Central Election Commission had experienced a complete staff and Board turnover. Not only was there no institutional memory of events surrounding the 1991 election but it meant that electoral procedures and processes had to be quickly learned by a new staff seconded from various Ministries and by the Board in carrying out their supervisory responsibilities. Many of the district-level election officers appointed for the 1994 elections had served as officers in 1991 as well, thus they had experience but their impartiality was in question even though the majority were judges or judicial officers. There were constant rumors of corruption amongst district

judges in that they may have been targets for attempts by the CDO or other government appointees to influence the election process to their advantage.

To add to their problems, the Election Commission came under almost immediate criticism for not reigning in the Koirala government amidst charges of media unfairness in election coverage, campaign funding excesses and most importantly, the use of government resources to influence the election outcome. Commissioner Shah, in a meeting with the IFES team, cited instances where the Commission intervened with the Koirala Administration in an attempt to curb behavior impacting on the election.

C. Election Results

Despite the political problems and the difficult task of the Election Commission in carrying out its various roles the election results followed along the lines that were predicted. The final vote gave the United Marxist Leninist party 88 seats (up from 69 seats), Nepal Congress 83 seats (down from 113) and a revitalized right of center National Democratic Party (RP) 20 seats (up from 4 seats). It should be noted that in 1991 there were two factions among the backers of the old partyless system and they were unable to reach an agreement on fielding a single slate of candidates. These differences were resolved and only one list of candidates was put forward under the banner of the RPP for the mid-term election². A scattering of smaller parties and independents rounded out the electoral count³.

The UML captured all thirteen seats in the Kathmandu Valley and extended their influence to the western part of the country where the Congress Party had captured all nineteen seats in 1991. Other regions in the country either registered gains for the UML or were penetrated by the RPP. In many constituencies, insurgent Congress Party candidates challenged the Koirala wing of the party resulting in the loss of some seats (speculation running as high as 28) because of party infighting.

The popular vote tells another story. The Congress Party actually out-pollled the UML receiving 33.38% percent of the vote as compared with 30.87% for the UML. The RPP garnered almost 18% of the vote. In a separate report prepared for IFES by the Institute for Integrated Development Studies in Kathmandu, comments are offered in the election's aftermath on media fairness and the campaign posture of the ruling Congress Party.

² Appendix G outlines the number of seats obtained by women candidates in 1991 and 1994 which was released by the Election Commission via the *Kathmandu Post* on 11 November 1994.

³ Appendix H contains a press release by Dr. Bhekh B. Thapa, an independent candidate

The report stated: "...despite the fact that the Election Commission termed the polls 'generally fair' the use of government machinery and blatant booth captures by the ruling party candidates have been reported⁴. UML General Secretary Madhav Kumar Nepal said his party would have mustered at least 10 seats more had the elections been fair".... Money was widely used to buy votes. Among the three largest parties, UML relied most on its party organization rather than on other means".

With respect to media coverage of the election, the Institute cites comments offered by Media Watch, an Asia Foundation-funded project which monitors how the media reports on events during the campaign. Their findings seem consistent with the general atmosphere during this period. The Congress Party received the bulk of the coverage prior to the Election Commission's criticism. Media Watch also questioned whether the media played their proper role in reporting on major issues confronting the nation and the need for voters to consider the implications of these issues in casting their vote. In short, the media did not educate but merely commented on the progress of the political campaigning.

D. The New Government

After considerable unsuccessful maneuvering to form a coalition government, the King on November 30 appointed Mr. Man Mohan Adhikary, the president of the UML, as the second freely-elected Prime Minister since 1991 and asked him to form a minority government. Pursuant to Article 42(2) of the Constitution, in the case where two or more parties are unable to command a majority in the lower chamber, the King shall appoint as Prime Minister the leader of the parliamentary party that holds the largest number of seats. A vote of confidence must then be secured by the government within 30 days of forming the government or the government is dissolved and new elections are held.

The Adhikary government is pledged to support the constitution and the position of the monarchy, the multi-party system of government, maintain close relations with the West and promote a mixed economy in which both state-owned and private businesses would function.

The government expects to maintain a majority in the Parliament through votes from a small splinter communist faction holding four seats and from three of the newly elected seven independents. The balance required is expected to come from those in the Congress Party outside of the Koirala camp. Election analysts expect the Adhikary government to be able to achieve a majority but for how long remains uncertain.

⁴ Please refer to Appendix I for "*The General Election: 1994 - Facts and Figures*" printed by The Election Commission.

It is difficult to speculate on whether this government will be able to govern for the full five year period. The unsettled political situation does, however, imply that observations and recommendations contained in this report focussing on the Election Commission, NEOC, and the role of the international donor community, are of some urgency.

VI. IFES RECOMMENDATIONS 1991 vs. 1994

This section focusses on recommendations offered by IFES in its 1991 report. It should be stated at the outset that the Election Commission produced its own account of the 1991 elections and in this publication listed the IFES recommendations. In commenting on these earlier findings, this section of the report also attempts to provide some commentary on concerns raised by the international observers, other analysts, and the 1994 IFES team.

This section also serves as the necessary departure point for the presentation of policy-directed recommendations designed to strengthen the role of the Election Commission itself.

In a wide-ranging discussion with Mr. Bishnu Pratap Shah, Chief Election Commissioner and Commissioner Mr. Dhruvabar Singh Thapa it became apparent that they see the need for a revamped and more professionally managed Election Commission. In fact, the Commission had advanced certain proposals to the government which were under consideration at the time of the dissolution of the Parliament. The IFES team covered the status of the 1991 recommendations put forward and then discussed in some length their more fundamental concerns about the status of the Commission. These broader issues are addressed in the next section.

While the success of the May 12, 1991 elections is duly noted, the democratic election process is a dynamic one that always leaves room for improvement. Based on the observations of the international observer delegation present in Nepal for the elections and pre-election work done by IFES the following recommendations are intended to strengthen the democratic process in Nepal.

A. Election Commission/Voter Specific⁵

1. Voter Registration Lists

1991: IFES recommends that voter registration lists be distributed to all polling centers and be posted for at least one month to ensure adequate time for citizen review. It was reported

⁵ The following recommendations are in the order they were addressed in the 1991 IFES Technical Election Assessment. Corresponding 1994 recommendations are duly noted below as well.

that 5 to 10 percent of the population was not contained on the voting lists. One reason for this may be that the lists were posted only in district capitals and for only 15 days. This made it impossible for many people to travel on foot to check their name on the voter lists. Another cause for an incomplete list may have been the late decision to extend the vote to 18-year-olds. House to house enumeration may be the most complete method of developing a comprehensive voter registration list. While a national identity card system would provide complete documentation, the cost is likely to be prohibitive.

1994: No estimate is available as to the number of voters excluded from the voting list as the Commission was unable to update it from their enumeration conducted in February of 1993. Mr. Shah was quite frank in his briefing held with the international observer delegation just prior to the election. He admitted that the voter lists were inadequate and said there was little they could do about it. The lists produced were only displayed at each of the 75 district centers and for just two days. Again the Election Commission had little choice in the matter. He did say that he favored the IFES recommendation of posting the election lists/rolls in locations much closer to the actual voting stations.

Another problem cited by Mr. Shah is that the national and local election rolls are maintained separately and voters must be registered on both lists. Many voters do not understand this and the Commission should consider using one list for all elections. Much discussion has centered on the issuance of voter identification cards. A resolution was introduced and passed in the Parliament prior to its dissolution in support of this measure.

However, both the matter of time and money required made the implementation of this resolution moot. Mr. Shah intends to resubmit this proposal for parliamentary consideration. Mr. Shah also focussed on priorities for issuance of such a card. He would use as his initial constituencies those in which there were most disturbances during either parliamentary election. DANIDA continues to support the need for voter identification cards and is expected to be quite supportive during this proposed demonstration phase but would likely be looking for donor collaboration for nationwide implementation. There also was some discussion of the need to have this card serve other purposes as well in order to better insure that individual voters obtained and used these cards.

Of the six recommendations offered by the international observer corps, two centered on the need to revise the voter lists and move toward adoption of a voter identification card.

2. Polling Center Locales

1991: IFES recommends an assessment of the number and location of polling centers. Numerous complaints were received by the delegation regarding the length of lines and distance of travel to polling centers. The purpose of this assessment would be to ensure that no voters are being disenfranchised by having to wait in line too long or travel too far to vote.

1994: Substantially more polling sub-stations were added for this year's election. In 1991, there were 7,408 polling stations as opposed to a slight increase to 7,412 this year. The number of polling sub-stations jumped from a 1991 total of 6,264 to 8,191.

Mr. Shah offered an interesting commentary on assessing the location of polling stations and sub-stations. He stressed that one person's well-positioned polling station was another person's claim that it favored one party or another. When introducing new polling sites, it is most difficult to place/position stations that are truly perceived to be in locations considered by all parties to be politically neutral.

3. Marking Ballots

1991: IFES recommends that the Election Commission examine alternatives for marking ballots and for identifying illiterate voters. According to the Election Commission, 4.42% of all ballots cast were invalidated for various reasons. The election law declares, among other reasons, that a ballot is invalid, "If it is not marked in the prescribed manner and is marked differently, or bears different types of marks." Observers witnessed many ballots being invalidated because the voting stamp ink smudged after ballots were folded by voters. Additionally, illiterate voters had to place a thumb print on the voter registry to attest to voting, and subsequently residue ink often appeared on the ballot from the voter's thumb. Alternative inks, methods for folding the ballots, and ways for illiterate voters to sign the registry (such as simply with an "X" to attest to voting) should be explored.

1994: This recommendation is as timely now as in 1991. In fact, the situation is marginally worse even though the percentage of spoiled ballots declined from about four and a half percent to just over three percent. Interestingly, illiterate voters seemed to have been the largest group to have their ballots thrown out.

In addition to the problems encountered in 1991, as yet unresolved (paper and ink quality) a new concern has been identified. In some instances, illiterate voters who applied their thumb print to the voting registry also put their thumb print in the party

designated square on the ballot itself thinking that this was the proper procedure to follow. This was observed by several observers at different polling stations. The IFES suggestion of using an "X" to sign the registry continues to be a valid point. The observer team also noted that, in some instances, the surface used to mark the ballot was not even creating the possibility of spoiled ballots where only a partial imprint was made.⁶

4. Transporting Ballots

1991: IFES recommends that adequate provisions be made to ensure that party poll watchers can easily accompany ballot boxes from polling to counting centers as stipulated under electoral procedures. Observers noted that party and candidate representatives took their right seriously to accompany ballot boxes from polling to counting centers. Often, however, when the ballot transport arrived it was a vehicle much too small to accommodate the representatives.

1994: Commissioner Thapa told the IFES team that this situation has been eased with the use of additional vehicles to transport the ballots to the district center. In the international observer report it was noted, however, that in some cases "the transportation procedure of the ballot boxes was very unsafe and inadequate".

5. Campaign Finance

1991: IFES recommends that more comprehensive guidelines for reporting campaign expenditures and for full disclosure of campaign contributions by candidates be adopted. Many reports to observers indicated that the campaign expenditure levels set by the Election Commission at Nepali Rupees (NR) 75,000 (approximately \$2,250) were largely ignored. An anonymous survey of what candidates actually spent may help the Election Commission establish an expenditure limitation that would not be ignored.

1994: One of the differences between the 1991 and 1994 elections is campaign finance. One hundred thousand rupees (\$2,000) was the ceiling set by the Election Commission for the mid-term races. However, one candidate told the IFES team that at least five times that amount is spent and in many constituencies the amounts are far in excess of even this

⁶ According to "*Rising Nepal*" (17 November), 79 polling stations, comprising 39 constituencies in 22 districts were declared invalid and were required to re-poll. By 23 November all but one of the seats had been filled.

amount. Only the candidate is required to file a statement on money directly received but funds spent by the party in a particular district or other "in-kind" contributions need not be reported. The statement filed does not follow a particular format and apparently is not subject to Election Commission audit.

6. Election-Day Campaigning

1991: IFES recommends stricter enforcement of laws prohibiting campaigning in and around polling centers on election day. Although not permitted by law, observers witnessed many instances of partisan political activity in and around the polling centers on election day. Clear instructions should be issued regarding allowable activity and subsequent enforcement of these guidelines must be undertaken by polling and law enforcement officials.

1994: Within the Kathmandu Valley, Election Commission instructions seem to have been respected. Outside the Valley, several teams observed partisan political activity within the boundaries of the polling station extending to the wearing of party labels, and in one case, a candidate was actually present for a duration of time after casting his ballot. Two teams, including a DANIDA official and an NDI team member, actually photographed instances of multiple voting and other illegal actions. The problem seems to be less that clear guidelines were not issued than the continuing problem of where one party is dominant problems are more likely to occur.

7. Poll Watcher Access

1991: IFES recommends that steps be taken to ensure equal access by political party poll watchers. It was reported to observers that in villages where one party was particularly strong it was difficult for other parties to effectively carry out their poll-watching responsibilities. The impartiality of Chief Election Officers dictates that they ensure equal access by all party representatives entitled to be present as provided by the election law.

1994: As with conditions cited in 1991, the same situation was present in 1994 with respect to the presence of poll watchers. Where two or more parties are actively involved there seem to be few problems. Where this is not the case then the likelihood that poll watchers will have access to the voting process is more problematic.⁷

8. Election Crime and Punishment

1991: IFES recommends that more specific guidelines and an administrative process for resolving election disputes by the Election Commission be developed and that any subsequent appeals to this process be pursued through the established judicial system. The Election Commission, as an administrative body, may find that it is the most appropriate first level for resolving disputes. If disputes cannot be resolved to the satisfaction of the parties involved, then a judicial recourse may follow. This should speed the process for resolving minor disputes which the Election Commission would have the expertise and authority to do without involving the judiciary. Any appeals to the decisions of the Election Commission could be filed with the established court system rather than a judge appointed by the Election Commission to resolve disputes.

1994: Commissioner Shah told the IFES team that no individual or party official was prosecuted after the 1991 general elections. It appears that the same was true of the 1992 local elections. He also indicated that one of the basic problems is the Commission's reliance on the court system to hear and determine appropriate action. These quasi-judicial election commissions are formed just before the election and disbanded soon after the election is held. It is up to an aggrieved party to go before this body to initiate prosecution hearings. Mr. Shah also mentioned that the Commission is dependent on the Government for legal advice and in bringing any action that may be required. A recommendation addressing this problem in more detail is contained as part of a much broader set of policy suggestions offered in the next section.

9. Post-Election Assessment

1991: IFES recommends a post-election assessment be undertaken by the Election Commission and selected non-governmental organizations. Any electoral system, not to mention a new one, leaves room for strengthening and improving the process. IFES' pre-election survey team recommended the preparation a post-election analysis by Nepali experts in

⁷ Please refer to Appendix J for a sample of "Guidelines for Polling Officer" developed by the Election Commission.

different fields to provide an objective, multi-disciplinary assessment of the 1991 elections. It now seems appropriate that the Election Commission would initiate such a project as it serves to learn and benefit the most from an objective assessment of the electoral process. This assessment would provide a uniquely Nepali insight into the electoral process of more depth than could be accomplished by foreign observers.

1994: Both the Election Commission and NEOC produced reports on the 1991 and 1994 parliamentary elections. NEOC's post-election report tended to be the more analytical of the two. The team and others recommended that similar reports be issued with far more analysis by the Election Commission and with recommendations to the Government on needed reforms. Some of these needed reforms were discussed by Mr. Shah and Mr. Thapa with the IFES team and will be enumerated in the following section.

B. Documentation of the Nepalese Experience

1991: IFES recommends the full documentation of the Nepal electoral experience to be shared with other emerging democracies. Nepal's ability to carry out a successful election within a short period in spite of its difficult topography, low literacy rate, poor economic condition, and a formerly repressive government deserves to be shared with the rest of the world. A case study of Nepal should serve as a realistic example that no obstacle is too difficult to overcome in order to peacefully transfer power through free and fair elections.

Such a case study would consider the ten critical areas of an electoral process as they relate to Nepal: the Electoral Commission and election laws; voter registry; voting station procedures; poll worker training; transportation; voting materials; security; counting, reporting and certification of votes; systems management; and voter education and motivation.

The case study on Nepal would also consider the political atmosphere throughout the campaign period and the role of the National Election Observer Committee and international observers, the donor community, and non-government sponsored civic education activities.

1994: The IFES 1991 recommendation that Nepal's experience offers a useful case study for other emerging democracies remains valid. Some other areas also should be covered in such a study including: how to deal with an incumbent government and the need to adopt a code of conduct to be followed by those in power; the need to strengthen the Commission itself and to extend to this body jurisdiction over enumeration, campaign finance, administration (including security) and conducting administrative hearings based

IFES Technical Election Assessment

Nepal: 1991 - 1994

November 1994

Page 19

on electoral misconduct. These, incidentally, are areas Mr. Shah and the Commission are looking at very closely. How these are resolved will offer useful information to other countries going through the same transitional stage.

C. Civic Education

1991: IFES recommends that a long-term commitment to a comprehensive civic education program be made by the Government of Nepal and private voluntary organizations to work together for democratic civic education.

Nepal's recent successful elections were a result of a coordinated and focused endeavor on behalf of the people, private organizations, and government of Nepal. Since the first multiparty elections in over thirty years have concluded, now is the time to take steps in anticipation of future elections and for strengthening democracy in Nepal. IFES recommends that the people, private voluntary organizations, and the Government of Nepal once again join in a spirit of cooperation to develop and implement a nationwide civic education program concentrating on the electoral process, the democratic process, and the rights and responsibilities of citizens living in a democracy.

An election is but one more step in the participatory process within the context of a democracy. Now that the elections are over the focus must turn to establishing democracy as an everyday way of life. This includes how to go about solving problems and promoting ideas in democratic society. The prospect of local elections in the near future makes implementation of a civic education program all the more needed.

1994: Obviously this recommendation remains as central to the functioning and growth of a civil society as it did in 1991. IFES suggests several means by which Nepal may benefit from other activities, experience, and knowledge which IFES might share in the area of civic education. In several countries, including Romania, Nicaragua, and Estonia IFES has worked with civic-minded organizations and leaders.

The following projects have promoted civic education as a key ingredient in the development of a democratic society:

- a. The IFES/Romania program, in its third year of promoting civic education, presents developmental alternatives including: seminars on local leadership; NGO coordination; intense training sessions for educators and community leaders; civic leadership; and issue promotion and presentation. In addition, the IFES office in Romania has been promoting a permanent and non-partisan Central Election Commission. This final issue is of prime importance in the continued maturization of the electoral process and leadership in Nepal.

b. IFES worked with Via Civica in Nicaragua, established in May 1989, for the purpose of encouraging Nicaraguans to register and vote in the elections of February 1990.

c. The Jaan Tonisson Institute serves as an IFES sub-grantee and assists in coordinating seminars in Estonia. This nation-wide civic education project is designed to train hundreds of civic education teachers at the secondary school level through one-week conferences. IFES provides both written materials and seminars conducted by Western and Estonian experts on the fundamental concepts of democracy; the rights and responsibilities of individuals in democracies; and constitutional and electoral issues. Funding is provided solely by the "Pew Charitable Trusts."

D. National Election Observation Committee (NEOC)

1991: IFES recommends that the NEOC model with as broad a representation of democratic forces as possible be used in future Nepalese elections. NEOC is to be congratulated for its efforts in coordinating international and domestic observers for the May 12, 1991 election. The concept of a broadly based indigenous organization to coordinate observers has merit and may serve as a model for future coordinating efforts in Nepal and in other countries.

1994: NEOC served as the coordinating body to assist the international observers, trained a large number of local observers and investigated instances of campaign irregularities prior to election day including fielding a delegation to look into the murder of three UML party activists in Dang.⁸ The IFES team, building on this 1991 recommendation, met with NEOC representatives to discuss the possibility of organizing, to perform ongoing evaluations of the electoral process, training, voter education, and make longer-range preparations for facilitating the work of future international observer missions. The larger issue of the need for a citizen watchdog organization also was mentioned in considering responsibilities which might be undertaken by NEOC. This oversight function would extend to both the actions of the Government and the Election Commission as they affect the conduct of political campaigns and election administration. NEOC is now considering whether they wish to organize on a permanent basis, and if so, which functions they would consider undertaking.

⁸ According to "Rising Nepal" newspaper (15 November) over 1125 domestic observers participated in the 1994 mid-term elections.

E. Political Party Poll Watchers

- 1991:** IFES recommends that the political parties of Nepal undertake a specific training program for volunteers that emphasizes the rights, responsibilities, and duties of poll watchers at polling centers. It was evident to many observers that party representatives had little training or knowledge of their duties at polling centers on election day. This situation is beneficial neither to the party nor the election process in that nothing is gained from the representative's presence. A training program for all poll watchers would explain why the observer is present, what the person is to observe, and how to go about conducting their duties.
- 1994:** IFES wishes to reinforce its 1991 suggestions and would stress that each poll worker instructor be required to teach all poll workers in a given area regardless of their particular political party affiliation. Poll workers must be instructed to avoid any form of partisan activity in their training or result in their immediate termination from the project.⁹

F. The Donor Community

- 1991:** IFES recommends that the international donor community continue to pool their resources and work in a coordinated fashion in support of the full democratization of Nepal. Participation in the international observers delegation was a prime example of the international community working together to avoid duplication of efforts. Such cooperation in Nepal can broaden the support of the many worthwhile projects that have emerged and will continue to emerge in Nepal.
- 1994:** DANIDA, once again, supported the Election Commission and NEOC in carrying out the 1994 mid-term elections. Their assistance extended to general support for the Commission, computer and telefax equipment, training of election officials, technical assistance and support in facilitating the work of the international observers.

DANIDA intends to remain actively involved with the Election Commission covering its general institutional development and is prepared to fund a demonstration project to test

⁹ In 1994, over 71,000 persons were employed by polling stations and other electoral bodies for the elections ("*Rising Nepal*" 15 November, 1994).

the feasibility of establishing a national voter identification card. Other donors should watch this effort closely as a collaborative effort will likely be required to carry this out on a national basis.

VII. CEC RECOMMENDATIONS

Perhaps the most striking difference between the 1991 and 1994 parliamentary elections is the need for some basic changes in the structure and operation of the Election Commission itself.

In 1991, and in earlier elections, under the part less panchayat system of government, the Election Commission functioned quite well. Its membership grew prior to election preparations and then was drastically reduced once elections were held. Needed personnel were seconded from Ministries and Departments and the Chief Development Officer served as the chief election official in organizing efforts at the district and local levels.

These procedures are no longer adequate in carrying out the many responsibilities of the Election Commission. Messrs. Shah and Thapa talked with the IFES team about their concerns and needed action.

A. Professionalization of the CEC

PROBLEM: Central staff of the Election Commission are detailed to the Commission from Ministries and Departments and only for the period of time running up to the election itself. Even the Executive Secretary is appointed by the government and seconded to the Commission. An added problem is that assignment to the Commission is not considered as prestigious as serving with one of more widely-recognized Ministries or Departments.

SOLUTION: The Election Commission currently reports to the Government. Added independence and prestige should be sought and an annual appropriation sufficient to allow the hiring and retention of a fully-professional staff be allotted. The Executive Secretary should be hired by the Commission and should be accountable to the Commissioners.

At the current time, there is no permanent government agency charged with the responsibility of conducting elections in Nepal. Instead, responsibility for organization and supervision of referendums and parliamentary elections and registration of voters is vested in a hierarchy of appointed electoral commissions whose efforts are supported by an administrative staff. At the top of the hierarchy is the Central Election Commission (CEC), organized to oversee overall compliance with the electoral law, provide technical and procedural guidance and supervise the activities of regional commissions in carrying out the administrative responsibilities in each of the electoral districts. The regional commissions register candidates within their respective

electoral districts, arrange for the acquisition of approved ballots and commodities, and recruit, train and supervise the activities of polling site commissions. It is the polling site committees that compile the voter lists, set up polling sites, process voters at the polls and complete the count of ballots on election day.

The primary issue that deserves continued discussion relates to the temporary status of the Central Election Commission. The term of the CEC is concurrent with the terms of the parliament. It is quite likely that each Commission will only experience one nation-wide parliamentary election during its term.

Most experienced election administrators would agree that a key factor that ensures the uniform, efficient and accountable conduct of elections is continuity. There is no doubt that the election system in Nepal will continue to evolve and be forced to cope with new demands. With each new election, and as the election laws of Nepal continue to change, valuable lessons will be learned. Whether they relate to legal issues, administrative and procedural technicalities, logistics or treatment of election irregularities, nothing teaches like experience. However, Nepal is not affording itself the benefit of such experience. Instead, each new Commission will have to "reinvent the wheel" facing many of the same policy questions and administrative difficulties without the benefit of institutional memory.

The creation of a permanent civil service election division may be worthy of consideration. There are many viable alternatives such as a small full-time depoliticized staff augmented by temporary political appointments during peak election periods. Another option could be a staff of political appointees from different parties serving rotating terms, or a combination of the two. The most important element is that development of a professional election administrative entity would provide the continuity and expertise needed to maintain an efficient, accountable and consistent election system on an on-going basis.

Even if the temporary terms of the CEC were to be maintained, it might be helpful to consider staggering their terms. The rotation of terms would provide a basis for continuity in the Commission which would span transitions in government. At any given time, only some Commissioners would be subject to appointment while remaining members would be available to carry forward the institutional memory and experience contributing to the efficiency of future election management.

An additional method of promoting honest, impartial, and efficient election administration in Nepal through a professional and independent election commission according to electoral law, is creation of an election information archive. In order to ensure the transparency of CEC activities and the legitimacy of election results and to build an institutional memory in Nepal, the CEC must develop an archive of election information. All too often, fledgling democracies close the books after each election without maintaining a clear record of events and outcomes,

thereby precluding full scrutiny and helpful criticism. The maintenance of an archive is also important in tracking voting patterns, recording the electoral reform process, and identifying problem areas, both substantively and geographically. On-site advisors can assist in the cataloging of election documents and data and encourage the maintenance of the archive across time.

IFES suggests continued work with the CEC to update and expand the election archive. An election archiving project should be designed to create an institutional memory within any permanent commission to safeguard against the loss of vital information on the evolution of Nepal's election system. The establishment of an archive for the collection, storage, and analysis of election-related data is also an important component of long term election monitoring. Beyond archiving original documents, computerization of several facets of the election process, would allow for an electronic database capable of enhancing the storage, analysis, and communication capacity of a CEC.

At this stage, it is vital that the archive be adequately updated and maintained. The addition of information collected for future elections; new legislation on elections, campaign finance, political parties; and data on redistricting is important to the institutionalization of the archive and the successful tracking of election data. Information on the Nepali electoral system could be shared via e-mail with Nepali research, observer, and legal foundations as well as foreign election commissions, thereby enhancing the transparency of Nepal's electoral process and contributing greatly to its classification as a more open system.

B. Election Officer Appointment

PROBLEM: The formal responsibility of the election officer is carrying out voting enumeration, election administration, and security. It should be noted that the Chief District Officer (CDO), a government appointee, may have good reason to try to influence the election officers. This has led many of the political parties to not trust the CDO to act independently in carrying out his responsibilities. Mr. Shah also mentioned that at the village level it is the village secretary who assumes major responsibility for the house-to-house enumeration. These officials are sometimes not well educated and are incapable of carrying out this job. Mr. Shah, in response to a question about the ability to prosecute election lawbreakers, stated that the legal process is cumbersome and basically unworkable. The steps involved have the polling official lodge a report with the Returning Officer who, in turn, notifies the Election Commission. The Commission must then rely on an election tribunal set up immediately prior to the election and disbanded soon after the election for judicial relief. Mr. Shah says that at a minimum this body should be created some time before the election so that party officials and others can bring complaints before it concerning alleged pre-election illegal actions.

SOLUTION: Mr. Shah has recommended that a Chief Election Officer, assigned by and responsible to the Election Commission, be appointed to each of the 75 districts and assume direct control over all phases of election administration. This would include enumeration, administration, training of polling officials, and administrative law functions related to election irregularities. This person would also be responsible for directing the house-to-house enumeration and determining the selection of polling stations and sub-stations.

C. Election Crime & Punishment

PROBLEM: Improving the administration and publicizing the provisions of the Election (Offence and Punishment) Act of 1990 (#2047) is vital (appendix K). As mentioned, no one was prosecuted for illegal actions related to the 1991 election or apparently during the course of the 1992 local elections.

SOLUTION: Despite allegations that Congress Party activists and supporters promoted and/or committed scattered ballot-box stuffing, the buying of votes, voter intimidation, random violence, electioneering, and ballot security problems, information on these offenses has not yet been released although it should be forthcoming. It should be noted that 57 persons were arrested for attempting to intervene in the peaceful process of the elections, some by force.¹⁰ Unfortunately, at this point there is little information on prosecutions in 1994 or information on judicial action or inaction regarding the aforementioned alleged illegal activities.

D. Voter Identification Card

PROBLEM: Voting irregularities continue to take place, including booth capturing, underage voting, proxy and multiple voting. The international observer team noted problems in all these areas as well as some faulty procedures used to register voters at the polling station.

SOLUTION: Use of a voter identity card would do much to reduce the incidence of voting irregularities. The Commission strongly supports this. Mr. Shah would like to use as the Commission's pilot project those constituencies in which there have been the most problems in 1991 and 1994. DANIDA, as mentioned, is committed to assisting the Commission in this demonstration effort and would likely seek a collaborative effort with other donors if the system is adopted nationwide.

¹⁰ Ibid (6 November 1994).

E. Security at the Polling Station

PROBLEM: Security at the polling station remains an area of concern to the Election Commission and to the political parties especially in those situations where they are in a decided minority.

SOLUTION: In an attempt to prevent serious security infractions in 1994, special security measures were made in all parliamentary constituencies. In addition to placing police and Nepalese Army on full alert, armed, mobile private security personnel were brought on board to supplement the existing deployments. According to one report, a communications network for security units was initiated which was to "...ensure unfettered information flow between the center, the district, and the constituencies to monitor the situation continuously."¹¹ Mr. Shah mentioned to the IFES team that the Commission is weighing recommending to the government that future elections, as in India, be held over a two day period with one half of each district voting on either the first or second day. This would allow security forces to be better deployed, especially in rural areas.¹² Since Nepal has extensive rural regions and a difficult topography, this approach merits serious consideration.

VIII. GENERAL CONCLUSIONS

Several reports stated that the Nepali Congress Party asserted that "most cases of irregularities seemed to have been committed by the present ruling party, although other major parties were also reported". Irregularities cited included "proxy voting, underage voting, multiple voting, sale of votes, and entry of unauthorized persons into the polling stations". International delegations also mentioned problems with the voting lists, intimidation, booth capturing and other procedural and security issues.¹³ In order to solve such irregularities IFES suggests that the following adjustments be focussed on for the period before the next series of elections.

¹¹ "Rising Nepal" - 12 November 1994.

¹² Nearly 100,000 security personnel were deputized during election day proceedings according to "Rising Nepal" - 15 November 1994.

¹³ According to the "International Observers Report" of 17 November 1994, "The mid-term National Elections in Nepal...were in most constituencies fair and free with minor irregularities...however, some constituencies where irregularities were of such an extent that elections there cannot be regarded as fair and free. Re-polling in these constituencies seems to be necessary.

- The need for some basic changes in the structure and operation of the Election Commission itself is the most striking difference between the 1991 and 1994 parliamentary elections.
- Voter lists were inadequate and were only displayed at each of the district centers for two days. The national and local election rolls are maintained separately and a voter must be registered on both lists. Many voters do not understand this and the Commission should now consider using one list for all elections. This single list should be the basis for what many feel to be the next step - the issuance of voter identification cards.
- An issue which would significantly reduce unrecognizable and/or invalidated ballot markings could be rectified by asking illiterate voters to mark the voter's list with an "X". The use of ink fingerprinting of illiterate votes for marking the voter's list resulted in accidental ballot marking at the next stage of the process. IFES observed some illiterate voters using their inked thumb to mark their candidate selection instead of the provided stamp in the booth.
- Campaign finance is certainly one of the most marked differences between the 1991 and 1994 elections. Even more violations were observable. Approximately US \$2,000 was the ceiling set by the Election Commission for the mid-term races. The IFES team was told that 5 times that amount was spent and in other constituencies far in excess of that amount. In addition, only the candidate is required to file a statement on donations received whereas funds spent by the party need not be reported.
- Several teams observed partisan political activity in the countryside inside the polling station boundaries which included the wearing of party labels and a candidate remaining at the polling site after casting his ballot.
- Steps should be taken to ensure equal political party poll watchers participation. It was reported to observers that in villages where one party was particularly strong it was difficult for other parties to effectively carry out their poll-watching responsibilities.
- The international observer report noted that in several cases "the transportation procedure of the ballot boxes was very unsafe and inadequate".
- Media Watch questioned whether the media played a proper role in reporting on major issues confronting the nation and the need for voters to consider the implications of these issues in casting their vote. In the team's opinion, the media did not educate, but merely commented on the progress of political campaigning.
- The Election Commission came under almost immediate criticism for not reigning in the

Koirala government amidst charges of media unfairness in election coverage, campaign funding excesses and most importantly, the use of government resources to influence the election outcome.

- The IFES team learned that the CEC had experienced a complete staff and Board turnover. There was no institutional memory of the 1991 election events therefore electoral procedures and processes had to be quickly re-learned by a new staff and seconded by various Ministries and the Board.

Ultimately, IFES hopes that this and other international and domestic reports achieve their goal of promoting an increased awareness on the part of Nepalese election authorities, political parties and international donors of any continuing difficulties hindering the conduct of free, fair, and credible elections in Nepal and measures for overcoming these difficulties. Included in these difficulties are; an increased amount of technical and legal information available to the Government of Nepal for its future efforts to hold free, fair and credible elections; an expanded dialogue among international donors and Nepalese election officials regarding technical and legal issues surrounding the elections; and an expansion of knowledge on the part of the international donor community which may use the technical election assessment report as an authoritative briefing paper on the Nepalese electoral process as well as a review of international technical assistance that has proven effective in promoting democratic electoral reform in that country.

Once again, the IFES team considers it a privilege to have witnessed the ongoing and difficult process of expanding on fledgling democratic processes which have been in place for only the past three years. Despite problems encountered, the Election Commission and the people of Nepal have again demonstrated their commitment to the democratic process and the conduct of a free and fair election.

APPENDIX A



राष्ट्रिय निर्वाचन पर्यवेक्षण समिति २०५१ - नेपाल National Election Observation Committee (NEOC) 1994 - Nepal

October 13, 1994

नेहरू-जन्मल
श्री विरेन्द्रकेशरी पोखरेल
श्री विरवमान्द मैनाली

सहायक
श्री सुमन पाकुरेल

सचिव
श्री गोपाल कृष्ण शिवाकोटी

सदस्य
श्री विरेन्द्रनाथ खतिवडा
श्री कृष्णनाथ शिवाकोटी
डा. राजेश गौतम
डा. भोगेन्द्र शर्मा
श्री नीती प्रधान
श्री योगेन्द्रमान बिजुकछे
श्रीमती सन्ध्या भट्ट

सल्लाहकार
श्री बाबुराजनाथ दुग्गना
श्री अश्विन
डा. वि. र. न. - नेपाल, २०५८

Co-Chairpersons
Mr. Virendra Keshari Pokhrel
Mr. Bishwa Kanta Mainali

General Secretary
Mr. Sushil Pyakurel

Secretary
Mr. Gopal Krishna Shiwakoti

Member
Mr. Badri Pd. Khatiwada
Mr. Krishna Pd. Shiwakoti
Dr. Rajesh Gautam
Dr. Bhogendra Sharma
Mr. Gauri Pradhan
Mr. Yogendra Man Bijukchhe
Mrs. Sandhya Bhatta

Advisor
Mr. Basudev Pd Dhungana
(Ex-Chairperson
NEOC-Nepal, 1991)

International Foundation for Electoral Systems
1620 I Street N.W. Suite 611
Washington D.C. 20006
USA

Ref: Observation of Mid-term Polls 1994.

Dear Sir,

As you may by now have been well aware of the fact that the mid-term polls in Nepal is slated for November 15, 1994. The National Election Observation Committee (NEOC) has been constituted with the initiatives of six different human rights organizations in cooperation with other concerned institutions and individuals from various walks of life to closely monitor and observe the mid-term polls. NEOC also had organised the monitoring of the General Elections in 1991, the first General Elections based on multi-party system in 32 years.

NEOC 1994 has been duly recognized by the Election Commission of Nepal as the focal point to coordinate all the activities related to election observation. Currently, NEOC is in the process of organising training in the different regions of Nepal for the local observers.

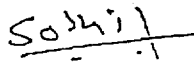
As in the General Elections of 1991, NEOC is inviting eminent international observers for the observation of upcoming polls in Nepal. Keeping in view of your profound interest in building faith in democratization process in Nepal, we would like to invite you to observe such important political event in Nepal.

Due to budgetary constraint we are not in a position to cover the expenses for your mission. We hope you will understand our situation and kindly accept our invitation.

Due to serious time constraint, we are bound to act promptly for the preparation of the observation. Therefore, we would like to hear from you as soon as your time permits, preferably by fax message. We will be sending you other relevant materials, including itineraries and schedule by express mail in shortest possible time.

Looking forward to hearing from you soon.

With best wishes,


Sushil Pyakurel
General Secretary

संघर्ष क्षेत्र
१११०३३ देवाधिपति
२२२०९८ मालुवा
२७०७७० इन्सेक
४१९६१० इन्ह्युरेड
४१६०६१ सविक्ट

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270770 INSEC
419610 INHURED
416061 CVICT

सचिवालय
नियोजक
मल्ल सरेरेत
तेनचौर, काठमाडौं
फोन : ४१९६१० एक्स ६१०

Secretariat
NEOC
Hotel Malla
Lalnchaur, Kathmandu
Ph: (1977-1) 418385 Ext.610

(UNOFFICIAL TRANSLATION)

National Election Observation Committee (NEOC) 1994: Nepal
Preliminary Report
November 17, 1994

National Election Observation Committee (neoc) formed with an objective to observe the mid term general election conducted in impartial, fair and peaceful manner has prepared the following preliminary report base on the reporting of about 2000 election observers deputed to the 74 districts.

1. This committee feels that the present election had by and large, been conducted peacefully. However, the committee feels the present election not fully impartial and fair as there had been serious squabbles among the parties , firing by security men and unauthorized persons and other incidents during, before and after the polling in some electoral areas. Thus making the election not a fully peaceful one as expected.
2. As per the reports available the security man deputed for election stood indifferent when the polling booth had been captured by some party giving the impression that eh ruling party misused its power to rig the election. Unauthorized use of ballots by threatening polling officer at the point of Khykuri (sharp edged weapon) and by locking the polling in a room has also been reported.
3. Some flaws have been observed when ballot boxes had been looted or snatched and thrown away in the streams or unreasonably longer time was taken to transport the ballot boxes to the place of counting the votes. This points out the non-cooperation of the security personnel in the election process in some areas.
4. Serious flaws have been observed in the voters' list. Names of many voters were found to have been repeated and many illegal voters appeared in the list. Voters lists were not updated in the specified time, sufficient time was not allowed to lodge claims and opposition to published the voters list and that serious efforts were lacking to reform the electoral laws, rules an guidelines which should have attracted special alternation.
5. Repeated polling had been encouraged by making even those persons capable to write to put thumb impression on the receipt of the ballot paper and the impression was fixed after issuing the ballot paper indicate that the ink used in the balloting has been done was found not of satisfactory quality and somewhere the quality of Swastika (stamp used to caste the ballot) had not been satisfactory and inking the stamp had not been uniformly done.

APPENDIX B

RAUTAHAT DISTRICT

Geographic/Demographic Features

Physical Area: 1126 Sq. Kms
Headquarters: Gaur

Topography: Latitude: 26⁰44' - 27⁰14'
Longitude: 85⁰14' - 85⁰30'
Climate: Tropical, sub-tropical

Political Boundary:

East: Sarlahi district
West: Bara District
North: Makwanpur District
South: Bihar (India)

Elevation: 122 meters - 244 meters

Population (1991 Census)

<u>Item</u>	<u>Details</u>
- Total population	414005
Male	213994
Female	200011
- Total households	76219
- Average households	5.4
- Literacy rate of 6 years and above	24.9
- Population density per sq. km.	367.7

Economic Characteristics

Economically Active and Inactive Population (1991 Census)

<u>Status</u>	<u>Number</u>
- Eco. Active	127665
- Eco. Inactive	159611

Major Groups of Economically Active Population (1991 Census)

<u>Occupation</u>	<u>Number</u>
- Prof/Tech. Workers	2419
- Farm/Fishing Workers	98997
- Adm/Clerical Workers	1143
- Sales, Services & Prod. Labours	21167
- Others and not Stated	3939

Total	127665

Social CharacteristicsMajor Linguistic Groups (1991 Census)

<u>Mother Tongue</u>	<u>Speaking Population</u>
1. Bhojpuri	288144
2. Nepali	33223
3. Tharu	14759
4. Maithali	13377
5. Hindi	6834

Major Religious Groups

<u>Religion</u>	<u>Number</u>
1. Hindu	336727
2. Islam	71379
3. Buddhist	5181
4. Christian	583

Education (1992)

<u>Student/School Ratio</u>			<u>Students/Teachers Ratio</u>			<u>Tech/School Ratio</u>		
<u>P</u>	<u>LS</u>	<u>S</u>	<u>P</u>	<u>LS</u>	<u>S</u>	<u>P</u>	<u>LS</u>	<u>S</u>
189	109	186	41	44	46	5	2	4

Health (1992)

- Population/Hospital Ratio:	412.921
- Population/Hospital Beds Ratio:	16,517
-	

Political Aspects

General Election, 1991 and Mid-term Election 1994

<u>Total No. of Population</u>		<u>Total No. of Voters</u>		<u>Total no. of Constituencies</u>	
<u>1991</u>	<u>1994</u>	<u>1991</u>	<u>1994</u>	<u>1991</u>	<u>1994</u>
414005	443423	237622	255656	4	4

<u>Total No. of Polling Centres</u>		<u>Total No. of Polling Sub-Centres</u>		<u>Total No. of YDC Muncp</u>	
<u>1994</u>	<u>1994</u>	<u>1994</u>	<u>1994</u>	<u>1994</u>	<u>1994</u>
92	131	100	1		

<u>Total No. of Contesting Candidates</u>	
<u>1991</u>	<u>1994</u>
29	27

1991 General Election

<u>Party</u>	<u>No. of Elected Members</u>
The Nepali Congress	2
Communist Party of Nepal (UML)	1
Independent	1

Constituency Profile

General Election 1991

Constituency No. 1

		<u>Percentage</u>
Total voters:	57896	
Total vote casted:	38087	65.79
Total valid votes:	36903	96.89
Total invalid votes:	1184	3.11

Votes Secured

<u>Party or Independent</u>	<u>Vote</u>	<u>Percentage</u>
The Nepali Congress	12569	34.06
Communist Party of Nepal (Democratic)	8349	22.62
Nepal Sadbhavana Party	3570	9.67
The National Democratic Party (Thapa)	3565	9.66
Independent	2952	8.00
Independent	2135	5.79
Independent	1504	4.08
Communist Party of Nepal (UML)	1362	3.69
Rastriya Janata Party (Nepal)	803	2.18
Ekata Party	94	0.25

Constituency No. 2

		<u>Percentage</u>
Total voters:	61918	
Total vote casted:	46584	75.23
Total valid votes:	44886	96.35
Total invalid votes:	1698	3.65

Votes Secured

<u>Party or Independent</u>	<u>Vote</u>	<u>Percentage</u>
The Nepali Congress	28276	63.00
Communist Party of Nepal (Democratic)	13848	30.85
Nepal Sadbhavana Party	2342	5.22
The National Democratic Party (Thapa)	420	0.94

Constituency No. 3

		<u>Percentage</u>
Total voters:	59991	
Total vote casted:	42104	70.18
Total valid votes:	39997	95.00
Total invalid votes:	2107	6.00

Votes Secured

<u>Party or Independent</u>	<u>Vote</u>	<u>Percentage</u>
Independent	13987	34.97
The Nepali Congress	11839	29.60
Communist Party of Nepal (UML)	9287	23.22
Communist Party of Nepal (Democratic)	2892	7.23
The National Democratic Party (Thapa)	1167	2.92
Nepal Sadbhavana Party	576	1.44
The National Democratic Party (Chand)	249	0.62

Constituency No. 4

		<u>Percentage</u>
Total voters:	57817	
Total vote casted:	40622	70.26
Total valid votes:	38080	93.74
Total invalid votes:	2542	6.26

Votes Secured

<u>Party or Independent</u>	<u>Vote</u>	<u>Percentage</u>
Communist Party of Nepal (UML)	12665	33.26
The Nepali Congress	12630	33.17
The National Democratic Party (Thapa)	5086	13.36
Nepal Sadbhavana Party	2931	7.70
Rastriya Janata Party (Nepal)	1738	4.56
The National Democratic Party (Chand)	1531	4.02
Communist Party of Nepal (Democratic)	1300	3.41
Independent	199	0.52

6

General (Midterm) Election, 1994

RAUTAHAT

Const. No.	No of VDCs	Ward No. & Mncp.	Polling		Total No. of Voters	Population		Male	Female	H.H.	Literacy (%)	Ethnicity						No. of candidates	
			C	SC		'91	'94					Yadav (%)	Muslim (%)	Kalwar (%)	Teli (%)	Khuswa (%)	Karmi (%)		Kanu (%)
1.	25	1-13	38	43	63,402	1,07,145	1,14,758	56,437	50,708	20,359	23.62	11.93	12.36	5.72	8.32	7.49	2.50	1.20	8
2.	25		NA	NA	64,384	1,11,511	1,19,435	57,498	54,013	20,321	20.52	8.74	32.51	4.36	5.52	3.28	6.00	20.28	5
3.	25		26	39	63,880	1,05,589	1,13,092	54,587	51,002	19,477	19.30	17.96	11.10	2.68	3.52	3.31	2.86	3.97	9
4.	21		28	47	63,990	1,03,799	1,11,175	53,718	50,081	19,456	25.51	10.53	16.47	1.00	3.02	2.73	4.88	—	5

32

7

List of Candidates and Party

<u>S.N.</u>	<u>Name of Candidates</u>	<u>F/M</u>	<u>Age</u>	<u>Party</u>	<u>Symbol</u>
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CONSTITUENCY NO. 1

1.	Braj Kishor Singh	M	46	NC	TR
2.	Gunjeshwori Prasad Singh	M	55	RPP	PL
3.	Anil Kumar Jha	M	27	NSP	HWFF
4.	Bishnu Bahadur Manandhar	M	64	CPN (United)	SL
5.	Ramdulari Devi Shah	F	25	UPFN	CK
6.	Janak Hazara (Paswan)	M	64	RJP	MW
7.	Mohan Prasad Sharma	M	48	INDP	EL
8.	Bishwanath Agrawal	M	47	INDP	HS

Constituency No. 2

1.	Seikh Idrish	M	61	NC	TR
2.	Shambhu Prasad	F	34	NSP	HWFF
3.	Mohammad Abbas	M	46	CPN (United)	SL
4.	Dr. Sekh Moed	M	62	INDP	MN
5.	Rajendra Prasad Patel	M	55	INDP	CW

Constituency No. 3

1.	Harihar Prasad Yadav	M	55	NC	TR
2.	Tulsi Lal Amatya	M	76	CPN (UML)	SN
3.	Sekh Abdullah Matin	M	49	RPP	PL
4.	Lal babu Roy Yadav	M	34	NSP	HWFF
5.	Rajdev Prasad Chaudhari	M	41	NJM	CH
6.	Laxman Chaudhari	M	44	RJP	MW
7.	Kameshwor Tiwari	M	35	RJP	PO
8.	Keshar Raj Acharya	M	52	INDP	LDR
9.	Hridaya Narayan Roy Yadav	M	39	INDP	MGM

Constituency No. 4

1.	Udday Dhakal	M	48	NC	TR
2.	Dr. Bansidhar Mishra	M	33	CPN (UML)	SN
3.	Ram Prasad Yadav	M	49	RPP	PL
4.	Bishnu Narayan Chaudhari	M	29	NSP	HWFF
5.	Govinda Prasad Upadhyaya	M	50	INDP	MG

Election Symbol

TR = Tree; PL = Plough; HWFF = Hand with five fingers, SL = Sickle, CK = Cock; MW = Man and Woman; EL = Elephant; HS = House; MN = Man; CW = Cow; CH = Chair, PO = Pair of Oxen, LDR = Ladder; MG = Mango; SN = Sun

DISTRICT/CONSTITUENCY

PROFILE

RAUTAHAT DISTRICT

PREPARED BY

National Election Observation Committee

Nepal

November, 1994

NATIONAL PROFILE

- Nepal: A Fact Sheet.
- General Election 1991: An Abstract of Observation Report

DISTRICT PROFILE

- Geographic/Demographic Features
- Economic Characteristics
- Social Characteristics
- Political Aspects

CONSTITUENCY PROFILE

(Past Election Results, Constituent Village Development Committees (VDC's) and Municipality Wards, Number of Voters, Population, Literacy, Ethnicity, Contesting Candidates)

- Party's Names, Abbreviations and Symbols
- Map

(I)

NEPAL: A FACT SHEET

Geography

Nepal, the only Hindu state in the world, is situated in the southern lap of the great Himalaya and land-locked by two giant countries -- People's Republic of China in the north and Republic of India in the east, west and south. In the world map it lies between 26°22'N to 30°27'N latitude and 80.4' to 88°12'E longitude. It has an area of 147,188 sq.km. stretching 885 km long from east to west and 193 km wide (though non-uniform) from north to south.

The country is geographically divided into three regions: the Mountains, the Hills and the Terai (plains).

The Mountains: This region, with an altitude varying from 4877 metre to 8848 metre above the sea level, comprises one third of the total land of the country, of which only about 2 percent is suitable for cultivation. It is the most sparsely populated area, amounting to only 8.7 percent of the total population of the country, owing to its high altitude and cold climate. This region has most of the world's high mountains, including the highest peak Sagarmatha or Mt. Everest (8848 metre).

The Hills: Located between the altitude of 610m. and 4877m above the sea level, this middle region comprises several captivating valleys and basins of the country, such as Pokhara, Kathmandu, Dang, Hetauda, etc. It covers a large portion of the country of which only 10 percent is suitable for cultivation. This part is inhabited by almost 47.7 percent of the total population.

The Terai: The low flat land of the Terai, an extension of the Gangetic plains of India, contains the most fertile land and dense forest. 40 percent of its land is under cultivation. The population of this region constitutes 43.6 percent of the total population.

Climate and Rainfall: Owing to extreme topographical position, Nepal experiences diverse types of climate. Accordingly, the country has tropical, mesothermal, micro thermal, taiga and tundra types of climate at different locations. With the altitudinal increase, climate tends toward taiga and tundra.

(II)

Rainfall in Nepal is mostly due to the monsoon, which starts in June and continues up to September. About 80 percent rainfall is in this season. The highest mean annual rainfall was 4175 mm in Pokhara in 1986. The extreme maximum temperature was 43°C and extreme minimum temperature was -13.9°C in Namchebazar during 1980/86.

The People

The population of Nepal is rapidly increasing. It increased from 11,555,983 in 1971 to 15,022,839 in 1981 and reached 18,491,097 in 1991 census.

Nepal's population is ethnically complex, ranging in physical type and culture from the Indians in the South to the Tibetans in the North. There are 75 ethnic groups of people, speaking about fifty different languages. However, historical origin and continued linguistic and cultural assimilation and affinity make it possible to classify most ethnic groups into two broad categories: the Indo-Aryans or Indo-Nepalese, and Tibeto - Mongoloids or Tibeto-Nepalese.

Nepal is predominantly an agricultural country. More than 93 percent people are dependent on agriculture. Nearly 91 percent of the population live in rural area and most of this population are bereft of minimum physical facilities necessary for living.

Nepal is a multi-racial, multi-religious and multi-lingual country. The 1991 census shows that Nepali speakers constitute 50.3 percent of the population. It is followed by Maithali 11.8%, Bhojpuri (7.5%), Tamang (4.9%), Tharu (5.4%) and various other 45 minor languages constitute 15 percent of the population. Nepali has been given the status of the national language and other languages are also recognised by the new constitution and can be used as the medium of primary education.

86 percent of the population are Hindus according to 1991 census. Buddhists (7.8%), Muslims (3.5%), Jains, Christian and others (2.1%) freely practise their separate religions. However, Hinduism and Buddhism are found to co-exist in Nepalese community.

The majority of the population is still illiterate in the country. The literacy rate was 39.6% percent in 1991.

(III)

Cast system prevails in the society. People are divided into four major classes Brahmins, Kshatriyas, Baisyas and Sudras.

Nepal is economically poor, but culturally rich. It is a homeland of several tribes and races. The different life styles of these people in aggregate reflected diversity of culture.

Administrative Structure

Nepal is divided into 75 administrative districts which are further grouped into fourteen zones and five development regions. Every district has its own district development board. Every district is divided into local development boards, viz. village development committees and/or municipal boards.

Parliament is a bicameral legislative body composed of lower house - House of People's Representatives and upper house - National Council. People directly elect their representatives to the lower house by exercising direct adult (18 years and above) franchise.

Election Scene

Nepal's current midterm election held after 3 years are being contested by twenty five political parties and independents.

The 1991 General Election and 1994 Midterm Election picture is as follows:

<u>Political Party</u>	<u>No. of Candidates</u>		<u>Votes casted (%)</u>	<u>Parliament Representation</u>
	<u>1991</u>	<u>1994</u>		
1. The Nepali Congress	204	205	37.75	110
2. Communist Party of Nepal (UML)	177	196	27.98	69
3. United Peoples' Front, Nepal	69	49	4.83	9
4. Nepal Sadbhavana Party	75	87	4.10	6

(IV)

5.	Rastriya Prajatantra Party	217	202	11.94	4
6.	Nepal Majdoor Kishan Party	30	27	1.25	2
7.	Communist Party of Nepal (Democratic)	75	-	4.73	2
8.	Rastriya Janata Party	8	9	0.06	-
9.	Janata Dal Sa Pra	14	3	0.02	-
10.	Rastriya Janamukti Party	-	81	-	-
11.	Communist Party of Nepal (Marxist)	-	49	-	-
12.	Nepal Janabadi Morcha		42	-	-
13.	Communist Party of Nepal (United)		34		
14.	Rastriya Janata Parishad		26		
15.	United Peoples' Front Nepal		9		
16.	Prajatrantra Lod Dal		10		
17.	Nepali Congress (Biseswor)		10		
18.	Nepal Praja Parishad		7		
19.	Nepali Congress (Subarna)		4		
20.	Janabadi Morcha		2		
21.	Nepali Congress (BP)		2		
22.	Nepal Janahit Party		2		
23.	Liberal Democratic Party		1		
24.	Radical Nepali Congress		1		
25.	Samyukta Prajatantra Party		1		
26.	Independent	219	384		

(V)

The election of Lower House of Representatives is as follows:

	<u>1991</u>	<u>1994</u>
Total No. of Voters	1,11,42,638	1,21,32,571
Total Votes Casted	72,91,084(65.15%)	
Total No. of Candidates	1345	1443
Parties contesting the poll	20	24
Total No. of Independent Candidates	219	384
Total No. of Constituencies	205	205

(VI)

General Election 1991

An Abstract of Observation Report:

The general elections of March 12, 1991 was a significant stride taken by Nepal on the road to democracy. As it was the first multi-party elections held in thirty-two years it became an important case study in democracy so it quickly drew international attention. A sixty-four member international delegation coordinated by the Nepali counterparts monitored the elections and submitted their reports. This abstract is a summary of their findings and suggestions. It would be appropriate to open this abstract with the concluding remarks made by the international delegations. To quote: "It is our belief that elections were generally conducted in an open, free and fair manner enabling the full expression of the will of the people."

The International Observer Team was moved by the resolve of the Nepali people to participate in the democratic process. The team observed that the Nepalese demonstrated this by walking for miles and staying in long queues much longer in the hot sun to vote. However, the bill of clean health given by the international observers has to be viewed in South Asian context of a poor third world country with a relatively short tradition of democracy. Violent incidents therefore did take place in districts like Taplejung, Rupandehi, Kaski and Morang. Incidents of booth capturing have also been reported from Bhaktapur and Sunsari.

The international observers were divided into twenty-one groups coordinated by Nepali counterparts. The districts chosen were those that were in the periphery of Kathmandu valley or those easily accessible by road or air. The observations and suggestions made by the team of international observers can be divided into two categories.

A) Positive Observations and Suggestions

- 1) The large turnout of voters in the polling stations even before the polling began is indicative of buring zeal and enthusiasm of the voters. This large turnout is also indicative of the need for more polling booth boxes at each polling stations to ease congestions.
- 2) The voting register should be made available at the village level.

(VII)

- 3) More training of the elections officials, polling agents and the need to educate the voters to exercise their will freely and not to fold the ballot paper has been recommended.
- 4) The need for larger vehicles to carry ballot boxes and the agents of the parties to the ballot-counting centers.
- 5) To prevent bogus voting and proxy voting citizenship certificate, land ownership card, or identity cards issued by the government, semi-government bodies should be used for identification.

B) Negative Observations and Suggestions

- 1) The political parties have seriously violated the code of conduct prepared by their consent. As this breach was made by almost all the political parties it is important that all political parties should develop a democratic culture.
- 2) The ceiling of 75,000 rupees - the maximum level of expenditure permitted to each candidate by the Election Commission has been exceeded by almost all the major political parties. The Election Commission should therefore keep a tab over the election expenses by the parties.
- 3) Out of the 38 districts observed by the National Election Organization Committee the distribution of the money by the candidates among the voters had an impact only in 29 percent of the district.
- 4) Necessary steps have to be taken to stop the campaign of a political party or a candidate through the means of stickers, caps, and tikas inside the polling station.
- 5) To discourage the deputing of men who are political activists in the polling stations.
- 6) On the question of proxy voting 55.3 percent of the districts reported proxy voting, while reports from Surkhet, Dolpa, Bara and Saptari reported no proxy voting.

(VIII)

- 7) On the question of the management inside the polling station 7.9 percent of the districts reported poor management. These districts were Achham, Dolpa and Saptari.
- 8) Violence has been reported in a handful of districts like Taplejung, Morang, Kaski and Rupandehi,; and cases of booth capturing incidents at Bhaktapur and Sunsari.

Conclusions

The General Elections of March 12, 1991 gave the Nepali Congress the mandate to rule the country with a comfortable majority in the parliament and the Communisty party of Nepal United Marxists and Lenists CPN (UML) to fulfil the role of the opposition. When the elections were over one got the feeling that the General Elections far from being the victory of one political party was rather a victory for Nepali democracy, which had remained dormant for more than three decades.

(IX)

Party's Name, Abbreviations and Symbols

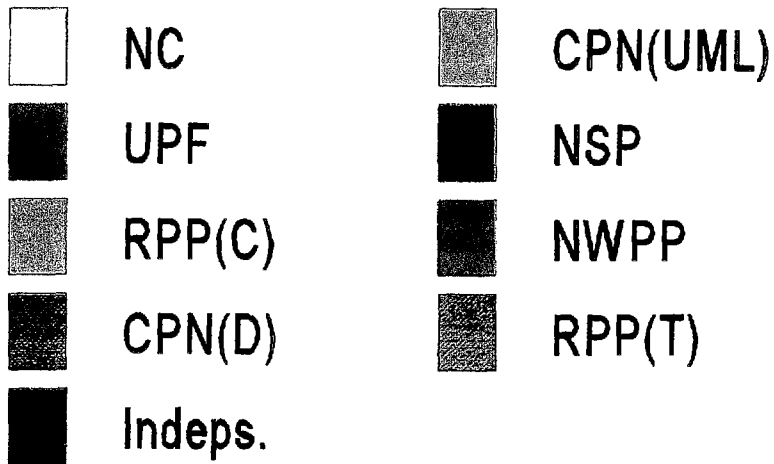
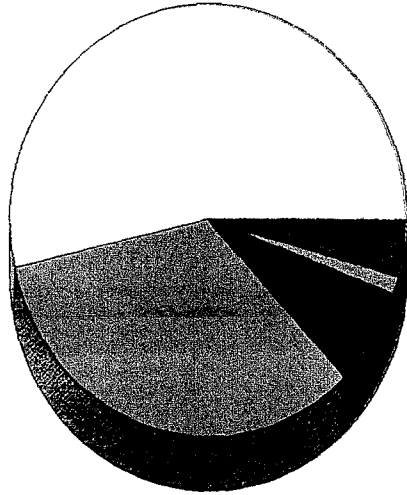
<u>S.N.</u>	<u>Party</u>	<u>Abbreviation</u>	<u>Symbol</u>
1.	Nepali Congress	NC	Tree
2.	Communist Party of Nepal (United Marxist Leninist)	CPN (UML)	Sun
3.	Rastriya Prajatantra Party	RPP	Plough
4.	Rastriya Janata Parishad	RJP	Man and Woman
5.	Nepal Sadbhavana Party	NSP	Hands with five fingers
6.	United Peoples' Front, Nepal	UPFN	Stars Beneath Hammer & Sickle
7.	Rastriya Janamukti Party	RJMP	House
8.	Nepal Janabadi Morcha	NJM	Child
9.	Nepal Majdoor Kishan Party	NMKP	Madal (Drum)
10.	Janata Dal (Sa Pra)	JD (SP)	Stars in the Moon
11.	Nepal Praja Parishad	NPP	Pick Axe
12.	Liberal Democratic Party	LDP	Water Tap
13.	Communist Party of Nepal (Marxist)	CPN (Marxist)	Spade
14.	Communist Party of Nepal (United)	CPN (United)	Sickle
15.	Nepali Congress (Biseswor)	NC (Biswswor)	Elephant
16.	Nepali Congress (Subarna)	NC (Subarna)	Bicycle
17.	Prajatantrik Lok Dal	PLD	Chair
18.	Rastriya Janata Party Nepal	RJPN	Pair of Oxen
19.	United Peoples' Party	UPP	Cock

APPENDIX C

The Election 1991

Party	Total Candidates	Won	Votes	% Vote Cast
NC	204	110	2752452	37.75
CPN(UML)	177	69	2040102	27.98
UPF	70	9	351904	4.83
NSP	75	6	298610	4.10
RPP(Chand)	154	3	478604	6.56
NWPP	30	2	91335	1.25
CPN(Democratic)	75	2	177323	2.43
RPP (Thapa)	163	1	392499	5.38
DMKP	1	0	92	0.00
NJP(H)	27	0	4406	0.06
NRJP	14	0	5732	0.08
NCP(Amatya)	14	0	4846	0.07
Janabadi Morcha	14	0	1518	0.02
NCP (Verma)	36	0	16698	0.23
Bahu Jana Dal	1	0	2012	0.03
RJP	9	0	4280	0.06
Ekta Party	1	0	94	0.00
Janata Dal	15	0	5760	0.08
Conservative	6	0	2562	0.04
Janamukti Morcha	50	0	34509	0.47
Independents	219	3	303723	4.17
Total	1345	205	6969061	95.98
Invalid votes			322023	4.42
Total votes cast			7291084	100.00

1991 Results - Nepal



The Election 1994

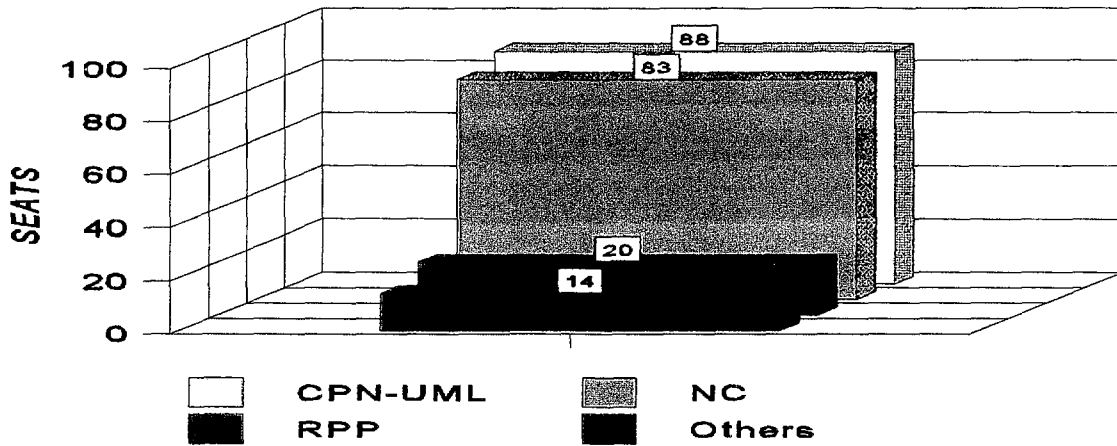
Total votes cast : 7,625,348

Invalid vote : 241,071 (3.16 percent of the total vote cast were invalid)

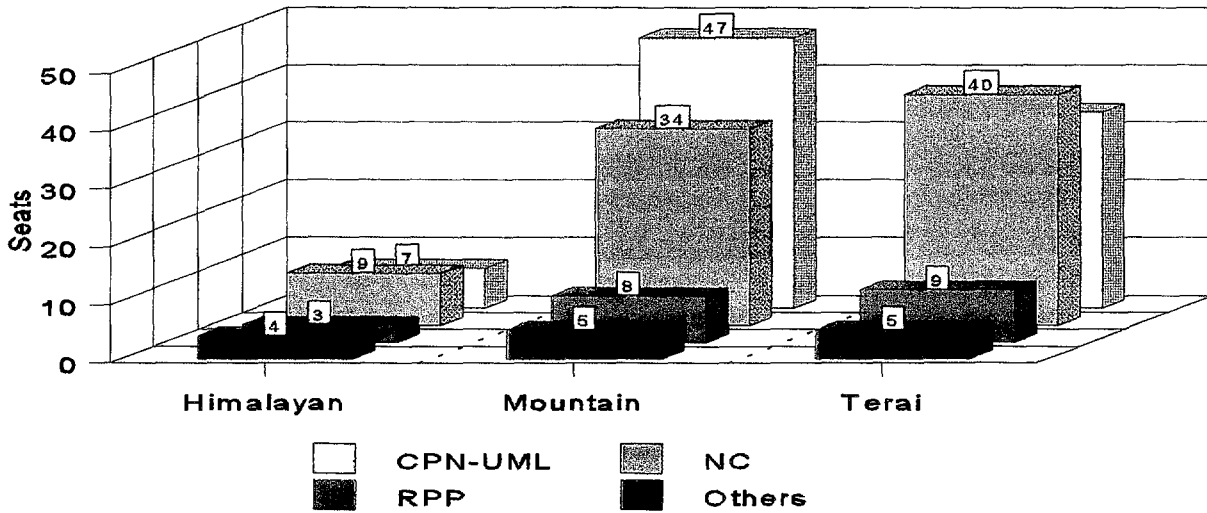
CPN(UML)	196	88	2352601	30.87
NC	205	83	2545287	33.38
RPP	202	20	1367148	17.93
NPWP	27	4	75072	0.98
NSP	86	3	265847	3.49
UPF	49	0	100285	1.32
Janata Dal	1	0	404	0.01
Janbadi Morcha	3	0	3681	0.05
NCP(United)	34	0	29273	0.38
NJM	41	0	32732	0.43
Janhit Party	2	0	156	0.00
Praja Parishad	7	0	1832	0.02
Janata Party	7	0	1525	0.02
LDP	1	0	18	0.00
UDP	1	0	218	0.00
NC(Bisheswor)	10	0	12571	0.16
UPP	9	0	1346	0.02
NC(BP)	2	0	840	0.01
NPC	28	0	8931	0.12
RJP	82	0	79996	1.05
Radical NC	1	0	53	0.00
NCP(Marxist)	49	0	29571	0.39
NC(Subarna)	4	0	484	0.01
Lokdal	10	0	3082	0.04
Independents	385	7	471324	6.18
Total	1442	205	7384277	96.84
Invalid votes			241071	3.16
Votes cast			7625348	100.00

1994 ELECTIONS - NEPAL

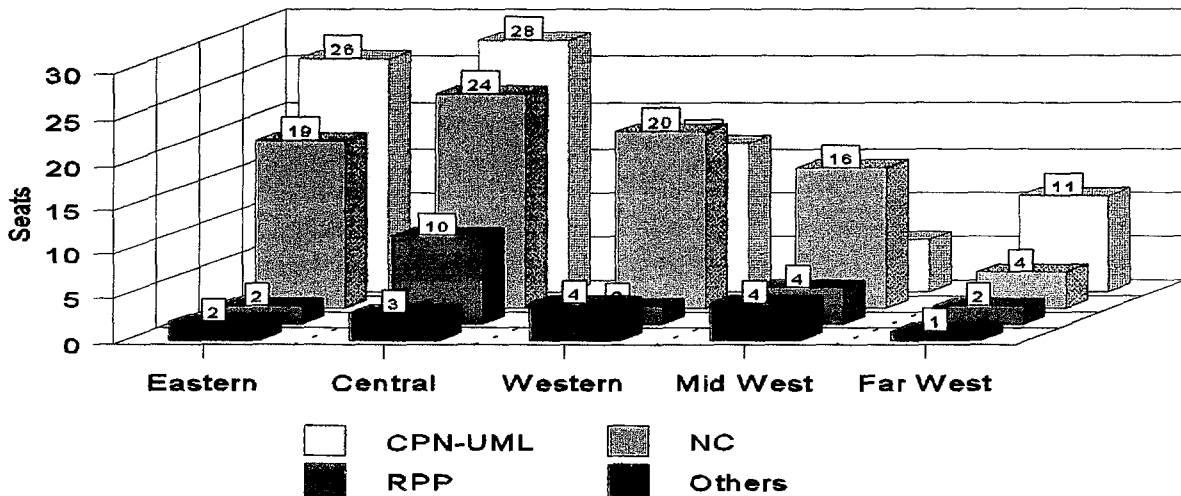
Seats Won (By Party)



By Geographic Region



By Country Sector



APPENDIX D

INTERNATIONAL OBSERVERS' REPORT: NEPAL

We, 127 international election observers from some 29 countries, congratulate the people of Nepal on the holding of the 1994 mid-term General Elections.

1. GENERAL OBSERVATIONS

In general, the mid-term national election of 15 November 1994 was peaceful in most areas with some incidents of irregularities.

2. PROBLEMATIC AREAS

Most cases of irregularities seemed to have been committed by the present ruling party, although other major parties were also reported.

2.1 VOTING

The major areas of irregularities were: proxy voting, underage voting, multiple voting, sale of votes, and entry of unauthorized persons into the polling stations.

2.2 VOTERS' LIST

The voters' list was not updated. In some cases, names were missing, sometimes by the hundreds. There were cases of spelling, age, and gender discrepancies.

2.3 INTIMIDATION

In certain areas, intimidation of votes was observed and reported. In some cases, people were slapped and called names. There was a case of murder reported. In some places specific parties were reported to have resorted to organized intimidation.

2.4 BOOTH CAPTURING

In certain cases, booth capturing took place.

2.5 MARKING METHOD

Some of the stamps were defective because the surface was tilted, giving rise to concern that some of the ballots without full impression would be invalidated. There were cases of thumbprints being used instead of official stamps giving rise to concern that these ballots will be invalidated.

2.6 BALLOT BOXES

Some ballot boxes were not properly sealed and some were not sealed at all.

2.7 SECURITY

Some observers reported that security forces remained independent of the election commission with a result that the district police authorities work independently of the returning officers and the polling officers. There were cases of lack of order.

2.8 OTHER AREAS

Some observers reported the presence of the candidates and electioneering party agents at the polling stations. Some of the secret booths were too dark and the voters had to come outside to stamp their ballots. Some observers believed that the impartiality of polling officers was questionable.

2.9 COUNTING

It was observed during the counting procedure in some areas that ballot forms were produced and distributed by political parties. It was also observed that no re-checking of counting took place. Further it was observed that some ballot boxes were not properly sealed at the beginning of the ballot counting. Finally, it was observed that the transportation procedure of the ballot boxes was very unsafe and inadequate.

3. CONCLUSIONS

The Mid-term National Elections in Nepal on 15 November 1994 were in most constituencies fair and free with minor irregularities. There were, however, some constituencies where irregularities were of such extent that elections there cannot be regarded as fair and free. Re-polling in these constituencies seems to be necessary.

4. RECOMMENDATIONS

- It is recommended to revise the voters' list before the next election.
- The registration of voters should be initiated and identified with voter registration cards to be punched at the polling station.
- Voter education should be improved as well as education of election officers.
- The system of marking ballots could be improved.
- Security arrangements should be improved, especially regarding close contact between the Election Commission and security forces.
- The Election Laws should be amended accordingly.

The International Observers wish to express their gratitude to the Election Commission, the Nepal Election Observation Committee (NEOC) 1994, the local coordinators, and the Nepalese authorities for making the observation mission a success.

INTERNATIONAL OBSERVATION OF THE ELECTIONS 1994

Districts	Int'l Observers	Coordinators
Ilam	Susan Hagen (USA)	Ramesh Baniya
Jhapa-1	Hon. Clive Griffiths MLC D.G. Longmuir (Canada)	Bijay Mainali
Jhapa-2	Mahfuza A Chowdhary Biplab Halim	Manju Thapa
Morang-1	Ludmilla Tuting Karamat Ali	Dr. Ganga B. Thapa
Morang-2	Ananda Swaroop Verma Karin Adelman	Ganga Subedi
Morang-3	A. Koldby	Ram Kumar Shrestha
Sunsari-1	M.A. Sabur Richard Ottaway	Baikuntha Maske
Sunsari-2	Srisutthiyakorn Somchai David Young	Govinda Malla
Sunsari-3	Mr. Bill Prenderghast Rashid Rehman	Pawan Ojha
Dhankuta	Akram H. Chowdhary Martin Haar	Dr. Gopi Upreti
Saptari-1	Ulritch Lepartz Salma Ali	Manan Raj Pokhrel
Saptari-2	Bhusan Oza Hadwik Kempen	Khagendra Sangroula
Sarlahi	Prof. Taweusz Jasudowicz	Gauri Pradhan
Siraha	Tanya L. Domi Rosaline Costa	Birendra Yadav
Sindhuli	Mr. Hans Pavia Rosing Mr. Oddy Yusmanadi	Gyanendra Aryal
Dhanusha-1	Mr. Hoger Green Rawdeh Basir	Krishna Dhakal

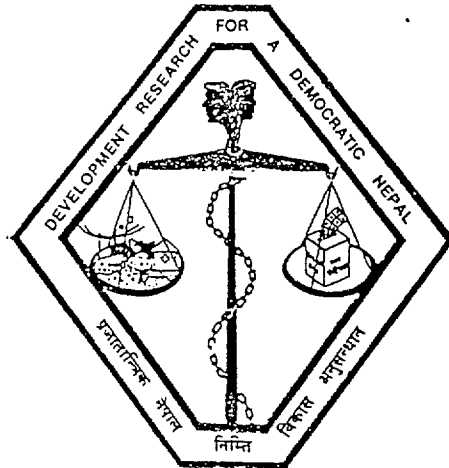
Dhanusha-2	Dr. Peter Wienand Nadia Salem Shukri Al-kukhen	Sudhir P. Upadhyaya
Mahottari	Faris Al-Sanabani Ms. Nausheen Ahmed	Som Gauchan
Dhading	Swami Agnibesh Andrew F. Popper Silke Wolf	Chandramani Adhikari Badri Khatiwada
Nuwakot	Rekha Annes Vijaymala Dharmanananda Justice K.M. Subhan Iris Reuver Anna Liza Magno	Dr. Pankaj R.K. Pradham
Kathmandu-1	Justice P.N. Bhagawati D.P. Mhlang	Dr. Shyam Kishor Singh B.R. Upreti
Kathmandu-2	Peter Gadzinski Justice V.R. Krishna Iyer Songphorn, Tazaroensuk	Veerendra K. Pokhrel K.P. Siwakoti
Kathmandu-3	Rev. Dass Babu Mr. A. Budden Sally Chun	Angur Baba Joshi Meena Paudel
Kathmandu-4	Hamada Fra'neh Mr. M. Alcock Peter Bodde	K.P. Panta P. Tamang
Kathmandu-5	Annmaree O'Keefe Mrs. Vuoko Ahti Helena Kyornen	B.K. Mainali Renu Shrestha
Kathmandu-6	Yasuko Wachi Mr. Kuldeep Nayar Torkel Snellingen	Yogendraman Bijucchhe
Bhaktapur-1	Dr. Karl Heinz Scholtyssek Paul Gonsalves Dr. A. R. Hall	Dr. Pitambar Sharma
Lalitpur-1	Qazi Mohd Anwar Mr. Heimo Kaakkonen Victoria Clawson	Shanker Nath Rimal

Lalitpur-2	Dr. Abdul Hayee Baluch Mr. Kalevi Ahti Anish Harwin Mr. Volker Raffebew	Govinda P. Lohani Jagadish Lal Shrestha
Kavre/SindhuPal	Kamal Uddin Hussain Mr. S.K. Pradhan Ms. Annette Nordstroem R.J. Wijenburg Jaspal Singh	Kiran D. Tiwari K.G. Baidar
Makawanpur	Budymansyah M. Lyman Houghton Leon Weil	Surendra Wagle
Rautahat	Puttaparsub, P. Martin Freeman	T. Dhakal
Bara	B.M. Kutty Raqiya A. Qader Humeidan	Jagan Nath Bagale
Parsa	Dr. Anatoly Y. Davidnko Nilay Dutta Charles J. Brown	Nirmal Rimal
Chitawan	Amir Ul-Islam Justice Ajit Singh Bains Daniel Zaretsky Tapan K. Bose	Laxmi Upreti/ Kedar Nath Pant
Nawalparasi	Maja Dhun Daruwala Chiraporn Runcharoon	Sapana Malla
Kaski	Mridul De Januet Bruin	Dr. Shashi Raj Pandey
Tanahun	Maryam J. Montegue Rama Kant	Shashidhar Khanal
Syangja	Bill Clarke Margaret Zaknoen	Ganesh Gurung
Baglung	Mandana Parsazad Ms. Parveen Haque Cole	Prof. Devi Lal Shrestha
Palpa	D. Prempati Sipho Buthelezi	Gopal Siwakot
Rupandehi/ Kapilbastu	Dr. Herald O. Skav Wofgang Schwandt Peter Hermes	Abbuilash

Dang	Marwan Ali Monte Achenbach	Rishi Adhikari
Banke/Bardia	Ang Eng Thong Mr. John Moore	Geeta K. Kharel
Dadeldhura	Lotte Kejser	Sisam Misra
Jumla	Stephen Mikesell	Prabal Raj Pokhrel

APPENDIX E

REPORT ON
THE STUDY & RESEARCH ON
THE LOCAL ELECTIONS IN NEPAL
1992



Presented by: DREFDEN
Submitted to: Royal Danish Embassy
July 1992

PRAJATANTRIK NEPAL NIMTI VIKAS ANUSANDHAN
(DEVELOPMENT RESEARCH FOR A DEMOCRATIC NEPAL)

FOREWORD AND ACKNOWLEDGEMENTS

DREFDEN takes pleasure in presenting a report on a study and research on local election in Nepal, 1992. The report consists of two parts, viz. macro political features and micro empirical analyses.

The study was basically designed to review the various aspects of election to Village Development Committees, the urban Municipalities and the District Development Committees. The second part of the report is a detailed presentation of the micro research methodology, derivation and analysis of information including general observational comments and special instances together with a set of practical recommendations to avoid repetition of mistakes and problems in future elections. This part should be considered as the product of the empirical research.

However, a macro level discussion of the Nepalese polity is included as part one of the study with a view to providing the readers/researchers with an opportunity of observing the institutional perspective of Nepalese politics from a close angle. Part one contains three articles presented as three chapters. Chapter 1 and 3 are contributed by Prof. Rishikesh Shaha and chapter 2 is contributed by Dr. John Whelpton. DREFDEN owes them countless thanks.

The research report is the result of tireless work by a team listed elsewhere in this report. DREFDEN would like to thank the team for their hard work both in the field and on the desk. Special thanks are due to Mr. Diwaker Chand and Dr. Khagendra N. Sharma for their inputs from the stage of designing the research to its publication. DREFDEN would also like to thank the district co-ordinators, the several sets of respondents to the various questionnaires, the field assistants and the several persons and offices who have helped the execution of the research.

DREFDEN takes this opportunity to extend sincere thanks to the Royal Danish Embassy for providing financial support for this project. DREFDEN is also grateful to the Election Commission for extending warm cooperation both at the central and local levels through the extensive army of Returning and Polling Officers. Our thanks are also due to Mr. Monte Achenbach and Mr. Sanu Kaji Byanjankar for typing the manuscript in the computer. Last but not least, DREFDEN thanks Mr. Dharani N. Sharma for his tireless assistance in providing logistic support to the Project.

V. Keshari.

Veerendra Keshari Pokhrel
Executive Director
DREFDEN

July 31, 1992

RESEARCH STUDY TEAM

Core Team

Mr. Rishikesh Shaha	-	Chairman (DREFDEN)
Mr. Veerendra Keshari Pokharel	-	Executive Director (DREFDEN), District Co-ordinator (Morang & Sunsari)
Mr. Vinod Pant	-	Treasurer (DREFDEN), District Co-ordinator (Gorkha & Tanahu)
Mr. Diwaker Chand	-	Co-ordinator (DREFDEN)
Dr. Khagendra Nath Sharma	-	Research Consultant, District Co-ordinator (Jhapa & Ilam)

District Co-ordinators

Dr. Shesh Kant Aryal	-	Dhankuta & Tehrathum
Mr. Govinda Adhikari	-	Panchthar & Taplejung
Mr. Prabal Raj Pokharel	-	Saptari & Okhaldhunga
Mr. Laxmi Nath Sharma	-	Siraha & Udayapur
Mr. Bodhari Raj Pandey	-	Kaski & Syangja
Mr. Sanjaya Thapa	-	Sankhuwasabha & Khotang
Mr. Raju Pant	-	Palpa & Gulmi
Mr. Yogendra Man Bijukcche	-	Nawalparasi & Chitwan
Mr. Chandra Prasad Pandey	-	Kapilbastu & Rupandehi
Mr. Purusottam Dahal	-	Makawanpur & Parsa
Mr. Ram Singh Thapa	-	Dhanusha & Mahottari
Mr. Ram Babu Dahal	-	Sarlahi & Dolakha
Mr. Shridhar Mudbhari	-	Solukhumbu & Bhojpur
Mr. Govinda Aryal	-	Makwanpur & Parsa

Mr. Dharani N. Sharma assisted in logistical support and administration.
Mr. Monte Achenbach and Mr. Sanu Kaji Byanjankar assisted in computer processing.

The District Co-ordinators included the following professionals:

- training and research experts;
- university professors;
- engineers;
- administrators, community development experts
- judicial experts (ex-judge);
- financial analysts and banking experts;
- communication experts;
- economists and political scientists;
- human right activists

Each DC was assisted by 3 district level FAs. Their list is appended as Annex-IX.

CHAPTER 3

AN OVERVIEW OF LOCAL ELECTIONS

The people in Nepal have traditionally looked up to the central rulers and their agents in the districts as mentors and masters. Now that Nepal has democracy, the problem of bringing about a drastic change in this outlook has acquired the utmost importance. That is what democratization, decentralization and local self-government are all about. It is not enough to say that the people are sovereign in Nepal under the new constitution. They must be made to feel and act as if they are the real masters of their own affairs and the arbiters of their own destiny. For this, as the first step, the executive bodies, civil servants and members of parliament must be made directly responsible to the people at the village and district levels.

It will be impossible to propel the popular enthusiasm generated by political liberalization into constructive channels unless due attention is paid to building democratic institutions of local self-government from the bottom up. This must be done by stimulating popular interest in the practice of self-government by creating public awareness of human rights. The future alone will show whether the people and their leaders will be able to develop an effective system of local self-government capable of solving the nation's chronic problems of poverty, backwardness, illiteracy and disease, while at the same time ensuring ecologically sound and sustainable development. Advanced local government or autonomy and decentralization alone can help Nepal to resolve long-repressed ethnic and regional antagonisms rooted in historical memory and already released by the democratic upsurge.

The very fact that elections to local bodies have been held within just over a year after the elected government had assumed power is highly commendable. The holding of elections to local bodies is undoubtedly an important first step toward the strengthening of democracy at the grassroots level.

However, the manner in which the local bodies' elections were conducted in May and June this year left much to be desired. The ruling party seemed to have taken full advantage of its incumbency to manipulate elections in its favour. The fact that the United Marxist-Leninist Communist Party of Nepal (CPN-UML) was not in the government this time also made a difference and contributed to its relatively poor showing at the polls as compared with its performance in the parliamentary elections a year ago.

It is also said that the two successive general strikes (Nepal Bandas) organized by the United People's Front (UPF) with the moral support of the CPN-UML on 6 April, and by the UPF on its own even in the face of opposition from its erstwhile supporters on 3 May 1992, caused many middle class voters to reject the leftist parties. However, it is certain that the open divisions and recriminations between the two major leftist parties made them lose the mayoralty of Lalitpur and also helped the ruling Nepali Congress Party win the mayoralty of Kathmandu with considerable ease.

It seemed to be forgotten by the media, political parties and opinion leaders that elections to local bodies were not parliamentary elections or even by-elections. Local elections elsewhere do not normally receive wide attention in national media. These election results are not considered to reflect shifts in popular support for political parties on a national level nor are they supposed to indicate changes in the main trends of public opinion on issues of national importance. But in Nepal this time, elections to local bodies were fought like parliamentary elections in an atmosphere of high political tension between the ruling party and the officially recognized opposition party notwithstanding their election-eve 6-point agreement aimed at regulating their behavior during the elections.

The prime minister's vigorous election campaign by helicopter almost on a nation-wide scale promising people across the country what they wanted most seems to have made all the difference. The opposition appeared satisfied with just hostile black flag protests that they organized against the prime minister in some of the places he visited. But the election results show that the prime minister's party did very well in the areas where he had encountered the fiercest demonstrations. The people by and large seem to have believed the promises made to them by the prime minister, who after all is the person in a position to deliver the goods to them.

Twelve deaths and other acts of violence during the elections were reported and allegations were made of electoral manipulation, intimidation and inadequate implementation of electoral safeguards, allowing for proxy voting and removal of indelible ink. The appointment of chief district officers (CDOs) as returning officers seems to have given grounds for charges of manipulation of elections by the ruling party on a wide scale. We have authentic reports of both the administrative and the security personnel being used blatantly in favour of the ruling party's candidates against their adversaries in a few cases. In some places the CDOs as returning officers expressed their helplessness against the high-handedness and excesses of the ruling party's workers for fear of losing their jobs.

The chief election commissioner himself mentioned in private conversation on the phone that the CDO and a high police officer had to threaten to resign before permission could be obtained from the prime minister himself for the arrest of a man who had actually fired his gun near one of the polling booths at Biratnagar. This reveals the constraints under which the election commission and the returning officers had to conduct their work. Further, the shortage of security and other personnel for manning elections seems to have been a serious handicap despite the decision of the election commission to hold elections in two phases.

The manner in which elections were actually conducted seems to have left a good deal of bitterness and rancour between the government and opposition parties who saw some kind of government plot in holding elections in two phases. Nevertheless, a lot of horsetrading seems to have taken place between them for positions in the district bodies prior to these elections. In a way, these kinds of non-ideological alliances between parties, apart from reducing the general state of discord between them, might have the positive advantage of ensuring the functioning of local bodies along proper lines with their focus on local problems. Local bodies' committees councils or assemblies are not parliaments in miniature and should have local interests and welfare uppermost in their minds. Party bickering could be a hindrance rather than a help from the point of view of the purposeful functioning of local self-government bodies. It was not for nothing that a man of the late Jaya Prakash Narayan's moral and public stature had at one stage fervently advocated elections to local bodies in India on a non-party basis.

Opposition parties have very serious allegations and complaints against the manner in which local bodies' elections were conducted this time. They have alleged that not only the returning officers and the polling officers in the districts and villages but also the election commission itself was manipulated by the government right from the time of the registration of voters and the delimitation of the boundaries of the village development committees, and llakas or constituencies for election to membership in the district development committees. Some of the opposition parties have gone to court with the complaint that their candidates already officially certified as winners by the polling officers have been rejected. Apart from allegations of gerrymandering and other irregularities by the election commission and returning officers, acting under the direct influence of the government, there have been complaints that the Royal Nepalese army was also in some cases used to influence elections in favour of the ruling party. Strident voices of criticism against the government's action will be heard on the floor of the parliament during the current session and legal complaints of gross irregularities in the conduct of elections will be sorted out in law courts. But it is to be seen whether opposition parties will be able to gain possession of

the moral authority to call "people power," the phrase for mass action coined by Mrs. Aquino, who toppled the last Philippines president, Ferdinand Marcos. If not, they will have no option other than to reconcile themselves to the prime minister's call for cooperation in national development now that the elections are over.

APPENDIX F

STRENGTHENING DEMOCRATIC INSTITUTIONS

DANIDA PROJECT COORDINATION OFFICE

Support for Parliamentary Elections in Nepal, 1994

The Danish support for the preparations and conduct of the elections to the House of Representatives in 1994 comprised assistance to the Election Commission and for election observation. The total budget for the support is NRs. 12.800.000, corresponding to DKK 1.700.000.

Election Commission

On request from His Majesty's Government the Danish Embassy agreed to provide technical assistance and support the Election Commission for the preparation of the elections for the House of Representatives for NRs. 7.300.000, corresponding to DKK 1.000.000. The support comprised the following:

1. Computer Equipment

The computer equipment supplied has been used for preparation of the voters' lists and will be used for management of reporting of election results in order to ensure that the result dissemination within the Election Commission is carried out in a transparent and efficient way.

2. Telefax Equipment

Telefax equipment has been installed in 19 districts in which electricity and access to the telephone network has become available since 1991 when Danida financed installation of telefax equipment in 50 districts. After the installation telefax equipment is now available at the election authorities in 69 out of the 75 districts, covering 197 out of the 205 constituencies and more than 97% of the voters. By means of the telefax equipment the communication between the Election Commission and the district election offices can take place in writing which improves the transparency of the communication and minimizes the possibility of distortion of messages.

3. Training of Election Officials

A training programme for election officials was carried out before the elections in two phases. During the first phase the election officers, other senior election officers, and security officers were trained. Training workshops were held in each of the 5 development regions and lasted for 2 days, during which the participants were trained in electoral laws, directives and procedures, reporting and the responsibility of the officials, as well as in treatment of complaints. The second phase was carried out a few days before the election day and covered the 16.000 polling officers heading the polling centres.

4. Technical Assistance

The Danish project coordinator has provided technical assistance to the Election Commission for 1,5 man-month in the following areas in order to contribute to free and fair elections:

- identification of need for support;
- planning of and preparation of voters' lists;
- specification and development of a computerized election result dissemination system;
- monitoring of the elections by the Election Commission.

Election Observation

Before approval of a request for support of election observation prepared by a group of human rights organizations the group was requested and encouraged to broaden its base by inclusion of additional human rights groups in order to ensure that the election observation committee, NEOF (National Election Observation Committee), represents all major political views. After a successful reorganization of NEOF the committee was approved by the Election Commission as the focal point for election observers.

The Danish funds for NEOF will be used for national and international observers. The national observers will observe the pre-election period, the polling and the counting of the votes. The international observation will focus on election day events. Separate reports will be prepared by the national and international observers.

The support for the election observation amounts to NRs. 5.500.000, corresponding to DKK 700.000.

A. Koldby
10.11.1994

APPENDIX G

TABLE:
NUMBER OF MALE AND FEMALE CANDIDATES
(with female %)
IN THE GENERAL ELECTIONS OF 1991 AND 1994

Political Parties	General Elections 1991				General Elections 1994				+/- %
	Female	Male	Total	% Female	Female	Male	Total	% Female	
Nepali Congress	11	193	204	5.39	11	194	205	5.37	-.02
CPN (UML)	9	168	177	5.08	11	186	197	5.58	+0.50
RPP	17	301	318	5.35	13	190	203	6.40	+1.05
NSP	5	70	75	6.67	9	77	86	10.47	+3.80
Other: Lefts	26	211	237	11.01	18	177	195	9.23	-3.09
Other: Parties+ Independents	14	360	374	3.74	25	531	556	4.50	+0.45
TOTAL	82	1263	1345	6.10	87	1355	1442	6.03	-.07

Source: Election Commission Candidates lists, 1990 and 1994.

25

APPENDIX H

Independent Candidate Dr. Bhekh B. Thapa
PRESS RELEASE

The extent of the rigging and violence that occurred during the elections held in Tanahun Area No. 3 on November 15, 1994 cannot easily be recounted. The events which took place that day at the booths in Chhang, Manapang, Dhorphidi, Majhkot, and Ghiring Sundhara Village Development Committees, were acts of aggression against both democracy and the people of the area.

Elections are meant to be a contest to win the minds of the people. This past election has exposed the true nature of those who claim to be supporters of democracy, but who misuse their power to secure votes by using threats and violence. In the above-mentioned areas, voters were cored [cowed?, coerced?] and threatened into supporting the party in power, whose supporters also stuffed ballots, beat volunteers of other parties, and suppressed any opposition from other parties' workers with threats of violence. In the village of Otangdi, Chhang, seven voters were knifed with khukuris [khukris] and mercilessly beaten by the supporters of the ruling party for having voted for the opposition.

Election officers and security forces often acted in complicity with the ruling party, and patently failed to perform their duties. Out of fear, or for other unknown reasons, security forces watched acts of aggression without responding, while election officers failed to stop many instances of repeated and proxy voting. Representatives of the Independent Candidate requested repolling in two booths in Chhang, one booth in Manapang, and one booth in Dhorphidi, due to the massive rigging that took place at these booths, but their request was ignored by the booth officers. When these requests were forwarded to the election officer in Tanahun's District Headquarters at Damauli, the only response received was that this matter was not his responsibility.

While these requests were being ignored, a decision was made to conduct repolling at a booth that was set on fire in Ghiring Sundhara. This decision to repoll only in one booth where such drastic means had been taken, displayed the inability of the Election Commission and its responsible officers to conduct elections properly and responsively [responsibly?].

Vote counting will not begin until tomorrow, but the results of an election conducted with such blatant misuse of power holds no meaning. The main concern is that those who conduct this kind of election, and who violate the right of voters to a free, fair, and safe election, may lead the country and democracy into a period of darkness.

November 18, 1994
Campaign Headquarters of the Independent Candidate
Khairul Tar, Tanahun

18

APPENDIX I

GENERAL ELECTION
1994

Facts and Figures

Election Commission
Kathmandu
Nepal

Election Commission

	Telephone	
	<u>Office</u>	<u>Residence</u>
Mr. Bishnu Pratap Shah Chief Election Commissioner	226092	414253
Mr. Dhruvabar Singh Thapa Election Commissioner	228664	272534
Mr. Ram Chandra Sharma Poudel Election Commissioner	230874	272525
Dr. Birendra Prasad Mishra Election Commissioner	230871	472260
Mr. Narayan Prasad Rajbhandari Election Commissioner	230872	412342
Mr. Khagendra Basnyat Acting Secretary	226800	472226
Mr. Tek Bahadur Thapa Advisor	230873	521344

Introduction

1. The General Election, which is going to be held on November 15, 1994, is the second in the series after the restoration of democracy in Nepal. However, it is not a full-term election, scheduled at the interval of every five years under the law. It is a mid-term election, necessitated by the dissolution of the House of Representatives before the expiry of its full term.

When the House failed to pass a Vote of Thanks for the gracious speech from the Throne, His Majesty the King, acting on the advice of Prime Minister Girija Prasad Koirala, issued a decree pursuant to Article 53 (4) of the Constitution of the Kingdom of Nepal, 1990 on July 11, 1994, dissolving the existing House of Representatives and designating November 13th, 1994 as the date for holding the mid-term poll. As the date happened to coincide with the 11th day of the Bright Fortnight of the month of Kartik - a day of great religious importance for the Hindus as Lord Vishnu the creator wakes up on that day after 4 long months of slumber. His Majesty the King, as recommended by the Council of Ministers, re-scheduled the date for election on November 15, 1994, His Majesty has sought the opinion of the Supreme Court, and the Court after conducting formal deliberations came out in favour of

such a postponement, and submitted its positive findings on September 29, 1994 for the consideration of His Majesty.

2. Geographical Situation : Nepal is a landlocked Kingdom, situated between 26.22 degree and 30.27 degree North Latitude, and 80 degree and 88.15 degree East Longitude. To its north lies the People's Republic of China, and its other frontiers are contiguous with the Republic of India. It is spread over an area of 147,181 kilometres. It measures about 885 km. from east to west, while its breadth from north to south varies within the range of 145 and 241 km. Its natural divisions are the high-rise Himalayas in the north, green mountains and valleys in the middle, and the flat and fertile Terai belt in the south.
3. The Constitution of the Kingdom of Nepal, 1990 :
The Constitution recognizes the constitutional monarchy and multi-party polity as the fundamental features of the national Governmental system. Like the constitutions of other democratic countries, it guarantees the fundamental rights of the people, and ensures the separation of the powers of the executive, legislative and judicial bodies within well-defined limits. It embodies certain independent statutory bodies such as the Election Commission, Public Service Commission, Auditor General, Abuse of Authority

Investigation Commission, and Attorney General. The legislature consists of the King-in-Parliament. The Parliament has two chambers-the House of Representatives and the National Assembly. The House of Representatives is composed of 205 members elected directly by the Nepali citizens above 18 years of age. The National Assembly is composed of members indirectly elected from local bodies and nominated by the Head of State. Elections to both these chambers is the responsibility of the Election Commission.

4. Electoral Constituency Delimitation Commission : The Constitution has fixed the membership of the House of Representatives at 205. It also lays down that the electoral constituency will be co-terminous with each administrative district, and that the electoral constituency will be so delimited as to enable each district to return at least one member to the House of Representatives. In the case of a multi-member district, the number of constituencies will be determined in such a manner as to maintain a reasonable ratio between such a number and the size of the population of the district as shown by the census held previous to the General Election. For this purpose the Constitution provides for a Commission on the Delimitation of the Electoral Constituencies, which remains in operation for a certain period. Accordingly, the electoral constituencies for

28

the General Election of 1991 were delimited on the basis of the National Census of 1981, and similar action was taken for the upcoming General Election in the light of the National Census of 1991.

On both occasions the Commission remained in existence for about one and a half months only. The last Commission was appointed on July 24, 1994, and it submitted its report on August 18, 1994. The number of constituencies laid down for both these elections are as follows :

Num-ber of Constituency	Num-ber of Districts		Total Seats	
	'91	'94	'91	'94
	1	11	14	11
2	26	24	52	48
3	21	19	63	57
4	8	9	32	36
5	7	6	35	30
6	2	1	12	6
7	0	2	0	14

5. Laws: Apart from the delimitation of constituencies, laws related to elections were enacted and the Election Commission Act, 1990, House of Representatives Members Election Act, 1990, Election (Offence and Punishment) Act, 1990 were enacted and the rules under the aforesaid statutes, such as the House of Representative Members Election Rules 1990 and the House of Representative Members Election Directives were framed and issued subsequently.

Following the proclamation of His Majesty the King that the General Election be held on November 15, 1994, in pursuance of the above statutory requirements, the Election Commission issued a notice that polling will take place on the appointed date from 8 o'clock in the morning to 5 o'clock in the afternoon. It is also provided that voters who queue up within 5 P.M. at the polling centres will be allowed to cast their ballots even after 5 o'clock in the afternoon.

6. Electoral Roll : In course of the periodic updating of the electoral roll, the Election Commission has earlier compiled during December 1993 the names of those who have attained 18 years of age by mid-April 1993. As the mid-term election was declared in July, priority had to be

accorded to polling on the basis of existing roll rather than compiling a fresh one. Under the circumstances, the Election Commission was left with no choice except to go by the electoral roll as updated in mid-April 1993. According to this roll the number of persons eligible for exercising their franchise in the forthcoming General Election are as follows:

Male: 6,190,039
 Female: 6,106,180
 Total: 12,296,219

The number of persons who were entitled to exercise their franchise in the last General Election stood at 11,191,777

7. Polling Station : Polling stations and polling sub-stations are installed in each district, taking into consideration its geographical situation, density of population, transport network, and security provisions, Each of them is equipped to handle 1,000 voters at the most.

	<u>1991</u>	<u>1994</u>
No. of Polling Stations	7,408	7,412

No. of Polling Sub-stations 6,264 8,191

The above figures are subject to the minor revisions to be made by the Returning Officers.

8. Party Registration : 47 political parties applied for participation in the General Election of 1991, out of which the Election Commission duly registered 44, and 3 were refused registration on various grounds. Out of the registered parties only 20 turned up to contest the election. For the present General Election, scheduled for November 15, 1994, applications were received from 71 parties and among them 65 have been duly registered, and registration has been denied to 6 of them for various reasons. However, out of the 65 registered parties, only 24 have put up their candidates to contest the election. (Annexe - 1)

9. Returning Officers : District Judges have been appointed Returning Officers to ensure free and fair elections. In addition to 107 District Judges, the remaining 98 positions were filled up from among the higher officers of the Judicial Service. In districts where there are more than one constituencies, the District Judge concerned has been designated as Chief Returning Officer and is charged with

98

the additional responsibilities of coordination and supervision.

10. Polling Officers : Polling Officers and Assistant Polling Officers and other assistants at the rate of 5 per each Polling Station and 4 per each Polling Sub-station respectively have been assigned from among the officials and employees of His Majesty's government, government-owned corporations and committees of the district concerned. In order to conduct this General Election, approximately 74,473 public employees will be performing the polling duties .
11. Workshops : With a view to orienting the Returning Officers to the electoral process, workshops for all 205 Returning Officers in four groups were held in four different parts of the country, Jhapa in Eastern Nepal Lalitpur in Central Nepal, Pokhara in Western Nepal and Nepalgunj in Mid-Western Nepal, between September 8 to 18, 1994. Efforts were made in these workshops to acquaint the Returning Officers with election programmes and related laws, material requirements and financial regulations. They were also instructed to establish uniform procedures in conducting free, fair and peaceful elections. The Returning Officers are similarly required to

conduct a two-day training for Polling Officers and other employees manning the polling stations and sub-stations.

12. Materials : Due to the topographical condition of the country, transportation of materials required for conducting the elections is not an easy task. Porters, trucks and aeroplanes have been pressed into service for transporting these materials to all constituencies. Included among these materials are electoral rolls, ballot boxes, copies of laws and different formats relating to elections.
13. Programme : Returning Officers published election programme on October 1, 1994 at their respective electoral constituencies. The programme included the filing of nomination papers of the candidates, objection to candidacy, if any, scrutiny and withdrawal of nominations and publication of the final list of the candidates.
14. Security : The Election Commission has coordinated with various agencies concerned of His Majesty's Government to maintain law and order at the polling centres. Additionally, Polling Officers are also required to coordinate with local administrations on security details.

It is estimated that some 77,473 officers and men will be deputed to deal with security issues.

15. Communication : Due to the geo-physical conditions of the country, it has been felt that fast and dependable communication is of vital importance to conduct elections. The Election Commission has made arrangements to use telecommunication facilities of the government, the police and the army as well as those of development projects. The normal Nepal Telecommunication channels will also be used. Wherever there are telephone lines, the Election Commission has installed telefax machine to speed up communication.

Mass media have been extensively used to create awareness among the people about the value of elections.

16. Ballot Paper : The Election Commission has made available to each Returning Officer the required number of ballot papers for each constituency. Separate ballot papers have been printed for each constituency bearing only the symbols of the contestants in a particular constituency.
17. Voting : All arrangements have been made to ensure that each voter exercises his or her right through secret ballot.

In a room or space, where no one can see, the voter will place a stamp mark on the ballot paper against the election symbol of the candidate of his or her choice. The ballot paper will then be folded up and dropped into the ballot box, placed at a spot that can be seen by all. There is also a provision whereby candidates can nominate their agents to be present at each polling centre of the constituency concerned.

18. Ballot Box : In each of the polling stations, before the start of polling, the ballot boxes will be displayed to satisfy the candidates or their agents that they are empty. As soon as the polling closes, the ballot boxes will be properly sealed in the presence of the candidates or their representatives, who will also put in the necessary signatures. The ballot boxes will then be transported to the district headquarters under guard, and candidates or their agents will be allowed to accompany the boxes. At the district headquarters, the boxes will be delivered to the Returning Officer with the seals intact and they will remain under his custody until the counting of the votes.
19. Declaration of Results : Once all ballot boxes from a constituency have arrived at the district headquarters, the Returning Officer will fix the date and time for counting

9/10

the votes. On completion of counting, candidates or their agents will put their signatures on the result-sheet, and the result will be officially declared.

20. Election Offences : The following acts are forbidden under relevant election laws :-

- A. To obtain and cast votes in other's name;
- B. To hand-over the ballot paper to others;
- C. To induce to vote or refrain from voting through intimidation or promise of financial gains, or to give any gift, reward or prize for such purposes;
- D. To threaten the candidate or voter with physical harm or social excommunication or religious curse;
- E. To indulge in character assassination of a candidate or his/her family members;
- F. To campaign in a manner affecting the independence, sovereignty and integrity of the nation or to engage in publicity based on religion, caste, creed, language or regionalism, leading to communal disharmony and incitement;
- G. To incite the election officers to a prejudicial behaviour;
- H. To create disturbance of any kind around polling centres;

- I. To carry or use arms and ammunition around polling centres or counting places;
- J. To damage ballot box, ballot paper, voters' list, election notice or other related documents;
- K. To obstruct election officers in the discharge of their duties;
- L. To paste campaign materials or write campaign slogans on religious, archaeological or historical monuments;
- M. To undertake electioneering within 48 hours of the polling day;
- N. To violate in any form the secrecy of vote by election officials, candidates or their representatives;

Punishment for aforesaid offences ranges from a fine of Rs. 2000 or 2 years imprisonment or both;

Petition may be filed against violation of any of the above rules. Petitions may also be filed against false nomination papers, irregular counting of votes and exceeding the election expenses ceiling.

21. Election Tribunal : Election Tribunal can invalidate the election of one candidate and declare the other as winner if a petition filed against the result is upheld. Powers have been granted to the Election Tribunal under the Election (Offence and Punishment) Act, 1990.

22. Code of Conduct : The Election Commission has published a code of conduct which has the approval of the main political parties. (Annexe - 2)

23. Conclusion : When on July 11, 1994 the date of the mid-term election was announced, the number of days intervening between the two dates were 126, which now totals 128 after the postponement of the election by 2 days. It so happens that the most popular festivals of Nepal, Dashian and Tihar, occur within this period. When account is taken of the Saturdays (18) and other public holidays (19), the actual working days of the Commission totals just 91, which includes one whole month of the rainy season. On this showing, although the effective working period at the disposal of the Commission has been severely constricted, it has completed all the preparatory works to have the General Election staged on the appointed day, motivating its employees to work round the clock in order to win the race against time.

Number of Candidates

S. N.	Political Party or Independent	No of Nominations Filed	No of Nominations found Invalid	Withdrawals	Final Number		
					Male	Female	Total
1	The Nepali Congress	205	1		193	11	204
2	Communist Party of Nepal (Unified Marxist-Leninist)	193	1	15	168	9	177
3	The National Deimocratic Party (Thapa)	170		7	154	9	163
4	The National Democratic Party (Chand)	162	1	7	146	8	154
5	United peoples' Front, Nepal	90		21	65	4	69
6	Communist Party of Nepal (Democratic)	84		9	66	9	75
7	Nepal Sadbhavana party	76		1	70	5	75
8	Nepal Rastriya Jana mukti Morcha	53	1	2	47	3	50
9	Nepal Workers & Peasants Party	38	1	7	28	2	30
10	Communist Party of Nepal (Barma)	37		2	31	4	35
11	Rastriya Janata Party (H)	33		5	27	1	28
12	Janata Dal (Socialist Democrat)	20	1	4	14	1	15
13	Nepal Communist Party (Amatya)	17		2	11	4	15
14	Janawadi Morcha Nepal	16		2	13	1	14
15	Rastriya Janata Party (Nepal)	10		1	8	1	9
16	Nepal Conservative Party	6			6		6
17	Nepal Rastriya Jana Party	4			4		4
18	Dalit Mazdoor Kissan Party	2		1	1		1
19	Akhil Nepal Serva Pakshiya Rajnaitik Ekta Party (Ekta Party)	1			1		1
20	Bahu Jana Janata Dal	1			1		1
	Anterrastriyatabadi Democratic Party	1	1	0	0	0	0
	Sadbhawana Samajbadi Dal	1		1	0	0	0
	Independents	397	6	172	211	8	219
	Total Candidates	1617	13	259	1265	88	1345

Number of Candidates

S. N.	Political Party or Independent	No of Nominations Filed	No of Nominations found Invalid	Withdrawals of candidates	Final Number		
					Male	Female	Total
1	The Nepali Congress	205			194	11	205
2	The National Democratic Party	205	1	2	189	13	202
3	Communist Party of Nepal(UML)	200		4	185	11	196
4	Nepal Sadbhavana Party	87		1	77	9	86
5	Rastriya Janamukti Party	84		2	76	6	82
6	Samyukta Janamorcha, Nepal	62		13	43	6	49
7	Nepal Communist Party (Marx)	53		4	46	3	49
8	Nepal Janabadi Morcha	42		1	39	2	41
9	Nepal Communist Party (Samyukta)	35		1	31	3	34
10	Nepal Majdoor Kissan Party	30		3	23	4	27
11	Rastriya Janata Parisad	32		4	24	4	28
12	United Peoples Party	12		3	8	1	9
13	Prajatantrik Lok Dal	12		2	10		10
14	Nepali Congress (Bisheshwar)	11		1	10		10
15	Rastriya Janata Party	7			6	1	7
16	Nepal Prajaparisad	8		1	7		7
17	Nepali Congress (Subarna)	4			4		4
18	Janabadi Morcha, Nepal	3			3		3
19	Janata Dal (Sa.Pra.)	1			1		1
20	Nepal Janahit Party	2			2		2
21	Nepali Congress (B.P.)	2			2		2
22	Liberal Democratic Party	1			1		1
23	Samyukta Prajatantra Party	1			1		1
24	Redical Napali Congress	1			1		1
25	Independents	653	2	266	373	12	385
	Rastra Bachau Avhiyan	1		1	0		0
	Total Candidates	1754	3	309	1356	86	1442

ANNEXE - 2

Code of Conduct

WHEREAS the party in power along with other parties and independent candidates have an important role to play in the conduct of the upcoming General Election scheduled for November 15, 1994, in a free, fair and peaceful manner and without any scandal whatsoever.

WHEREAS the Code of Conduct prepared and enforced in connection with the General Election, Local Election and By-election has been revised and expanded as required in cooperation and consultation with the recognized political parties.

AND WHEREAS it is deemed to be the duty of the agencies and authorities concerned of His Majesty's Government, the party in power, the party in opposition and all other parties that are contesting the General Election including the individuals who are standing as independent candidates to observe and abide by the Code of Conduct prepared in the manner as described in the foregoing.

IT IS, THEREFORE, resolved that all concerned shall be duty-bound to abide by, and cause to abide by, this code of conduct in the course of the forthcoming General Election.

A. The Code of Conduct applicable to political parties and independent candidates:

1. While conducting the election campaign nothing shall be done or cause to be done to infringe on the nationality, independence, integrity and sovereignty of Nepal.
2. No political parties or candidates shall publicize, broadcast or deliver speeches or cause to do so in a manner designed to incite mutual hatred, malice and animosity among the various castes, creeds and communities; nor shall they inspire or cause to inspire the voters to exercise their franchise on religious or communal or linguistic lines.
3. No political parties or independent candidates shall indulge in, or cause to indulge in, the character assassination of other parties or independent candidates, or the members of their families in the course of their publicity campaigns.

4. Since all the political parties and independent candidates are duty-bound to support and assist the electoral and security personnel in the discharge of their functions, none of them shall do anything, or cause to do anything, to deviate them from their path of duty by the threat or use of force or intimidation, or by inducement.
5. Electoral programmes shall proceed smoothly at all places, and hence it shall be the duty of all political parties, organizations and individuals to create an atmosphere suitable for that purpose.
6. No political parties or independent candidates shall coerce the voters to cast their ballots against their wishes by intimidation or inducement, or through the undue exercise of socio-economic pressure.
7. Each political party and individual participating in the General Election shall respect the democratic rights of the other, and the expressions used in the course of publicity and broadcasting shall be courteous and restrained.

90

8. Each political party and individual taking part in the General Election shall strictly abide by the electoral laws, rules and guidelines together with the Election (Offence and Punishment) Act.1990.
9. No parties or candidates shall take out processions, or raise slogans, or mount any other publicity campaigns from 48 hours before the polling day until the completion of the entire electoral programme.
10. No posters, pamphlets and leaflets shall be stuck, and no slogans shall be written on religious, historical or archaeological buildings, or monument-zones, or similar other places as part of the electoral campaign; nor shall private houses, shops and walls be used for that purpose without the consent of the householder concerned. Besides, a poster, or pamphlet, or election symbol pasted by one party or candidate shall not be peeled off, or torn out, or superscribed by or on behalf of another party or candidate.
11. None shall destroy, mutilate, scribble over, or alter the election-related publicity materials distributed by the Election Commission.

12. None of the political parties or independent candidates shall encourage anyone to indulge in electoral malpractices or frauds; such as, impersonation and duplication.
13. No political party or individual shall capture any polling station or polling sub-station, or seize ballot papers, ballot boxes or other electoral materials by the use or threat of force or inducement.

B. The Code of Conduct applicable to His Majesty's Government:

a) Mass Media

1. While carrying out their activities, the mass communication media functioning under His Majesty's Government, whether electronic or print, shall be wholly impartial and restrained, and shall have no prejudice for or against any of the parties or candidates, contesting the election.
2. Attractive and interesting audio-visual and written materials, designed to encourage the voters to exercise their franchise and to cast their ballots in

favour of the candidates of their choice freely and fearlessly, shall be published and broadcast to the maximum extent possible.

3. No materials that are likely to influence the body politic on the basis of their religious, communal, territorial, caste or linguistic sentiments; or that may give rise to violence, excitement, panic, animosity and misunderstanding in the minds of the people, shall be published or broadcast.
4. The mass communication media under the control of His Majesty's Government shall provide all parties fielding candidates in the General Election with opportunities to place their principles, policies and programmes before the electors.
5. While gathering and editing news, or printing pictures and cartoons, or writing editorials, comments, or publishing and broadcasting individual articles, interviews and the like, no effort shall be made to swing the

opinion of the listener, or viewer, or reader in favour of any particular party or individual, and the role of the show host or compeer shall be strictly impartial.

b) Other Official facilities and services:

1. No projects shall be consecrated or inaugurated; no new plans or programmes shall be approved, initiated, studied or surveyed; and no grants shall be allocated.
2. His Majesty's Government shall not deploy, or cause to deploy, none of its officials, members of the police force, or other State servants, or the employees of public corporation or committees in creating public opinion in its favour, or in influencing the outcome of the General Election.
3. Transport and other facilities and assets at the disposal of public or semi-public corporations shall not be utilized in

22

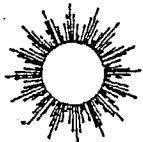



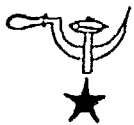

- favour of any particular party or individual.
4. No party or candidate shall be allowed to have exclusive use of buildings, guest houses, meeting halls and similar other physical resources and facilities at the disposal of public or semi-public corporations or committees, and they shall be made available to all parties and candidates according to the rules of the corporation or committee concerned.
 5. As official functions and party propaganda are distinct and separate from one another, the public funds, resources and facilities utilized in connection with public functions shall not be put to use in the interest of the party or candidate.
 6. No vacancies shall be filled up by appointment, transfer, or secondment except in connection with the facilitation of electoral matters. Similarly, no new posts shall be created, no salaries and allowances shall be increased, and no

grade increment and other facilities shall be awarded.







7. No Ministers, or office bearers, or individuals shall have access to the polling booths or vote-counting centres except in the capacity of a candidate, or the official agent of the candidate, or voter, provided that this Section shall not apply in the case of election officers, or officers seconded to carry out electoral functions, or observers, journalists and correspondents authorized by the Election Commission or polling officers.

ANNEXE - 3

ELECTION SYMBOLS







Sl. No	Political Party	Symbol
1.	Communist Party of Nepal (UML)	
2.	Nepal Sadbhavana Party	
3.	The Nepali Congress	
4.	The National Democratic Party	
5.	Samyukta Janamorcha, Nepal	
6.	Janata Dal (Sa.Pra.)	

ELECTION SYMBOLS







Sl. No	Political Party	Symbol
7.	Janabadi Morcha, Nepal	
8.	Nepal communist Party (Marx)	
9.	Nepal Communist Party (Samyukta)	
10.	Nepal Janabadi Morcha	
11.	Nepal Janahit Party	
12.	Nepal Prajaparisad	

no

ELECTION SYMBOLS












Sl. No	Political Party	Symbol
13.	Nepal Majdoor Kissan Party	
14.	Nepali Congress (B.P.)	
15.	Nepali Congress (Biseshwar)	
16.	Nepali Congress (Subarna)	
17.	Prajantrik Lok Dal	
18.	United Peoples Party	

ELECTION SYMBOLS

Sl. No	Political Party	Symbol
19.	Rastriya Janata Parisad	
20.	Rastriya Janata Party	
21.	Rastriya Janamukti Party	
22.	Redical Nepali Congress	
23.	Liberal Democratic Party	
24.	Samyukta Prajatantra Party	

Election Symbol

Reserved for Independent Candidates

9/10

APPENDIX J

UNOFFICIAL TRANSLATION- OCTOBER ,1994

**ELECTION TO THE HOUSE OF
REPRESENTATIVES**

GUIDELINES FOR POLLING OFFICER

ELECTION COMMISSION

98

This unofficial translation is based upon the original document prepared by the Election Commission before the elections to the House of Representatives in 1991 and amendments to the document prepared by the Election Commission before end of august 1994. The document gives a general picture of the content of the Nepali document. Details may have been omitted. By the preparation of the translation emphasis has been put on ensuring that the purpose and content of the individual rules is presented. For studies of details a more elaborate translation should be consulted.

Katmandu, October 1994

1. Polling Officer

- 1.1 In Democratic system the large number of voters turn up to elect their representatives. Therefore, it is the main duty of the Polling Officer to manage properly and create an environment in the polling centre which enables voters to vote freely at the election. For clean, free and fair elections, the Polling Officer has to play the role of an alert and responsible policeman. He shall also be impartial and conscious towards his duties and responsibilities.
- 1.2 The Returning Officer shall appoint a Polling Officer for each polling centre and assistant polling officers for the sub-polling centre in his constituency.
- 1.3 The Polling Officer shall receive necessary guidance from The Returning Officer regarding his duties and responsibilities.
- 1.4 The Polling Officer shall be trained in conduct of polling by the Returning Officer. The training date and time shall be arranged by the Returning Officer. Each Polling Officer and Assistant Polling Officer must take part in the training compulsorily.
- 1.5 In general the following subjects will shall be included in the training:-
 - (a) Building of a secret marking place in the polling centre.
 - (b) Establishment of separate lines with entry and exit point for ladies and gents.
 - (c) Preparation of sitting arrangements for polling staff and polling agents.
 - (d) Opening, closing and sealing the ballot box.
 - (e) Preparation of a place to for the ballot box, seal (marker) and stamp pad.
 - (f) Verification of voters' name.
 - (g) Conditions for stopping the poll and related duties and responsibilities.
 - (h) Keeping an account of ballot paper.
 - (i) Other works and responsibilities in the polling centre.
- 1.6 It is necessary to read the directives for election to the House of Representatives' for detailed information of duties and responsibilities of a Polling Officer.

2. Assistant to The Polling Officer

- 2.1 The Polling Officer shall immediately acquire information on the other polling staff appointed for his polling centre from the Returning Officer and contact them.
- 2.2 The Returning Officer shall appoint two assistants and two peons for a polling centre without a sub-polling centre.
- 2.3 For a polling centre with a sub-polling centre two assistants and peon shall be appointed.
- 2.4 The Polling Officer shall receive the list of polling staff and form his group.
- 2.5 The Returning Officer shall also with the cooperation of the local administration appoint security personnel. The Polling staff and the security personnel must go together and reach the polling centre at least two days before the polling day.
- 2.6 The work and responsibilities including the verification of voters and handling of the ballot paper must be clearly explained by the polling officer to the polling staff.

3. Finance

- 3.1 The Polling Officer shall receive money for the polling staff and polling work in advance in accordance with the Financial Directives from the Returning Officer.

3.2 The Polling Officer shall make available from the Returning Officer receive daily allowances and traveling allowance for the polling staff.

4. Elections Materials

4.1 The Polling Officer shall receive election materials from The Returning Officer and keep it safely.

4.2 It is better to receive the election materials before leaving for the polling centre from headquarters from a secrecy and security point of view.

4.3 Before leaving for the polling centre, the following material shall be received:-

4.3.1 Voters list

4.3.1.1 Two copies of voters list.

4.3.1.2 Voters list must have complete pages and include voters serial numbers.

4.3.1.3 Voters lists pages, serial numbers and related information must be properly examined.

4.3.1.4 A complete voters list of the concerned polling centre must be received.

4.3.2 Ballot Box

4.3.2.1 Normally one ballot box shall be used for a polling centre with one thousand voters. A ballot box without any defects must be received from the Returning Officer.

4.3.2.2 One additional ballot box must be received for each polling centre with one thousand voters.

4.3.2.3 In case of over-sized ballot papers an extra ballot box shall be received from the Returning Officer.

4.3.3 Indelible Ink

4.3.3.1 Indelible ink received from the Returning Officer.

4.3.3.2 Two bottles of indelible ink shall be made available for each polling centre. They shall be kept safely.

4.3.3.3 For every sub-polling centre additional two bottle of indelible ink shall be available.

4.3.4 Marking Aid

4.3.4.1 Marking aid having Swastika insignia.

4.3.4.2 Two marking aids shall be available for each polling centre.

4.3.4.3 For each additional sub-polling centre two marking aids shall be available.

4.3.5 Ink and Stamp pad

4.3.5.1 Two stamp pads shall be available for each polling centre.

4.3.5.2 For each additional sub-polling centre two stamp pads shall be available.

4.3.5.3 Two bottles of stamp pad ink shall be available for each polling centre.

4.3.5.4 For each additional sub-polling centre two stamp pad ink shall be available.

4.3.6 Ballot Paper

4.3.6.1 The Polling Officer shall receive ballot paper according to the number of voters and keep it safely and secretly with him.

4.3.6.2 It shall be confirmed that the ballot paper received is for the concerned polling centre.

4.3.6.3 The ballot paper shall be kept in cloth packets and sealed. On polling day, at the fixed time it shall be opened in the presence of the candidates or their polling agents.

4.3.6.4 A receipt for the ballot paper with serial number received from the Returning Officer shall be given to the Returning Officer and the account shall be kept by the Polling Officer.

4.3.7. Miscellaneous

4.3.7.1 The following materials shall be received from the Returning officer: big and small envelopes, candles, pusher, sticker, pen, pencils, blade, gum, sealing materials, plain cloth bag, cord, brass scale, red and blue pencil, stickers, match box, needle and thread.

4.3.7.2 Plain paper, procedural formats (forms) and various other forms.

4.3.7.3 The Election Commission prepares election material for each polling and sub-polling centre. It shall be received from the Returning Officer.

5. Reaching and Staying at the Polling Centre

- 5.1 The Polling Officer, the polling staff and the security personal shall reach the polling centre at least two days before the polling day.
- 5.2 The Polling Officer and his staff shall not stay at the candidates or his agents home nor receive any kind of benefit or facilities from them.

6. Creating a Polling Centre

- 6.1 The Polling Centre shall be created at the place selected by the Returning Officer.
- 6.2 The Polling Officer shall create a polling centre with the following arrangement :
 - (a) A secret room with a table or bench for marking the votes.
 - (b) A sitting arrangement outside the secret room for the Polling Officer. The stamp pad and marking aid shall be kept on a table or bench.
 - (c) A ballot box shall be kept on a table just beside The Polling Officer a ballot box along with a pusher and a scale.
 - (d) Separate line for gents and ladies.
 - (e) At the voters entry point a security guard shall be placed to ensure and control the entry of one voter at a time. A sitting arrangement shall be made for the staff verifying and marking the voters. Sitting arrangements shall also be made for the candidates' agents. A table or chairs shall be provided to them for writing purposes.
 - (f) Separate exit point for voters completing their voting. A security staff shall be stationed at the exit point.
- 6.3 Sticking or banging voters serial number in front of voters line.
- 6.4 Similar arrangements shall be done at the sub-polling centre.
- 6.5 The polling and sub-polling centre shall be created according to the election directives.
- 6.6 The distance between main polling centre and sub-polling centre shall not exceed ten meters.
- 6.7 The polling and sub-polling centre shall not be located in different places.
- 6.8 Normally, a school shall be used for a polling centre. If a school is not available a government or public building shall be used for polling purpose.
- 6.9 If a school, a government or public building is not available a tent or hut-type polling centre shall be created in an open public ground.

7. Works To Be Done In The Polling Centre

- 7.1 Demarcation of The Polling Centre Area
 - 7.1.1 Hundred meters area around polling centre shall be demarcated as the polling centre area. A notice shall published in the prescribed form available by the Returning Officer and be displayed at the polling centre.
- 7.2 Prohibition on Campaign
 - 7.2.1 Notice of prohibition on all kinds of campaign until the end of poll shall be published and displayed for general public information.

7.3 Candidates Election Symbol Poster

7.3.1 Inside the secret marking room and at the entrance of the Polling centre, a poster with the candidates election symbols shall be stuck for general information of voters.

7.3.2 In the candidates election symbol poster there shall not be any kind of sign or hint.

7.4 To see and copy voters list

7.4.1 A voter shall be allowed and helped to search for his name in the voters list.

7.5 Appointment of Volunteers

7.5.1 The Polling Officer shall appoint two volunteers for assistance at the election work.

7.5.2 Two additional volunteers shall be appointed for each sub-polling centre.

7.5.3 Volunteers shall receive food allowances as prescribed by Election Commission.

7.6 Appointment of Peon

7.6.1 In case no extra peon has been appointed by the Returning Officer for a sub-polling centre, the Polling Officer shall appoint two peons for two days for each sub-polling centre.

7.6.2 The local persons shall be appointed for two days.

7.6.3 The remuneration as prescribed by the Election Commission shall be paid.

7.7 Allowing Polling Agent to sit inside the Polling Centre

7.7.1 Each candidate can appoint Polling Agents for each polling and sub-polling centre. Such agents shall be allowed to enter and sit inside the polling centre.

7.7.2 Only one agent of a candidate shall be allowed to sit in the specified place in the polling centre.

7.7.3 For each candidate two agents shall be allowed to enter the polling centre.

7.7.4 A maximum of two agents for each candidate shall receive the entry pass for the polling centre.

7.7.5 Each candidate should have separate polling agents.

7.7.6 Persons without permission shall not be allowed entry inside the polling centre.

7.8 Identity of Polling Agent

7.8.1 The identity of polling agent shall be verified with the signature on the appointment letter received from the candidate.

7.9 Directions to Assistant Staff

7.9.1 The Polling Officer shall assign the work to his staff. He shall also give directions, specify the work and the responsibilities related to the work.

7.10 Directions to the Security Personnel

7.10.1 The Polling Officer shall give directions to the security staff and inform them about their duties and responsibilities.

8. Work to be carried out prior to the commencement of polling

8.1 Supervision: The Polling Officer shall supervise all the preparations carried out before the commencement of the polling. If any mistake are found, he shall immediately rectify them. While supervising, he shall especially put attention to the following:-

- (a) If there is a window in the secret marking room then he shall completely close and seal it.
- (b) If there is any publicity poster for any candidate in the secret marking room then it shall be removed.
- (c) In the secret room a plain table shall be kept for marking of the ballot paper.
- (d) The election symbol of all the contesting candidates and model ballot paper shall be stuck inside the secret room for the benefit of voters.
- (e) If there is a polythene paper or plastic paper or selolide paper on the stamp pad, it shall be removed. If the stamp pad has become dry, ink shall be added.
- (f) The ballot box shall be placed just next to the Polling Officer or on the table, a chair or bench so that The Polling Officer can control and supervise the poll.
- (g) The voter serial number range shall be stuck or hanged at the conspicuous place in front of the voters queuing line.
- (h) A specific sitting arrangement shall be made for the staff and the polling agents.
- (i) One security personnel shall be placed at the voter exit point.

8.2 Sealing the empty ballot box

8.2.1 Prior to the commencement of the election, the district name, constituency number, polling centre number and name and in case of sub-polling centre, sub-polling centre and ballot box number shall be stuck inside and outside the ballot box for information.

8.2.2 The empty ballot box shall be shown to the candidates, election agents or polling agents present.

8.2.3 Before closing the empty ballot box the candidates or polling agents shall sign. The box shall be closed according to the guidelines given in the directives. The hole for inserting the ballot paper shall be kept open.

8.2.4 On the spot report of the closing the ballot box shall be made with the signature of the candidate or polling agent on the paper seal. If there are no polling agents of the candidates it shall be noted.

8.2.5 The spot report shall be kept in a sealed envelop.

8.3 Breaking the ballot paper packet seal

8.3.1 The ballot paper packet seal shall be broken in the presence of the candidates or their polling agents. The ballot box number shall also be shown to them.

8.3.2 An on the spot report of the breaking of the ballot paper packet seal shall be prepared. After signing by the candidates or their agents it shall be kept in an envelope and sealed.

8.4 Signature on the ballot paper

8.4.1 Prior to the commencement of polling, The Polling officer shall sign some ballot papers and then store it safely.

8.4.2 Prior to the commencement of polling, signed ballot paper shall be handed out to the Assistant Polling Officer of the polling-centre. The serial number of such ballot paper shall be registered.

8.4.3 Ballot paper shall be signed according to the need. All ballot paper shall not be signed at once..

8.4.4 An account of the signed ballot paper and the ballot paper given to the assistant polling officer or assistants shall be kept separately.

9. Polling

9.1 Polling Hours

9.1.1 Polling shall commence at 8 a.m. as fixed by Election Commission.

9.2 On the Spot Report of Commencement of Poll

9.2.1 Recognizance of commencement of poll at the fixed time shall be done even though there are no voters present at that time in the polling centre.

9.2.2 Recognizance shall compulsorily be signed by the Polling Officer, present candidates or election agents or polling agents

9.2.3 In case of absence of polling agents, the fact shall be mentioned in the report.

10. Verification of Voters Name and Handing out of Ballot Paper

10.1 Verification of Name

10.1.1 The name of voters waiting in a queue shall be verified one at a time. By the verification the voters shall be asked for their own and their fathers name. In case of married women, she shall be asked for her husbands name.

10.1.2 The place of verification shall not be crowded. Polling agents shall be allowed to observe the verification of the voters name.

10.2 Single Entry

10.2.1 The gents and ladies whose names have been verified shall be allowed to enter the polling centre, one at a time.

10.3 To check mobbing and crowding

10.3.1 At the beginning and the end of the polling, there may be crowding and mobbing. Under such circumstances additional manpower shall be employed at the verification place.

10.4 Marking the finger

10.4.1 A ✓ mark at the name of verified voter shall be made in the voters list and a dot mark with the indelible ink must be put on the right hand thumb of the voter.

10.4.2 In case the right hand thumb is missing then any other finger shall be used. If the right hand is missing the left hand thumb or any other finger of the left hand shall be marked with indelible ink.

10.4.3 After marking the finger, the voters name, surname and voters list serial number shall be written on the ballot paper counterfoil. The voter shall sign the counterfoil. Afterwards, a ballot paper shall be handed out.

10.5 Impostors shall not be allowed to vote

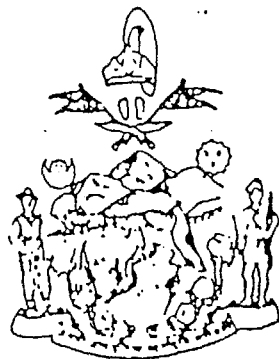
10.5.1 A person who attempts to falsely impersonate another voter shall immediately be expelled from a polling centre.

105

APPENDIX K

SCHEDULE - III
(Relating to Clause (3) of Article 7)

THE COAT-OF-ARMS OF NEPAL



HOUSE OF REPRESENTATIVES MEMBERS
ELECTION ACT, 2047

The following Act was published in the Nepal Gazette, part II,
Vol 40, Extra-ordinary Number 53, dated 2047/10/28 (February 11, 1991)

Act No. 19 of 2047
An Act Made to Provide for Election of
the Members of House of Representatives

Preamble:

Whereas it is expedient to make legal provisions for election of the Members of the House of Representatives of the Parliament,

Now, therefore, His Majesty King Birendra Bir Bikram Shah Deva has, with the advice and consent of the Council of Ministers, made this Act pursuant to Article 129 of the Constitution of the Kingdom of Nepal.

CHAPTER - I
Preliminary

1. Short Title and Commencement:

- (1) This Act may be cited as "House of Representatives Members Election Act, 2047" (1991).
- (2) It shall come into force immediately.

2. Definitions:

Unless repugnant to the subject or context, in this Act--

- (a) "Constitution" shall mean the Constitution of the Kingdom of Nepal, 2047 (1991).
- (b) "Election" shall mean the General Election, Mid-Term Election and By-Election to be held to elect Members of the House of Representatives in accordance with the provisions of this Act.

(c) "Commission" shall mean the Election Commission as mentioned in Article 103 of the Constitution.

(d) "Voter" shall mean the voter as mentioned in Section 10 of this Act.

(e) "Candidate" shall mean the Candidate as mentioned in Section 31 of this Act.

(f) "Member" shall mean the Member of the House of Representative elected or to be elected pursuant to the provisions of this Act.

(g) "Returning Officer" shall include the Chief Returning Officer.

(h) "Polling Officer" shall include the Assistant Polling Officer.

(i) "Prescribed" or "as prescribed" shall mean prescribed or as prescribed in the Rules made pursuant to this Act or in the Order issued by the Commission published in the Nepal Gazette.

CHAPTER - II Constituency

3. Constituency:

(1) There shall be 205 Electoral Constituencies as provided in Article 45 of the Constitution for election of the Members of the House of Representatives of the Parliament.

(2) The Constituencies shall be as delimited by the Electoral Constituency Delimitation Commission constituted pursuant to the provisions of Article 105 of the Constitution.

(3) The boundaries of the electoral constituencies as determined pursuant to Sub-section (2) above shall, unless otherwise provided by law, remain valid until such boundaries are redefined after the next national census.

CHAPTER - III

Registration Officer, Returning Officer and Polling Officer

4. Voter Registration Officer:

(1) The Commission may, for the purpose of preparing the electoral roll of each constituency, appoint or designate Voter Registration Officer.

(2) The Voters Registration officer may, subject to the provisions of the Rules made under this Act and the directives of the Commission, depute such number of employees or qualified persons as may be necessary for collecting the names of the Voters.

5. Appointment of the Returning Officer:

(1) The Commission shall, for the purpose of conducting election, appoint a Chief Returning Officer for each District and a Returning Officer for each constituency.

(2) The Returning Officer shall have the authority to depute employees of His Majesty's Government or of the corporations owned by His Majesty's Government for the election works.

(3) The Returning Officer may delegate all or some of its powers, as required, to such employees deputed for election works. However, no power relating to the scrutiny of nomination papers, its acceptance or rejection, or counting of votes, or declaration of election result may be delegated.

6. Duties of Chief Returning Officer:

(1) Subject to the directives of the Commission, the duty of the Chief Returning Officer shall be to supervise, control, direct and coordinate all election works of the constituencies within the district assigned to him.

(2) The Chief Returning Officer shall also perform the functions and duties of Returning Officer of the constituency assigned to him.

7. Function and Duties of the Returning Officer:
(1) It shall be the duty of the Returning Officer to perform freely and fairly all his functions relating to election pursuant to this Act within the constituency assigned to him.
(2) The Returning Officer shall, while performing his duties under Sub-section (1), observe the directives issued by the commission or the Chief Returning Officer. Other functions, duties and powers of the Returning Officer shall be as prescribed.
8. Appointment of Polling Officer:
Except when the appointment has been made by the Commission, the Chief Returning Officer shall appoint Polling Officer or Assistant Polling Officers within his district from among the employees of His Majesty's Government or of the corporations owned by His Majesty's Government. The Returning Officer shall make such appointments within its constituency.
9. Duties of the Polling Officer:
(1) It shall be the duty of the Polling Officer within a polling center or of the Assistant Polling Officer within a Sub-center to perform freely and fairly all his functions relating to election, as assigned to him by this Act or the Rules made or Order issued pursuant to this Act.
(2) Other functions, duties and powers of the Polling Officer and the Assistant Polling Officer shall be as prescribed.

CHAPTER - IV
Electoral Roll

10. Voter
(1) Any citizen of Nepal having a permanent residence within any constituency and who has attained or is about to attain the age of eighteen years on the date of maturity specified pursuant to Section 11 shall be a voter for election of the Member to be elected from that constituency.
(2) Every voter whose name has been registered in the electoral roll of that constituency shall be entitled to cast his vote only in such constituency.

Provided that, in respect of any person temporarily residing in another constituency, the Commission may make provisions for inclusion of his name in the temporary electoral roll as a voter in the manner specified for the purpose.

11. Date of Maturity for Voting:
The date of maturity for voting in any election to be held pursuant to this Act shall be as specified by the Commission.
Provided that for the purpose of first election to be held after the commencement of this Act, the last day of the month of Aswin, 2047 shall be adopted as such date.
12. Preparation of Electoral Roll:
(1) The Commission shall prepare the electoral roll for every constituency in the prescribed manner under its own supervision, control and directions.
(2) The electoral roll prepared before the commencement of this Act incorporating the persons who have attained the age of eighteen years on the last day of Aswin, 2047 shall be deemed to have been prepared pursuant to this Act.
(3) The electoral roll as prepared according to Sub-section (2) above shall be treated as the base document and shall be amended every year so as to include those voters who have attained the age of eighteen by the last day of the month of Chaitra of that year.
Provided that nothing mentioned in this Section shall be deemed to prevent for continuing the validity of the existing electoral roll for the next year irrespective of failure to amend such electoral roll in any year.
(4) It shall be the duty of every citizen of Nepal possessing qualification as a voter to have his name enrolled in the electoral roll.
13. Publication of the Electoral Roll:
(1) During each general election, the Returning Officer shall publish the electoral roll of the constituency in the prescribed manner according to the program determined by the Commission. Such program shall also contain provisions of time-limit, as prescribed, for making claims by the omitted persons to be enrolled in the electoral roll, for correcting the entries thereof in respect of

name, age, place of residence or any other particular of such electoral roll, or for removal of name of any person contained therein.

(2) Where any claim for enrollment or any objection to the enrollment is filed pursuant to Sub-section (1) above, an inquiry shall be conducted in the prescribed manner for verification of such claim or objection and if any amendment is incorporated therein, a final electoral roll shall be prepared. The amended electoral roll shall be published in the prescribed manner.

14. Period of Validity of Electoral Roll:

After the publication of the final electoral roll of any constituency, no alteration or amendment therein shall be made and such roll shall remain effective for the concerned election.

15. Questions Not to be Raised in Court:

No question shall be raised in any court of law on the following matters:

(a) On matters of inclusion or the exclusion of any name or about the propriety of inclusion or removal of such name in the electoral roll of any constituency; and

(b) On matters of preparation of the electoral roll by Voters Registration Officer or by any person duly authorised by such Officer, or on matters of alteration in the electoral roll by the concerned officer pursuant to the provision of Sub-section (2) of Section 13.

Provided that nothing mentioned in this Section shall be applicable in respect of the Election Tribunal constituted in accordance with the existing law.

CHAPTER - V

Registration of Political Organisation or Parties

16. Petition for Recognition as the Political Organisation or Party for the Purpose of Election:

(1) Every Political Organisation or Party desirous of recognition as such by the Election Commission for the purpose of election as mentioned in Article 113 of the Constitution shall

submit a petition with the Commission observing the procedures specified in the notification published in the Nepal Gazette and within the time specified by the Commission in the same notification.

(2) The Political Organisation or Party submitting petition pursuant to Sub-section (1) above shall undertake in the petition that at least five percent of the Candidates contesting election in pursuance of this Act will be female Candidates as mentioned in Article 114 of the Constitution.

17. Registration of Political Organisation or Party:

(1) Upon receipt of petitions pursuant to Sub-section (1) of Section 16, if the Commission deems necessary to seek any further information from any Political Organisation or Party, it shall require such Organisation or Party to submit such information. After scrutiny of the formalities required to be satisfied under this Act and the Constitution, the Commission shall decide in favour of or against the registration of the Political Party or Organisation.

(2) If the Commission considers against the registration, it shall give a reasonable opportunity to the concerned Political Organisation or Party to submit its views thereon. Where such opportunity has been given, the Commission shall give due consideration to the explanations of the concerned Organisation or Party. The Commission shall decide thereafter whether or not to register such Organisation or Party and such decision of the Commission shall be final.

(3) Where it is found that two or more Political Organisation or Parties, filing petition pursuant to Sub-section (1) of Section 16 have applied under the same name, the Commission shall, after consultations with such Organisations or Parties, register them in such manner that they may be identified separately.

18. Non-Registration of Political Parties Under the Same Name:

No other Political Organisation or Party shall be registered bearing the same name one Organisation or Party has been registered.

19. Registration of the Splinter of Political Party :
If at least forty percent of the Members of the Central Executive Committee of a Political Organisation or Party submit a petition claiming their split or separation from the principal Political Organisation or Party with proof of their Membership and status and such splinter group requests for registration as such under separate name or as a splinter group under the same name, the Commission may, after making necessary inquiry, register such group as a Political Organisation or a Party. No such petition shall be entertained after the notice announcing the election programme pursuant to Sub-section (1) of Section 25 is published.

20. Merger of Political Organisation or Party:
(1) If the Members of the Central Executive Committees of two or more political organisations or parties, registered with the Commission, decide by an agreement to unite or merge with or another and submit petition for registration either in a name already registered or under a new name, the Commission may, after making necessary inquiry, approve such unification or merger and register the Organisation or Party accordingly. No such petition shall be entertained after the notice announcing the election programme pursuant to Sub-section (1) of Section 25 is published.

(2) If, from amongst the Political Organisations or Parties seeking to unite or merge pursuant to Sub-section (1) above, at least forty percent of the Members of the Central Executive Committee submit a petition, prior to the publication of the notice announcing election programme pursuant to Sub-section (1) of Section 25, objecting to such unification or merger and desiring to retain the original status of the concerned political organisation or party, the Commission may, after making necessary inquiry if it finds the claims made in the petition as proper and reasonable, retain the original registration of Organisation or Party. Where the name of such Political Organisation or Party has been decided to be retained as earlier, the Members of the Executive Committee of such Organisation or Party shall be recorded by the Commission as provided in the petition.

21. Notice of Amendment of Constitution or Other Description of Organisation or Party:
If any amendment is made in the Constitution, Manifesto or Rules of any Political Organisation or Party registered as such pursuant

to this Act, or any alteration or changes is made or has appeared in the particulars contained in the petition submitted in accordance with Sub-section (1) of Section 16 of this Act, the Commission shall be informed of such amendment or alteration within fifteen days thereof.

22. Name and Signature Specimen of Authorised Person:
(1) Where any information relating to the Political Organisation or Party registered under this Act is required to be furnished to the Commission pursuant to the provisions of this Chapter, such information shall be furnished in writing by the Chairman of the Central Executive Committee of such Organisation or Party, or the Chief Executive of the Secretariat.

(2) For the purpose of Sub-section (1) above, a certified specimen signature of such concerned official, together with his name, surname and address, shall be provided to the Commission.

23. Publication of the Names of Political Organisations and Parties:
The Commission shall from time to time publish in the Nepal Gazette a list of the Political Organization or Party registered pursuant to this Act.

CHAPTER - VI Notification of Election

24. Election:
(1) The Commission shall, for the purpose of constituting the first House of Representatives after the commencement of this Act, and thereafter, on the expiry of the term of each House of Representatives or on the dissolution of House pursuant to the provisions of the Constitution, announce a general election to fill all the seats of the House.

(2) If any House of Representative is dissolved prior to the expiry of its term as mentioned in Sub-section (1) above, the Commission shall announce a Mid-term election.

(3) If any seat of a Member elected from any constituency falls vacant for any reason prior to the expiry of his terms, a By-

election shall be held to fill such vacancy for the remaining term of the vacating Member.

Provided that no such By-election shall be held, if the remaining term of such Member is of a period less than six months.

25. Notification of Election:

(1) The Commission shall fix the date and time of the election to be held for filling the seats of the House of Representatives and issue a notice to such effect. Such notification shall be published in the Nepal Gazette.

(2) The Commission may, in consideration of the geographical factors, climatic conditions and other situations, announce any one or different dates for election to be held in more than one constituencies. The election held on the same or different dates as per the Election Programme determined by the Commission shall be deemed to have held simultaneously.

26. Notice of Election Programme:

(1) After the publication of Election Notice under Sub-section (1) of Section 25, the concerned Returning Officer shall, issue notice in their respective constituency, conforming to the Election Programme determined by the Commission, for the purpose of filing of nomination papers, publication of the list of Candidates whose nomination papers have been filed, raising objection to the nomination of any Candidate, scrutiny of the nomination papers, publication of the list of duly nominated Candidates, publication of the final list of Candidates and the date, time and place for distribution of electoral symbols to the Candidates.

(2) While preparing the Election Programme as mentioned in Sub-section (1) above, due consideration shall be given to the days and time that may be required for the filing of nomination papers, objecting to such nominations, scrutiny of the nomination papers, publications of the name of the Candidates and the withdrawal of names etc.

(3) While issuing a notice pursuant to Sub-section (1) above, a period of at least thirty days between the date of publication of final list of Candidates and the Polling Date shall be allowed.

(4) The procedure as laid down in the Sub-section (1), (2) and (3) above shall be observed in respect of the Mid-term Election and By-elections to be held under Subsection (2) and (3) of Section 24.

CHAPTER - VII
Candidates and Nominations

27. Disqualifications:

(1) The following persons shall not be eligible as a Candidate for election;

- (a) Who has not completed the age of twenty five years;
- (b) Who is not a citizen of Nepal;
- (c) Who is mentally deranged or of unsound mind;
- (d) Who is declared financially insolvent or bankrupt;
- (e) Who is an employee of His Majesty's Government, or of the corporate body owned or controlled by His Majesty's Government, or of any institution receiving grants from His Majesty's Government;
- (f) Who is holding an office of profit for which salary or other benefits are paid from the government treasury, except a pensioner or a person engaged in a political position to be filled by election or nomination;
- (g) Who is convicted and sentenced with imprisonment on an offence relating election by the Election Tribunal constituted under an existing law and a period of six years has not been elapsed from the date of completion of such sentence;
- (h) Who has been convicted in a criminal offence of the nature involving moral turpitude and sentenced for a term exceeding two years and a period of six years has not elapsed from the date of completion of such sentence;

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(1A) The qualifications as stipulated in Clauses (g) and (h) of Subsection (1) shall not be applicable in respect of the first election to be held after the commencement of this Act. ✓

(2) For the purpose of Clause (f) of Sub-section (1), the following positions shall not be deemed to be the office of profit;

(a) Prime Minister, Deputy Prime Minister, Minister, State Minister, Assistant Minister;

(b) Speaker, Deputy Speaker and Member of the House of Representative;

(c) Chairman, Deputy Chairman and the Member of the National Assembly;

(d) Leaders of the Opposition on the House of Representative and National Council;

(e) Chairman and the Deputy Chairman of the various Committees of the Parliament;

(f) Chiefs, Deputy Chief, or Member of local bodies of Village, Town and District level;

(g) Office of Senate, Executive Committee or Executive Council of the University;

(h) Office of Members of delegation or Commission sent by his majesty's government to a foreign country for a specified purpose; or

(i) Such other office as are declared to be offices of non-profit by his Majesty's Government.

(3) Any person convicted in any Offence against State or who has been pardoned on political grounds as included in a notice

As amended by the First Amendment of the Act, 2047 as published in the Nepal Gazette, Part II, Vol. 40, Extraordinary Number 1, dated 2047/12/14 (March 28, 1991).

published in the Nepal Gazette shall not be deemed as disqualified for the purpose of Clause (h) Subsection (1).

28. Computation of Age of the Candidate:

For the purpose of computing the age of Candidate for being eligible to contest election, he must have completed the age of twenty five on the date of maturity specified in Section 11.

19. Removal from Membership:

(1) If the election of any Member is annulled by the decision of an Election Tribunal constituted under the existing law, the Membership of the concerned Member in the House of Representative shall be deemed to have terminated from the date of such decision.

(2) If a Member of the House of Representative is elected or nominated to the Membership of the National Assembly, his Membership shall be deemed to have automatically terminated from the date on which he is so elected or nominated.

30. Vacancy of Seat of Member at Multiple Constituencies:

(1) If a Candidate is elected in more than one constituencies, he shall opt within thirty days from the date of commencement of the session of Parliament one of the seats in which he intends to retain his Membership and resign in writing from the rest of the seats. Such resignation shall be submitted to the Speaker of the House.

(2) If such Member does not submit his resignation as mentioned in Sub-section (1), the Commission shall request the Speaker of the House of Representative for his decision as to the seat which the Member will be allowed to retain and the others which will be deemed as vacated. The Commission shall, on the basis of such decision, publish a notice in the Nepal Gazette indicating the constituencies in which the Membership of the concerned Member stands terminated.

31. Nomination of Candidate:

(1) Any person, who is qualified to become a Candidate according to the provisions of the Constitution and this Act and whose name is registered in the electoral roll of a constituency,

113

may be proposed in the prescribed manner to become a Candidate in the election for Membership to be held in his constituency.

(2) Any Candidate who has been nominated pursuant to Sub-section (1) above shall be seconded in writing by another voter of the same constituency.

(3) In respect of the Candidate set up by a Political Organisation or Party duly registered under this Act, such Organisation or Party shall provide to the concerned Candidate an official letter of nomination. The official of the Organisation or Party, who is duly authorised to issue such letter of nomination, shall also send a copy thereof to the concerned Returning Officer.

(4) Any person proposed in the manner mentioned in Sub-section (1) above, must express his consent in writing and sign it.

(5) A person may be proposed as a Candidate in any one constituency through nomination papers not exceeding five in numbers.

(6) A person may be nominated as Candidate in more than one constituencies.

32. Candidates Contesting Election as Party Candidate :

(1) The Political Organisation or Party registered under this Act shall provide to the Commission the name, surname and position, including the Specimen Signature, of its official authorised to issue Party Nomination Letter for contesting election as its Candidate. Such authorization shall be issued only by the Chairman of the Central Executive Committee or the Chief Executive Officer of the concerned Political Party or Organisation.

(2) Any Candidate set up by the Political Party or Organisation without observing the procedures mentioned in Sub-section (1) above or carrying the Party Nomination Letter not tallying to the specimen signature of the official submitted to the Commission, shall not be recognised as the Candidate of such Party and may be treated only as an independent Candidate.

33. Filing of Nomination Papers:

(1) The nomination paper of a Candidate shall be submitted either by the Candidate himself or by his representative or his Proposer to the Returning Officer of the concerned constituency.

(2) The concerned Returning Officer shall scrutinize the nomination papers filed pursuant to Sub-section (1), and, if found to have complied with the formalities, he shall record the nomination paper and issue a receipt thereof to the Candidate, his representative or his Proposer.

(3) If any nomination paper is found to be deficient of the name of the Proposer, or the Proposer is duplicated, or the receipt of deposit required under this Act is not enclosed, or lacks the signature either of the Proposer or of the Candidate, or does not comply with other formalities, the Returning Officer shall require to complete such formalities prior to recording thereof. If the person submitting such nomination paper still insists on filing thereof without complying to the required formality, such refusal shall be remarked on the concerned nomination paper and such person shall be informed of the remarks.

(4) The Returning Officer shall, after the expiry of the time allotted for the filing of the nomination paper, publish the list of Candidates filing nomination papers on the date, time, and place as specified in the Election Programme.

(5) Any Candidate or his representative having reasons to object the nomination of another Candidate included in the list published pursuant to Sub-section (4), may file his objection on the date, time and place as specified in the Election Programme.

34. Scrutiny of Nomination Paper:

(1) The Proposer or the Candidate himself or his representative must be personally present on the date, time or place specified in the Election Programme for the purpose of scrutinizing nomination papers.

(2) The Returning Officer shall scrutinize all nomination papers in the presence of persons mentioned in Sub-section (1). Provided that nothing mentioned in this Sub-section shall be deemed to prevent from scrutiny of nomination papers and deciding

thereupon according to the law despite the absence of any Proposer or Candidate or his representative required to be present therein.

(3) The Returning Officer shall, during scrutiny of nomination papers, probe on the objections, if any, filed pursuant to Sub-section (5) of Section 33 and decide thereupon.

Provided that minor discrepancies in the nomination papers shall not render them invalid.

Explanation: For the purpose of this Section "minor discrepancy" shall mean the technical mistakes relating to the letters, numbers and vowel signs in writing or printing of the name, surname, address or serial number of the Candidate, Proposer and other person relevant thereto as contained in the voters list or nomination paper and which does not cause any material difference.

(4) Except under the following circumstance, the Returning Officer shall not suspend the works of scrutiny of nomination papers :

(a) Where any mobbing or violence erupts at the time and place of scrutiny of nomination papers;

(b) Where any situation of natural calamity beyond control exists;

(5) If the scrutiny of the nomination papers is suspended under circumstances mentioned in Sub-section (4) above, the Returning Officer shall fix the time and place of such scrutiny for the following day and continue the scrutiny onwards.

35. Conditions for Invalidity of Nomination Paper:

The nomination paper shall become invalid in the following circumstance:

(a) If the Candidate does not possess the qualification required by the Constitution and this Act,

(b) If the consent of the Candidate does not exist, or the nomination paper does not contain signature of the Proposer or the Secunder or the signature is forged;

(c) If no deposit as required by the Section 74 is enclosed therewith;

(d) If the nomination paper is not filed within the time specified for the purpose pursuant to Section 26;

(e) If the nomination paper does not comply with the conditions mentioned in Section 32 and 33;

(f) If other requirements prescribed by this Act is not fulfilled.

36. List of the Candidates:

The Returning Officer shall, after the scrutiny of nomination papers, prepare in the prescribed manner a list of the Candidates whose nomination papers are found to be in order as required by the law and shall publish a copy thereof in his office.

37. Withdrawal of Names:

(1) If any Candidate desires to withdraw his name from the list of Candidates, he may so withdraw his name by giving notice in writing to the Returning Officer in the prescribed manner within the time mentioned in Sub-section (1) of the Section 26.

(2) The notice concerning the withdrawal of name pursuant to Sub-section (1) shall be submitted by the Candidate himself or his representative.

(3) A notice for withdrawal of name once submitted to the Returning Officer shall not be allowed to cancel or withdraw such notice.

(4) If the Returning Officer is satisfied about the genuineness of the notice submitted pursuant to Sub-section (1) above, he shall remove the name of the Candidate withdrawing his name from the list of the Candidates. The Returning Officer shall immediately publish in his office a notice announcing the removal of name of the concerned Candidate.

(5) If the official authorised by the concerned Political Organisation or Party to nominate any Candidate notifies, within the time specified in Sub-section (1) of Section 26 to the

Returning Officer, the withdrawal of the person set up as its Candidate, such person shall not be retained as the Candidate set up by that Political Organisation or Party. However, he shall have the status of an independent Candidate.

38. Final list of the Candidates:

(1) The Returning Officer shall, after the expiry of time specified in Sub-section (1) of Section 26 for withdrawal of name, prepare in the prescribed manner a final list of the remaining Candidates and shall immediately publish a copy of the list in his office. He shall also send a copy of such final list immediately to the Commission.

(2) In the list prepared pursuant to Sub-section (1), the names of the Candidates shall appear in the alphabetical order and the address of the Candidate, as mentioned in the nomination paper, as well as the name of the Political Organisation or Party, if the Candidate is set up by such Organisation or Party, shall also be mentioned therein.

39. Uncontested Election:

(1) If only one nomination paper has been filed in any constituency and such nomination paper is found to have completed the required formalities, or despite the filing of more than one nomination paper, all but one Candidates have withdrawn their names, or all but one nomination papers are declared invalid, the Returning Officer shall declare, in the prescribed manner, the remaining only Candidate as elected unopposed.

(2) If the number of Candidates in any constituency remains more than one, a poll shall be held in such constituency.

40. Election Symbol:

(1) The Commission shall determine election symbols to be allocated to the Candidates. The Commission shall, while determining the symbols, designate separate sets of symbols respectively for the Candidates set up by Political Organisations or Parties and for the independent Candidates.

(2) The election symbols, determined pursuant to Sub-section (1), shall be allocated to each Candidate in the prescribed manner.

(3) The Commission shall, while allocating election symbols pursuant to Sub-section (2), allocate to each Political Organisation or Party registered as such with the Commission one election symbols to be used by the Candidates of that Party in all the constituencies where the Party is contesting the election.

(4) No person other than the Candidate of the Political Organisation or Party to whom the symbol has been allocated shall be entitled to use the election symbol allocated by the Commission pursuant to Sub-section (3).

(5) The Political Organisation or Party shall provide to the Commission and the Returning Officer of the concerned constituencies, the list of its Candidates, who will be using the symbol allocated under this Section, within the time specified by the Commission.

(6) No alteration in the election symbol once allocated to a Candidate shall be permitted, despite the Candidate abandons the Political Organisation or Party and joins another Organisation or Party.

(7) If more than one Political Organisation or Party claim for same or similar election symbol, the Commission shall determine the symbol for each Organisation or Party in the prescribed manner and allocate such symbols accordingly.

(8) If it appears to the Commission that some mistake or inconsistency has occurred in the allocation of election symbol, it may make necessary alteration in such election symbols.

(9) The election symbols designated for the use of independent Candidates shall be allocated by the Returning Officer in the prescribed manner.

41. Death of a Candidate:

(1) If any Candidate, whose nomination paper has been found to be in order and who has not withdrawn his name, dies before the publication of the final list pursuant to Section 38, and the written information of such death is provided by the election agent or any other person, and if the Returning Officer is satisfied about such information, he shall immediately suspend the remaining programs of the concerned constituency and intimate, as soon as practicable,

to the Commission with complete details on the concerned event. A notice of suspension of programs shall be served by the Returning Officer in his office for information of the rest of Candidates.

(2) If any Candidate, whose name appears in the final list published pursuant to Section 38, dies after the publication of such final list and the written information of such death is provided by the election agent of the Candidate or by any other person, and if the Returning Officer is satisfied about such information, he shall immediately suspend the remaining programs of the concerned constituency and intimate, as soon as practicable, to the Commission with complete details on the concerned event. A notice of suspension of programs shall be served by the Returning Officer in his office for information of the rest of Candidates.

(3) The Commission, on receipt of information pursuant to Sub-section (1), shall prepare another program for such constituency with least effect upon the polling program thereof and with a view to accomplishing the procedures of nomination of Candidates as early as possible and shall send such program to the Returning Officer.

(4) The Commission, on receipt of information pursuant to Sub-section (2) above, shall reschedule the election program for such constituency according to the provision of this chapter, including the polling date in the constituency, and shall send such program to the Returning Officer.

(5) The Candidates whose names appear in the final list published pursuant to Section 38 shall not be required to re-submit their nomination papers and any Candidate who had withdrawn prior to suspension of program earlier shall be entitled to re-submit their nomination papers.

42. Identity Card to the Candidates:

The Returning Officer shall provide to all such Candidates, whose names appear in the final list published according to the provisions of this Chapter, necessary documents including an identity card.

CHAPTER - VIII
Polling Centers, Ballot papers
and Ballot box

43. Polling Center:

The Returning Officer shall, with the prior approval of the Commission, determine the requisite numbers Polling Centers and Polling Subcenters within his constituency. He shall thereafter publish the list of such centers in the prescribed manner.

44. Ballot Papers:

(1) The Polling Officer shall give the Ballot Papers to the voters present at the Polling Center after completing the procedures as prescribed.

(2) The design of the Ballot Paper shall be as specified by the Commission. The Ballot Paper shall show the election symbols of the Candidates.

45. Ballot Box:

Such Ballot Box as prescribed by the Commission shall be used for polling.

CHAPTER - IX
Polling

46. Polling Period :

The polling period on the polling date shall be as specified in the notice issued pursuant to Sub-section (1) of the Section 25.

47. Polling:

A voter, whose name is enrolled in the voters' list of a constituency, shall be entitled to vote only in the same constituency.

48. Polling Methods :

(1) The voter shall vote by marking on the Ballot Paper the sign or seal prescribed by the Commission.

(2) The voter shall vote indicating the choice of his Candidate confidentially by marking the sign within the box containing the election symbol of the Candidate box allotted in the Ballot Paper.

117

(3) No one shall falsely impersonate any genuine voter enrolled in the voters' list of a constituency. ^{2/}

(4) No person shall vote in any election without possessing the qualification required pursuant to the provision of this Act.

(5) No voter shall vote in more than one constituency.

(6) No voter shall cast more than one vote in any constituency.

(7) If any voter, prohibited from voting in any manner pursuant to Sub-section (4), (5) and (6), presents himself to receive Ballot Papers, the Polling Officer may refuse him to issue Ballot Paper.

49. Adjournment of Polling During Emergency:

(1) If the Polling Officer appointed in any Polling Center or the Returning Officer of that constituency is satisfied that due to violent mobbing or disruption or natural calamity or any circumstance beyond his control, the election proceedings cannot be continued, he may at once suspend all the proceedings of election in that center and publish a notice to that effect therein. If such suspension of the election proceedings is made by the Polling Officer, he shall immediately inform the Returning Officer on the facts and events thereof.

(2) The Returning Officer shall immediately despatch requisite information regarding the suspension of election proceeding under Sub-section (1) above to the Commission and all other concerned authorities.

(3) If no directives to the contrary is issued by the Commission upon receipt of information according to Subsection (2), the Returning Officer shall issue a notice of the date and time for repolling in such Polling Centers and shall conduct repolling therein accordingly.

2. Deleted by the First Amendment Act, 2047 - as mentioned in Footnote 1.

50. Unlawful seizure of Polling Centers:

(1) On occurrence of any of the following circumstances, the Polling Center shall be deemed to have been unlawfully seized;

(a) If any person by using force or coercion or threat seizes the Polling Center or any place designated for such polling, influences the election proceedings or allows only the voters supporting a particular Candidate to vote, or prevents other voters from voting;

(b) If any person, by or without use of force, threatens or coerces any voter to vote or not to vote for any particular Candidate or prevents such voter from going to or entering in the Polling Center;

(c) If any person, by or without use of force, prevents any official deputed to conduct election from carrying out his duties, or seizes the Ballot Papers, the ballot boxes, or other election material from the lawful custody of such official, or uses influence in the proceedings of the election by similar actions so that the election proceedings are not or cannot be held in a free or fair manner.

(2) If any situation, as mentioned in Sub-section (1) above, appears in any Polling Center, the Polling Officer shall immediately inform the Returning Officer who shall thereupon inform the Commission on the situation.

(3) The Commission, upon receipt of a report pursuant to Sub-section (2) above, may assign an Observer to make spot investigations. The Commission may, considering the report of such Observer and other circumstances prevailing therein, annul the election of that Polling Center. The Returning Officer shall, observing the directives of the Commission, re-schedule the date and time for repolling in such Polling Centers where the polling have been annulled.

(4) The Commission may, if it feels on the basis of report submitted pursuant to Sub-section (2) above and other circumstances relevant thereto that the illegal seizure of a Polling Center may adversely affect the result of election, annul the election of that Polling Center. The Returning Officer shall,

observing the directives of the Commission, re-schedule the date and time for repolling in such Polling Centers.

51. Damage to or Break of Ballot Boxes:

(1) If any Ballot Box used in any Polling Center for the purpose of election is damaged by accident or is broken intentionally, the Polling Officer shall immediately submit a report of the fact to the Returning Officer and the Returning Officer shall also immediately report the matter to the Commission.

(2) If any Ballot Box used for polling in any Polling Center, and being in the custody of Returning Officer himself, is seized in any manner or is accidentally damaged or intentionally broken, the concerned Returning Officer shall immediately submit a report to the Commission on the situation.

(3) The Commission, upon receipt of any report pursuant to Sub-section (1) or (2), may assign an Observer to investigate on the spot and inquire about the circumstances. The Commission may, upon consideration of the reports, including the report of the Observer, if any so assigned, annul the election of that Polling Center.

(4) The Returning Officer shall, observing the directives of the Commission reschedule the date and time for repolling in such Polling Center where polling had been annulled pursuant to Sub-section (3) and issue a notice to that effect.

52. Chief Returning Officer to be Informed:

The Returning Officer shall also inform the Chief Returning Officer in the district, if any, on the occurrence of any circumstance mentioned in Section 49, 50 and 51.

53. Objection on False Impersonation of Voter:

(1) If any person falsely impersonating any other voter presents himself to receive a Ballot Paper, any Candidate or his representative may, by making a deposit of the amount as prescribed, file objection with the Polling Officer.

(2) If any objection is received pursuant to Sub-section (1) above, the Polling Officer shall make summary investigation and

decide immediately. He shall record such objection and his decision in the Minute Book to be maintained in the prescribed manner.

(3) If the objection filed pursuant to Sub-section (1) above is substantiated, the deposit shall be returned to the concerned person and, if the objection is not sustained, the deposit shall be confiscated.

54. Entry to Polling Center:

(1) The Polling Officer shall prohibit entry to the Polling Center of all persons excepting the following:

(i) Voters;

(b) Candidate or one of his representative; and

(c) Persons who are permitted by the Commission or the Returning Officer or the Polling Officer.

(2) No voter shall be permitted to enter the Polling Center after the expiry of the time allocated for polling.

55. Inspection by the Polling Officer:

If any voter stays for more than a reasonable time within the place allotted for the marking of votes or if the Polling Officer suspects of any mischief, the Polling Officer may enter the place allotted for the marking of votes.

56. Incapacitated Voter:

(1) If any voter for reason of his physical incapacity, or for any other reason, cannot cast his vote by himself and request for the assistance of a person of his choice and the Polling Officer finds the request reasonable, he shall permit such person to accompany the concerned voter to the place allotted for the marking of votes.

(2) If any voter cannot himself mark his vote and requests the Polling Officer to mark in the box containing the symbol of the Candidate of his choice in the Ballot Paper, the Polling Officer may assist him in marking the vote according to the wish of such person.

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119

CHAPTER - X

Counting of Votes and Election Result

57. Chief Returning Officer to Coordinate the Counting:
In districts having more than one constituencies, the Chief Returning Officer of that district shall supervise, control, direct and coordinate the counting of votes in his district. It shall be the duty of every Returning Officer to carry out the directives of the Chief Returning Officer.
58. Notice About Vote Counting:
The Returning Officer shall, after the receipt of all ballot boxes from the Polling Officers used for polling in the Polling Centers of the constituency, publish a notice, as directed by the Chief Returning Officer, informing the Candidates about the place, date and time fixed for the counting of votes.
59. Counting of Votes:
(1) The Returning Officer shall commence counting of votes in the place and on the date fixed in the notice published pursuant to Section 58.
(2) The Candidates, his Election Agents and a required number of Counting Agents may attend at the place and on the date and time fixed pursuant to Subsection (1) for the counting of votes.
(3) If a repolling in any Polling Center of that constituency becomes necessary in pursuance of this Act, the counting of votes of other Polling Centers of that constituency shall be withheld until repolling in that Polling Center is completed.
60. Entry into the Counting Center:
(1) The Returning Officer may permit the Candidate of the concerned constituency, his Election Agent, Counting Agents, persons engaged in the counting work, employees deputed for the security and any other person assigned or deputed by the Commission, to enter the place where the votes are being counted.
(2) The Returning Officer may order any person obstructing the counting of votes to leave the place where the votes are being counted and the person so ordered shall be under obligation to leave such place. If the person so ordered does not comply with such

order, the security personnel shall, upon order of the Returning officer, expel the concerned person from such place.

61. Vote Counting to be Continuous:
(1) The Returning Officer shall, once the counting of votes is commenced, keep the process thereof continuous until completed.
(2) If for any reason the process of counting of votes cannot be continued and has to be adjourned, the Returning Officer shall keep the counted Ballot Papers, records concerning the counting of votes, the remaining Ballot Papers to be counted, and the list of Ballot Boxes of which votes have not been counted, in separate envelopes and seal the envelopes with official seal. The concerned Candidate or his Counting Agent or his Election Agent may also counter-sign or seal therein, if any of them so desire.
(3) The counting of votes which was adjourned pursuant to Sub-section (2) above, shall as far as possible, be resumed the following day. Notice about the resumption of counting of votes shall be given to the Candidate present in that place or his Election Agent or his Counting Agent. Such notice shall also be published in the place where the votes are being counted.
62. Loss of Ballot Papers Before Counted:
(1) If, prior to the completion of counting, either the Ballot Papers or the Ballot Box containing the Ballot Paper, used in any Polling Center, is unlawfully removed from the custody of the Returning Officer, or opened or damaged accidentally or intentionally destroyed, or is lost, the Returning Officer shall immediately report the matter to the Commission.
(2) The Commission shall, upon receipt of a report pursuant to Sub-section (1) above, after making inquiry, if deemed necessary, order the suspension of counting of the remaining ballots.
(3) The Commission shall, after suspension of the counting of votes pursuant to Sub-section (2) above, declare the annulment of polling of the Polling Center in respect of which the aforesaid incident had occurred. The Returning Officer shall, as per the directives of the Commission, publish a notice rescheduling the date, time and place of re-polling in the concerned Polling Center.

63. Unlawful Seizure of the Place of Vote Counting:

(1) On occurrence of any of the following circumstances, the place of vote counting shall be deemed to have been unlawfully seized:

(a) If any person by using force or coercion or threat seizes the place of vote counting or takes in his possession the Ballot Papers or Ballot Boxes from the custody of any officer or employee engaged in the counting of votes or interferes or influences in the process of counting of votes or causes to interfere or influence thereupon through any similar conduct; or

(b) If any person engaged in the counting of votes act in any manner mentioned in Clause (a), or assists in or assents to the performance of such act.

(2) If any place of vote counting is unlawfully occupied as mentioned in Sub-section (1) above, the Returning Officer shall immediately report the matter to the Commission.

(3) The Commission shall, upon receipt of a report pursuant to Sub-section (2) above, after making inquiry, if deemed necessary, order the suspension of counting of votes of the remaining Polling Centers.

(4) The Commission shall, after suspension of the counting of votes pursuant to Sub-section (3) above, declare the annulment of polling of the Polling Center in respect of which the aforesaid incident had occurred. The Returning Officer shall, as per the directives of the Commission, publish a notice rescheduling the date, time and place of re-polling in the concerned Polling Center.

64. Invalidity of Ballot Papers:

In any of the following circumstances, a Ballot Paper shall be deemed invalid:

(a) if it does not bear any signature of the concerned Polling Officer;

(b) if it is not marked in the prescribed manner and is marked differently, or bears any other different mark;

(c) if it is mutilated or blurred or defaced beyond identification;

(d) if the mark is found elsewhere beyond the box of a Candidate;

(e) if the mark is found in the blank box in which no Candidate exists;

(f) if it is surrendered to the Polling Officer with intention of abstaining from voting;

(g) if the mark is unclear as to signify definitely the Candidate to whom the vote is intended;

(h) (deleted) 3/

(i) if the marks are placed in more than one box.

(j) if the Ballot Paper is other than the one allotted for that Polling Center;

(k) (deleted) 4/

(l) if it is a fake ballot paper.

65. Recounting of Votes:

(1) Any Candidate or his Election Agent or Counting Agent may, before the completion of counting, or if completed, before the announcement of result, demand with the concerned Returning Officer, stating the reasons therefor in writing, to recount all or any of the Ballot Papers.

(2) If a request pursuant to Sub-section (1) above is filed, the Returning Officer shall record the request immediately and recount the Ballot Papers if he feels that recounting is necessary.

3. ibid.

4. ibid.

(3) If the Returning Officer considers that recounting of votes pursuant Sub-section (2) is not necessary, he shall record his decision to that effect and shall, prior to the announcement of result, inform of his decision to the Candidate or his Election Agent or Counting Agent, whosoever is present on the spot.

66. Tie of Votes:

After the counting of votes in any constituency is completed, if two or more Candidates receive equal number of votes, the Returning Officer shall decide by drawing lots amongst the Candidates receiving equal number of votes. The Candidate in whose favour the lot is drawn shall be deemed to have received one additional vote.

67. Publication of Election Result:

(1) As soon as the counting of the votes of all the Polling Centers in any constituency is completed, the Returning Officer shall prepare a result sheet of counted votes in the prescribed manner and, thereafter, publish the result of election in the prescribed manner. The Returning Officer shall immediately send the result sheet to the Commission.

(2) Together with the publication of the election result pursuant to Sub-section (1) above, the Returning Officer shall also declare as elected the name of the Candidate receiving highest number of valid votes in the election.

(3) The Returning Officer, after the publication of election result, prepare a detailed report containing other relevant facts about the election, and send it to the Commission.

(4) The Commission shall, upon receipt of result sheet of the election pursuant to Sub-section (1), prepare a list of the elected Candidates and forward such to the Secretariat of the Parliament. The Commission shall also publish such list in the Nepal Gazette.

68. Date of Election:

The date on which the Returning Officer declares the election result pursuant to the provision of Section 67 shall be deemed as the date of election of the concerned Candidate.

CHAPTER - XI
Agents of the Candidate

69. Election Agent:

(1) Whenever a Candidate appoints an Election Agent, he shall intimate such appointment in writing to the concerned Returning Officer.

(2) An Election Agent appointed under Sub-section (1) may be removed by the Candidate at any time and another Election Agent may be appointed therein. An intimation of such replacement shall be immediately given to the Returning Officer.

(3) The qualification for the Election Agent shall be as prescribed.

70. Duties of an Election Agent:

The duties of an Election Agent, appointed pursuant to Section 69, shall be to perform all such functions which are specified in this Act and the Rules made thereunder, as the function of the Election Agent.

71. Poll Agent and Counting Agent:

(1) Any Candidate or his Election Agent may appoint in the prescribed manner one or more Poll Agent for each Polling Center. An intimation in writing about such appointment shall be given to the Polling Officer and the Returning Officer.

(2) Any Candidate or his Election Agent may appoint in the prescribed manner one or more Counting Agent to be present at the Counting Centers. An intimation in writing about such appointment shall be given to the Returning Officer.

(3) Any Candidate or his Election Agent may at any time remove the Poll Agent or the Counting Agent appointed pursuant to Sub-section (1) or (2) above, and appoint another Poll Agent or Counting Agent. An intimation of such replacement shall be immediately given to the Polling Officer and the Returning Officer.

(4) The qualification of Poll Agent and Counting Agent shall be as prescribed.

72. Duties of the Poll Agent and Counting Agent:
 (1) The duty of Poll Agent shall be to perform all such functions as are prescribed in this Act or the Rules made thereunder.
 (2) The duty of Counting Agent shall be to perform all such functions as are prescribed in this Act or the Rules made thereunder.
73. Absence of the Candidate or Any Agent:
 Where no Election Agent or Poll Agent or Counting Agent is appointed pursuant to this Act or the Rules made thereunder, or where the Candidate or any of his Agents are not present for the purposes required by such laws, or where any of them does not perform his functions under such laws, no process of polling or counting of votes shall be adjourned simply on such grounds and nothing performed under such conditions shall be deemed illegal.

CHAPTER - XII
Miscellaneous

- 73A. Provisions for Tendered Vote:
 (1) If any person by false impersonation has obtained the Ballot Paper of any voter or has already polled with such Ballot Paper and if the registered voter claiming such Ballot Paper afterwards is found, through the evidence submitted by him, as the genuine person, the Polling Officer shall grant him the "Tendered Ballot Paper". Where such Tendered Ballot Paper has been granted, the voter shall, after indicating his vote in the Ballot Paper, instead of dropping it within the Ballot Box, place it in a separate envelope kept specially for the purpose.
 (2) The procedures for granting and placing of Tendered Ballot Paper, pursuant to Subsection (1), and other procedures relating thereto shall be as prescribed.
 (3) During the counting of votes according to Section 59, the Tendered Votes placed in a separate envelope pursuant to Subsection (1) shall not be counted at that time. If a complaint relating to election is filed and if the Election Tribunal constituted

under the existing laws decides as essential for the disposal of the Complaint, the Tribunal may order the counting of such Tendered Votes. 5/

- 73B. Special Provisions Relating to Polling by Persons on Election Duty: Notwithstanding anything contained elsewhere in this Act, if any civil servant or Agent of the Candidate qualified to vote and engaged in the election duty is not a voter registered in the electoral roll of that constituency, the Commission may enroll the name of such civil servant or Agent, as prescribed, in the electoral roll of the constituency. 6/
74. Security Deposit:
 (1) In order to contest election from any one constituency, a deposit of three thousand rupees is required as security.
 (2) If more than one Nomination Papers have been filed in any constituency in respect of the same Candidate, the security deposit for one nomination only shall be sufficient. If such nomination papers of the same Candidate is filed in more than one constituency, separate security deposits shall be made for each constituency.
 (3) During the filing of nomination papers for a Candidate, it shall accompany either the cash receipt issued by the office of the Returning Officer or a voucher of cash deposit in the account in the name of the office of the Returning Officer.
75. Forfeiture of Security Deposit:
 (1) Any Candidate receiving less than ten percent valid votes of the total valid votes polled in an election shall forfeit his security deposit.
 Provided that the provision of this Sub-section shall not apply in respect of an elected Candidate.

5. Inserted by the First Amendment Act, 2017 - as mentioned in Footnote 1.

6. Ibid.

(2) The security deposit of the Candidates, including rejected or withdrawn, excepting those forfeited pursuant to Sub-section (1) above, shall be refunded within thirty five days from the date of declaration of the election result.

(3) If the security deposit is not withdrawn within the specified time, such money shall eschew to the consolidated fund.

76. Election Expenses:

(1) The ceiling of election expenses allowed to be incurred by the Candidates shall be as specified by the Commission in a notice published in the Nepal Gazette.

(2) All Candidates or their Election Agents must maintain the records of all expenses incurred on election purposes during election period in the prescribed manner.

Explanation: For the purpose of this Section, the word "election period" shall mean a period beginning from the date of filing of nomination paper till the date of publication of election result.

(3) The total election expenses of a Candidate incurred in any election must not exceed the ceiling specified pursuant Sub-section (1).

(4) The Candidate or his Election Agent shall submit a Statement of Election Expenses, as prepared under Sub-section (2), to the Returning Officer within thirty days from the date of declaration of election result. The Returning Officer shall transmit such Statement to the Commission.

77. Secrecy of Documents Relating to Election:

(1) Among the election documents, only such documents which are required for counting of votes may be opened for such purposes and they shall be resealed after the counting is completed. All such documents shall be kept in custody of the officer designated by the Commission.

(2) Among the documents preserved pursuant to Sub-section (1), such envelopes containing the counter-foil of Ballot Papers, Voters List used during the election and the accepted and

rejected Ballot Papers may be opened and looked into only by a Court of law in connection with the election petition filed in accordance with the existing law.

(3) The Court shall, after the inspection of documents pursuant to Sub-section (2), replace the documents in original manner and reseat them. No official or institution other than a Court of law shall have the authority to open such sealed envelopes.

(4) The documents mentioned in this Section shall be preserved for a period of one year either from the date of final disposal of the suit, if any, or from the date of expiry of limitations period specified for filing election petition.

78. Maintenance of Secrecy :

(1) Unless authorised by law, no employee deputed in election duty or Candidate or Election Agent or Poll Agent or Counting Agent or any other person shall disclose orally or in writing or in any other manner, the vote as indicated by voter in the Ballot Paper or any other information relating thereto known to him or within his knowledge.

(2) Notwithstanding any thing mentioned in this Act or any other existing law, no witness or other person shall be asked, in any legal proceeding commenced under this Act, any question pertaining to how and to whom he or any other person has voted.

79. Powers to Issue Orders and Directives:

(1) In addition to the provisions made in this Act and in the Rules made thereunder, the Commission shall have powers to issue Orders as it may deem necessary. Such Orders shall be published in the Nepal Gazette.

(2) The Commission may, for the efficient conduct of the election, issue necessary Directives to the employees deputed on election duties.

(3) It shall be the duty of every Candidate, his Agents, any other persons engaged in election publicity duties and all other employees deputed on election duties, to abide by the Orders and Directives issued pursuant to Sub-section (1) and (2).

80. **Assistance:**

(1) The Returning Officer, Polling Officer or the Observer or any other official appointed by the Commission in election duties, shall be entitled to receive assistance from any government or security agency functioning at local level, including the Police personnel, in the carrying out of his election duties.

(2) If any assistance is sought pursuant to Sub-section (1) by the concerned official, it shall be the duty of the government and security agencies, including the Police personnel, to render such assistance.

81. **Power to Make Rules:**

His Majesty's Government may, in consultation with the Commission, make Rules to carry out the purposes of this Act.

82. **Saving:**

No question shall be raised in any Court of law, excepting the Election Tribunal constituted under the existing law in respect of any act relating to election performed in pursuance of the provisions of this Act or the Rules made thereunder or Orders issued by the Commission.

ROYAL SEAL OF ENACTMENT AFFIXED ON - 2047/10/28/2

ELECTION COMMISSION ACT, 2047

The following Act was published in the Nepal Gazette, part II, Vol. 40, Extra-ordinary Number 53, dated 2047/10/28 (February 11, 1991)

Act No. 20 of 2047

An Act Made To Provide For The Functions, Duties And Powers Of The Election Commission.

Preamble:

Whereas it is expedient to make provisions for the functions, duties and powers of the Election Commission:

Now, therefore, His Majesty King Birendra Bir Bikram Shah Deva has, with the advice and consent of the Council of Ministers, made this Act pursuant to Article 129 of the Constitution of the Kingdom of Nepal.

CHAPTER - 1 Preliminary

1. **Short Title and Commencement:**

(1) This Act may be cited as "Election Commission Act, 2047 (1991).

(2) This Act shall come into force immediately.

2. **Definition:**

Unless repugnant to the subject or context, in this Act--

(a) "Commission" shall mean the Election Commission as constituted pursuant to Article 103 of the Constitution of the Kingdom of Nepal, 2047 (1990).

(b) "Commissioner" shall mean the Election Commissioner of the Commission.

(c) "Election" shall mean any election conducted by the Commission in accordance with the provisions of the Constitution of the Kingdom of Nepal, 2047.

(d) "Prescribed" or "as prescribed" shall mean anything prescribed or as prescribed by the Rules made under this Act or Orders issued by the Commission.

CHAPTER - II
Functions, Duties and
Power of the Commission

3. **Power to Appoint:**

(1) The Commission shall, for the purpose of election, have powers to appoint or designate Chief Election Officer, Election Officer, Polling Officer, Assistant Polling Officer, Voters Registration Officer and other personnel as required.

(2) The Commission shall have powers to depute or engage any employee of His Majesty's Government or any Corporation in the ownership of His Majesty's Government or any other person in any work relating to election.

(3) An employee, who has there been employed, designated or deputed under this Section, shall not be removed or transferred or deputed elsewhere till the completion of election, without prior consent of the Commission.

4. **Receiving of Cooperation :**

(1) The Commission may, on matters relating to election, directly communicate with or seek cooperation from any Office, Department or Ministry of His Majesty's Government or from any Constitutional Body or any Corporation owned by His Majesty's Government.

(2) The Commission may, on matters relating to election, avail necessary cooperation or require performance of any work from any private, public or local organisation.

5. **Appointment of Observers:**
The Commission may appoint observers to observe, investigate or supervise on matters relating to election or polling or counting of votes in any constituency or polling station.

6. **Requisition and Use of Physical Facilities:**

(1) The Commission may, after giving prior information, requisition and use, as may be necessary, any land, building, vehicle, furniture or other physical facilities belonging to His Majesty's Government or any Corporation owned by His Majesty's Government for the purpose of election.

(2) The Commission may, after giving prior information, requisition and use, as may be necessary, any land, building, furniture or other physical facilities belonging to any public or local bodies or any private school or College for conducting election or polling works .

(3) The Commission may, for conducting any of the election or polling functions, use on rental basis any land, building, vehicle, furniture or other physical facilities belonging to any person, or private party or organization.

7. **Power to Remove:**

(1) The Commission, if it deems necessary to remove any employee appointed, designated or deputed pursuant to Section 3 to perform any of the election works, may remove him from such work.

(2) The Commission may, if it seems necessary, order any police personnel deputed on security service during the election requiring him to do or refrain from doing any act, directly or indirectly related to the election, or it may remove such personnel from such work.

8. **Annulment of Election:**

If any complaint is filed or an information is received in the Commission to the effect that the election or polling in any constituency has not been free and fair or has been disorderly conducted, the Commission may investigate it through the Commissioner, the Secretary of the Commission, or any Officer duly authorised by the Commission. If the Commission, based upon the findings of such investigation, is satisfied of the

120

allegation, it may annul the election as a whole of that constituency or annul the polling of any or all polling stations of that constituency.

9. **Temporary Posts and Appointments:**

(1) The Commission may, in order to conduct and accomplish the work concerning election, create such number of temporary posts as may be necessary, up to the rank of Class II Gazetted Officer for a maximum period of six months.

(2) The Commission may extend the tenure of the posts created pursuant to Subsection (1) above for another period of six months at a time or successively.

(3) The Commission shall be authorised to make appointments in the posts created pursuant to Subsection (1) above, on a temporary or contractual or daily-wages basis.

10. **Additional Facilities:**

(1) The Commission may grant such extra emoluments or facilities, as it may determine, to the Officers or employees engaged in the election works.

(2) The Commission may grant such additional amount in the per-diem and travelling allowances, which it may determine as necessary, over and above the existing rates thereof under prevalent law, to Officers or employees deputed in any work of the Commission or in any election work.

(3) The Commission may grant during the period of deputation such extra allowances, as it may determine, to the Officers or employees deputed on any work of the Commission or in any election work.

11. **Rent or Compensation to be given:**

(1) If any land, building, vehicle, furniture or other physical facilities belonging to a person, private body or public institutions have been used by the Commission or upon orders from the Commission for any election work on conditions of paying rent pursuant to Section 5, the Commission shall pay such rent for the duration of use of such land, building, vehicle, furniture or other physical facilities.

(2) In case of any damage to the land, building, vehicle, furniture or other physical facilities during its use by the Commission or upon orders from the Commission for the purpose of election work and if any maintenance work has to be done or compensation to be paid for that reason, the Commission may make payment, as compensation, a reasonable amount for actual damage considering the amount spent or required for such maintenance or an amount required in compensation.

12. **Election Expenditures:**

(1) The employees deputed for election works may be paid out in full all their per-diem and travelling allowances, other allowances and facilities which they are entitled under the existing laws. No returns of accounts of expenses and their supporting documents need to be submitted by the employees for the money received under this Subsection.

(2) Necessary amount of expenditures required to conduct election shall be paid to the concerned employees while being deputed to the election work at the rate determined by the Commission. The concerned employee shall have authority to expend such amount.

(3) The Commission may, in respect of the specified amount out of the amount paid pursuant to Subsection (2) above, issue orders exempting the concerned employees, being deputed on election work, from submitting the supporting documents of expenses after their return from deputation.

(4) The account of expenditures made in pursuance of the provision of this Section shall be audited in accordance with the existing law.

13. **Purchase of Materials:**

(1) In case where obtaining of tenders in accordance with the existing law to purchase materials or secure services in connection with election is not possible to the Commission, it may make such purchases or obtain services through quotations. If procurement of quotations also is not possible, the Commission may do such purchases or obtain services directly from the open market.

(2) If the Commission decides that the procurement of tenders or quotations, as required by the existing law, is not possible or is impractical in respect of materials required for the preparation of electoral rolls, printing of ballot papers or for the operation of computers, printers or photocopy machines, or for procuring spare parts or software goods for these machines or special types of paper to be used in such machines, the Commission shall not be required to obtain such tenders or quotations.

14. **Prior Approval not Required:**

(1) No approval of the Finance Ministry shall be required while expending the amount allocated as the contingency fund to the Commission by His Majesty's Government under the relevant budget head.

(2) All expenditures or approvals made in respect of the amount mentioned in Subsection (1) above shall be duly supported by respective decisions of the Commission.

15. **Audit:**

All expenses incurred for election works under this Act shall be formally audited.

CHAPTER - III
Miscellaneous

16. **Seeking Legal Advice :**

(1) The Commission may, if considered appropriate on any Constitutional or other legal question, seek the opinion of the Attorney General.

(2) The Commission, in respect of its functions, shall be at liberty to maintain direct relationship or to consult with or to seek counsel from any Constitutional Body or any Ministry, Department or Office of His Majesty's Government or with any other entity.

17. **Discussion and Consultations:**

The Commission or any Officer of the Commission may, for the purpose of conducting free and fair election, conduct discussions or consultation with any political organization or party or individual.

18. **Decisions of the Commission:**

(1) The function of the Commission, which are required to be done in pursuance of the provisions of the Constitution or the existing laws, shall be performed by the Chief Election Commissioner, if he is the sole member of the Commission, and if it consists of other members as well, such functions shall be performed by a collective decision of the Commission.

(2) The Secretary of the Commission shall duly maintain the records of decisions of the Commission.

(3) The Secretary of the Commission shall attest and implement the decisions of the Commission or cause the implementation thereof.

(4) The Commission shall regulate the procedures of its meetings itself.

19. **Delegation of Power:**

The Commission may, as and when required, delegate any of its powers to the Chief Election Commissioner, Election Commissioner, Secretary of the Commission, Chief Election officer, Election officer, Observer, Polling Officer, Assistant Polling Officer or any other Officers or employees engaged in the election work.

20. **Power to Issue Directives:**

(1) The Commission may issue necessary directives to the Chief Election Officer, Election Officer, Polling Officer, Assistant Polling Officer, Observer or Voters Registration Officer or to any person deputed in election work in respect of the works required to be performed by him.

(2) It shall be the duty of the concerned person to abide by the directives issued pursuant to Subsection (1).

21. **Government Attorney to Act and Plead :**

If the Commission or the Chief Election Officer, the Election Officer, the Polling Officer, the Assistant Polling Officer, the Observer, the Voters Registration Officer, appointed in pursuance of this Act, or any other employee deputed by the Commission sues or has been sued in respect of election works, the Government

128

Attorney shall act and plead on behalf of the Commission or such employees in such cases.

22. **Departmental Action:**
If any employee deputed in the Commission or in any election work commits any act in contravention of election law or directives of the Commission, the Commission shall have the authority to initiate departmental action against such employee in accordance with the laws pertaining to his service and shall either prescribe departmental punishment by itself or may cause to be punished by the competent authority relating to such employee.
23. **Framing of Rules:**
His Majesty's Government may, in consultation with the Commission, frame Rules in order to implement the provisions of this Act.
24. **Orders to be Issued:**
The Commission may, subject to the provisions of this Act or the Rules made pursuant to this Act, issue necessary Orders, published in the Nepal Gazette, for the purposes of conducting free and fair election and in order to promote healthy contest and maintainance morality. It shall be the duty of all political organization or parties or persons and such other persons who are engaged in the election propaganda to abide by such directives.
25. **Preparation of Manual:**
The Commission may prepare and enforce Manuals to provide guidelines to the officials engaged in election works and to conduct election works as well as to get them conducted efficiently.
26. **Repeal:**
Election Commission Act, 2024 (1967) and the Election Commission (Internal Functions) Rules, 2025 (1968) are hereby repealed.

ROYAL SEAL OF ENACTMENT AFFIXED ON - 2047/10/28/2

ELECTORAL CONSTITUENCY DELIMITATION ACT, 2047

The following Act was published in the Nepal Gazette, part II, Vol. 40, Extra-ordinary Number 43, dated 2047/8/23 (December 9, 1990)

Act No. 12 of 2047

An Act Made To Provide For The Function, Duties And Powers of Delimitation of Constituencies Commission.

Preamble:

Where as it is expedient to make provisions for the functions, duties and powers of the Delimitation of Constituencies Commission;

Now, therefore, His Majesty King Birendra Bir Bikram Shah Deva has, upon the advice and with the consent of the Council of Ministers, enacted this Act in accordance with Article 129 of the Constitution of the Kingdom of Nepal.

1. Short Title and Commencement:

(1) This Act may be cited as "Delimitation of Constituencies Commission Act, 1990".

(2) This Act shall come into force immediately.

2. Interpretation:

Unless repugnant to the subject or context, in this Act--

(a) "Constitution" shall mean the Constitution of the Kingdom of Nepal, 2047 (1990).

(b) "Commission" shall mean the Commission constituted pursuant to Article 105 of the Constitution.

(c) "Election" shall mean the election held for the membership of the House of Representatives pursuant to Article 45 of the Constitution.

(d) "Member" shall mean a member of the House of Representatives.

3. Function, Duties and Powers of the Commission :

(1) The functions, duties and powers of the Commission shall, in addition to those specified in the Constitution and elsewhere in this Act, be as hereinafter mentioned:

(a) To demarcate the territorial boundary of each electoral constituency after allocating 205 constituencies throughout the Kingdom of Nepal.

(b) To establish, for the purpose of first election after the commencement of the Constitution, electoral constituencies in any district on the basis of population existing according to the national census held preceding to such election.

(c) To establish, for the purpose of other elections to be held after the first election, conducted pursuant to clause (b) above, electoral constituencies on the basis of population existing according to the national census held preceding to such election.

Provided that nothing contained in this Section shall be deemed to prevent in establishing electoral constituencies on the basis of population as existing in the previous national census, till the results of the present national census held preceding the concerned election remains unpublished;

(d) To establish, while delimiting constituencies pursuant to clause (b) and (c) above, electoral constituencies within any district, in equal ratio, as far as possible, between the number of seats and the population existing in that district, if more than one membership is allocated for such district;

(e) To carry out all such functions as may be necessary for establishment of electoral constituencies and allocation of seats.

(2) The Commission shall notify decisions relating to delimitation of electoral constituencies and allocation of seats through notice published in the Nepal Gazette.

(3) The Commission shall, in order to carry out its functions, have the power to depute any of its member, employee or expert to any part of the Kingdom of Nepal.

(4) The Commission shall have power, in connection with its function, to take on deputation any government or corporation employee or to appoint on temporary basis any person as its employee.

4. Allocation of Seats and Delimitation of Constituencies:

(1) The Commission shall, for the purpose of electing one member from each electoral constituency pursuant to Clause (a) of Subsection (1) of Section 3, delimit the territory of administrative districts of the Kingdom of Nepal into one or more such constituencies.

(2) While delimiting electoral constituency pursuant to Subsection (1) above, the territory of the constituencies shall, subject to the provision of Section 3, be so fixed as to have at least one constituency in each of the administrative districts. In case any district is to have more than one constituency, the maximum and minimum number of population to be apportioned for each constituency in such district shall be as fixed by the Commission.

Provided that no electoral constituency shall be so delimited that any part of an administrative district is annexed to the territory of another administrative district.

(3) The Commission, while demarcating the constituencies in any district pursuant to this Section, shall take into consideration the nature of the boundaries of that district, geographical features, density of population, transportation facilities and homogeneity and heterogeneity of the community residing in such district.

(4) While demarcating the territories of electoral constituencies pursuant to Subsection (3), the existing boundaries of any Village Development Committee or any Ward of a

130

Municipality, as a whole and without causing any alteration thereon, shall be included in the concerned constituency.

(5) The boundaries of the electoral constituencies, as determined pursuant to the provision this Act, shall not be modified except in consultation with the Commission.

5. Consultation:

(1) The Commission may seek the opinion of local residents and political organization or parties in respect of delimiting the electoral constituencies under this Act.

(2) The Commission may, as and when required, summon any person or any official of His Majesty's Government and ask for his opinion on matters under its consideration.

(3) No question shall be raised in any court in respect of the consultation made or not with anyone by the Commission.

6. Duty to Assist :

(1) His Majesty's Government shall provide such personnel and other facilities to the Commission as may be required to carry out its functions.

(2) All concerned governmental officials or private persons or institutions shall be under obligation to render necessary assistance to the Commission in the fulfillment of its function.

7. Secretary of the Commission:

(1) His Majesty's Government shall appoint the Secretary of the Commission.

(2) The powers, functions and duties of the Secretary shall be as specified by the Commission.

8. Financial Arrangements:

(1) His Majesty's Government shall provide for the expenses required to be made by the Commission.

(2) The Commission shall be entitled to incur such expenditures which may be required to carry out its functions.

9. Additional Facilities:

The Commission may provide to the persons or the employees working for the Commission such extra monetary allowances as may be determined by the Commission.

10. Coordination with Election Commission:

The Commission shall, while carrying out its functions, remain in close contact and work in coordination with the Election Commission.

11. Delegation of Power:

The commission may, as and when required, delegate any of its powers to its Chairman, Member, Secretary or any employee of officer level of His Majesty's Government.

12. Decisions of the Commission:

The functions of the Commission shall be performed by its Chairman, if consisting of sole membership, and by a collective decision of the Commission if it consists of a Chairman and other members.

13. Procedure of the Commission:

(1) The Chairman shall preside over the meetings of the Commission.

(2) The decision of the Commission shall be made by a majority vote of the members of the Commission

(3) The decision shall be authenticated and implemented by the Secretary of the Commission.

(4) Other procedural matters of the Commission shall be as laid down by the Commission itself.

14. Documents of the Commission:

After the expiry of the term of the Commission, the Secretary of the Commission shall deposit all records and other documents of the Commission with the Election Commission.

ROYAL SEAL OF ENACTMENT AFFIXED ON - 2047/8/23/1

31

**ELECTION (OFFENCES AND PUNISHMENT)
ACT, 2047**

The following Act was published in the Nepal Gazette, part II,
Vol. 40, Extra-ordinary Number 54, dated 2047/11/2 (February 14, 1991)

Act No. 21 of 2047

An Act Made To Provide For
The Electoral Offences and Punishment

Preamble:

Whereas it is expedient to make provisions for the electoral offences and punishment;

Now, therefore, His Majesty King Birendra Bir Bikram Shah Deva has, upon and with the advice and consent of the Council of Ministers, made this Act pursuant to Article 129 of the Constitution of the Kingdom of Nepal.

CHAPTER - I
Preliminary

1. Short Title and Commencement:

(1) This Act may be cited as "Election (Offences and Punishment) Act, 2047 (1990).

(2) It shall come into force immediately.

2. Definitions:

Unless repugnant to subject or context, in this Act-

(a) "Constitution" shall mean the Constitution of the Kingdom of Nepal, 2047 (1990).

(b) "Election" shall mean election of the members of the House of Representatives or the National Council or the Local Organisations of village, town, and district level pursuant to the provisions of Article 104 of the Constitution.

(c) "Election period" shall mean the period commencing from the date of filing of the nomination paper upto the date of declaration of the election result.

(d) "Candidate" shall mean a person contesting as candidate in any election pursuant to the existing laws.

(e) "Voter" shall mean a voter who has been registered as a voter in the Electoral Roll for election to be held in pursuance of the existing laws.

(f) "Right to Vote" shall mean the right of a person to vote in the concerned election pursuant to the existing laws.

(g) "Election Commission" shall mean the Election Commission constituted pursuant to the Constitution.

(h) "Constituency" shall mean electoral constituency delimited for the purpose of electing a member in any concerned election pursuant to the existing laws.

(i) "Polling Station" shall mean the polling station established for the purpose of casting of votes in any concerned election pursuant to the existing laws, and shall also include the sub-stations.

(j) "Election Officer" shall mean the election officer appointed by the Election Commission pursuant to the provision of prevailing laws, and the term shall also include the Chief Election Officer.

(k) "Polling Officer" shall mean the polling officer appointed by the Election Commission pursuant to the provisions of prevailing laws, and the term shall also include the Assistant Polling Officer.

132

CHAPTER - II
Election Offences.

3. Prohibition to Make False Declaration of Name, Surname Age etc. :

(1) No one shall falsely register his name, residence, age or citizenship in the Electoral Roll to be prepared in connexion with any election. Neither any false petition nor any false objection against an entry, shall be filed.

(2) No one shall obtain a ballot paper by false impersonation in order to cast vote. Neither shall any person cast a vote in such, nor shall he aid or attempt or abet to do so.

4. Undue Influence Prohibited:

No person acting on behalf of any political organisation or party, or any candidate or his representative or any other person shall in connexion with any election shall unduly influence, or abet or attempt to do so, to any candidate of an election or a voter, or any person who has any privy or interest in such candidate or voter by performing any of the following acts :

- (a) Cause any kind of damage;
- (b) Threaten to excommunicate socially;
- (c) Coerce through making belief of befalling divine displeasure on him or bear consequence of impiety;
- (d) Cause to undertake any kind of oath or promise; or
- (e) Boast or flaunt or demonstrate any kind of threat .

5. Prohibition on Character Assassination :

No person acting on behalf of any political organisation or party, or any candidate or his representative or any other person, shall with a view to prejudice the results of any election, wreck the character by making any accusation on the character or conduct of any candidate or of his family member to appear as true which he himself knows or believes to be false, or which is likely to make others to believe that such accusations is true.

6. Prohibition on Publicity:

No person acting on behalf of any political organisation or party, or any candidate or his representative or any other person, while campaigning on his own or on any candidate's policies and programs in connexion with any election, shall not campaign or cause to campaign, with any of the following intentions;

- (a) Which affects the independence, sovereignty or territorial integrity of the Kingdom of Nepal; or
- (b) Which promotes or causes hatred, enmity or contempt on the basis of religion, community, caste, creed, language or region; or
- (c) Which appeals to or causes such appeal to vote or refrain from voting on the basis of religion, community, caste, creed, language or region.

7. Prohibition on Accepting or Giving Gratification in Cash or Kind:

No person acting on behalf of any political organisation or party, or any candidate or his representative or any other person shall, during election period, give or agree to give a voter any gift, reward, prize, contribution or donation in cash or kind with a view to induce him to vote or refrain from voting. The voter shall also not accept or agree to accept such gratification for himself or on behalf of the person.

8. Prohibition on Employees on Influencing the Process of Election:

The Election Officer, Polling officer or any other officer or employee deputed at the polling stations, security guards or the Observer deputed by the Election Commission or any other official or employee while performing his functions, shall not conduct himself in a manner which may promote or prejudice the winning of a candidate in any election or cause others to do so except for exercising his right to cast vote.

9. Prohibition on Disturbance:

No person shall disturb the peace by perform any of the following acts in any building, house or premises occupied by the polling station or in any private or public house or building or premises

around thereof on the election day, within the period from three hours prior to the commencement of polling till the completion thereof, with a view to creating nuisance or causing obstruction in the performance of his duty of any person or official engaged in the polling station:

- (a) Use loud speaker, megaphone or similar other device; or
- (b) Play musical instruments, organize group dance, organize any kind of assembly or function, make rowdy gestures or create disturbance.

10. Prohibition on Carrying of Arms and Ammunition, their Use or Firing thereof:

No person, except the Government employee deputed on security functions, shall carry or use or fire or explode any arms or poisonous and explosive material in the Polling Station or Vote Counting Center and around these places.

11. Prohibited Behaviours:

No person shall perform or cause others to perform or attempt or assist or abet the performance of any of the following acts:

- (a) Insert, delete, correct, or remove the Electoral Roll prepared or published or used in the election work, or tear, deface in any manner, or destroy or damage such electoral roll;
- (b) Insert, delete, correct or remove any list, notice or any document affixed or caused to be affixed any person or employee engaged in the election work, or tear, deface in any manner, destroy or damage such document;
- (c) Deface, delete, rectify, forge, damage or tear the Ballot Paper of any signature appearing therein of the Election Officer or polling officer, or any official stamp or mark;
- (d) Handover his Ballot Paper obtained by him in accordance with law for the purpose of exercising his right to vote, to another person, or place inside the Ballot box

anything other than the Ballot Paper obtained for casting his vote;

(c) Take in possession with or without the use of force, grab, steal, tear or deface in any manner or destroy or damage Ballot Paper or any document to be used or which has been used in the election work;

(f) Take in possession with or without use of force, grab, steal, damage or destroy any Ballot Box to be used or which has been used in the election work;

(g) Take out of the polling station or to any other place, without approval of the polling officer, any Ballot Paper, stamp for use in Ballot Paper, stamp pad, ink or any other material used or to be used in the election.

(h) Obstruct in any manner any employee engaged in the election work in the performance of his functions.

12. Prohibition on Illegal Supply or Receipt of Ballot Papers:

(1) No person shall, for the purpose of casting vote, illegally receive from any person or make arrangement for such procurement, or attempt or cause such attempt to be made for such procurement or abet or cause abetment for the procurement of the Ballot Paper to be used in any election by giving or agreeing to give gratification in the form of cash, kind, service or benefit of any kind, or by applying coercion, fear or undue influence, or by the use of or without force.

(2) No official, who is duly authorised to receive Ballot Paper for use in the election, shall supply any Ballot Paper to any unauthorized person by accepting any gratification in the form of cash, kind, service, or any benefit of any kind, or even without accepting any gratification.

13. Restriction on Publicity and Broadcasting :

(1) Posters, pamphlets, bills, advertisements etc. printed for the purpose of publicity in relation to any election shall bear the name and address of the printing press and the political organisation or party or the person concerned.

(2) No poster, pamphlet, bill, advertisement or similar document shall be affixed, or nothing shall be written or caused to be written on any religious, archaeological, historical building, memorial or structure for the purpose of publicity in relation to any election.

(3) No poster, pamphlet, bill, advertisement or similar document shall be affixed, or caused to affixed, or nothing shall be written or caused to be written on the private residential building, shop or other structures for the purpose of publicity in relation to any election without the approval of their owner.

(4) No person for the purpose of getting or persuading to give vote for or against any candidate convene or organize meetings, processions or raise slogans or make any kind of publicity within a period commencing forty eight hours prior to the day of polling and until its completion.

14. Prohibition on Causing Obstruction in Election Works or in the Counting of Votes :

No candidate or his representative or any other person shall during the counting of votes in any election shall snatch, loot, damage or destroy in any manner the Ballot Box, Ballot Papers or any document relating to election work by use of or without force, or remove, attempt to remove or abet such removal from the site where the votes are being counted, the Ballot Box, Ballot Paper or any document relating to the election work without the approval of Election Officer or any employee engaged in election work, or cause obstruction in any manner in the vote counting or other works relating to the election.

15. Secrecy to be Maintained:

No Election Officer, Polling Officer, Observer deputed by the Election Commission or any other official or employee engaged in the election work, candidate or his representative, or any voter or any other person shall communicate or write or express to any one or cause such communication, writing or expression to be made, abet the fact of casting or noncasting of vote by any voter, or the fact of his giving vote to a particular candidate or other facts relating to the counting of votes. Nor shall make any indication or sign or inscribe similar things in the Ballot Paper which may disclose the identity of the voter.

Provided that nothing mentioned above shall be deemed to prohibit the Election Officer or any official duly authorised by him to notify publicly the number of votes received by the candidates in any election.

16. Power to Make Arrests:

(1) The Election Officer or the Polling Officer shall have the power to issue order to any person who causes any obstruction on any work relating to election or the counting of votes, or attempts or abets prohibiting him from causing such obstruction or expelling such person from such place.

(2) The Election Officer or the Polling Officer shall have the power to order the Security Personnel deputed therein to arrest any person defying such order issued pursuant to Section 3(2), Section 9, Section 10 or Section 14, or any person who does not comply with the order issued by the Election Officer or the Polling Officer under Sub-section (1).

(3) It shall be the duty of the security personnel deputed therein for the maintenance of security to execute the orders of the Election Officer or the Polling Officer issued pursuant to Sub-section (2).

17. Details of Election Expenses to be Submitted:

(1) The elected candidate himself or any person acting behalf of such candidate shall submit to the Election Commission the detail accounts of expenses incurred during the election time within one month from the date of declaration of the election result.

Provided that nothing mentioned in this Section shall be deemed to authorize to incur any expense which is otherwise prohibited by the existing law.

(2) The Election Commission may impose a fine upto five thousand rupees to any candidate not submitting the accounts of expenses under Subsection (1).

CHAPTER - III
Penalty

18. Penalty

(1) Any person contravening the provisions of Section 6, Clause (c) of Section 11 or Section 14 shall be liable to punishment of

fine upto two thousand rupees or an imprisonment upto two years or both.

(2) Any person contravening the provisions of Section 4, Section 5, Section 7, Section 8, Clauses (a), (b), (c), (d), (g), and (h) of Section 11, Section 12 or Section 15 shall be liable to punishment of fine upto one thousand rupees or an imprisonment upto one year or both.

(3) Any person contravening the provisions of Section 10 shall be liable in addition to the confiscation of the arms, poisonous or explosive material found in possession, to the punishment of fine upto one thousand rupees or an imprisonment upto six months or both.

(4) Any person contravening the provisions of Section 3, Section 9 or Section 13 shall be liable to punishment of fine upto one thousand rupees or of an imprisonment upto three months or both.

(5) If the Election Officer, Polling Officer or any other person or employee deputed on election work defaults in his duties, the Election Commission may forward to the concerned authority for initiating departmental action such employee in according with the existing laws relating to his conditions of service. The concerned authority shall, upon receipt of such written request, take necessary departmental action against such employee.

CHAPTER - IV Circumstances of Void Elections

19. Election to be void:

If any concerned candidate files an election petition on any of the following grounds and, if such allegation is proved, the election shall be declared void:

(a) That the election has not been fair due to rampant violation of the provisions of Section 3, Section 4, Section 5, Section 6, Section 7, Section 8, Section 10, Clauses (c), (d), (e) or (f) of Section 11, Section 12 or of Section 14;

(b) That the nomination paper submitted by any person standing as becoming a candidate was wrongly accepted or was not rejected or invalidated and as a result of which the election result has actually been altered; or

(c) That the elected candidate has incurred election expenses beyond the limits permitted by the existing law.

(2) Notwithstanding any thing mentioned in Sub-section (1) above, the election of an elected candidate shall not be annulled, if the following facts are proved--

(a) that the acts mentioned in Section 4, Section 5, Section 6, Section 7 or in Clause (c) of Subsection (1) were carried out without the knowledge of the elected candidate or his representative, or without his approval or despite his orders against such act, or that he had done his best to prevent occurrence of such act,

(b) that such act as mentioned in Clause (a) of Subsection (1) has not actually prejudiced the election result.

20. Circumstances for Re-counting

(1) In case any candidate concerned in any election files a petition for the declaration of an election as void on any of the following grounds, the Election Tribunal may order recounting of votes:

(a) That the petitioner candidate or other candidate has legally obtained majority of votes; or

(b) That the votes liable to be declared void or valid in accordance with law were not done so.

(2) During the recounting of votes pursuant to Subsection (1), if the petitioner or other candidate is proved to have lawfully obtained majority of votes, the result of the elected candidate shall be declared void and the Election Tribunal shall in such case declare the petitioner or any other person obtaining majority as the duly elected candidate.

136

21.

Procedure for Tie in Votes:

(1) While recounting the votes in connexion with the petition filed pursuant to Section 20, the Election Tribunal shall recount all the votes obtained by all the candidates of the concerned constituency.

(2) During the recounting of votes pursuant to Sub-section (1) above, if the votes obtained validly by two or more candidates in the concerned election appears to be in equal number, the Election Tribunal shall decide by drawing lots amongst the candidates obtaining such equal number of votes. The candidate in whose favour the lot is drawn shall be deemed to have obtained one more vote and declared elected.

CHAPTER - V
Miscellaneous

22.

Jurisdiction of Cases:

(1) The Election Tribunal shall have the jurisdiction to try and decide cases under this Act.

(2) An appeal may be filed against the decisions of the Election Tribunal in the Court prescribed by His Majesty's Government in the notice published in the Nepal Gazette. The decision of the prescribed Court shall be final.

(3) Notwithstanding any penalty imposed pursuant to the provisions of Clauses (e) and (f) of Section 11 or Section 14 after having been convicted for the offence, such conviction shall not affect the election held in that constituency or polling station in pursuance of a decision of the Election Commission.

(4) The Election Tribunal shall, in course of decision on the election petitions filed with itself, have the power to make decisions according to the existing laws on the issue of forgery or fraud involved in the concerned case.

23.

Constitution of Election Tribunal:

His Majesty's Government shall, on the recommendation of the Election Commission, constitute Election Tribunal by notice published in the Nepal Gazette.

24.

Power to Investigate :

The Election Officer or the person authorised by the Election Officer shall have powers to investigate and inquire on the offences punishable under this Act.

25.

Right to file Petition:

Any person or candidate, who has any cause to file any complaint in respect any election, may file his complaint with the Election Tribunal through the concerned Election Officer. The concerned Election Officer shall thenceforth forward such complaint to the Election Tribunal.

26.

Limitation Period for Petition:

Any complaint to be filed under this Act shall be filed within thirty five days from the date on which the case of action have arisen.

27.

Submission of Deposits:

(1) Any person intending to file a complaint pursuant to the provision of this Act shall, in respect of election to Parliament, submit a deposit of one thousand rupees and, in respect of election to Local Authorities, a sum of two hundred rupees.

(2) If the complain is found to be false, the amount thus deposited shall be forfeited.

28.

Petition to be Rejected:

If a complaint filed pursuant to the provisions of this Act is found not to have complied with the required procedure, or is filed after the expiry of the limitation period, such complaint shall be rejected.

29.

Time Limitation for Decision and Procedure.

(1) The Election Tribunal shall complete the trial and decide the cases within one year from the date of filing of complaint.

(2) In respect of the trial and decision on the complaint under this Act, the procedure as laid down in the Summary Procedures Act, 2028 shall be applied.

30.

Power to Dismiss Petitions:

In the event of death of complainant or the defendant, complaints filed pursuant to section 19 and 20 of this Act may be dismissed.

31. Withdrawal of Petitions

Complaint filed pursuant to Sections 19 and 20 of this Act may be withdrawn by the Complainant with the approval of the Election Tribunal.

Provided that if the Election Tribunal considers that the withdrawal is motivated by some ulterior benefit, the Tribunal may refuse permission for such withdrawal.

32. Obligation to notify:

The Authority or the official trying the Case pursuant to this Act shall notify its decision to the Election Commission, Parliament Secretariat and all other concerned offices within fifteen days from the date of its decision. The notification shall be accompanied by a copy of the decision.

33. His Majesty's Government to be Prosecutor:

In cases punishable under this Act His Majesty's Government shall be responsible for their prosecution.

34. Evidence to be Inadmissible:

(1) Notwithstanding anything mentioned in this Act or the existing law, no witness or any other person shall, in connexion with any suit or proceedings in pursuance of this Act, be compelled to disclose the name of the person to whom he has given his vote.

(2) No statement made by any witness in response to the question asked by the Election Tribunal in connexion with the proceedings in pursuance of this Act shall be admissible against such witness in other cases in which he is a party. Such statement shall not be produced as evidence against the said witness.

35. Decision on the Question of Disqualification:

In petition filed pursuant to the provisions of this Act if a question arises involving Article 48 of the Constitution, the Authority or the Official hearing the complaint shall, after making the required investigation, submit the concerned file to the Chief Justice of the Supreme Court for final decisions. Cases thus received by the Chief Justice shall be decided in accordance with the provisions of the same Article of the Constitution.

36. Saylugs:

In matters provided in this Act, the provisions of this Act shall apply and in matters not herein provided for, the provisions of Nepal law shall apply.

ROYAL SEAL OF ENACTMENT AFFIXED ON - 2047/11/2
