



ANFREL Interim Report

The Asian Network for Free Elections deployed 10 long-term and 40 short-term international election observers from 22 countries throughout the five development regions. This report is a summary of initial observations of ANFREL's observers from October 25 to November 20, as well as observations by ANFREL's core team based in Kathmandu. It focuses on election management by the Election Commission of Nepal, including voter registration and voter education, the campaigns of the parties and candidates, the impact of violence on the electoral process and the attitudes of the voters.

Election Administration

The preparation for the second Constituent Assembly elections was reasonably smooth, notwithstanding a number of violent incidents and several reports of intimidation from around the country. The Election Commission of Nepal (ECN) undertook the challenge to meet the November 19 voting date, even as it faced stiff opposition from anti-poll groups such as the Communist Party of Nepal (Maoist) led by Mohan Baidya and 32 other smaller parties. The ECN's decision to proceed with the election received significant support from the people of Nepal as well from the international community. Such support was no doubt reassuring.

A common feature of the reports from the ANFREL observers was that, in almost all districts that they covered, both voters and political parties considered the ECN a credible organization. Other stakeholders like the media and civil society organizations also expressed their general satisfaction at the way the ECN conducted itself. Indeed, it was a tribute to the ECN's reputation for fairness that none of the elections officials were threatened by anyone, not even the anti-poll parties.

The ECN was generally accepted by almost everyone, but there were concerns expressed about possible bias by some other government officials at different levels. For example, in Nawalparasi, Kapilabastu, Palpa and Syangja, there were concerns with certain actions of CDOs, especially regarding their responses to complaints of election Code of Conduct violations. People in these electoral districts indicated the District Election Officer (DEO) had more credibility in terms of neutrality in decision-making and resolution of complaints than the local CDO's.

Few complaints of Code of Conduct violations have been officially registered with the ECN either at the district level or at the national headquarters. Most complaints have been in the form of allegations made over the phone, and ECN officials have responded by using 'mediation' as 'a useful tool' to address such complaints. The approach of the ECN has been to investigate and then, depending on the seriousness and veracity of the complaints, strike

a compromise between the complainant and the accused. So far, the ECN's approach has worked well and a number of complaints have been resolved amicably.

Perhaps the most significant concern raised with respect to the ECN's efforts is related to the issue of voter registration. The ECN was generally praised for its efforts to purge the old rolls of dead and duplicate voters, but, unfortunately, it appears that many people were never able to register to vote, primarily, according to interviews with ANFREL observers, because they could not prove citizenship during the registration campaign or because they were out of the country or in another part of Nepal when the registration campaign was ongoing. The other primary shortcoming, which apparently impacted far fewer persons, involved people who did register during the registration campaign but whose names did not appear on the final voter lists. At this point, it is unclear how many people were affected but anecdotal evidence suggests that about 5 persons per polling station were not allowed to vote because their names were not on the voter lists despite their having registered to vote. The only plausible explanation that came to the fore, based on interviews with district election officials and political party representatives, is that many voters may not have shown up during the cleaning up process for the list of voters. According to election officials, voters were apparently given several opportunities to check if their names were on the electoral roll.

On Election Day, ANFREL observers noted a number of issues respecting either the Code of Conduct or implementation of election procedures. Most of these were relatively minor. The problems included placement of voting booths which could compromise the secrecy of marking ballots, candidates glad-handing at the polling centers, and poor inking of thumbs during the polling process. There were problems in the poll closing process as well, especially insofar as recording the number of unused ballots was concerned. Unused ballots were not destroyed, as is the general practice, and not counted before being inserted in envelopes/bags in a number of polling stations.

There were concerns raised about the number of temporary polling stations that were set up for government officials on duty on Election Day, especially as most of these polling stations did not have party agents, observers and even security personnel.

The ECN has been assisted in its efforts by others in the government and the security forces. On one of the cooling period days, in Thamel in central Kathmandu, for example, a person was seen removing party flags and posters under the watchful eyes of a policeman apparently intent on remedying at least some blatant violations. In other regions, such as the Western Region, every district election office had assigned an 'observation officer' to monitor whether political parties were violating the Code of Conduct.

However, a few questions about election management remain to be answered. For example, the Election Commission has not explained why it chose to deny international observers the right to observe the printing of ballots. Nor has it explained why 20% more ballots were printed than the number of registered voters or what happened to the ballots that were not delivered to the polls. At this date, it remains to be seen whether unused ballots will be disposed of properly.

Election Campaigns

Campaigning was generally peaceful, though less so as Election Day drew closer. There were at least 4 clashes between people of opposing parties in Rukum, and cars were vandalized in the Mid-Western Region and elsewhere. There were also reports of clashes between political parties in Chitwan and Dhading in the Central Region, Taplejung in the Eastern Region and Myagdi and Baglung in the Western Region, among others. However, clashes between political groups did not seem to have poisoned the election environment for most voters. What may have been more serious in some areas is the use of threats to try to intimidate voters. For example, the Janamorcha Party was apparently threatening voters in Baglung in the Western Region and, in the Siraha and Saptari districts in the Eastern Region, certain parties threatened to evict voters from their land if they failed to support their parties' candidates. Apparently, fear of retaliation prevented people from reporting these threats to the Election Commission.

The nation-wide transportation strike also cast a shadow on the ability to hold free and fair elections, with the splinter groups' tactics becoming more aggressive in the days just before the election. Eight CPN (M) cadres were arrested in Dang for planting IED's and enforcing the bandh. In addition, several IEDs were found and disarmed in, inter alia, Surkhet, Dang, Salyan and Banke, with their supposed aim to disrupt election rallies and plant fear in the hearts of the voters. A number of cases of alleged attempts by CPN (M) cadres to detonate bombs (which were defused by the Nepal Army) were reported from the Eastern, Central and Western Regions.

The impact of the bandh in remote districts is less known, though the UN security chief reported that in Upper Dolpa in the Mid-West people were threatened with death if they voted. The threats led some polling officials to resign their posts. Thus, the level of turnout of any particular location may have turned, at least to some degree, on whether people felt safe to vote, and whether the anti-poll cadres obstructed people on their way to vote. As of election night, there was still some concern about ballot box security during transportation, as roads could easily be blocked and vehicles stopped in remote districts.

Violence and Intimidation

In general, people in urban areas seemed less concerned about security and more concerned about whether the politicians would do what they promised, while the CPN-Maoist's violent activities was a greater concern in certain sensitive areas, as well as in hill and mountain districts. Security personnel were out in force prior to, and on, Election Day in the sensitive areas, but they expressed concern about their ability to timely respond to incidents in remote areas such as Rukum and Rolpa in the event they were needed there.

On Election Day the overall security situation in much of the country was conducive to the holding of a free and fair election, but there continued to be certain districts which presented severe challenges to the election process, particularly in the eastern, western and central Terai (e.g., Saptari, Myagdyi, Baglung, Palpa, Bara, Parsa, Dhanusha, Mahottari, and Siraha districts). The killing of CPN (UML) candidate Mohammed Alam in Bara and violent physical attacks and manhandling of election observers, voters and candidates highlighted such difficulties.

Additional violent incidents included the death of truck driver Raj Kumar Deuja who died from injuries received in a petrol bomb attack near the Dudhaura River on the Pathlaiya-Nijgadh road in the Bara district on 15 November, the hurling of petrol bombs on passengers busses at Teentapkem, Basamadi VDC-2 in Makwanpur district on 12 November, at Satungal in Kathmandu on 16 November, at Damare, Surkhet on 15 November and a petrol bomb attack on a microbus in Samakhushi, Kathmandu on 12 November which left several people injured. There were also reports of placement of improvised explosive devices (IEDs) in different parts of the country. The Nepal Army (NA) disposed of most of the devices.

In several districts visited by ANFREL, violence or threats were being used to try to influence voter choices. Overt violence, such as flagrant intimidation by party cadres, particularly by the CPN-Maoist and the Young Communist League (YCL), was used to restrict the activities of political parties and prevent freedom of association and speech by voters. As intimidation is often less visible than overt violence, it proved inherently difficult to secure evidence that could lead to successful prosecution, resulting in relative impunity for the offenders.

The impact of violence, not surprisingly, was most pronounced in more rural areas less accessible to government employees, security officials and election observers. There, voters felt particularly insecure: places such as Doti, Rukum, parts of Rolpa, Dang, Myagdyi, Solokhumbu and Salyan districts. The work of local election observation groups was impacted in some areas, since observers perceived or actually received threats from armed groups.

Although the security agencies led by the Nepal police were perceived as efficient in handling the violence, in more insecure and remote districts voters were not entirely confident that the police could provide a safe environment for campaigning and voting. The level of pre-election violence and intimidation led voters in some areas (e.g., Morang, Jhapa, Ilham, Saptari, Siraha, Dhanusha, Bara, Parsa, Mahottari, Dang, Kapilabastu, Rupendehi, Kanchanpur, Kailali, Surkhet and Jajarkot districts) to expect that Election Day itself would be violent. Voters cited a number of possible scenarios such as attacks on voters by young party workers on the way to the polling station or on the way back, threats to family members, and party cadres keeping a menacing watch on polling stations (to record the presence of voters), that worried them.

However, notwithstanding the threat of violence, observers noted a positive development two days before the election as voters showed great enthusiasm in collecting their voter identification cards. This in many ways became an indicator of the voters' disposition toward the election, as most voter ID distribution centers recorded over 80 per cent turnout to collect the cards.

Voter Education

There were mixed reports from observers on the level of voter education and voter awareness that preceded Election Day. While some areas (such as Pokhara and Gorkha) had relatively high levels of voter awareness as the result of the distribution of pamphlets, CDs, radio jingles and public service announcements in different languages, other areas (like Kapilabastu in the Western Region) achieved voter awareness through the use of community radios by Village Development Committees (VDCs) and NGOs. However, rural areas of Khaski, for example, in the same region did not receive as much voter education.

Despite the best efforts of the Election Commission, civil society, and the media however, there remained significant confusion about the nature of the election, the most common problem being conflating the CA election with a Parliamentary election. The mixed electoral system also did not appear to be well understood. These problems sometimes applied in areas where voter education volunteers had already visited.

Finally, it should be noted that the threat of violence adversely impacted voter education efforts in many areas of the country.

Voter Interest

The enthusiasm amongst urban and rural voters varied. Urban voters in most of the districts under observation appeared more enthusiastic when compared to their rural counterparts. However, in the Far West, there was apparently less enthusiasm as many voters believed that elections would not bring much change and that the new Constituent Assembly was unlikely to agree on a new constitution. They were considerably less enthusiastic about voting than they were in 2008, and the boycott by the 33-party alliance caused many to become fearful of election-related violence. Moreover, holding the elections during the harvest season when 80% of the people live off the land was also thought a factor which might decrease participation at the ballot box.

Notwithstanding many negative factors, it appears that Nepalese voted in record numbers on November 19. Why voters chose to go out and vote, in spite of receiving threats from anti-poll groups, perhaps reflects the desire of the Nepali citizenry to achieve political stability and draft a Constitution. For example, voters who were interviewed in Dhankuta and Jhapa said they knew that they might come in harm's way, but they were prepared to find their way to the polling stations. A number of voters were candid enough to admit that they did not understand what a Constituent Assembly is but they knew that a Constitution had to be drafted and a government had to take over.

Misuse of resources and funds

ANFREL observers received some initial reports about misuse of government resources for campaigning, and excessive use of vehicles and money. However, the ECN has yet to respond to some of the questions raised about this subject, although a number of cases were investigated and resolved.

Initial Recommendations

Based on the preliminary reports of its observers, ANFREL offers the following initial recommendations for consideration by the Election Commission of Nepal:

- 1) **Voter Registration:** the Election Commission should consider the adoption of year-round voter registration so that people who work outside their home districts can register when they return to visit. In addition, the Commission should work to develop a solution to the problem of Nepali people being unable to register because they have been unable to provide necessary documentation of citizenship. The Commission also needs to refine its procedures to enable people who have registered but whose names failed to appear on voter rolls to appeal those omissions on a timely basis,

well before Election Day. Posting all voter rolls on a regular basis in the neighborhoods of affected voters would help ameliorate this problem.

- 2) **Code of Conduct Compliance:** the Commission should consider how to be more proactive in policing campaigns, rather than merely reacting to complaints that are filed with it.
- 3) **Polling Procedures:** poll workers should receive additional training to ensure that all polling procedures are correctly implemented at each location. Preparation of a detailed polling station manual for poll workers could help with such efforts.
- 4) **Voter Education:** the Commission should consider additional methods for reaching rural voters, especially those who live in relatively remote locations.
- 5) **Security:** While ANFREL appreciates the need to insure that voters are able to cast ballots free of concerns for violence, it should be a long term goal of the Commission to reduce the presence of the armed police inside the polling station, as well as police and army outside the polls, as security conditions improve in the country.

Conclusion

While the key election process of counting the votes is only now commencing, ANFREL's initial assessment is that, despite a number of quite diverse challenges, the 2013 Constituent Elections were essentially free and fair and were conducted with great professionalism by the Election Commission of Nepal and the thousands of people who officiated at the polls across the country. We will, of course, be giving a hard look in the days ahead to the detailed Election Day reports prepared by our observers, but we have a high degree of confidence that our final report will reach the same conclusion.