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The Center's observation mission is conducted in accordance with the *Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers* that was adopted at the United Nations in 2005 and has been endorsed by more than 40 election observation groups. The Center assesses the electoral process based on Nepal's national legal framework and its obligations for democratic elections contained in regional and international agreements.

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Pre-Election Statement of the International Election Observation Mission to Nepal's 2013 Constituent Assembly Election

The Carter Center

Oct. 31, 2013

On June 6, 2013, the Interim Election Council of Ministers announced the date of Nov. 19, 2013, for Nepal's second constituent assembly election. This announcement was followed by a prolonged stalemate over the formation of a government for the election period, as well as the date and system for the election. The first constituent assembly had been dissolved without the promulgation of a new constitution on May 27, 2012.

Carter Center observers report that the technical aspects of the electoral preparations are largely on schedule, and the campaign environment thus far, in general, has been open, allowing candidates and parties to freely organize public rallies to convey their message to potential voters. The Center is nevertheless concerned about the tight schedule for electoral preparations, the still unresolved issues surrounding voter identification, sporadic incidents of confrontations between supporters of rival party/candidates, and the looting of campaign and voter education materials. In addition, there continues to be uncertainty surrounding the activities and plans of parties opposed to the polls, which have called for a 10-day *bandh* (strike) from Nov. 11-20.

As election day approaches, the Center calls on political parties and t

The Carter Center is observing the November 2013 Nepal constituent assembly election at the written invitation of the ECN and the chairman of the Council of Ministers, Khil Raj Regmi.

The Center will provide an impartial and independent assessment of the electoral process to be made available to the Nepali public and the international community through periodic statements and reports, available at www.cartercenter.org. The Center's observation mission is conducted in accordance with the *Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers* that was adopted at the United Nations in 2005 and has been endorsed by more than 40 election observation groups. The Center assesses the electoral process based on Nepal's national legal framework and its obligations for democratic elections contained in regional and international agreements.¹

Introduction

Nepal is currently preparing for its second constituent assembly election to be held on Nov. 19, 2013. The election aims to restart the country's stalled constitution drafting process after the failure of the first constituent assembly to adopt a new constitution within its regular and extended tenure that ended on May 27, 2012.² On March 13, 2013, leaders of four major political parties signed an 11-point agreement to end Nepal's prolonged constitutional and political crisis, after political parties had earlier failed to agree on an electoral government. The agreement led to the formation of an Interim Election Council (IEC), chaired by the sitting chief justice Khil Raj Regmi, replacing the caretaker government, and the passage of a

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Legal Framework and Electoral System

A sound legal electoral framework is essential for the effective administration of democratic elections that adhere to national law and international obligations.⁴ The legal electoral framework in Nepal has its base in the interim constitution of 2007 and various separate laws and ordinances. In addition, the Election Commission of Nepal (ICE) as a constitutional body

The Code of Conduct for political parties, candidates, government, media and NGOs is positive overall, in that it sets clear ground rules for participants which if enforced will contribute greatly to an election process in line with international standards. For instance, several articles deal with the prevention of abuse of state resources during the campaign, including interference by officials. In some instances, however, the Code of Conduct is overly restrictive, including a ban on opinion polls during the campaign period, a ban on graffiti paintings and banners, and requirements that election materials (pamphlets, flags) be of a specific format. Such provisions are at variance with Nepal's international obligation 0.2atlllconductp

candidate registration was hampered or tense

campaign or voter education materials by poll-opposing parties.¹⁷ Lately, there have also been arson attacks on parked vehicles used by candidates and poll-opposing parties have tried to hamper vis

will adopt a “gentle” approach and not forcefully disrupt the election, reports of sporadic incidents of looting or destruction of campaign or voter education materials or assaults continue.²⁰ The FDNF-affiliated FLSC in the east appears to have taken a more aggressive stance, having announced a program to ‘ban’ candidates from entering their constituencies in the east starting from Oct. 19. Significantly, both groups have called for a nationwide shutdown from Nov. 11- 20, potentially impacting logistical preparations for the election. The Carter Center urges all protesting parties to do so peacefully and to respect the rights of all citizens to freedom of movement, peaceful assembly, and participation in public affairs.

The Center’s observers noted that particularly in mountain districts and remote areas of the hills (but also to some extent in the Tarai), the difficult terrain and lack of road access poses challenges for security forces to respond as well as for the transportation of sensitive polling materials. Several interlocutors expressed concern that voter intimidation or obstructions on election day might not occur at the polling location, but rather on the way there, with the scope and ease of such obstructions amplified in rural and remote areas.²¹ Conversely, in the eastern and central Tarai, the open border with India and links of certain candidates to armed groups and criminal gangs is understood to be a potential security risk.

Carter Center observers also heard of plans by party representatives to mobilize their youth-wings not only for the canvassing of votes, but also to provide protection for candidates, guide voters to the polling locations, and guard ballot boxes and booths against potential interference. Some told observers that members of their youth-wings are currently undergoing training in crowd management and booth protection. While most assured that their youth wings would be mobilized with restraint, the possibility of large crowds of youth gathering outside the polling location is of some concern. The Carter Center urges political party leaders and candidates to use the official mechanism of the complaints process should

The security of polling officials and materials, candidates, voters, and other stakeholders prior to and during polling day is of utmost importance to the conduct of a credible election and the Center commends the government on taking measures to mitigate the risks.

The Carter Center understands that the recruitment of temporary police and the deployment of the army for the purpose of election security has been a matter of debate. In addition, a clash between temporary police recruits and the police in Bara district on Oct. 21 followed by

Recommendations

The Carter Center international election observation mission to Nepal's 2013 constituent assembly election offers the following recommendations to support the conduct of a credible election.

To the Election Commission of Nepal:

Ensure that accredited international and citizen election observers have access to all parts of the electoral process, including such pre-election activities as the ballot paper printing, all aspects of polling, closing and counting, important public briefings, and post-

Ensure transparency of campaign finances.

Refrain from intimidation or asking for donations forcefully.

To the Government of Nepal: