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Elections in Nepal

2019 By-Elections for Local Representatives, State Assemblies and the House of Representatives

Frequently Asked Questions

Asia-Pacific

International Foundation for Electoral Systems

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Frequently Asked Questions

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Disclosure:

These FAQs reflect decisions made by the Nepal elections authorities as of November 13, 2019, to the best of our knowledge. This document does not represent any IFES policy or technical recommendations.

When is Election Day?

Election Day is on Saturday, November 30, 2019, and polling stations will open from 7 a.m. to 5 p.m.

Who are citizens voting for on Election Day?

Nepal is holding by-elections for local, state and federal elected offices. The by-elections will fill vacancies created since the 2017 general elections¹ for 43 ward chairpersons, three rural municipality chairpersons, one rural municipality vice chairperson, one urban municipality mayor, three State Assembly parliamentarians and one House of Representatives parliamentarian. Most of the open seats are due to the death of the elected representative; one is due to resignation; and others were appointed to higher offices.

The by-elections are the second set of elections in Nepal since the promulgation of its Constitution on September 20, 2015. The Constitution of Nepal outlines a federal structure with the central powers of government decentralized to states and local units. This federal structure replaced 240 years of monarchy that ended in 2007. The next general elections are due to take place in 2022.

What is the political climate and why are these elections important?

The Election Commission of Nepal implemented the 2017 elections at the federal, state and local levels, which observers noted were largely peaceful and transparent. The 2019 by-elections provide an opportunity for the government to again demonstrate its commitment to inclusive, participatory democracy in Nepal. The elections will also allow political parties to gauge their popularity as they approach the midpoint of their five-year terms prior to the next general elections in 2022.

The Constitution of Nepal, 2015, stipulates that state and federal parliamentary seats are to be filled in the event of a vacancy. The Local Level Elections Act, 2017, allows for the by-election of mayors and deputy mayors of urban municipalities, chairs and vice chairs of rural municipalities and ward chairpersons. There are no provisions for by-elections for vacancies of ward committee members.

Who is eligible to vote in the by-elections?

The Electoral Rolls Act, 2017, Article 6, states that to be eligible to register as a voter, a person must be:

- A Nepali citizen;
- 18 years old by the date prescribed by the Election Commission of Nepal (ECN), which is August 2, 2019, in this case; and
- Have a permanent residence in the relevant ward of any municipality in any election constituency.

Only those registered and whose names are on the voter list on Election Day will be allowed to vote.

According to the *By-Elections Directive, 2019*, the only valid ID on Election Day is an ECN-issued voter ID

¹ Local elections were held in three phases in 2017: May 14, June 28 and September 18. State Assembly and House of Representatives elections were held concurrently in two phases on November 26 and December 7, 2017.

card. However, in past elections, the ECN will issue last-minute directives permitting voters to use other government-issued IDs to vote, provided they are on the voter list.

Who is not eligible to vote in the by-elections?

The Electoral Rolls Act, 2017, Article 23 states that persons of “unsound mind” and anyone who has been convicted of a federal election crime and is currently serving or has completed their sentence within the past year are not eligible to vote.

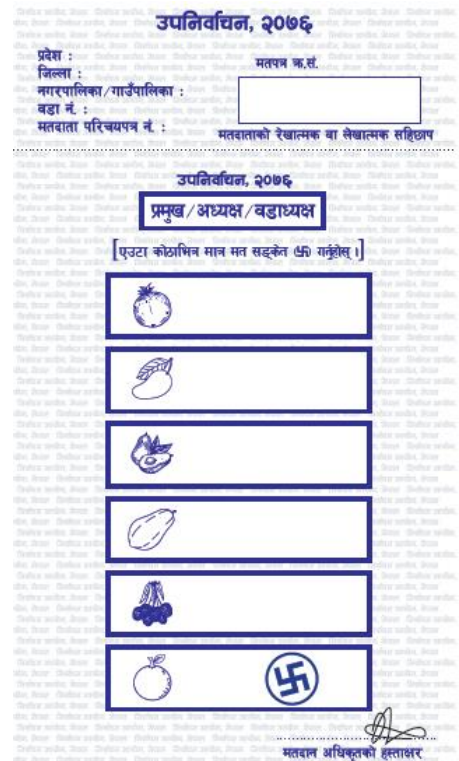
Which electoral system will be used in these elections?

All vacancies will be filled using the first-past-the-post (FPTP) electoral system. Although Nepal uses a mixed system of FPTP and proportional representation to elect the 275 members of the House of Representatives and the 550 members of the seven State Assemblies, only vacancies of FPTP seats will be filled through the by-elections.

What is the structure of the ballots?

In all but one constituency, voters will receive one ballot. Voters in Ward 7, Dharan metropolitan city in Sunsari district will receive two ballots on the same paper: one ballot to elect the mayor and one to elect the ward chairperson. Each ballot will include symbols of the respective candidates, which will be the symbol that their parties used in the 2017 elections, or in the case of candidates from newly formed parties, such as the Nepal Communist Party, the symbol assigned by the Election Commission of Nepal (ECN) upon the party’s registration. The ECN will randomly assign symbols to independent candidates. The election laws do not require the ballots to be printed with candidates’ names and pictures, which means the ECN typically prints generic ballots prior to candidate nomination period. However, for the first time, the ECN will print ballots after the nomination period, ensuring that each symbol corresponds to a candidate.

Symbols are listed on the ballot in the order of the number of votes received by the respective party in the 2017 House or Representatives elections. Independent candidate symbols are included on the ballot in alphabetical order by candidate name. For each ballot, voters may choose only one candidate by selecting their choice with the provided swastika stamp.



What is the House of Representatives and how is it constituted?

The House of Representatives (HoR) is the lower house of Federal Parliament. While both houses can introduce legislation, only the HoR can introduce finance bills or those related to federal taxes, government appropriations and the financing or provision of loans. The HoR is comprised of 275 members, 165 of whom are elected through first-past-the-post (FPTP) and 110 through closed-list proportional representation (PR) (Constitution of Nepal, Article 84.1). The 165 FPTP seats are divided among the states as follows:

State ²	Total Seats in House of Representatives (275)	
	FPTP Seats	PR Seats
1	28	110
2	32	
3	33	
Gandaki	18	
5	26	
Karnali	12	
Sudur Paschim	16	
Total	165	

Table 1: Allocation of seats for the House of Representatives

Only Gandaki State has an open HoR seat for the 2019 by-elections.

What is the State Assembly and how is it constituted?

The Constitution provides for seven states within Nepal, each having its own unicameral legislature known as the State Assembly (SA). Just like the House of Representatives, 60 percent of SA representatives are elected through first-past-the-post (FPTP) and 40 percent through a closed-list proportional representation (PR) system.

Based on the delimitation of electoral constituencies, the seven provinces have the following total number of seats or members:

State	Total Seats in State Assemblies		
	FPTP Seats	PR Seats	Total Seats
1	56	37	93
2	64	43	107
3	66	44	110
Gandaki	36	24	60
5	52	35	87

² To date, only three of the seven states have official names.

Karnali	24	16	40
Sudur Paschim	32	21	53
Total	330	220	550

Table 2: Allocation of seats in each State Assembly

For the 2019 by-elections, there are three open SA seats, one each in: Bhaktapur District, State 3; Baglung District, Gandaki State; and Dang District, State 5.

What is the structure and function of local elected bodies?

The local government is comprised of municipal assemblies headed by an executive. The mayor or chairperson and deputy mayor or vice chairperson elected within an urban or rural municipality head the executive body of the municipal assembly.

The executive body of the municipal assembly includes:

- A mayor and deputy mayor, with the mayor serving as the chairperson;
- All ward chairpersons within the municipality or rural municipality (between five and 33 depending on the number of wards in a municipality);
- Five women ward members elected by the municipal assembly (four women in rural municipalities); and
- Three members representing Dalit or other minority communities, elected by the municipal assembly (two in rural municipalities).

Municipal assemblies are responsible for local affairs including tax collection, local legislation, policy-making, development planning, administration of and disbursement of benefits and local development funds. The municipal assemblies are comprised of the executive body, all ward committee members and members representing Dalit or other minority committees (elected by the municipal assembly). Each ward committee – the lowest level of government – is comprised of one ward chairperson and four ward members, two of whom must be women, with one Dalit woman representative.

There are 48 seats open at the local level for by-elections: one mayor, three chairpersons, one vice chairperson and 43 ward chairperson seats. There are additional ward member seats open. However, the legal framework does not provide for by-elections for ward members.

How were electoral boundaries delineated?

On July 20, 2017, the government of Nepal formed an independent Electoral Constituency Delineation Commission (ECDC) to delineate the 165 federal and 330 state constituencies required by the Constitution. Each federal constituency is divided into two state-level constituencies. State constituencies are divided into 753 municipalities, which are further divided into 6,743 wards, delineated by the Local Restructuring Committee. On average, there are nine wards per municipality, although large metropolitan areas have more, such as the capital city of Kathmandu, which has 32 wards.

The ECDC consulted a variety of stakeholders and demarcated the boundaries based on:

- The constitutional requirement to have at least one electoral constituency in each of the 77 districts; and
- Population³ as the primary consideration, and geography as the secondary criteria amid other considerations such as transportation and access to government services.

The ECDC submitted its report to the government on August 30, 2017. The constituency boundaries will prevail for the next 20 years and cannot be contested in any court.

Who is eligible to contest these elections?

Nepali citizens who are:

- At least 25 years old for the House of Representatives (HoR) and State Assemblies (SA) and 21 years old for local elections on the date of candidate registration;
- Registered voters;
- Not disqualified by any law; and
- Have registered with the Election Commission of Nepal (ECN) as a candidate.

Candidates may run as independents or be nominated by a political party registered to compete in the relevant constituency.

Candidates cannot be nominated in more than one constituency and cannot run for different elections simultaneously. After publishing the nominated lists of candidates (November 7 for HoR and SA elections; November 13 for local elections), the ECN will accept claims and objections for one day (November 9 for HoR and SA elections; November 15 for local elections). The final lists will be published on November 10 for HoR and SA candidates and November 16 for local election candidates. There are 64 candidates from more than 20 parties contesting the four seats of the SAs and the HoR.

When is the election campaign period?

Election campaigns officially begin after the lists of candidates are finalized by the Election Commission of Nepal and continue until 48 hours before Election Day. As the candidate lists are finalized on November 10 for House of Representatives (HoR) and State Assembly (SA) candidates and November 16 for local election candidates, this leaves just 12 days for campaigns for local elections and 18 days for the SA and HoR elections.

What are the election campaign regulations?

During the campaign period, parties and candidates are bound by a strict code of conduct that includes prohibitions against the abuse of state resources, vote buying and hate speech. The media is also banned from conducting polls of voters. Rallies may be organized only with a government permit and all campaigning is prohibited during the 48-hour “silence period” prior to Election Day. Other prohibitions

³ Population data on distribution of different castes and ethnic groups are based on 2011 federal census data.

include bans of posters larger than 10 inches by 18 inches, bans of motorcycle rallies and limits on the numbers of vehicles, motorcycles, helicopters and horses that can be used by candidate campaigns.⁴ The Code of Conduct officially went into effect on October 25, 2019.

What are the spending limits for candidates?

The Election Commission of Nepal (ECN) published the spending limits for candidates running for different types of seats in the *Nepal Gazette* newspaper. Prior to the release of the directive, the ECN held a dialogue with various political parties to solicit feedback on what the limits should be. Many political party representatives suggested that the limits be increased from the limits applied in 2013 to more accurately reflect the amounts spent per candidate while others called for various forms of public funding. Ultimately, the ECN kept the spending limits equal to the limits in 2017, as follows:

- House of Representatives: 2,500,000 NPR (22,000 USD) per candidate
- State Assembly: 1,500,000 NPR (13,200 USD) per candidate
- Local level, per candidate:
 - Mayor and deputy mayor of sub-metropolitan municipality: 550,000 NPR (4,900 USD)
 - Mayor and deputy mayor of municipality: 450,000 NPR (3,900 USD)
 - Chairperson and vice chairperson of rural municipality: 350,000 NPR (3,100 USD)
 - Ward chairperson of metropolitan city: 300,000 NPR (2,600 USD)
 - Ward chairperson of sub-metropolitan city: 250,000 NPR (2,200 USD)
 - Ward chairperson of municipality: 200,000 NPR (1,800 USD)
 - Ward chairperson of rural municipality: 150,000 NPR (1,300 USD)

These limits apply during the election period, defined in the respective election directives, which spans from the filing date for candidate nomination until the announcement of the election results.

Candidates must submit all campaign expenditures to the ECN within 35 days of the announcement of results. According to the Crime and Offences Election Act, 2017, these reports should be made public, and for the first time the ECN will be posting candidates' financial reports on its website after the by-elections.

Are there special provisions for women and minorities?

The Constitution mandates that women make up one-third of the total number of representatives from each party in both houses of the Federal Parliament and the State Assemblies. To achieve this quota, most women were elected from closed party lists, which must be comprised of at least 50 percent women, using the proportional representation electoral system. Since only first-past-the-post positions are being contested in these elections, there are no special provisions for women or minorities.

At the local level, two out of four ward committee members must be women, with one being a Dalit woman. However, the law does not provide for by-elections for vacant ward committee members. In addition, parties nominating candidates for both mayor or deputy mayor and for chairperson or vice

⁴ Election Code of Conduct, 2072 (2015).

chairperson must ensure that one of the candidates is a woman. Currently, over 98 percent of mayors and chairpersons are men and 98 percent of deputy mayors and vice chairpersons are women.

For the by-elections, all vacant seats were held by men, except for the vice chairperson of Kharpunath Rural Municipality, Humla, a position formerly held by a woman. Since both the chairperson and the former vice chairperson were candidates from the same party, that party can only nominate a female candidate. However, other parties can nominate either a male or female candidate. For all other positions, candidates can be any gender.

For all elections, candidate fees for women, Dalits and members of minority communities are discounted by 50 percent.

What is the term of office for elected representatives?

Representatives will be elected for the balance of the original five-year term, which is three years for House of Representatives and State Assembly members (November 30, 2022) and less than 2 1/2 years for local-level positions (May 14, 2022).

Is out-of-country or absentee voting allowed?

Absentee voting will not be used for these elections as it is normally only used for proportional representation elections in Nepal.

Although official figures are unavailable, in 2011 the National Planning Commission's Central Bureau of Statistics estimated 1.9 million Nepalis were living abroad, while some estimates put the number as high as 4 million. This number is difficult to verify due to Nepal's open border with India and a lack of emigration data.

On March 21, 2018, the Supreme Court directed the Government of Nepal, the Office of the Prime Minister and the Council of Ministers to provide voting rights to all Nepalis living and working abroad. Following the Supreme Court's ruling, the State Affairs Committee on December 22, 2018, directed the Election Commission of Nepal (ECN) to prepare a report on the electoral management and legal provisions required to allow Nepalis living abroad to vote. The ECN submitted its final report to the State Affairs Committee on August 30, 2019. Given the complexity of organizing out-of-country voting, the necessary legal reforms and logistical and financial preparations will not be in place for these by-elections.

How many registered voters are there?

There are approximately 15.5 million registered voters in Nepal; however, only 454,114 are eligible to participate in the by-elections. As of the registration deadline of August 2, 2019, 233,402 men, 220,710

women and two other/third-gender persons were registered to vote.⁵ This is a 3.7 percent increase from the number of voters registered in by-election areas since the 2017 elections.

How are voters registered in Nepal?

The Election Commission of Nepal (ECN) uses biometric technology – photographs and thumbprint scans – to help ensure an accurate voter list without duplicate entries. The use of biometric hardware and software was introduced in 2012 with the following features:

- Voter registration is conducted continuously until an election is announced;
- Nepalese citizens aged 16 and above can register to vote at any District Election Office, District Administration Office or Area Administration Office, as well as with any ECN mobile voter registration team;
- A citizenship certificate is required to be added to the voter list;
- Preliminary voter lists from the districts are centrally integrated and duplicate names removed at ECN headquarters in Kathmandu; revised preliminary voters' lists are then distributed to district election offices;
- After the revised preliminary lists have been subject to verification, claims and objections at the local level, the final voter list is prepared and printed at ECN headquarters; and
- Photo voter ID cards are produced and distributed based on the final voter list.

What is the election management body? What are its powers?

Elections in Nepal are administered by the Election Commission of Nepal (ECN), a constitutionally mandated independent body. The ECN is headed by Chief Election Commissioner Dinesh Kumar Thapaliya, appointed on April 17, 2019. The two remaining commissioners, Ishwori Prasad Paudyal and Narendra Dahal, were appointed February 16, 2017. Two commissioner positions within the ECN are currently vacant. The ECN is supported in its work by a secretariat with 111 full-time staff based in its headquarters in Kathmandu and 559 field staff in 77 district election offices. The ECN is empowered to “conduct, supervise, direct and control the elections of the President, Vice-President, members of the Federal Parliament, members of the State Assemblies and members of the Local Level. For these purposes, the Election Commission shall prepare electoral rolls.” (Constitution of Nepal, Article 246 [1]). The ECN may also conduct referendums on “matters of national importance.” The ECN has the authority to:

- Advise the government of Nepal on appropriate dates for elections;
- Request security arrangements from the government of Nepal or the state governments;
- Monitor the election campaign, polling and counting and impose sanctions against candidates or political parties for violations of the Code of Conduct;
- Authorize election observation;

⁵ On December 21, 2007, the Supreme Court of Nepal legally established a gender category called "[third gender](#)." The Supreme Court stated that the criteria for identifying as "third gender" was based upon the individual's self-identification.

- Delegate any function, duty or power to any government employee and request necessary assistance from the government of Nepal, state and local government as needed;
- Obtain any government building, school or private school for use during the elections;
- Register or disqualify candidates;
- Declare official results and winners of the elections;
- Cancel an election due to violence, threats or intimidation; and
- Investigate and sanction any electoral offense or complaint.

What is a polling location and how many are set up on Election Day?

A polling location is the place where voters are registered to vote. The polling location is printed on the voter's ID card. Typically, the polling location is a school, government office or other public place in the ward where the voter resides. Each ward holding by-elections will have a minimum of one polling location with at least one polling center, which can accommodate up to 1,092 voters. Each polling center will have a minimum of two voting privacy screens and one ballot box. On Election Day, a total of 4,818 polling staff will run the 247 polling locations and 537 polling centers in by-election areas.

How will voters with disabilities cast their ballots?

Voters with disabilities will be able to cast their ballots with assistance from an immediate family member or the polling officer. In the 2013 Constituent Assembly elections, persons with disabilities could select a person of their choice to cast their ballot for them, but this is not allowed by the current legal framework.

Polling locations should be set up with voting screens and ballot boxes at a height that is easily accessible to accommodate voters with disabilities. Polling officers can provide vehicle passes to persons with disabilities who request them.⁶

What is the process for counting and tabulation?

At the close of polling, the polling officer will seal the ballot boxes with uncounted ballots and arrange for their transport to the respective returning office. Ballot boxes will be delivered by a security escort and interested candidate agents. The legal framework requires that ballots be counted under the direct supervision of the returning officers, with the goal of preventing theft or destruction of ballot boxes. The 48 returning offices for local units will be in the respective local units while the returning offices for House of Representatives and the State Assemblies will be in the four concerned district headquarters.

After receiving all the ballot boxes from the respective constituency, the returning officer will start the counting process. Candidates or their agents and accredited observers may be present during vote counting. Ballots from two or more ballot boxes from the same constituency will be mixed and counted

⁶ In Nepal, vehicle traffic on Election Day is prohibited unless the vehicle displays a permit from the Election Commission of Nepal or Ministry of Home Affairs.

together to obscure individual polling location results.⁷ However, before counting begins the total number of ballots cast will be reconciled with the total number of ballots in each ballot box.

The winners of the elections will be announced immediately to all present by the returning officer. After the completion of ballot counting, results will be entered in the Election Commission of Nepal's (ECN) Election Results Information Software, which will transmit the results to the ECN headquarters where the reconciliation of ballots and votes will be confirmed. Once the results have been verified, the ECN will post the results on its website.

Who will observe during Election Day? How can they get accreditation?

Accredited domestic and international observers, candidates, candidate agents, Election Commission of Nepal (ECN) monitoring teams and guests from diplomatic missions may observe the elections. The Observation Division of the ECN must accredit all observers and guests for these elections. To date, nine Nepali civil society organizations have applied for observation accreditation from the ECN.

How will election disputes be adjudicated?

Disputes based on written complaints will be resolved by polling officers, returning officers or the Election Commission of Nepal (ECN). Where decisions are appealed, the District Courts or Supreme Court will make final rulings. For the first time, the ECN will implement a procedure for dispute filing and will track the resolution of all disputes in a publicly visible database.

How will Election Day security be ensured?

Both the Police and Armed Police Forces will ensure the security of polling stations, ballot boxes and transportation of ballot boxes to returning offices for tabulation. "Booth capture" and improvised explosive devices have been used in the past to disrupt elections in Nepal and as a result large numbers of security forces are expected to be deployed on Election Day. Security will be coordinated by the Joint Elections Operations Center, which is chaired by the chief election commissioner and includes senior representatives from the Election Commission of Nepal, Nepal Army, Armed Police Forces, Nepal Police and National Investigation Department and the Ministry of Home Affairs. Armed security will be employed to protect the polling place perimeter and preserve security inside polling stations. As in the past, high numbers of security personnel will also protect the returning offices until the counting of ballots is completed.

⁷ This practice is intended to prevent retribution from winning candidates against communities that did not vote for them.

Resources

- Election Commission of Nepal: <http://www.election.gov.np/election/np>
- Constitution of Nepal, 2015:
<http://www.lawcommission.gov.np/en/archives/category/documents/prevailing-law/constitution/constitution-of-nepal>
- Election codes of conduct: <http://www.election.gov.np/election/en/electoral-code-of-conducts1.html>
- Constituency map for by-elections: https://www.ifes.org/sites/default/files/nepal_2019_by-elections_constituency_map_usaid.pdf
- Sample ballot paper for by-elections: https://www.ifes.org/sites/default/files/nepal_2019_by-elections_sample_ballot_paper.pdf