

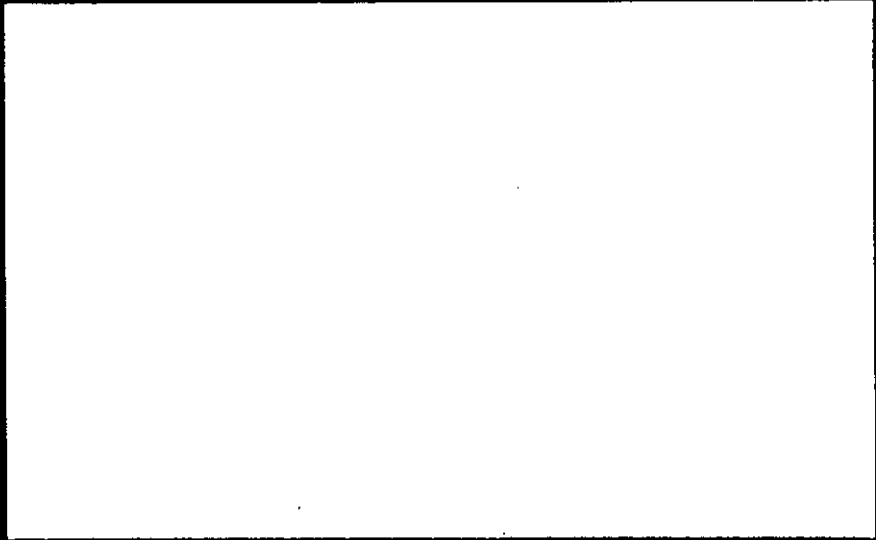
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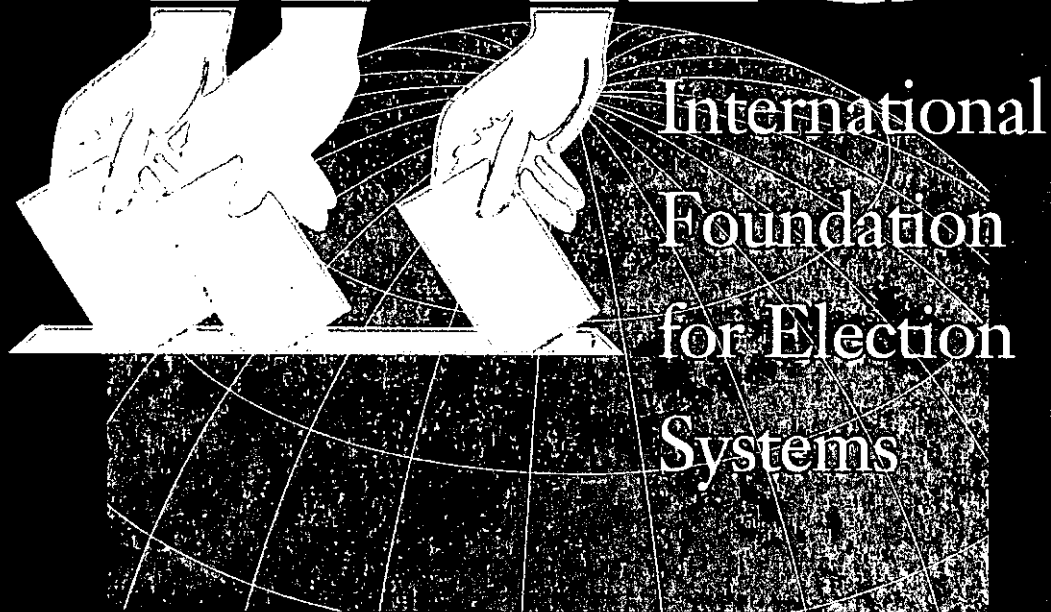
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# IFES



International  
Foundation  
for Election  
Systems

# **KINGDOM OF NEPAL**

## **TECHNICAL ASSESSMENT OF ELECTION SYSTEM PERFORMANCE**

### **PARLIAMENTARY GENERAL ELECTIONS**

**MAY 1999**

**PREPARED BY:**

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## EXECUTIVE SUMMARY

On 17 May 1999 the Kingdom of Nepal completed its parliamentary general elections. The elections were held in two phases. On 3 May 1999, the first phase was held in 36 Districts. On 17 May 1999 the second phase was held in the remaining 39 Districts. Most observers viewed the election as basically free and fair. A total of 8,894,664 (67.49%) of the 13,518,813 registered voters cast their ballots in an atmosphere of relative peace and order.

A number of reforms have been introduced since the 1994 elections. A voter registration law has been passed; a program for the distribution of voter ID cards has been started; a code of conduct was issued; the mixing of ballots from more than one polling station to eliminate the possibility of reprisals was instituted; and modern technology to speed the collation and announcement of election results was used. The difficult security problems in the country required the Commission to run a two-phased election to ensure adequate security at all polling stations.

Despite the success of the election, the Election Commission of Nepal, political parties, and international and domestic observers identified a number of problems in the conduct of the 1999 elections. These problems centered on:

- Location and number of voters at polling stations
- Identification of voters in areas with ID cards
- Allegations of violations of the election code of conduct
- Resolution of election complaints
- Violation of campaign expenditure limits

Through funding from the United States Agency for International Development (USAID), the International Foundation for Election Systems' (IFES) Senior Advisor for Election Administration Joe Baxter traveled to Nepal from 26 December 1999 to 7 January 2000 to assess the current administrative and procedural framework of Nepal's election system and to explore possible areas for improvement of the process. During the mission, Mr. Baxter met with officials from the Election Commission of Nepal and civil society organizations interested in the electoral process.

The assessment found that the 1999 elections represented a significant improvement over previous elections. The introduction of a number of reforms appreciably improved the administration of the process. The Election Commission should be commended for improvements it has made thus far. Continued improvement in the administration of elections can be expected in the future provided that the Election Commission builds on

the experience gained in the 1999 elections and maintains an open dialogue with the political parties and civil society organizations interested in the democratic process.

The assessment identified three broad areas of the election administration process in Nepal where changes might improve and strengthen the election process. The areas are:

1. Strengthening of the Structure for Election Administration

The assessment found that while the Election Commission has made an excellent beginning in planning to open offices in all 75 districts in Nepal (five opened in 1995, 25 to open in 2000, 25 in 2001 and 20 in 2003), much more attention should be focused on the human resource issues related to the establishment of these offices.

2. Voter Registration and the Voter ID Card Process

The assessment found that the review of the voter register in 2000 will result in a much more credible register for future elections, but there is potential for serious problems related to the issuance of voter ID cards and the lack of Election Commission control over the process.

3. Electoral Code of Conduct

The assessment found that the Code of Conduct used for the May 1999 elections was an excellent start in developing a Code that establishes the necessary conditions for a free and fair campaign process. However, there were a number of problems evident in the enforcement of provisions of the Code in 1999 that warrant a review of the provisions with the political parties.

This report discusses each of these areas in detail and makes the following recommendations:

1. The development plan of the Election Commission should be reviewed in light of the 1999 election and the issuance of voter ID cards in five districts. A special focus should be on the human resource needs of the Commission. This review should address the impact of the establishment of Commission offices in the 75 districts (25 in 2000), the responsibilities of the staff of the offices, the Commission's assumption of the day-to-day administration of voter registration, and the issuance of voter ID cards.
2. The Commission should begin the process of creating the enabling environment for the establishment of its own independent professional secretariat outside the regular civil service system, along the lines of the Judicial Service.
3. Given the fact that voters must appear at a fixed site center to have a photograph taken for their ID card, the Commission should consider revising its current voter registration 2000 plans to provide for citizens to appear at a particular location for the

purpose of registering to vote and/or having a photograph taken for issuance of a voter ID card. Funds saved from payment to enumerators traveling house to house might then be used to by the Commission to hire its own registrars for the fixed site centers and eliminate the need for local Ministry of Home Affairs staff. This would mean that the Commission would have direct control over each center, as is the norm in other democracies.

4. With the establishment of the 25 district offices in 2000 and the distribution of voter ID cards in those districts, the Commission should make it possible for persons in those districts to register to vote at the district office at any time during the year. This would entail the Commission establishing a permanent and on-going voter registration system and the district offices assuming the responsibility for the manufacture and distribution of the voter ID cards on a day-to-day basis.
5. The Commission should acquire the necessary storage and data management capacity to adequately manage the voter registration database, including the photographs of registered voters.
6. The Commission should convene a workshop of political parties and civil society organizations interested in the election process to review the conduct of the 1999 General Election, the Commission's future plans for the establishment of offices in all 75 districts, the issuance of ID cards in 2000, and the status of registered voters who do not obtain ID cards. Special emphasis should also be placed on review of the Code of Conduct in light of the 1999 election.

During Mr. Baxter's visit, the Election Commission of Nepal made its staff available for extensive interviews and its records available to Mr. Baxter. IFES wishes to thank the Election Commission of Nepal for the cooperation extended to Mr. Baxter during his stay.

## I. STRENGTHENING OF ELECTION ADMINISTRATION STRUCTURES

Increasingly, political scientists and others who study democratic processes recognize that independent election authorities play a critical role as institutions of democratic governance. In order to fulfill that role, the election authority must be fully functional at all important administrative layers of government. In most countries with an independent election authority, there exists at each administrative level of government an election office. These are most commonly found at the regional/state levels and at district or sub-region areas. In order to be fully functional at all levels, an election authority requires a plan for its overall development and a well trained and professional staff to administer the process. Nepal has taken the first steps in establishing such an institution. However, it is insufficient to establish a commission at the national level without the necessary structures at the regional and district levels so that the Commission can, in fact and in appearance, function independently.

### A. Five-year Development Plan

The Election Commission of Nepal has developed a five-year plan for the development of the institution. With the assistance of the Danish International Development Agency (DANIDA), over the next three calendar years the Commission will establish offices in all 75 districts in the country. The Commission has established offices in five districts so far, and will add 25 more in 2000, 25 in 2001, and 20 in 2003. Under the plan, DANIDA will furnish each of these offices with a computer, printer, fax machine, telephone set, and basic furniture. This is an excellent start and DANIDA should be commended for this level of support to the Commission. While the Commission's plan to establish regional and district offices is commendable, based on interviews with Commission staff, the human resource component of the plan is not yet as fully developed as the infrastructure component. A clear understanding of what these offices will do and their role in the election/democratic process of Nepal is required.

The year round functions (as opposed to the election day functions) of the district offices should be developed and put in place prior to the establishment of the offices. The responsibilities of district offices in most countries include:

- Voter registration (discussed later in this report)
- Planning and organization of election-related events
- Filing and qualification of candidates
- Voter and civic education
- Assistance in the delimitation of constituency boundaries



- Resolution of election disputes at the district level
- Political party relations at the district level
- Recruitment and training of voter registration and polling station official staff
- Counting/collation of election results at the district level

In addition to the functions of the district offices, there is a clear need to establish how the offices will be administered and supervised. In other words, what will their authority be, whom will they report to, how will they report, etc.? Another issue is whether the Commission headquarters currently has the capacity to manage the 75 offices and 500 people. If not, what skills need to be acquired by headquarters staff to ensure that it has the capacity needed?

#### ***Recommendation One***

Because the Election Commission will expand the number of offices and employees, it should incorporate into its planning the role of the district offices in a detailed manner. In order to accomplish this, the Commission should conduct a review and update its five-year development plan to expand on the human resource needs at the headquarters and district levels. The review and update should also address whether the current infrastructure plans coincide with the future duties of the district offices.

#### **B. Professional Secretariat**

Democracies are increasingly recognizing that the administration of credible elections is a specialized field of public administration requiring both specialized training and experience. Election administrators must have a well-grounded background and skills in a variety of areas. These include:

- Developing election task calendars
- Project Management
- Election Budgets
- Conflict Resolution
- Political Party Relations
- Media Relations

- Logistics Planning
- Election Law
- Election Regulations
- Administration of Codes of Conduct
- Conduct of Training Programs
- Delimitation of Constituencies
- Administration of Voter Registration Laws, Regulations, and Procedures
- Administration of Campaign Finance Law, Regulation, and Procedures
- Administration of the Candidate Qualification Process
- Resolution of Voter Registration and Election Disputes

Basic training in these areas can be provided through university courses and specialized training workshops. However, it is the experience gained in the management of elections that separates the professional election administrator from the election worker. The major benefit gained from experience in the management of elections is the building, within the election authority, of an "institutional memory" of how elections are administered. The building of an institutional memory of how elections have been administered in the past is critical to the improvement of election administration over time and the professionalization of the election management process. Observers of the 1999 General Elections noted a number of problems that included locations of polling stations, polling station operation, activities of party agents, and in a few cases the interference in operations by prominent politicians. Experienced election administrators are in a much better position to address these concerns and others from political parties than are temporary employees of the Commission.

Failure to incorporate an institutional memory in the management of elections often means reinventing the wheel each time an election is run. This results in procedural, planning, organizational, and political missteps and significantly increased election costs. For example, in planning for the June 1999 general elections in South Africa, the Independent Election Commission did not retain staff from previous elections and thus failed to adopt lessons learned from its 1994 general elections or its 1995 local government elections. The administration of the 1999 process was plagued with enormous administrative difficulties and cost approximately \$7.50 per registered voter on election day. In more developed democracies and in most of the rest of Africa, elections are managed on average at \$1.00 or less per registered voter.

To ensure professional election administration structure and to develop and maintain an institutional memory of how elections are managed, most countries with independent election authorities allow those institutions to establish their own career tracks within the overall civil service system. As an employee moves up through the election career path, he or she gains experience in the various aspects of election administration. As elections are held, s/he acquires the institutional memory necessary for the improvement of the process in the future. In addition, the election administration career path reinforces the functional independence of the election authority as it has sole authority for hiring, promotions, and dismissals of staff. This concept is not new to Nepal. Within the judicial service, appointment, promotions, transfers, and disciplinary actions of judges at the appellate and district level are under the jurisdiction of the Judicial Council.

Currently, the staff of the Commission is comprised of civil servants drawn from the Nepalese civil service system. Except for those who have worked in previous elections (most recently in May 1999), none have election administration experience, or are required to have election administration experience, before being assigned to the Commission. In addition, the government can assign and remove staff from the Commission at will. While the current government discusses with the Election Commission any plans it has for assigning or transferring staff, this consultative process may change with the next government in office. For the management of elections at the district level, the Commission relies for the most part on district judges as returning officers assisted by a number of other district officials. For most of these individuals, their careers (and their dedication to the election process) are not dependent on the successful administration of the elections.

As the Commission moves from an institution of approximately 130 employees mostly at the headquarters level, to an institution of 450 – 500 in all 75 districts in the country, the ability of the Commission to set and manage its staff requirements becomes even more critical. It is difficult enough for the Commission to function effectively, with the government having the ability to transfer and assign senior Commission staff; it will be even more difficult as district officials become subject to the same government authority. While the government's transfer and assignment of staff may go unnoticed at the national level where few of the employees are publicly known outside the Commission, it will be a very public matter at the district level. In addition, the provision of current law - that once a person is appointed as an election officer the government is precluded from transferring the person without the Commission's approval - does not prevent a reprisal transfer after the election.

District election officials become known as the "face" of the Commission at the district level. Their year round activities with regard to voter registration, voter and civic education, and the elections will make them very visible and important individuals in the areas they serve. Aside from lessening the ability of the Commission to administratively function effectively in the district, the government transfer of a competent and trusted district election officer from his post and the assignment of an inexperienced person in his

stead, may easily be viewed as the government imposing its will on the Commission, whether or not it is the case. The transfer of an election official from an area sends a clear message to the voters of that area about the quality of election administration they can expect. Already in Nepal, the Commission has felt it necessary to call the attention of the government to the problem that arises in the award of year-end honors for service in elections. In the administration of elections, the appearance of independence is just as important as the fact itself. Election authorities in many countries rotate their field staff after an election cycle. This prevents the officials from becoming too friendly with local politicians, and, by working in different areas, provides them with a broader based background in the administration of elections. For an election authority to transfer a staff member is one thing, for the government to do it is another.

### *Recommendation Two*

To build a permanent and professional staff of election administrators within its structure, the Election Commission should begin the process of developing the necessary administrative processes along the lines of the Judicial Council. It may take some time for the concept to be accepted within government and the civil service. The Commission, nonetheless, should adopt the concept as a major goal. In addition, the Commission should begin to develop the support of political stakeholders and civil society for the establishment of a permanent secretariat under the Commission's authority. The Commission should also consider rotating the district election officers from district to district to enable each to obtain a broader understanding of election administration in Nepal.

## II. VOTER REGISTRATION AND THE VOTER ID CARD

Voter registration and the issuance of a voter ID card are two separate processes in Nepal. Because citizens are not considered registered at the time of registration, a voter ID card is not issued. A separate process is managed for the issuance of voter ID cards. For this reason, the two are discussed separately in this report.

### A. Voter Registration

Nepal has 13,518,839 voters on its voter roll. The voter roll, under legislation passed after the 1994 election, is updated once each year in May. The update involves visiting all the approximately 3.5 million households in the country, verifying the information on the current roll, and updating the information with any changes (new registration, deaths, and changes of address). The last major update of the voter roll occurred in 1998. No update was held in 1999 due to the May 3 & 17 General Elections. The next update is scheduled for May 2000.

Because the Election Commission lacks local offices to manage the process, the Ministry of Home Affairs under the direction and guidance of the Commission undertakes the update of the voter roll. The Commission exercises no direct supervisory authority over Ministry staff who are generally employees of the local government authority. At present, the Commission lacks the capacity to adequately supervise or monitor their operations. This has been a major criticism of the process and has resulted in allegations that the registration staff are not dedicated and that the voter roll is inaccurate.

These allegations are borne out in some measure by the statistics. Nepal's population is estimated to be 23,698,421 (July 1998). With a growth rate at 2.9% per annum, the estimated voting age population is about 12.2 million. There have been few allegations of deliberate inflation of the voter roll. International and domestic observers of the May 1999 election noted the inaccuracy of the voter roll and the names of underage voters on the roll as an area of concern. The observers noted that in those areas where voter ID cards had been issued (and in effect the voter roll revised) voting was much more orderly and had fewer problems. A voter roll that apparently exceeds the number of those eligible is clearly in need of revision. Experience from other countries shows that under-estimation of the population can partially explain why there are more people on the voter roll than there are apparently eligible people. Poor administration (not removing deceased voters or those who no longer live in a household) and multiple registrations are also contributing factors.

In May 2000, the Commission plans to conduct a major revision of the voter roll under the procedures outlined above. If conducted effectively, one should expect to see the number of registered voters be more in line with the voting age population. However, given the process of obtaining a voter ID card (outlined below), the Commission should reconsider

its current plans of visiting every household in the country. Aside from the fact that many people may not be at home on the day the enumerator visits, the voters must go to a particular center in order to obtain a voter ID card. The taking of photographs for the ID card is not done house to house. It appears to be a waste of valuable resources to send enumerators house to house to revise the voter roll and then require registered voters to appear at a particular location for the taking of photographs.

### ***Recommendation Three***

Given the fact that voters must appear at a fixed-site center to have a photograph taken for their ID card, the Commission should consider revising its current voter registration 2000 plans to provide for citizens to appear at a particular location for the purpose of registering to vote and/or having a photograph taken for issuance of a voter ID card. Funds saved in payment to enumerators traveling house to house might then be used by the Commission to hire its own registrars for the fixed-site centers and eliminate the need for local Home Affairs staff. This would mean that the Commission would have direct control over each center, as is the norm in other democracies. Fixed-sited centers would better permit the Commission to monitor the process and allow for party and non-partisan domestic observers to observe the process.

#### **B. Voter ID Cards**

The Election Commission is currently engaged in a phased program to issue each registered voter with a voter ID card bearing the photograph of the registrant. The program, which is behind scheduled due to financial constraints, generally operates as follows:

- Due to the lack of local Commission offices, the Ministry of Home Affairs, under procedures and guidelines established by the Commission, manages the program.
- A private contractor is hired to provide digital camera technology, laminates, ID card paper, and other supplies.
- The Election Commission provides the Ministry and the contractor with lists of registered voters. The contractor and Ministry employees travel to villages where voters may come to have the photographs taken. The photographs and any updated information are then used by the vendor to manufacture the voter ID card.
- Another effort is then undertaken by the Ministry to distribute the cards to the voters.

Thus far, in the Commission's program, voters in five districts have received their ID cards. Once a district has been covered in the program, voters who do not possess the ID card cannot vote. This was the case in the 1999 General Elections. The table below illustrates the success of the ID program in those districts already completed.

District	Constituency	Total Voters	Cards Issued	Rate
Kathmandu	1	68,952	52,906	76.7%
	2	63,796	47,367	74.2%
	3	65,776	45,996	69.9%
	4	63,012	43,944	69.7%
	5	67,680	46,670	69.0%
	6	71,327	54,648	76.6%
	7	68,103	51,747	76.0%
	<b>Subtotal</b>	<b>468,646</b>	<b>343,278</b>	<b>73.2%</b>
Lalipur	2	66,575	51,826	77.8%
	3	69,625	51,834	74.4%
	<b>Subtotal</b>	<b>136,200</b>	<b>103,660</b>	<b>76.1%</b>
Bhaktapur	1	60,502	51,775	85.6%
	2	67,604	63,770	94.3%
	<b>Subtotal</b>	<b>128,106</b>	<b>115,545</b>	<b>90.2%</b>
Sunsari	5	67,561	54,930	81.3%
Baitadi	1	63,442	50,285	79.3%
	<b>Total</b>	<b>863,955</b>	<b>667,698</b>	<b>77.3%</b>

A number of comments can be made concerning the statistics in the above table:

- The ID card issuance rate is about 77.3% of the total registered voters. Is this a reflection of the poor management of the process by the Ministry of Home Affairs? As noted earlier, the career of Ministry staff is not dependent on a credible voter roll. Is it the case that the numbers reflect the level of errors on the voter roll? Is it a combination of both?
- If the card issuance rate is a reflection of poor management, and the voter roll is relatively accurate, a significant number of individuals (196,257 or

23.2% of all registered voters) from the affected constituencies were disqualified from voting in the 1999 General Election.

- The voter turnout in the voter ID card constituencies was much higher than actually reported by the Election Commission. For example, in Kathmandu District, the turnout was reported at 58.09% (272,230 of 468,646 registered voters). However, using the number of eligible registered voters (i.e. the 343,278 with ID cards) the turnout was 76.4%.
- If the number of voter cards issued in the five districts is an accurate reflection of the actual number of *active registered voters* in the country and the average percentage is applied across the entire register, the number of active registered voters in Nepal is closer to 10.5 million or about 85.8% of the voting age population. By extension, the turnout in the May 1999 General Election was closer (in real terms) to 85% rather than the 65.7% reported.

The comments above are intended to point out the need to draw lessons learned from the first five districts where ID cards were issued before beginning the next 25 districts in 2000. They also illustrate how easily statistics can be used to manipulate a view of an election.<sup>1</sup> The first five districts were basically part of an overall pilot program and should be seen in that light. One of the lessons that can clearly be learned is that the Election Commission will need to more actively supervise and monitor the Ministry of Home Affairs and the private contractor in the future.

At some point, the Commission will need to make an official determination concerning the status of registered voters without ID cards. Do they remain registered or not? If registered, they should be given other opportunities to obtain the cards. If not registered, they should be dropped from the voter register. This is not merely an administrative matter. It has serious political implications. The table on the following page shows the difference in votes between the top two candidates in each of the voter ID card constituencies.

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<sup>1</sup> In the United States, political scientists rarely use the turnout of registered voters to measure participation due to the inaccuracy of the registers. Participation rates are based on the voting age population.



District	Const.	Total Voters	Cards Issued	ID Card Difference	Candidate #1	Candidate #2	Vote Diff.
Kathmandu	1	68,952	52,906	16,046	17,601	15,219	2,382
	2	63,796	47,367	16,429	12,552	11,387	1,165
	3	65,776	45,996	19,780	15,965	14,552	1,413
	4	63,012	43,944	19,068	12,554	7,296	5,258
	5	67,680	46,670	21,010	14,303	8,565	5,738
	6	71,327	54,648	16,679	16,307	14,107	2,200
	7	68,103	51,747	16,356	18,587	15,304	3,283
	<b>Subtotal</b>	<b>468,646</b>	<b>343,278</b>				
Lalitpur	2	66,575	51,826	14,749	16,169	14,878	1,291
	3	69,625	51,834	17,791	15,570	12,249	3,321
		<b>Subtotal</b>	<b>136,200</b>	<b>103,660</b>			
Bhaktapur	1	60,502	51,775	8,727	16,533	10,300	6,233
	2	67,604	63,770	3,834	14,200	13,432	768
		<b>Subtotal</b>	<b>128,106</b>	<b>115,545</b>			
Sunsari	5	67,561	54,930	12,631	19,990	12,894	7,096
Baitadi	1	63,442	50,285	13,157	11,313	9,901	1,412
	<b>Total</b>	<b>863,955</b>	<b>667,698</b>				

The table illustrates that the number of registered voters without ID cards far exceeds the difference in votes between the top two candidates. In future elections, this issue may provide losing candidates the opportunity to attack the validity of the election and credibility of the Election Commission.

### C. Sustainability of the ID Card Process

The utilization of a private contractor to produce voter ID cards during the initial issuance to the current 13.5 million registered voters may be completed as planned. However, the Commission must begin to ask itself basic questions about the future. These include:

1. How will voter ID cards be issued to new registered voters in the 5 completed districts in 2000? What about new voters in 2001 who live in the 25 districts in the 2000 phase?
2. What happens at the end of the process when all currently registered voters are issued ID cards? Will it be cost effective to contract with a private contractor to produce the cards?

These questions go to the heart of Nepal's voter registration system. It appears that once the 13.5 million ID cards are issued to registered voters (or in any of the districts), the current voter ID card process is not sustainable. It is likely to be too costly to send cameras to all locations in all 75 districts each year to take the photographs of newly registered voters. Another issue in this regard is the private contractor that will be contracted to produce 13.5 million cards when, in actuality, only about 77% of that amount will be, based on the experience in the first five districts.

The photographs taken by the vendor in the first five districts have been turned over to the Commission on CD ROM. While this storage medium is sufficient with the relatively few number of registered voters in the first five districts, it will not be workable for the next 25 let alone the remaining districts nationwide. The Commission needs to acquire the necessary storage capacity to house and manage the millions of photographs that will be taken over the next few years. The Commission also needs to establish an information exchange that allows it to accurately and quickly obtain from a vendor, in a computerized format, the names of persons who have been issued with ID cards. The fact that the main repository of the photographs of registered voters and the names of those with ID cards is not with the Election Commission but with a private vendor over which the Commission has only nominal control raises concerns. The fact that the card issuance process (and thus the creation of the voter register) is out of the direct control of the Commission (which, under the Constitution is responsible for the process) raises doubts about its credibility and may, in future, threaten the credibility of an election. There may also be questions raised about the unused ID card stock and laminates in the possession of the vendor. Can the vendor sell ID cards to facilitate impersonation at the polls?

#### ***Recommendation Four***

In its review of its five-year development plan, the Commission should review the current plans for the issuance of voter ID cards with special emphasis on supervision and monitoring. One of the issues that should be considered is that, in those districts where voter ID cards have been issued (5 currently and 25 in 2000), the Commission allow voters to come to their district office to register to vote and to obtain a voter ID card. This will require the Commission to establish a permanent and continuous registration system as has been done in many democracies. For the issuance of the card, the Commission will need to purchase digital cameras for each of its district offices along with card material, laminates, and perhaps a better quality printer. The DANIDA assistance project is already providing a computer to store the data; all that is needed is a camera and printer in order to produce the cards.

Once the 13.5 million cards are issued to the vast majority of the voting age population, those left to be issued with cards will, for the most part, be those who turn 18 during any given year. This number is estimated at 550,000 based on the population growth rate. These young people will likely be more mobile than the rest of the population and could

easily be given the opportunity to register at the Commission's district office. To maintain the accuracy of the voter roll, the district officer could visit each of the villages in his district during the year, to provide services to those who cannot travel, and to obtain the names of deceased voters and those no longer living in the area.

#### ***Recommendation Five***

The Commission should acquire the necessary storage and data management capacity to adequately manage the voter registration database, including the photographs of registered voters.

#### **D. Date of Registration**

The Election Commission considers a person to be a registered voter at the end of the registration process, after the public display of the voters roll. This currently creates difficulties with the issuance of voter ID cards. The voter must register, wait for as long as four months, and then obtain the card. This situation will become more of a problem if the Commission allows citizens to register at its local offices.

Most countries consider a person registered as of the date of completion of the registration application. The application is given under oath and the citizen is believed. If after the public exhibition of the voter roll, the voter is challenged and found not to be qualified, his or her name is removed from the voter roll. With a computerized register this is a very simple process. Should the Commission decide to allow citizens to register at its district office, it should seriously consider making the date of registration effective upon completion of the application. This would enable the local election officer to take a photograph and issue a voter ID card on the spot, eliminating the need for the voter to return at some later date.

### III. CODE OF CONDUCT

The adoption of a Code of Conduct for the May 1999 General Elections was a major step forward for Nepal in reducing the cost of campaigning for elections, limiting ruling party use of government resources for campaign purposes, and limiting abusive rhetoric in the campaign. The adoption of the Code and its use in the election campaign was the first time an enforceable code was used.

While the Code was successful as an instrument to guide the campaign in the run-up to the election, the Commission had less success in ensuring that parties and candidates respected its provisions. This is not to be unexpected. The Code for the 1999 General Election was the first time that limits have, in any real sense, been placed on parties and candidates. Old habits are hard to break. There were complaints by political parties that their opponents did not respect the Code's provisions. Observer organizations noted that parties and candidates especially did not respect the campaign spending limitations found in the Code. While respect for the Code was not universal, Nepal's first time experience was better than many developing democracies.

The Election Commission provided excellent guidelines for the 1999 General Election. However, based on interviews with officials of the Commission, the observer reports, and interviews with civil society leaders, a number of abuses of the Code that occurred were sufficiently significant and widespread across the parties that a number of questions should be asked in thinking about future elections. These include:

- Are the amounts for campaigns allowed by the Code sufficient to enable the parties and candidates to mount an effective campaign in all parts of the country? In other words are the amounts too low?
- Do the restrictions on certain means of campaigning (street banners, size of posters, use of certain vehicles) make it unnecessarily difficult for candidates and parties to campaign?
- In determining limits on spending, would it be better to place a limit on the amount that can be spent per registered voter (as is the case in most of Europe) rather than limits on specific items and categories, giving the party and candidate the freedom to determine how best to spend campaign funds to reach voters?
- Should the Election Commission be granted authority to impose administrative fines for violations of the Code to deal with less serious offences that do not reach the level of abuse such that the election is overturned? In other words, a party might have a fine imposed for its supporters tearing down opposition posters in a certain area. Payment of fines could be part of the limits on spending.

If authority for such fines is given, should the Election Commission be given the authority to impose fines even after the election when abuses in the previous campaign are discovered?

- Are the restrictions placed on government-owned media sufficient to ensure equal access by political parties and candidates?
- To what extent should government-owned media be permitted to cover only parties and candidates that have significant support in its news broadcasts under the argument that these are the only “newsworthy” parties?
- Are the restrictions placed on government ministers’ use of official vehicles in campaigns sufficient? Should their official vehicles be considered among those vehicles restricted under the Code? Should the party be required to reimburse the government for use of and fuel for the Minister’s vehicle at regular commercial rates, just as an opposition candidate would have to hire a vehicle to travel about the country?
- What resources should be provided to the Election Commission to better monitor and enforce provisions of the Code of Conduct?
- To what extent should violations of the Code of Conduct be separated from violations of the Election Law that imposes criminal penalties for violation?
- Are the Commission’s procedures for investigation of alleged violations of the Code of Conduct adequate? Where complaints are filed, do the procedures facilitate timely resolution and imposition of sanctions in a timely and effective manner?
- What improvements should be made in the inclusion and conduct of party agents in the polling areas?

A Code of Conduct should reflect the realities of political campaigns within any given country. In other words, the provisions should both meet the needs of the political parties and achieve the overall goals of the Code. A Code of Conduct that fails to recognize the realities of political campaigns within a political context is doomed to be ignored. For that reason, a Code should be developed in conjunction with the political parties and civil society and be reviewed after any election with an eye toward improvement. Conditions of campaigning change. New means of campaigns (especially in the area of technology) are introduced into the process. Campaigns must be able to adapt to demographic changes. For these reasons a Code should also be reviewed from time to time to ensure its relevance. The best time to review a Code is after an election while the campaign is still fresh in everyone’s mind.

However, it should not be too close to an election such that the heat of the campaign is still fresh. Sufficient time must pass to allow passions to cool.

### ***Recommendation Six***

With the 1999 General Election still fresh in the minds of the political party leaders and the civil society organizations that observed the elections, now is the time to review the Code and develop concrete revisions in anticipation of the next election. The Commission should conduct such a review in light of the experience of the 1999 election. Conducting a review now with no immediate election on the horizon takes the discussion of the Code somewhat out of the political arena. Parties may be more interested in discussing the practical applications of the provisions of the Code rather than making political points or reopening old political wounds.

In addition to discussing with political stakeholders the review of the Code of Conduct, the Election Commission should also use the review of the Code as an opportunity to discuss its current plans. The opening of 25 district offices and their role in the election process should be discussed thoroughly with the political stakeholders. Only if there is a clear understanding on both sides will the introduction of the district offices be successful. In discussion of the opening of the 25 offices, the Commission should also introduce the subject of an independent and professional secretariat. Fully discussing this issue could better clarify the need for an independent and professional secretariat and begin the process of building political support for its introduction.



#### IV. SUMMARY OF RECOMMENDATIONS

No.	Recommendation	Resources to Implement	Expected Outcome
1.	Review current five-year development plan.	<ul style="list-style-type: none"><li>• Funds for meetings within the Commission.</li><li>• Resource person with broad experience in election administration to assist the Commission in its review.</li></ul>	A revised development plan that: <ul style="list-style-type: none"><li>• is up to date with regard to the current and future needs of the Commission;</li><li>• addresses issues not covered in the current plan; and</li><li>• focuses on the human resource needs of the Commission especially at the district level.</li></ul>
2.	Begin the process of establishing authority of Election Commission to hire, promote, transfer, and discipline own secretariat staff.	<ul style="list-style-type: none"><li>• Funds for meetings within the Commission for development of terms of service to be presented to government for approval</li><li>• Resource person with broad experience in election administration to work with Commission in developing terms of service.</li></ul>	<ul style="list-style-type: none"><li>• An independent secretariat as well as Commission managed by professional election administrators.</li><li>• More credible elections.</li><li>• More cost effective elections.</li></ul>

No.	Recommendation	Resources to Implement	Expected Outcome
3.	<p>Given the fact that voters must appear at a fixed-site center to have a photograph taken for an ID card, the Commission should consider revising its current voter registration plans to provide for citizens to appear at a particular location for the purpose of registering to vote and/or having a photograph taken for issuance of a voter ID card. Funds saved in payment to enumerators traveling house to house might then be used by the Commission to hire its own registrars for the fixed-site centers and eliminate the need for local Ministry of Home Affairs staff.</p>	<ul style="list-style-type: none"> <li>• Funds for meetings with parties to discuss change.</li> <li>• Ability within the Commission to recruit and train registrars at local level.</li> <li>• Funds for expanded voter education program.</li> </ul>	<ul style="list-style-type: none"> <li>• More control by the Commission over registration and ID card process.</li> <li>• More accurate voter roll.</li> <li>• Political party and observer group confidence in voter roll increased.</li> </ul>
4.	<p>Review plans for voter registration and voter ID card issuance in light of the experience in the first five districts, with the goal of improving distribution in next twenty-five districts, and of implementing a permanent, on-going voter registration and voter ID card system.</p>	<ul style="list-style-type: none"> <li>• Funds for meeting of Commission and staff to review plans.</li> <li>• Resource person with broad experience in development of voter registration systems.</li> <li>• Funds for workshop to receive input from political stakeholders and civil society.</li> </ul>	<ul style="list-style-type: none"> <li>• Voter registration system that better meets the needs of the people of Nepal.</li> <li>• Lower costs in administration of voter registration.</li> <li>• Increased numbers of active voters registered and issued ID cards.</li> </ul>





No.	Recommendation	Resources to Implement	Expected Outcome
5.	The Commission should acquire the necessary storage and data management capacity to adequately manage the voter registration database, including the photographs of registered voters.	<ul style="list-style-type: none"><li>• Funds for the required equipment to manage database and photographs.</li></ul>	<ul style="list-style-type: none"><li>• Election Commission sole custodian of voter roll and registrant photographs.</li><li>• Increased confidence in accuracy of voter roll.</li></ul>
6.	Review 1999 election process and Code of Conduct in conjunction with political stakeholders and organizations interested in the election process, in light of recent experience in implementation and enforcement.	<ul style="list-style-type: none"><li>• Funds for workshop with Commission, political stakeholders, and civil society.</li><li>• Resource person with broad experience in election administration to facilitate the discussion.</li></ul>	A code of conduct that: <ul style="list-style-type: none"><li>• better meets the needs of Nepal; and</li><li>• can be effectively implemented and enforced.</li></ul>



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