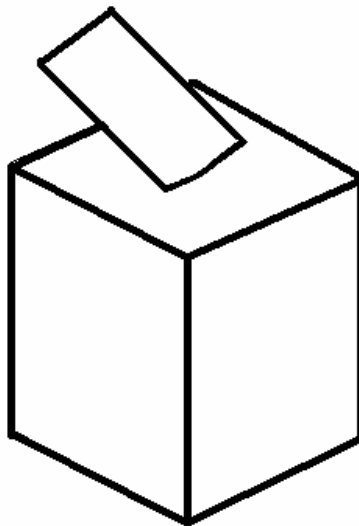


OBSERVING ELECTIONS

A GUIDE FOR INTERNATIONAL OBSERVERS
OF THE 2008 CONSTITUENT ASSEMBLY ELECTIONS IN
NEPAL

BY

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The Asia Foundation

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1 INTRODUCTION

Thank you for volunteering to work as an international election observer. International observers can help deter election malpractice, and act as witnesses to the process for their organization or government. Your participation in this effort is an important contribution to strengthening democracy in Nepal.

This manual, and the associated forms, are intended to provide you with all of the information you will need to effectively observe and report on the polling process on election day, and the counting process after the election. The manual also includes some suggestions for pre-election and campaign monitoring that may be helpful for those assessing the overall electoral environment.

To be an effective observer, it is important that you understand how isolated events can affect the entire process, so please read the entire manual carefully prior to the commencement of polling on election day.

A Note on Security During the Election: Observation is exciting, but should never be dangerous. Maintaining your personal security should be your number one priority throughout your observation experience. If at any time, for any reason, you feel it is not safe to observe in a particular area, then DO NOT GO THERE! The only information required from such areas is that you felt it unsafe to observe. This information is important because it is a clear indication that the environment was not conducive to the conduct of free and fair elections. If there is a violent incident or threat of violence while you are observing the campaign, or at a polling station, remain calm, and leave the area as soon as possible. DO NOT RETURN!

2 CODE OF CONDUCT FOR INTERNATIONAL OBSERVERS OF THE CONSTITUENT ASSEMBLY ELECTION 2007 (2064)

Preamble

In exercising the powers conferred by Section 46 of the Election Commission Act, 2007(2063), the following Code of Conduct has been issued by the Election Commission of Nepal in order to regulate the international observation to the Constituent Assembly Members Election to be held on the 22nd day of the month of November, 2007 (06th of Mangsir of the year 2064). This Code of Conduct shall be binding for all Observer Groups and their associated observers accredited by the Election Commission of Nepal (hereinafter referred to as "ECN").

Accreditation

The following provisions have been established by the ECN in regards to the accreditation of international observers:

1. For the purpose of this Code of Conduct, an observer is a person who is part of an international observation group duly accredited by the ECN. The observation groups and the individual observers must be invited, and accredited by the ECN.
2. Accreditation shall be applied according to the procedures established by the ECN. An application shall first be presented to the Observation Group. Once the International Group is accredited by the ECN, the group may then present an

application form listing the individual observers with their attached signed pledges to adhere to this Code of Conduct.

3. Each Observer Group duly accredited shall be solely responsible for all its support arrangements and the costs thereof. The ECN shall not be responsible for any such costs.
4. It is compulsory for every observer to visibly and prominently wear the observer accreditation card at all times while he/she is performing his/her functions as an observer.

Revoking Accreditation

The Election Commission may revoke accreditation of any Observer Group or individual if the group or the observer fails to abide by the laws of Nepal or violates this Code of Conduct.

Rights and Privileges of Observer Groups and Observers

International Observers have the following rights and privileges:

1. To observe all phases of the electoral process with unimpeded access to include: voter registration activities; party and candidate registration; the election campaign; preparation for polling; the voting itself; the vote count; and issuance and the dissemination of the election results and use of the media;
2. To enjoy freedom of movement throughout the country, without prior permission except in restricted areas as designated by the Government of Nepal (GoN);
3. To have freedom of access at all times to all facilities utilised for the electoral operation, including the polling and counting centres;
4. To communicate freely with all the stakeholders in the electoral process, for example: Officials of the Election Commission, Voters, Political Entities, Government Officials, Non-Governmental Organizations, Professional Organisations, Media, etc;
5. To seek information and timely answers from all stakeholders involved in the electoral process on matters within the scope of the observation;
6. To have access to complaints regarding any election related incident; and
7. To communicate the findings of the observation in an accurate and comprehensive manner at any time to the public and relevant stakeholders.

Duties of Observer Groups and Observers

International Observers have the following duties in regard to their observation of the electoral process:

1. Observers shall at all times recognise and respect the customs, culture and sovereignty of Nepal;
2. Observer groups have a duty to fully brief their observers on the electoral process and the provisions of this Code of Conduct prior to deploying any observers;
3. Observers shall exercise their role with impartiality, objectivity and independence and shall at no time indicate or express any political bias or preference. Observers shall refrain from carrying, wearing and displaying any electoral material or any article of clothing, emblem, badge, pictures, symbols or other item denoting support for or opposition to any political entity;
4. Observers shall respect the role, status and authority of election officials, and exhibit a respectful and courteous attitude to election officials and voters;
5. While inside electoral facilities, observers shall identify themselves immediately and cooperate with the electoral officials;

6. Observers shall undertake their duties in an unobtrusive manner and not interfere with the election process. Observers shall refrain from influencing or providing guidance to persons involved in the electoral process;
7. On polling day, observers shall observe the voting from a reasonable distance, and refrain from talking to voters inside the polling station and from asking voters to whom they have voted. Observers shall respect the secrecy of the vote and not interfere with the orderly conduct of the voting process;
8. Observers shall abstain from adjudicating disputes, certifying results, or providing written statements as evidence to be used in relation to dispute resolution;
9. Should Observers register any information or event which may be in contradiction with the electoral laws or regulations or the Code of Conduct passed by the ECN, the Observer Group shall immediately bring this to the attention of the ECN. While obliged to inform the commission thereof the observers shall refrain from intervening in the incident itself;
10. Observer Groups shall be accurate and comprehensive in their review of the election and must consider all factors that affect the electoral process when issuing statements and reports;
11. Observer Groups shall be transparent and reveal all methods used for information gathering including facts and methodologies upon which conclusions are based;
12. Individual observers shall refrain from issuing personal statements about the electoral process to the public and media;
13. Observers shall refrain from slanderous or defamatory public statements regarding the Election Commission or any other electoral stakeholder;
14. Observers shall refrain from announcing election results prior to the formal announcement from ECN;
15. Observers shall maintain due secrecy on the matters pertaining to voting and counting;
16. Observers shall maintain close liaison with ECN;
17. Observer group shall submit a preliminary report shortly after the election and a comprehensive report at the end of the electoral process on their overall findings.

3 OVERVIEW OF ELECTIONS

3.1 The Constituent Assembly

Elections will be held on April 10, 2008, from 7:00 am to 5:00 pm, to select 575 members to a constituent assembly. A further 26 members will be selected By the Interim Council of Ministers. The Constituent Assembly will have a term of two years, and is responsible for drafting a new constitution for the people of Nepal. During its term, the Constituent Assembly will also function as the national parliament.

3.2 The Election System

To form the Constituent Assembly Nepal will use a parallel mixed election system – 240 members will be elected from single-member constituencies (an election system often called First Past the Post or FPTP), and a further 335 elected from parties through national-level party-list proportional representation. There are also requirements that parties include under-represented groups on their lists, including women, Madhesis, dalits and tribal people. In total, 74 political parties have registered for the election, with 55 of those competing in the list proportional representation election.

3.3 The Legislative Framework

The primary laws and regulations governing the structure, organization and implementation of the Constituent Assembly elections are:

- Constitution
- Election Commission Act
- Election (offences and punishments) Act
- Election to Members of the Constituent Assembly Act
- Electoral Roll Act
- Election (Offence and Punishment) Act
- Constituent Assembly Court Act

English translations of these laws are available on the Election Commission's website at: <http://www.election.gov.np>.

3.4 The Election Commission

The Election Commission was established in 1966 as an independent constitutional body and it is responsible for organizing and supervising national and local elections, including the constituent assembly elections. Specifically the Election Commission is responsible for conducting, supervising, directing and controlling the election process including: voter registration, registration of political parties, polling and counting, enforcing or adjudicating violations of the code of conduct, and dispute resolution.

The Chief Election Commissioner and the other four election commissioners are appointed by the Cabinet on recommendation of the Constitutional Council, based on parliamentary hearing. Their tenure is of six years or 65 years of age. While serving at the Election Commission, the commissioners are disqualified for any other government appointments. The Election Commission is composed of the five commissioners and a Secretariat with three divisions and nine sections. At local level, there are five Regional Electoral Offices, 75 District Electoral Offices and, on the period prior to the election, 240 Returning Officers were appointed, in the constituencies.

Use of Property – The Commission may, with notice, use any government owned buildings, furniture, vehicles, or other property in the conduct of the election, including public schools. The Commission, on a hire basis and with prior notice, may also use private property in the conduct of the election.

Canceling Elections – If a complaint is filed with the Commission (normally through a Returning Officer) claiming that any act of election has not been free and impartial in any way, the Commission may investigate the matter, and if satisfied the offence has occurred, may cancel the election in any constituency or polling place of the constituency.

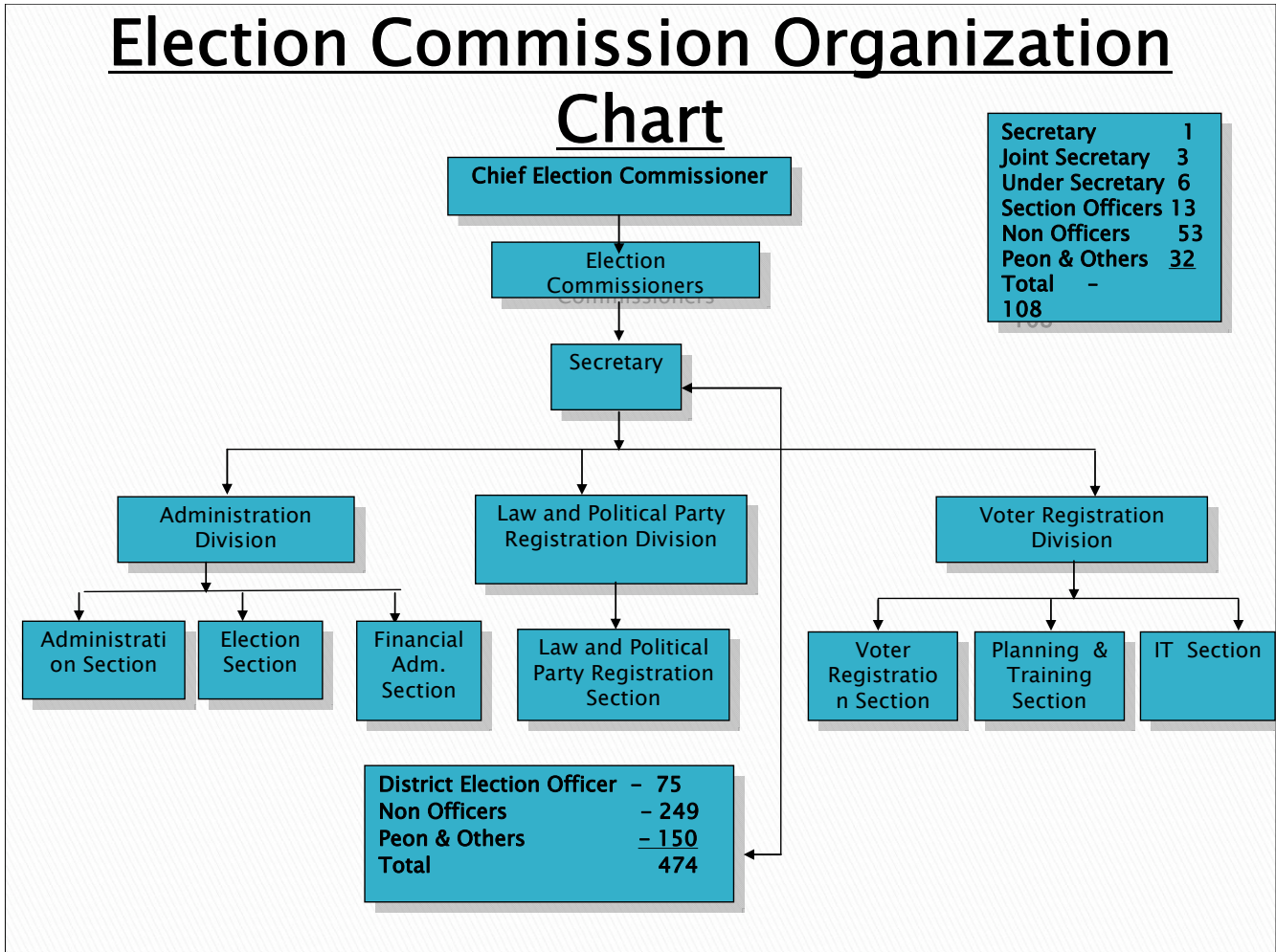
3.5 Returning Officers

The Election Commission will appoint a Returning Officer for each constituency. In districts that have more than one constituency, the EC will designate one of the Returning Officers as the Chief Returning Officer for that district. Returning Officers are normally judges or members of the Nepal Judicial Service. The Returning Officers are responsible for organizing and managing all aspects of the election process in their constituency.

3.6 Electoral Rolls

There are 17.6 million voters registered to vote in the constituent assembly election. The electoral rolls on which the voters are registered are maintained at the constituency-level by

the Returning Officer. The constituency rolls are broken down by polling station, and voters in a constituency are required to cast their ballots in the station where they are enrolled. The electoral rolls may be inspected or copied at the Returning Officer’s office by any candidate or citizen. The entire voter’s roll of the state of Nepal is available online at: www.election-commission.org.np.



3.7 Polling Stations¹

There will be approximately 21,000 polling stations for the 2008 Constituent Assembly elections, clustered in 9800 polling centers, and manned by 240,000 polling station staff. There will normally be at least one polling station in every ward of a VDC or municipality, and in more densely populated areas there may be more than one. Voters may only cast their ballots in the polling station to which they are assigned. No polling station will serve more than 1050 voters, so if there are more voters than that in a ward the station will be split. On average, there will be one station for every 840 registered voters.

¹ In Nepal, as in other parts of South Asia, the term “polling booth” is often used to refer to an individual polling team, rather than the compartment or screen used to shield voters as they mark their ballots. Although the current commission has avoided this usage in published documents, it is quite likely that observers will hear commission staff and others refer to “polling booths” when they mean what we have called a “Polling Station”.

3.8 Polling Agents

Any candidate or party may appoint one or more polling agents to each Polling Station and Counting Center, but the presence of polling agents is not required to validate an election.

3.9 Observers

According to The Election Commission Act of 1991 "The Commission may appoint observers to supervise, inquire or monitor the act of polling, counting of votes, or any other act of election." According to the Election Commission's Election Observation Resource Center, 147 domestic organizations with, in total, 92,000 individual observers, have registered to observe the process. In addition to the domestic organizations, international groups from the European Union, Carter Centre, Asian Network for Free elections (ANFREL), Asia Foundation, Socialist International, the Universal Human Rights Network, and several embassies and other organizations have also applied to send international observers. According to the EORC, there may be as many as 600 international observers in total, making this election one of the most observed in recent history.

3.10 Security

Security for the election is provided by the government under the direction of the Election Commission. In total, there will be about 90,000 police officers deployed to provide security on election day, but of these only 42,000 will be regular police officers, with the rest (about 48,000) being recently appointed temporary police. There will be at least two police officers deployed to every polling station.

3.11 Electoral Offences

The following is a brief summary of electoral offences related to the election campaign, and the voter registration, polling, and vote counting processes:

- Impersonating a voter or assisting in the impersonation of voters.
- Attempting to influence a voter through destruction of property, threats, intimidation, forced promises or oaths.
- Knowingly propagating false accusations or slander against candidates or their families.
- Propagating policies and programs that undermine the independence, sovereignty, or territorial integrity of Nepal; promote feelings of enmity or hatred on the basis of religion, community, caste, tribe, language or territorial region; or encourage individuals to vote on the basis of any religion, community, caste, tribe, language or territorial region.
- Giving or attempting to give a voter any cash, present, reward or donation to vote in a particular way, or to refrain from voting, even if the voter refuses the offer.
- Any attempt by a Returning Officer, Polling Officer, security personnel, observer, or employee deputed by the Election Commission to influence the electoral process for or against any candidate or party.
- Any interference by any person in the voter registration process, polling process or counting process intended to disrupt the process or aid a particular candidate or party or disadvantage a particular candidate or party.
- Other than authorized security personnel, the carrying of firearms or other weapons.
- Campaign through meetings or processions or any form of election propaganda during the 48 hours preceding the election day.

3.12 Filing Complaints

Any person who is a registered voter, candidate, or representative of a political party may file a complaint with the Election Tribunal through the concerned Returning Officer. The

complaint must be submitted to a Polling Officer, Returning Officer, District Election Officer or Monitoring Team within 24 hours of its happening. Complaints on the general process and results may be submitted until 15 days after the counting is over.

4 OBSERVING THE ELECTION

4.1 Deployment of Observers

Because of resource constraints, international observer missions are seldom able to cover a very large percentage of polling stations on election day. In this case, missions have several deployment options. The simplest and cheapest is to deploy only around the capital city, or in other easy to reach areas. This strategy is effective if familiarization with the process, or an impressionistic overview are all that are required, or if only the areas covered will be assessed; but will not provide data for a comprehensive assessment because of the accessible and urban sample bias inherent in this strategy. This approach is appropriate for a team of visiting election administrators looking at the implementation process, or a groups from an embassy or multilateral agency that need to be familiar with the process to make sense of data collected by larger and more comprehensive domestic or international teams.

Another common approach for small missions is to focus on “hotspots”. That is, areas with a history or expectation of election-related problems. This approach also will not provide data for a comprehensive assessment of the process because it is focus on a sample which, by definition, will be worse than average. Hotspot monitoring can be appropriate if the primary objective of the mission is to *deter* malpractice, rather than assessment, as this is the strategy most likely to ensure that observers are on the ground near where cheating, intimidation or violence might occur.

The best approach to provide data for an overall assessment of the election process, when comprehensive coverage of every polling station is not possible, is for observers to survey a random sample of polling stations either in a particular constituency, or nationally. In that case, as in a public opinion survey, the sample will, within the margin of error, accurately reflect the election as a whole.

In practice, this approach would mean pre-selecting a random sample of polling stations or villages where the polling and counting processes would be observed and polling data collected at the end of the day, with the observers visiting a number of polling stations in the area during the day to monitor the process. If this approach is adopted, smaller international missions might want to coordinate with other missions so that they have enough coverage to ensure their sample size is large enough to be fairly representative of the country as a whole.

4.2 Monitoring the Pre-Election Environment

The relative fairness of an election cannot be determined solely by considering what occurs on election day, as there are a number of other factors which can affect citizens and political parties’ ability to participate effectively in the democratic process. If possible, observers should be deployed prior to the last day of the campaign period, so that they have the opportunity to observe some of the campaigning and evaluate to some extent the pre-election environment.

Making a comprehensive and detailed assessment of the pre-election environment is both complex and time-consuming, and usually requires the deployment of long-term election

observers, media monitors, and legal specialists. Nevertheless, it is possible for shorter-term observers to use the checklist below to do a basic assessment of the election environment. Responses to the questions will reveal, in broad terms, whether or not the environment is conducive to free and fair elections. This checklist can be used by individual observers to evaluate a particular area, or can be aggregated with data from other observers to evaluate at the constituency or national level.

	Election Environment Assessment Checklist	Yes	No
1	Are political parties and candidates free to organize and to recruit new members?		
2	Are parties and candidates free to assemble and conduct activities?		
3	Do ordinary citizens have freedom of association, speech, and movement?		
4	Do people have adequate access to information on the platforms and policies of the parties and candidates so that they can make an informed choice on election day?		
5	Do people have sufficient knowledge of the electoral processes (how and where to register, complain, and vote) to participate effectively in the election process?		
6	Are election-related complaints appropriately resolved?		
7	Are the local election officers well-trained and qualified to effectively fulfill their duties?		
8	Has the local election administration received the materials and support needed to conduct the elections?		
9	Are election officials perceived as neutral administrators of the electoral process?		
10	Was campaigning done in a fair and peaceful way?		
11	Is the security environment conducive to a free and fair election?		
12	Were all campaigns conducted without the unfair use of government facilities or resources by incumbents or others?		
13	Did any parties or candidates try to buy votes with money or gifts?		
14	Did any parties or candidates use threats or violence to influence voters' choices or to intimidate them from casting a vote on election day?		

4.3 Observing the Environment on Election Day

Although observers on election day are usually focused on the voting process inside the polling station, events may occur outside the station or between stations that can inhibit access to the polling station, or can contribute to an environment of insecurity and fear that convinces some voters that going out to cast their ballot is simply not worth the risk involved. Denial of access to stations can be accomplished through physical force, for example, by setting up a roadblock between a village and a polling station, or through more general intimidation and threats. Voters can also be prevented from casting their ballots through confiscation of identification documents to prevent voting. Other environmental concerns that can affect the fairness of the process outside the polling stations include election day vote-buying and illegal campaigning.

Observer Note: Near the polling station look for groups of men, armed or not, who might be intimidating voters. Talk to people and try to determine if local officials or party representatives are loitering near the station. Look for people recording names or passing money or pre-marked ballots, or other objects to voters. It is also important to be alert when traveling between stations. Stop and talk to people and ask them about the election process, if there are any problems, and if they feel free to participate. Look for groups of men who might be preventing voters from leaving a particular area, confiscating cards, or campaigning illegally.

5 THE POLLING STATION

5.1 Polling Station Staff

The Returning Officer will appoint a Polling Officer and Assistant Polling Officer for each polling station. Polling Officers and Assistant Polling Officers will be drawn from governmental and semi-governmental cadres. In addition to the polling officers, there will be between five nine other staff members (depending on the number of voters); including: two volunteer queue controllers (a male and a female), an ID Checker, Finger Inker (must be female), First Ballot Issuer, and Second Ballot Issuer.

5.2 Polling Station Location and Setup

Polling Stations must be set up in the previously determined and published location. They should be sited in areas convenient for voters to reach. The building or area of the polling station must be large enough to ensure that voters can cast their ballots in a free and confidential manner without any disturbance. If no school or public building is available, a Polling Station may be set up in a meadow or open space by using tents. Ideally, a polling station should be accessible to disabled people, either on the ground floor, or with a wheelchair ramp.

The Polling Officer will establish a 100-meter security perimeter around the Polling Station within which no unauthorized person may enter, no campaign materials may be posted, and no electoral canvassing or propagation may take place. An electoral roll with the name and serial number of every voter entitled to cast a ballot at the Polling Station will be posted outside the station. Ropes or bamboo poles will be used to define separate queues for men and women outside the Polling Station. Polling Stations should be set up according to the diagram below.

Each polling center may contain one or several polling stations, depending on the number of voters it serves. If there is more than one station in a polling center, each one will have a separate polling team, ballot box, and voter's roll. It is normal for each station to be located in a separate room, although several stations may be located in very large rooms.

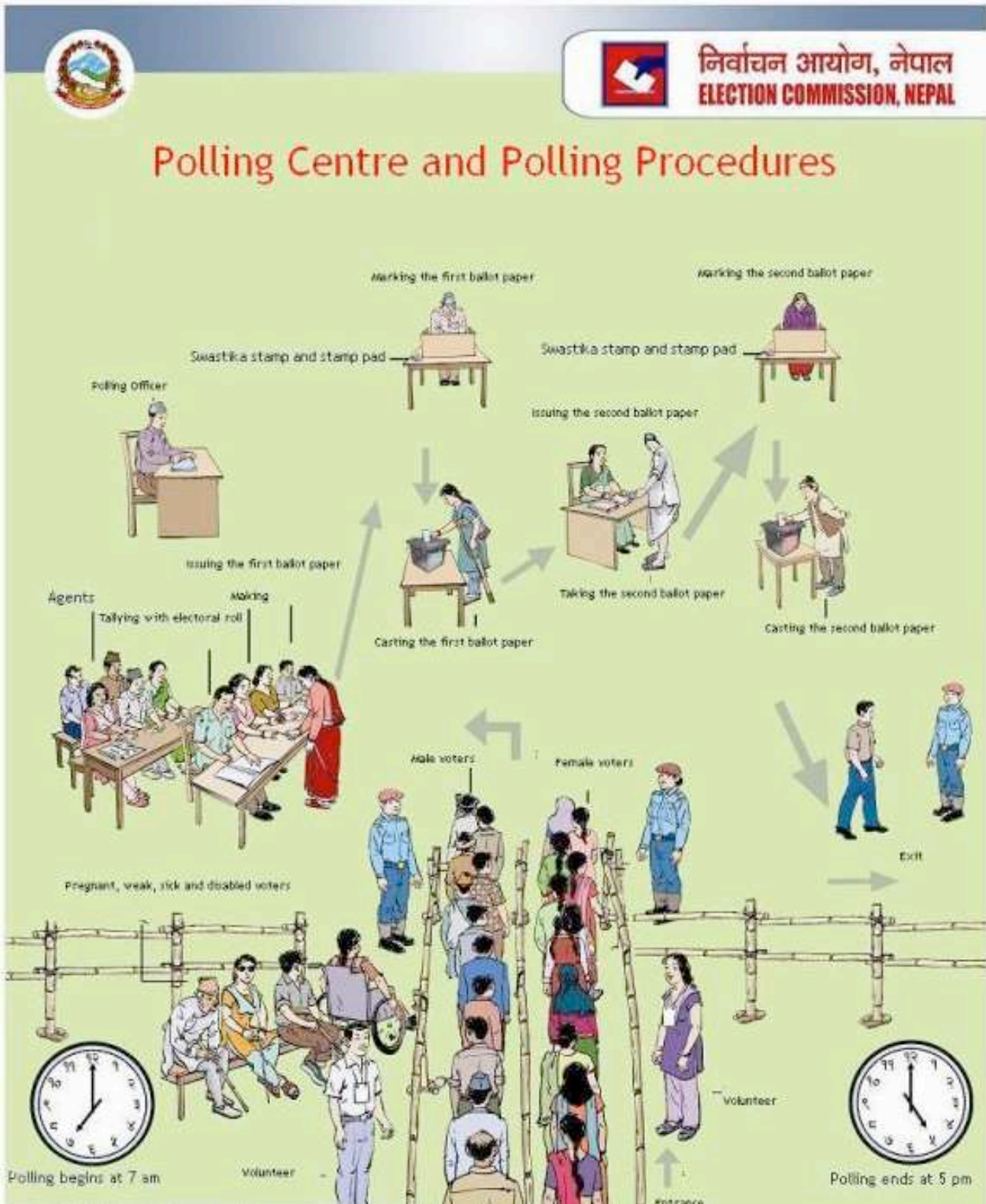
5.3 Polling Materials

Each Polling Station should receive:

- sufficient ballots for each type of election for the number of voters registered at the station, plus 10% additional to replace spoiled ballots;
- Two ballot boxes for each polling station;
- An electoral roll for each polling station;
- A list of voters and their serial numbers to post outside the Polling Station;

- A ballot marker and stamp pad for each polling screen;
- Official indelible ink for marking fingers;
- Mulchulka Deed forms, permits, polling journal;
- Envelopes for report forms, and for the return of used, unused, and spoiled ballots;
- special seals for the ballot box.

Polling Station Setup



5.4 Polling Station Security

There will be several security officers assigned to each polling station, with the total number dependent on the perceived level of threat to the process in the area. Security Officers will ensure orderly queues, watch the ballot boxes, and in general be responsible for maintaining order at the station, under the direction of the Polling Officer.

5.5 Admission to Polling Station

The only people permitted in the Polling Station on election day are:

- The Polling Officer, Assistant Polling Officer, and polling staff assigned to that station.
- Voters assigned to that station who are in the process of casting their ballot.
- Persons assisting disabled voters, with the permission of the Polling Officer.
- Candidates, or agents for the candidates and parties competing.
- Persons with permission from the Election Commission, Returning Officer, or Polling Officer, including observers accredited by the Election Commission.

6 THE ELECTION PROCESS

6.1 Before the Polling Station Opens

The Polling Officer and polling staff will arrive at the Polling Station at least one half hour before the commencement of polling. The Polling Officer and his assistants will arrange the furniture in the Polling Station to ensure a smooth flow of voters through the station, and will ensure that the polling screens or compartments are erected in such a way that every voter can mark and fold their ballots in secret. The Security Officers will use ropes or bamboo sticks to form separate queues for men and women outside the station. An Assistant Polling Officer will post a voter's list (and other official notices) outside the Polling Station.

The Polling Officer will admit candidates, agents, and non-partisan observers to the Polling Station as they arrive, and issue them a permit. Prior to the opening of the Polling Station the Polling Officer will sign and affix a paper location label to the inside and the outside of each ballot box that lists the District, constituency number, VDC or municipality, and name and number of the Polling Station. On the outside of one box the Polling Officer will affix a sticker with the number 1 on a blue background indicating the ballot box for the constituency election, and a number 2 on a red background indicating the box for the proportional representation election. Each ballot box has a unique serial number, which the Polling Officer will record with relevant details in the Polling Station journal.

The Polling Officer will show the empty ballot boxes to any candidates, agents or observers present, then close the boxes, tie the six locking loops together with blue thread then affix his wax seal to the knots in the thread. Candidates and agents, if they wish, may also affix a seal to the ballot box at this time. When the ballot boxes are closed and sealed, the Polling Officer will fill in and sign a Mulchulka Deed (Form 42), and request that any candidates or agents present also sign the Deed. The ballot boxes will be placed so that they are easily accessible to voters, and within sight of polling agents and observers.

Next the Polling Officer will open one at a time the sealed packages of ballot papers, in the presence of any candidates, agents or observers present, then fill in a Muchulka Deed (Form 43) for each type of ballot. (Ballot papers for the constituency election will be light blue, and

those for proportional representation election will be light red.) Then the Polling Officer will sign each ballot in the space provided (a signature stamp may not be used).

Observer Note: You should arrive at your first polling station by about 6:30 AM on Election Day, so that you can observe preparations and the opening of the poll. Make sure you bring your accreditation card, and if you have an organization hat or t-shirt you may want to wear that as well. You should also remember to bring this manual and a pen.

Record the number and location of the polling station on your observation form. Check to make sure that all of the required polling materials are present at the polling station. The most important are the voter's list, indelible ink, and the ballot papers. Make a note of the total number of ballot papers received. Ensure the ballot box is empty before locking, that it is sealed securely, and placed so that the slot in the top of the box is clearly visible. Before polling begins you should check inside the voting compartments to ensure that no campaign literature or posters have been placed inside, and ensure that the compartment has been erected so that no polling station staff, party witnesses, observers, voters, or other people can see a voter mark their ballots.

Stay at least twenty minutes at your first polling station after the opening of the poll, so that you will have a sense of how the process is going, before moving to another polling station.

6.2 The Opening of the Poll

Polling should commence at 7:00 am. When the Station is opened the Polling Officer will fill in a Mulchulka Deed, sign the form, and then request that candidates and agents present also sign the form. Two Security Officers posted at the entrance to the Polling Station shall control the flow of voters into the Station, so that good order is maintained.

6.3 The Verification of the Voter's Identity

As a voter enters the Station they will go to the ID checker or verifier, who will ask their name and address, and find them on the electoral roll. The verifier will then announce the name of the voter so that candidates or agents present can hear it. If no objection to the voter is made by any candidate or agent present, a tick mark will be made opposite the voter's name in the electoral roll. If there is a minor error in the spelling of the voter's name or in the voter's other details, the ballot may still be issued as long as the Polling Officer is confident the voter is the person mentioned in the list.

6.4 Objection to the Identity of a Voter

If an objection to a voter is made by a candidate or agent, alleging that the person is seeking to receive a ballot paper by impersonating another voter, the candidate must deposit Rs. 50 with the Polling Officer, who will hold a summary inquiry and make an immediate decision. The Polling Officer will record the details of the objection and his decision in the minutes book. If the objection is upheld, the deposit will be returned immediately, but if the objection is denied, the deposit will be forfeited, and delivered to the Returning Officer for deposit in the Consolidated Fund.

Observer Note: Position yourself so that you have a clear view of the entire polling station, including the ballot box. Ensure that no unauthorized people are loitering in the station, and that no one, including polling staff, is trying to influence voters, either verbally or through signs.

When a voter is identified on the list, the polling official should announce their name clearly, so that it can be easily heard by polling agents and observers. In Nepal, this is the primary control to prevent impersonation. If any voters are challenged while you are at a polling station, or if polling agents or observers report that there have been challenged voters prior to your arrival at a station, tick the appropriate box on your form, and record the circumstances in the space for additional comments, or on another sheet of paper.

6.5 The Application of Indelible Ink

After the verifier has ticked the electoral roll opposite a voter's name, the voter will move to the next official, who will check the voter's left thumb for signs of indelible ink. If ink is detected, indicating that the person has already voted, they will not be allowed to vote. If no ink is detected, the official will apply indelible ink to the joint of the nail and flesh on the thumb of the left hand, and the voter will proceed to the ballot issuer.

* Observer's Note: Confirm that the polling station staff checking to see if fingers have ink on them, and that no one who already has ink on their thumb is allowed to vote. Also ensure that every voter allowed to vote is marked with the indelible ink before being issued a ballot to prevent multiple voting, and that the ink mark is made so that it crosses the cuticle and nail. Confirm with polling station staff that they received and are using the official ink, and not a substitute.

6.6 Issuing the Ballot

After the voter's finger has been marked with the indelible ink, the voter will move on to the first ballot issuer, who will direct the voter to sign the counterfoil² of a ballot paper for the constituency election³, and then will tear the ballot from the ballot book, fold the ballot in half and then in half again, unfold the ballot and give it to the voter. The signature of the Polling Officer should be visible when the ballot is folded.

* Observer's Note: The signature of the Polling Officer on the ballot is an important security device designed to prevent people from bringing false ballots from outside the polling station. Unfortunately this measure, designed to prevent one type of ballot fraud facilitates another. Because ballots without a signature will be ruled invalid during the counting process, a corrupt polling team could easily disenfranchise voters perceived to hold a particular political orientation by issuing them unsigned ballots. For these reasons, it is important for the observer to confirm that every ballot issued bears the signature of the Polling Officer.

6.7 Casting the Ballot

The voter will then proceed to the voting compartment, and use the stamp pad and the vote indicating stamp containing the swastika sign (卐) to mark in the box containing the symbol of the candidate or party of their choice. The voter will then re-fold the ballot paper in the

² A counterfoil is the numbered paper stub left in the ballot book when the ballot is torn from the book.

³ Currently, the Manual suggests that only one ballot will be given at a time. This is a very problematic and unnecessary provision, and we should do all we can to reform it prior to the election day.

manner in which it was previously folded, so that the Polling Officer's signature is visible, and leave the voting compartment. After casting the first ballot the voter will go to the second ballot issuer for a proportional election ballot and repeat the process. After depositing the second ballot in the appropriate box the voter must immediately leave the polling station.

Observer Note: Confirm that the voters are only putting one ballot in each box.

Estimating Voting Efficiency: If there is a queue at the station, so that the station is operating at maximum capacity, it can be interesting to count and record the number of voters who finish the process in one minute (count for five minutes then divide by five). These totals can later be compared with results from other polling stations, or from your colleagues in other regions. Significant differences in voters per minute could be caused by a number of factors, including: differences in quality of training provided to polling station staff; differences in average education levels of staff and voters (often seen in urban/rural comparisons); time of day (later in the day, as staff get more proficient, their processing speed increases); or in some cases, deliberate delays intended to reduce the overall vote from a particular area. If your team decides to do this, set a schedule for sampling (for example, in the first half hour, at 11:00 AM, and at 3:PM) so that you can easily compare results.

6.8 Disabled Voters

The security officials and Polling Officer will accord priority in voting to disabled, pregnant, aged, sick or weak voters. Normally, only one voter is allowed in the polling compartment at a time, but if a voter is blind or incapacitated so that he cannot cast a ballot without assistance, the Polling Officer will allow a companion to assist the voter, or may personally assist the voter if requested..

6.9 Tendered Ballots

If a voter comes to the station and finds that someone else has already voted in his or her name, that person may be entitled to cast a tendered ballot. First, the voter must provide the Polling Officer with some written evidence of his identity (identity card, citizenship certificate, etc.). If, on the basis of the evidence, the Polling Officer is confident that the claimant is the real voter, the Polling Officer will make a copy of the identity document, and record his decision in the polling journal. The Polling Officer will then give the voter two ballot papers, which will be marked in the normal manner. After the voter has marked the ballots, they will be returned to the Polling Officer, who will place them in special envelopes for Tendered Ballot Papers.

Observer's Note: When arriving at a polling station, ask how many voters have requested tendered ballots. Significant numbers of tendered ballots at a Polling Station are a clear indication that a systematic effort to cheat may be occurring. Observers should pay particular attention to the identification process, the checking of the fingers for ink, and the inking process. The total number of tendered ballots should be recorded on the observation form, and if either is unreasonably high, the circumstances should be described in detail in the comment section of the form.

6.10 Closing the polling station

The Polling Station will close at 500 pm If some voters are still on queue they will be allowed to continue the process, but no one else will be allowed to join the queue. Even if no voters are present at the Station, it may not close early. It must remain open until 5:00 pm.

Observer Note: Please ensure that you arrive at a polling station *before* 5:00 pm so you can observe the entire closing process. If your observation route is a loop, you may consider returning to the polling station you opened in the morning to observe the closing. Confirm that voters who were in the queue at 5:00 are allowed to vote.

7 AFTER THE POLL

7.1 Sealing the Ballot Boxes

As soon as the poll has closed and the last person has voted and left the Station, the Polling Officer shall, in the presence of agents and accredited observers, close the slits on the ballot boxes and seal the slits with the orange security seal. The unique serial number of the seal for each box will be announced then recorded in the polling journal. The Polling Officer will then fill in a Muchulka Deed, sign the deed, and ask any candidates or agents present to sign the deed.

7.2 Ballot and Document Inventory

After sealing the ballot boxes, the Polling Officer will count the unused ballots he has signed, the unused ballots he has not signed, and any ballots that were spoiled or returned by voters. Each type of ballot will then be placed in a special envelope, and the quantity recorded on the ballot inventory form (Form 55). The used ballot books containing the counterfoils, the electoral roll, the tendered ballots, the polling journal and the official forms will also be placed in separate envelopes.

The Polling Officer will then seal each envelope with his official wax seal, and invite candidates or agents to seal them as well. Finally, after all of the electoral materials have been sealed, the Polling Officer will fill in a Muchulka Deed (Form 56), sign the deed, and ask any candidates or agents present to also sign the deed. If polling agents are unwilling to sign, or there are no agents present, the Returning Officer can ask two other people to sign the form.

Observer's Note: When polling is complete, the verifier or Polling Officer should count the number of names ticked on the electoral roll, and announce the total number of voters who cast ballots at the Station. Record this figure in the appropriate space on your observation form. As totals for each type of unused ballot (signed, unsigned, and spoiled) are announced, record the totals in the appropriate spaces of the observation form. To perform a ballot reconciliation, add the total number of unused ballots to the total voters ticked on the electoral roll, plus the total number of tendered ballots (if any), and the sum should equal the total number of ballots received at the Station. If there is a difference of more than a few votes between these two numbers it is clear evidence that some form of cheating has taken place, and the details should be recorded in the comment section of your observation form.

7.3 From the Polling Station

After the Polling Officer has sealed the ballot boxes and the envelopes containing the unused ballots, tendered ballots, and electoral documents, the Polling Officer will deliver them to the

constituency Returning Officer at the District Election Commission Headquarters. Candidates and agents may accompany the ballot boxes to ensure security, and when it is stored they may sleep with the box, as long as they do not touch it. It is not specifically mentioned, but it seems likely that observers will also be permitted to accompany the boxes.

8 VOTE COUNTING

8.1 Counting Schedule

After delivery to the District headquarters by the Polling Officers, the constituency election and proportional representation election ballot boxes will be stored separately by the Returning Officer until he is ready to commence the counting process. As soon as all of the ballot boxes for the constituency have arrived, the Returning Officer will publish at his office a notice setting out the date, time and place for counting votes. If sufficient space is available, both elections will be counted at the same time, but if not, then the constituency election will be counted first. Once counting commences, it will continue 24 hours a day until completed. If re-polling is to be held at any polling station in the constituency, counting will not commence until re-polling is complete and the ballot boxes have been delivered.

8.2 The Counting Center

The Returning Officer should establish the counting center in a building with adequate natural light, and space to accommodate counting teams, political agents and observers. If natural light is not available, or counting will continue after dark, the Returning Officer must ensure that there are sufficient lamps; and where light is provided by electricity, that emergency lighting is available in case of power failure. The Returning Officer should ensure that seating is available, and that the room can be set up so that observers and agents, who will be positioned behind a fence or line, can have a clear view of the proceedings.

Only accredited agents and observers and counting center staff are allowed inside the counting center during the count, but during the course of counting the Returning Officer will from time to time either post a notice or announce to local people outside the center the progress of the count.

8.3 Commencement of Counting

The Returning Officer will begin the counting process at the time and place specified in the posted notice, regardless of whether or not there are any polling agents present. Before counting begins, the Returning Officer will explain the counting process to candidates or polling agents present at the counting center. The Returning Officer will then prepare a Muchulka Deed (Form 4) and ask any candidates or agents present to sign the form. Next, the ballot boxes will be examined to ensure there are no broken seals, and then to verify the serial numbers on the plastic seals and ballot boxes match those issued. After completing the inspection, the Returning Officer will prepare another deed (Form 6), and if any agents or candidates want to add comments on the condition of the boxes they may do so.

8.4 Ballot Reconciliation

The first step in counting is called reconciliation, and is a process whereby the number of actual ballots in a ballot box is compared to the number of voters who voted at that station. If the numbers differ (for example, if there are more ballots in the box than voters) it is evidence that some form of cheating may have occurred. To perform the reconciliation, a ballot box will be unsealed and emptied on to a table. The ballot papers will be unfolded and placed face

down on the table, then counted into packets of 50 or 100 and bound with a rubber band or paper clip. Then the packets and remainder will be counted to determine the total number of papers in the box, and this number will be compared to the number of recorded voters at the particular station.

If the numbers do not match, the ballots will be re-counted. If they still do not match, but are off by just a few, and the Returning Officer believes the discrepancy is due to error rather than malpractice, the difference will be noted in the appropriate form, and the process will continue. If the difference is large, or if the Returning Officer has some other reason to suspect that the ballots in the box may not be genuine, the box will be set aside and dealt with at a later time.

8.5 Counting the Ballots

After the reconciliation process has been performed on several ballot boxes from different VDCs or municipalities, the ballots will be mixed together and then counted. The mixing is a security feature intended to ensure that the polling result from an individual station is secret (but this security feature is at least partially undermined by the fact that each ballot carries the signature of its original station's Polling Officer). After mixing, the ballots are examined one by one, in full view of the party or candidate agents present, and then sorted into piles by party or candidate choice. During the sorting process ballots are assessed, and invalid ballots placed in a separate pile. Next the ballots are counted and the results of the counting, and the number of invalid ballots, are recorded on the appropriate form. This process is then repeated until all ballots have been counted.

8.6 Invalid Ballot Papers

A ballot paper will be deemed invalid if:

- a) If it does not bear the signature of the concerned Polling Officer;
- b) If the ballot is not marked, or if it is marked with anything other than the official swastika stamp;
- c) If the mark is made in a way that it is impossible to know if the official stamp was used;
- d) If the ballot is marked anywhere except in the box containing the symbol of a candidate or a political party;
- e) If the mark indicating the vote has been placed so that it is impossible to determine definitely which candidate or political party the vote is intended for;
- f) If the ballot is marked for more candidates than are to be elected;
- g) If the vote is cast with a ballot paper other than the ballot paper specified for the concerned polling station;
- h) If it is not the ballot paper that is issued by the Election Commission;
- i) If it is a ballot that was to be used in another election constituency.

8.7 After the Counting

After counting is complete, the valid and invalid ballots will be sealed in special envelopes signed by agents present. And the Returning Officer will prepare a deed that should be signed by agents present. Before the sealing takes place, an agent may, with cause, file an application (Form 12) for a full or partial re-count of the votes. If the Returning Officer feels the application has merit, the re-count will be conducted immediately. If the Returning Officer finds the application without merit, he will provide the applicant with a notice (Form 14) to that effect.

Polling results for the constituency will then be posted outside the center, and a copy of the results, along with other forms, will be sent to the Election Commission. The winning candidate for the constituency race will be given a certificate (Form 19). In the event of a tie, the Returning Officer will determine the winner by drawing lots.

Observer Note: Ensure that the forms are filled in accurately, and that observers and party agents are allowed to record the results. Record the results of the count on your observation form. You may also want to take a photograph of the posted Vote Count Report. Please complete the rest of your observation form, including the overall evaluation section, and deliver it to your coordinator as soon as possible.

Thank you for your contribution and commitment to democracy in Nepal!

NOTES

Nepal CA Counting Observation Form					
Observer Name:		District:			
		Constituency:			
Instructions		Counting Station No:			
Read the questions carefully. Put an "x" in the appropriate box. If you cannot answer the question, or it is not relevant, leave it blank. If violations or irregularities occurred, please briefly explain them in the comment section on the back of the form.					
Counting Process		Constituency No.		Constituency No.	
		Yes	No	Yes	No
1	Did the Returning Officer announce in advance the date, time and place for counting?				
2	Were all ballot boxes for the constituency received before counting started?				
3	Was the total number of boxes counted equal to the number of polling stations in the constituency?				
4	Were any of the ballot boxes opened or damaged?				
5	Were the seals still intact and did the number correspond to the documentation?				
6	Have any boxes been put aside because of suspicious breakage or mismatching sequence numbers?				
7	Were ballots from two or more ballot boxes mixed together before counting started?				
8	Were the constituency ballots counted first (if there is insufficient space to count both simultaneously)?				
9	To the best of your knowledge has counting been conducted in a continuous process 24 hours a day?				
10	Were observers and party agents able to observe the entire counting process?				
11	Were party agents and observers allowed to independently record the election results?				
12	Were invalid ballots considered valid, or valid ballots considered invalid?				
13	Were the votes accurately recorded?				
14	Were there any party agents present who were not willing to sign the Vote Count Certificate?				
15	Were the used, unused, and spoiled ballots properly reconciled?				
Overall Assessment of the Counting Processes					
Instructions for this Section: Put an "X" next to the statement that best describes your assessment of the election environment and polling process for the area you observed. If your response is "poor" or "very poor", please provide further explanation in the comment section.					
	Very Good – no incidents or irregularities were observed.				
	Good – a few incidents or irregularities were observed that had no significant effect on the integrity of the process.				
	Average – many incidents or irregularities were observed that had no significant effect on the integrity of the process.				
	Poor - incidents or irregularities were observed that could have significantly affected the integrity of the process.				
	Very Poor - incidents or irregularities occurred which so affected the integrity of the process as to render the results from one or more counting centers invalid.				

