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What makes for peaceful post-conflict elections?

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What makes for peaceful post-conflict elections?

Lessons from the 2007 Sierra Leone Presidential and Parliamentary Elections and the 2008 Nepal Constituent Assembly Elections

List of Acronyms

APC	All People's Congress
APF	Armed Police Force
CA	Constituent Assembly
CPA	Comprehensive Peace Agreement
DEAN	Democracy and Elections Alliance Nepal
EMB	Elections Management Body
EUEOM	European Union Elections Observation Mission
FDFA	Federal Department of Foreign Affairs (Switzerland)
FES	Friedrich Ebert Stiftung
FPTP	first-past-the-post
ICG	International Crisis Group
IDEA	Institute for Democracy and Electoral Assistance
NC	Nepali Congress Party
NDI	National Democratic Institute
NEC	National Elections Commission
NP	Nepal Police
PMDC	People's Movement for Democratic Change
PPLC	Political Parties Liaison Committee
PPRC	Political Parties Registration Commission
RUF	Revolutionary United Front
SPA	Seven Party Alliance
SLPP	Sierra Leone People's Party
TCC	The Carter Center
UDMF	United Democratic Madhesi Front
UCPN	Unified Communist Party of Nepal
UNAMSIL	United Nations Mission in Sierra Leone
UNMIN	United Nations Mission in Nepal
UNDP	United Nations Development Programme
USIP	United States Institute of Peace

Abstract

Elections play a crucial role in post-conflict peace and democratization processes as, among other factors, they provide an answer to the question of who is to legitimately rule the country. However, because of the competitiveness arising from their central role in allocating power they can also represent windows of vulnerability where deeply rooted societal conflicts can come to the surface. This working paper focuses on two post-conflict elections (Sierra Leone 2007; Nepal 2008) which, despite perceived high risks, did not result in widespread violence or a return to armed conflict.

The aim of these case studies is to identify the factors and measures that may have played an important role in contributing to this outcome. Each of the two case studies first outlines the risks associated with the elections and then analyzes the violence and conflict preventing factors. The paper shows that that the context greatly influences the type of measures that can be taken in such situations, but that there are also some similarities in the two cases studied. In particular, it appears that that the credibility of the elections, largely attributable to a good electoral administration, was an important factor in both Nepal and Sierra Leone. Furthermore, the inclusion of all key stakeholders in decisions regarding key electoral institutions helped to diffuse potential conflict. The study also shows that in both cases the international community played an important role by providing financial, logistical and technical support and by pressuring certain important actors to comply with the rules.

Introduction[1]

Elections play a crucial role in post-conflict peace processes. They provide one answer to the fundamental question – often a major cause of internal armed conflict – of who is to legitimately rule the country. Successful electoral processes are a "critical means of social conflict management through peaceful deliberations and decision-making processes in which 'winners' carry out promised policy initiatives and programs and 'losers' are given the opportunity to serve as a loyal opposition, and to try again in future competition." (UNDP 2009, 1) Nevertheless, because of their role in allocating power, elections can also represent a catalyst for violent conflict. While root causes of political conflict often precede the electoral process, failed elections can be the spark that leads to political violence.

Policy makers aiming at supporting the establishment of peaceful, democratic states are thus confronted with the question of how to reduce the risk of election-related violence and conflict. Research on this question has so far mostly been directed at understanding and analyzing the causes, actors, and dynamics of these destructive phenomena. However, despite a recent surge in literature, little consensus exists as of now regarding the factors fuelling violence in the context of elections[2]. The aim of this paper is to contribute to a growing literature on the possible measures that can be taken by policy makers to prevent or mitigate the effects of electoral violence and conflict[3] by carving out the lessons learned from two elections that took place in a post-conflict context: the 2007 presidential and parliamentary elections in Sierra Leone and the 2008 constituent assembly elections in Nepal. More specifically, the goal of this research is to suggest hypotheses regarding the factors that may have contributed to the peaceful conduct of the elections and to put forward measures that appeared to be effective in these particular cases.

Both these elections proved the skeptics and pessimists wrong. The presidential and parliamentary elections in Sierra Leone took place in a relatively peaceful atmosphere despite widespread fears to the contrary. The Constituent Assembly elections in Nepal, while overshadowed by violence during the campaign phase, did not result in a disruption of the peace process but rather strengthened it. Both the Sierra Leone and the Nepal elections led to a significant shift in power, with opposition parties gaining most votes, which can be interpreted as an indicator of their integrity (see Collier and Vicente forthcoming)[4]. While the Nepal and Sierra Leone elections share these common features, they also differ in many respects. In addition to the obvious important differences between the two countries due to their different regional context, important factors linked to the electoral process itself differed from one case to the other. In particular, the timing of the election relative to the preceding armed conflict, the type of election (parliamentary and presidential in Sierra Leone versus constituent assembly in Nepal), the electoral system, the stakes of the election and the main challenges in their organization were different in each of these elections. Because of these specific characteristics of the two cases, it is particularly interesting to study

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2 For some primary attempts to identify and classify the risks of election related violence see Fischer (2001), UNDP (2009) Höglund (2009) Alston (2010).

3 See notably UNDP (2009); Frazer and Gyimah-Boadi (2011), Global Commission on Elections Democracy & Security (2012); Kammerud (2012).

4 The argument is that incumbents can more easily resort to bribery and ballot fraud to win the election. Hence, a shift in power suggests that these tactics were little used or did not prove effective.

them simultaneously, which enables us to compare the factors identified across cases and to formulate lessons learned in more general terms. From that perspective, our analysis shows that the context greatly influences the type of measures that can be taken to prevent election-related violence, but that there are also some similarities between the two cases studied. In particular, it appears that that the inclusion of all stakeholders in decisions regarding key institutional arrangements for the conduct of the election was an important factor in both Nepal and Sierra Leone. The study also shows that in both cases, the electoral process was perceived overall as credible, notably because the standard procedures and recommendations were generally followed. In that respect, the international community has played an important role by providing financial and logistical assistance as well as by being involved in the training of election and security officials. Additionally, the international community has also played a role showing its commitment for fair elections and by insisting on compliance with the rules.

Completing this general picture characterizing both elections, each of the two case studies also identifies a series of specific characteristics and factors that can be relevant in the context of post-conflict elections. In Nepal, unlike in Sierra Leone where the system was purely majoritarian, the higher proportionality of the mixed electoral system and the associated quotas seems to have played an essential role. In Sierra Leone, the reform of the security sector contributed to a peaceful process, while such institutional change had not occurred yet in Nepal.

The research is structured as follows. First, we present a short overview of the literature on elections and violent conflict. We then conduct a case study of each of the cases separately before turning to a discussion of the findings from the two cases in parallel. The research strategy is the same for both cases. For the study of each of these cases we have relied on an analysis of the secondary literature – be it academic, election observation reports or other forms of documentation – as well as some primary sources such as press articles and legal documents[5]. This research strategy allows us to identify the most important factors thanks to the triangulation of different sources of information. The results of the analyses are presented following a similar structure for both cases. First, we provide descriptive information on the elections and their background. In a second step, the nature of the most visible threats to a peaceful conduct of the elections will be described. This allows us to assess the magnitude of the risk related to these elections and also what specific threats a particular factor or measure might have dissipated. Third, the various lines of explanation for the peaceful conduct of the elections themselves will be reviewed. Both cases are discussed in the last section, which summarizes the main findings of the study and highlights the lessons learnt.

5 While the diversity of documents analyzed gives a good overview of the various stages of the electoral process in these two cases, there are some information asymmetries. In particular, many more reports and sources are available on the role of the electoral commission of Sierra Leone than on that of Nepal. We would also like to point out that the information published may be selective with some aspects of the electoral process being well documented (e.g. the assessment of election day which is usually well described in observation reports) and some others not at all, especially if they relate to sensitive issues such as, for example, negotiations. Therefore, we may have missed some aspects that played an important role but were not covered in the extensive literature on which this report is based.

1
Elections and violent conflict: a short overview

Several authors and institutions have attempted to develop analytical tools to assess the complex relationship between elections and violent conflict during the first decade of the 21st century, but progress on the development of a systematic, comprehensive theoretical framework has nevertheless been slow. As regards the definition of election-related violence, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, in his 2010 report, provides a helpful overview of the proposals made by scholars. One aspect of the definition on which there appears to be general agreement is that election-related violence distinguishes itself from other political violence in that violence occurs in relation to an electoral process with the goal of influencing the electoral process and its outcomes (see Alston 2010). The factors of election-related violence are linked to both conditions pre-existing the electoral process and the elections themselves (see e.g. International IDEA 2010, which distinguishes between 'external' and 'internal' factors). In his review of the literature of election-related violence, Alston shows that the existing case studies of particular elections point to a wide range of different causes or enabling conditions of election-related violence including various individual benefits of holding public office; pre-existing political or ethnic rivalries; patronage links; existence of militias and weakness of the state, "lack of faith in the electoral commission or its independence; lack of awareness of the electoral process; political repression; forced disenfranchisement of opponents; poverty; lack of funding for the electoral process; and incitement" (Alston 2010, 11).

There have been attempts to construct a framework for election related violence that would encompass all these and other factors. For instance, Fischer (2002) developed a typology of election related conflict based on the different stages and events of the electoral process. He distinguishes between identity-, campaign-, balloting-, results-, and representation conflicts. Another approach has been that developed by Sisk and Spies (UNDP 2009), who identify three elements to account for the root causes of election violence: the "context of democratization or political change in which violence occurs," "the effects of electoral system choice on conflict dynamics" and "the nature and pattern of political mobilization." They go on to list 51 "analytical indicators". In assessing the conditions enabling electoral violence, Höglund (2009) distinguishes between three areas in which the "precipitants of violence" can be found: the "nature of politics", the "nature of elections", and "electoral institutions". She also distinguishes between enabling conditions and triggers. Finally, taking a different approach, Brozus (2011) emphasizes the actors' motivations to perpetrate violence. According to him the main goal of election-related violence can be either to manipulate elections or to delegitimize them. In his conceptualization, actors will use violence depending on the perceived costs and expected benefits of their actions and their consequences.

While each of these conceptualizations provides interesting analytical tools for the study of election-related violence and shows the complexity of this process, their application for specific case studies remains a challenge mainly because of a lack of consensus and generalization regarding what and who causes election-related violence. Furthermore, the frameworks generally do not make systematic and thorough reference to empirical evidence. The problems associated with the frameworks may be the cause of why there are, to the best of our knowledge, no case studies that take any of the suggested frameworks as reference.

With regard to the measures that can be taken to prevent election-related violence, even less systematic knowledge has been produced[6]. One of the reasons for this is the limited information available to researchers on this particular topic, which is due to its sensitivity. As Darnolf puts it in relation to international electoral assistance: "implementing organizations and individuals rarely publish any reports about their work, or speak in public" (Darnolf 2011, 378).

What emerges from this short overview of the existing literature on the genesis of conflict in the context of elections is, on the one hand, the multiplicity of factors that play a role at the various stages of the process and, on the other, the lack of a comprehensive conceptual framework for their analysis. Based on this observation, the two case studies presented in the following sections draw on the existing literature but are not bound to a single conceptual framework.

6 See however the UNDP elections and conflict prevention guide (2009) that comprises seven case studies, Elkit (2011), Svåsand (2011) or contributions included in Iff (2011), and the book on preventing electoral violence in Africa edited by Frazer and Gimah-Boadi (2011).

2
Sierra Leone, 2007 Presidential & Parliamentary Elections

In the summer of 2007, Sierra Leone held its second national elections after the civil war. The first round of the presidential election and the parliamentary election were held simultaneously on August 11th and the run off presidential election took place on September 7th. The election resulted in a relatively peaceful change in power despite a high risk of violence.

Sierra Leone experienced civil war in the years 1991-2002, which resulted in the death of approximately 50'000 people and the displacement of a very large share of the population (see Abdullah 2004). In 2002, presidential and parliamentary elections were organized with significant international assistance and under the auspices of the UN mission (UNAMSIL). These first elections after the civil war saw the Sierra Leone People's Party (SLPP) gaining a comfortable majority in parliament and the presidency was won by the party leader Ahmed Tejan Kabbah, who already held this position following the 1996 election – before being removed from office by a military coup a year later.

Given that he had already served two terms as president – the maximum allowed by the constitution – Kabbah could not run in the 2007 election. The SLPP therefore had to select a different candidate for the presidential election. The two main figures of the internal competition for candidacy within the SLPP were the vice president Solomon Berewa, and Charles Margai, the son of Albert Margai, a former Prime minister of Sierra Leone. After it became clear that Berewa would emerge as the winner, Margai decided to create a new party: the People's Movement for Democratic Change (PMDC). This brought a third relatively large party into a competition that had traditionally been characterized by the dominance of two parties: the incumbent SLPP and the All People's Congress (APC). It is this latter party which won the 2007 election and its leader, Ernest Bai Koroma, became President.[7]

In the 2007 parliamentary election, the country used a first-past-the-post (FPTP) electoral system with single member districts. This was a change from the 2002 election in which, given lack of accurate census data after a long war period and thus the impossibility of drawing new electoral boundaries, a proportional electoral system was used, with each of the country's 14 districts being allocated 8 seats in the legislature, independently of their demographic weight. The return to a FPTP electoral system required new boundary delimitation and affected the distribution of seats. While generally a FPTP or "winner-takes-all" voting method tends to result in a greater disparity between the number of votes and the number of seats than proportional electoral systems, in this specific case, the return to FPTP increased the correspondence between votes and seats because the proportional system it replaced had been so flawed. No major change was made to the rules governing the presidential election, and in 2007, as in previous elections, a two-round system with two leading candidates participating in a 2nd round (if no candidate receives more than 55%[8] of the votes in the first) was used.

7 For a descriptive account and detailed results of these elections see: Ohman (2008) and Wyrod (2008).

8 This very high qualified majority in the first round of the presidential election – allegedly unique in the world (see Golder 2005) – already existed in the 1991 Constitution.

While the elections were held in a relatively peaceful climate, some tensions arose notably before and during the second round of the presidential election. There were clashes between the supporters of SLPP and ACP as well as between SLPP and PMDC voters in several cities (see NDI 2007). President Kabbah even threatened to declare a state of emergency if violence and intimidations were not stopped.[9] The tension also rose in the aftermath of the second round when the NEC decided to invalidate the results from 477 polling stations where ballot boxes had patently been stuffed as turnout was greater than 100%. As a majority of these were in the south and east, where a large proportion of SLPP voters were located, this decision was contested by Solomon Berewa's supporters. However, the SLPP candidate accepted his defeat and, even though members of his party legally challenged the NEC's decision, the tension did not rise any further and did not lead to widespread violence.

2.1 Threats to the Electoral Process

The election represented a risk because of a series of factors associated both with the organization of the elections themselves and more generally with the context in which they took place. In this section, we present these main factors and discuss their role by describing first the factors associated with the context and then those that are linked to the electoral process itself.

2.1.1 The potential re-mobilization of ex-combatants

With regard to the context in which the elections took place, several factors could be seen as potentially increasing the likelihood of a violent outburst. The recent conflict history in Sierra Leone could have negative consequences for several reasons. First, it influenced individual values and social norms: at the end of a decade-long armed conflict in which horrendous atrocities had been committed, violence was widespread and largely perceived as a legitimate means to achieve one's goals (see Steenkamp 2005). In that respect, the Sierra Leone case is emblematic as a "culture of violence" was actively generated by the RUF among the many young soldiers whom they enrolled by force and whom they accustomed and encouraged to commit violence: "brutality was encouraged and sometimes celebrated as a way to foster feckless loyalty to the Revolutionary United Front (RUF) and to reinforce rank-and-file capacity to kill and mutilate" (Maclure and Denov 2006, 126). Second, war also increased vulnerability in the population. In particular, one of the consequences of the civil war was the displacement of a very large share of the population, a small part of which was not able to resettle after the war[10]. This impacted the structure of social networks, leaving many in a precarious situation. After the war, many ex-combatants were also left with little hope for a better future, thus representing an easy target for re-mobilization by political actors. With the elections approaching, the three major parties (SLPP, ACP and PMDC) did indeed recruit ex-combatants to serve their political goals (see Kandeh 2008; Christiansen and Utas 2008; Africa Research Institute 2011).

9 See e.g. BBC news (28.08.2007): http://news.bbc.co.uk/go/pr/fr/-/2/hi/africa/6966339.stm [accessed 9 February 2012]

10 For the year 1997 for instance, UNHCR estimate the number of internally displaced people to be about 1,5 million, see: Internal Displacement Monitoring Centre (IDMC), Profile of Internal Displacement: Sierra Leone, 15 October 2003, available at: http://www.unhcr.org/refworld/docid/3ae6a6340.html [accessed 9 February 2012]

2.1.2 Corruption and patronage systems

Beyond the legacies of the war, other structural factors facilitated the mobilization of ex-combatants and more generally increased the risks associated with the election. The high level of corruption among political actors (see Kandeh 2008) meant that the potential gains from being elected were high and that political parties had, and were ready to invest, financial means in the political campaign, notably in hiring ex-combatants with the hope of gaining votes. The important potential benefits from holding public office also increased the likelihood of resorting to other means – potentially violent – beyond democratically legitimate instruments as there was much to win or lose from being in power.

2.1.3 Political competition tightly linked to ethnic divides

In addition to the high stakes for individual politicians, it has to be noted that the identity-based political cleavages could also, to some extent, increase the risks of violence. Despite the fact that ethnicity did not play a major role in the civil war, identity based discourses could possibly be used by political actors in the context of elections. Indeed, the political competition in Sierra Leone is characterized by partisan alignments that are closely linked to ethnicity and which, to a certain degree, overlap with geographical cleavages. The electoral base of the SLPP is predominantly among the ethnic group of the Mende, who are more numerous in the south and east of the country, while ACP voters tend to be from the Temne and Limba, who represent the majority of the population in the North. Such a party system that is tightly linked to ethnicity tends to increase the risk for violence as it is predominantly based on identity rather than political programs (see Horowitz 1985, p 346 ff.). On the one hand such a party system is likely to reinforce ethnic fragmentation. On the other, and in particular when coupled with an FPTP, winner-takes-all system, minority ethnic groups have little chance of gaining a substantial representation through the electoral process and are therefore more likely to use violence as a means to achieve their goals (see Basedau and Moroff 2011, 207).

2.1.4 Potentially confrontational changes in the electoral system and electoral administration

With regard to the organization of the elections themselves, several sources of risk have to be pointed out. First, the electoral system used in the 2007 parliamentary election differed from that used in the previous election. While there was little debate about the choice of electoral system[11], its implementation, in particular the boundary delimitation process, was harshly criticized by some parties (see e.g. Jalloh 2006; Yamba 2006) who felt that they would be losing seats under the new rules. Indeed, one of the consequences of the electoral system change was that the least populated districts, notably those in the south of the country, would lose representatives as compared to the previous election, in which the demographic weight of each district was not taken into consideration. It is also worth noting that while the electoral system used in the 2007 election did provide a closer correspondence between the number of votes and the number of seats as compared to the previous

11 The change did not result from a reform but rather from a return to a previously agreed upon system after special provisions had to be adopted in the 2002 election because of a lack of census data that would allow delimiting constituencies.

election, one of its consequences was to increase the gender gap, as women tend to be disadvantaged in majoritarian electoral systems (seen Castillejo 2009; EUEOM 2007).

A second potentially destabilizing factor was the restructuring of the election management body (EMB). The institution responsible for organizing the elections is the National Electoral Commission (NEC). The 2002 National Electoral Commission Act gave the NEC the power to recruit its own staff, which had not been possible previously. This resulted in the restructuring of the commission that started in 2005 with the appointment of Christiana Thorpe at its head. One of the consequences of this restructuring was an important turnover in personnel as the formerly appointed civil servants were replaced by personnel hired directly by the commission. This measure has been considered as crucial in establishing the NEC legitimacy. In addition to the restructuration of the NEC, a new commission responsible for the party registration process was also created relatively shortly before the election. The role of the Political Party Registration Commission (PPRC) is to manage the party registration and to engage in mediation between political parties. While the constitution of 1991 already theoretically required the existence of a body responsible for the oversight of political parties that is independent from the NEC, the PPRC was only created in 2006 (see Jinadu 2011). It was thus the first time that this commission had to deal with the registration of parties and was, according to some observers, largely understaffed and underfunded (Jinadu 2011).

While the restructuring of the existing institutions and the creation of new ones were necessary and intended to increase their legitimacy, improve their capacity to organize the elections and clarify the role of the various actors involved, these transformations also conveyed some risks. In particular, the appointment of new staff[12] or the role of the new PPRC commission could be contested during the various stages of the electoral cycle. Moreover, both the NEC and PPRC had relatively little time to prepare the elections in which they were to play an instrumental role. The amount of tasks to be completed in a relatively short time was also very large taking into consideration that the NEC had to create new boundary delimitation and organize voter registration.

2.1.5 Logistical difficulties in organizing the elections

An additional factor cited in the various pre-election reports was the logistical difficulty of organizing the election. The NEC did not have all the financial resources it needed (International Crisis Group 2007a, p. 7). Observers were also particularly concerned that the timing of the election – which was to be held in the middle of the rainy season – would increase the difficulties in organizing the poll, particularly due to transportation difficulties (International Crisis Group 2007a, 7). The fears were particularly linked to the reaction of those who could not reach polling stations or to the potential delays this could have caused, which would hinder the credibility of the results.

12 While we did not find any documentation of tensions with regard to the partiality of the NEC prior to the elections, it appeared after the election that some members of the NEC commission were openly pro-SLPP (see Kandeh, 2008). In between the two rounds of the presidential election as well as after the announcement of the results, the commission was criticized for being pro-APC by some newspapers.

2.1.6 Unclear electoral law and inconsistent application

Observers also noted some drawbacks in the application of the electoral law that could lead to an electoral dispute. Indeed, President Kabbah only announced the date of the elections - which were at the time expected to be held on July 28th 2007 – in August 2006. This late announcement of the election date "triggered complaints from some civil servants. According to the 1991 constitution, civil servants must resign their positions 12 months prior to the polling day in order to run as candidates. As the date for the 2007 poll was declared less than a year before the elections, those civil servants that would otherwise have been interested in running for elective office could no longer file their candidacies within the constitutional timeframe" (National Democratic Institute 2007a, 4). As a result, the eligibility of some candidates was unclear. For instance, it is only a few weeks before the election that the Supreme Court confirmed the eligibility of Solomon Berewa after it had been challenged based on this law. It also appears that the law has been applied inconsistently (see Kandeh 2008, 609).

In sum, several lines of reasoning point to the fact that the 2007 elections were perceived as carrying an important risk for the emergence of violent conflict, which is reflected in the various pre-election reports that point out the numerous threats to the peaceful conduct of elections. In particular, structural factors linked to the enduring effects of the civil war, which created a potential for re-mobilization, the high level of corruption and thus important potential gains (or losses) from being elected (or not), the changes in the electoral system and in the electoral administration that could lead to dispute, the lack of clarity with regard to the application of some laws, the difficulties linked to the logistical organization of the elections, all represented important threats to the peaceful conduct of the elections.

2.2 Factors Contributing to Relatively Peaceful Elections

There are many factors that may have played a role in preventing violent conflict during the various stages of the electoral cycle. In this section, we discuss some of the main factors that have been identified as potentially playing a role in that process.

The literature provides different readings of the relatively peaceful outcome of the 2007 elections in Sierra Leone, but there seems to be a general agreement that high levels of perceived legitimacy of the elections played a crucial role in avoiding the conflict (see Ohman 2008; Wyrod 2008). Key to this legitimacy was the fair organization of the elections which was possible thanks to the involvement of several institutional actors. In particular, an important role was played by the NEC, by the PPRC as well as by the security forces within the country.

2.2.1 Political cleavages did not overlap with previous conflict lines

The main political cleavages in the 2007 elections were not overlapping with the cleavages present during the civil war. One of the main actors of the civil war – the Revolutionary United Front (RUF) – disappeared from the political scene in Sierra Leone and did not get a single seat in the parliament in the 2002 election, nor did it participate in the 2007 election. As a result, the main parties competing in the election cannot be directly linked to the actors involved in the armed conflict. For instance, the two major parties hired commanders from the same rebel group (see Africa Research Institute 2011). In addition to this, the length of the previous conflict might also have in a way prevented further violence as many actors could feel a "conflict fatigue" and disillusionment with the political elites. In their study of remobilized ex-combatants during the 2007 election, Christiansen and Utas (2008, 536) show that while ex-combatants were ready to join security squads during the campaign and election, they did not trust politicians and were not likely to remain faithful should they not see benefits from their actions. As the authors put it: "Rather than blindly trusting the promises of presidential candidates, remobilized ex-combatants argued that politicians would continue to fail them – as had happened during the war and again when the peace was declared."

2.2.2 The positive role of the Electoral Commission

Regarding the NEC, its actions were almost unanimously applauded by observers of the elections (European Union Election Observation Mission 2007; National Democratic Institute 2007b; Department for international Development and UKaid 2008). Indeed, despite a difficult task, the NEC managed to organize the election efficiently and communicate about the election in a transparent and inclusive manner. Among the important achievements of the commission were the drawing of new electoral boundaries, the efficient and relatively comprehensive registration of voters, the good administration of the elections themselves and the transparent communication throughout the process. It has to be noted however that some irregularities also occurred, especially during the second round of the presidential election in which turnout was over 100% in several constituencies. The NEC took the decision to nullify the results of 477 voting centers. This was a courageous and contested decision. Most of these polling stations were situated in the SLPP strongholds, in particular in the south and the east of the country. This decision was not welcomed by SLPP who filed a complaint. However, taking this decision was important for the legitimacy of the election. The positive impact of the Commission's work is attributable to the following factors, some of which are directly related to the involvement of the international community. Among the most important factors were:

Personality and nomination procedure of the commission chairperson:
The commission is composed of five members who are nominated by the President and appointed by the Parliament. It is led by a chairperson and its four members represent the country's four regions. The members of the commission are meant to be apolitical. The nomination of commission chair followed consultations with all parties by President Kabbah. It was then unanimously approved by parliament. In addition to an inclusive nomination

process, the personality and experience of the chairperson gave legitimacy to her appointment and certainly also had an important influence on the commission's actions. A former nun, government minister and social activist, Christiana Thorpe had the confidence of most political actors and showed a very strong leadership throughout the election cycle. It is difficult to assess whether the gender of the commission chair influenced her ability to gain the trust of political leaders, but it is certainly worth mentioning that the five member commission included three women (Jinandu 2011).

Restructuring and personnel recruitment:
Following the local elections of 2004 in which important irregularities were documented[13], the NEC underwent a restructuring process which led to an important turnover in personnel both at the head of the commission and among the lower-rank employees. According to observers, the recruitment of staff has strengthened the NEC human resources with highly educated and competent people joining the commission (see International Crisis Group 2007a, p.6-7).

Collaboration and cooperation with other institutions:
The commission chairperson sat on the National Security Council as well as on the board of PPRC. This is illustrative of the fact that there has been a tight collaboration between the important institutions involved in elections, which enabled a good coordination and information flow. The NEC also tightly collaborated with the UN and together with domestic stakeholders: "Throughout the electoral process, the Executive Representative of the Secretary-General, Mr. Victor Angelo, and the NEC Chairperson jointly chaired meetings bringing together domestic and international stakeholders" (ACE 2007). In addition to this, the NEC also established a Political Party Liaison Committee (PPLC) whose main purpose was to communicate and explain the NEC decisions to the political parties. The PPLC was also able to gather feedback from political parties some of which was later taken into account by the NEC[14].

Efficient staff training:
the NEC hired 37,243 polling staff for the elections. This temporary staff was trained on the day before the election by Presiding Officers who had previously been trained at a 3-day workshop by the district officer (Commonwealth Observer Group 2007). A second training was organized ahead of the second round of the presidential election. While some observers highlighted that the training was planned too late given that the polling procedures were only ready by mid-July (European Union Election Observation Mission, 2007) or that the training was diverse in terms of quality depending on the polling station (Commonwealth Observer Group 2007), the generally professional attitude of the polling staff was welcomed in most observation reports.

Transparency and communication with the media:
The NEC had transparent communication with various actors during the electoral process. As stated above, the NEC established a PPLC, which

13 As noted by the International Crisis Group in its pre-election report: "The current body was set up after an IFES report on the 2004 local government elections detailed irregularities, including blatant ballot rigging by all parties, so extensive that IFES, donors and the government agreed to withhold publication and the UK Department for International Development (DFID) kept back part of its budget support for the government." (International Crisis Group 2007a, 6).

14 One such case reported in the EU observers' report: "Key changes to the election preparations were undertaken as a result of the PPLC consultations. In one such case the APC objected to the originally intended order of presidential candidates on the ballot paper for the presidential election, thus challenging a format with the SLPP candidate in the first position. The NEC subsequently changed the sequence on the ballot papers to accommodate the APC's demands by listing candidates in alphabetical order of their parties as in the previous elections." (European Union Election Observation Mission. 2007, 13).

enabled good communication with political parties. The NEC also held numerous press conferences and generally communicated clearly about the election. An example of measures that increased the transparency in the elections was posting a copy of the polling station result form outside of the polling station (see e.g. National Democratic Institute 2007b, p. 33).

2.2.3 The positive role of the Political Parties Registration Commission

Another important institution was the PPRC, which was created following a request of the NEC. The PPRC managed the registration of political parties and candidates. It also managed the drafting and the signing by political parties of a Code of Conduct. The PPRC also established a National Code of Conduct Monitoring Committee which included representatives from the NEC, the police, civil society as well as each of the political parties. This committee which was also present at the regional level "became an effective platform for dialogue and problem-solving between political parties during the election period. It functioned as a forum for discussion of issues of common concern, including breaches of the code before, during and after the elections." (Jinadu 2011, 235) Even though all parties signed this code of conduct and even though the party registration generally seems to have gone smoothly, the PPRC faced several challenges including its funding and its ability to sanction parties that would not fulfill their promises. It has been pointed out that the PPRC had no means to take action against political parties (see e.g. Kandeh 2008) and that it was perceived as a "junior partner of the NEC" (Jinadu 2011, p. 222). It is difficult to assess the effectiveness of the code of conduct. On the one hand, it is clear that on some occasions it was not respected (see Kandeh 2008), on the other hand, although not effectively binding, this code of conduct may have played an important role in directly involving the various parties in the process and showing them their responsibility for the peaceful conduct of the election.

2.2.4 Security sector reform and international support

Throughout the process, the NEC and PPRC were supported by the international community. The most important contributions were material as well as organizational and advisory. The NEC indeed drew a large part of its budget from the international community (approx. 70% of its $20 million budget). The financial contribution of the international community was crucial to the efficiency of the commission which had been underfunded at the beginning of its activities as the funding of the commission by the Sierra Leone state arrived after much delay (National Democratic Institute 2007c). The UN provided some logistical assistance by delivering voting materials to polling centers using its helicopters. It also advised the NEC in several areas including the electoral budget, the planning of the different phases of election organization and the design of polling materials (ACE 2007). Moreover the UN Integrated Office in Sierra Leone together with the UN Development Program initiated an electoral media code of conduct that was signed by the Sierra Leone Association of Journalists.

In addition to the good functioning of the EMB, some reports stress the role of much improved security during the campaign and the election itself (UNDP 2009, pp. 87-93). "It is widely acknowledged in Sierra Leone and abroad that the successful elections were a testament to the efficiency of the police, headed by Inspector General Brima Acha Kamara, who deployed well-trained forces, anticipated potential outbreaks and used nonlethal crowd control methods" (International Crisis Group 2008a, 2). Prior to the election, the police benefitted from "new training focused on crowd control and related activities relevant to the elections" (International Crisis Group 2007a, 13) which was coordinated with the UN police section. Although not directly mobilized for the elections, the army also proved loyal during the electoral process, which could tentatively be attributed to the important reform it had undergone under the auspices of international community and the UK in particular.

2.2.5 A tightly networked diplomatic community speaking with one voice pressured for peaceful elections

Beyond the organization of the elections, some authors also stressed the importance of international pressure. In that respect, a series of factors can be identified. First, the international community was well networked and unanimous in its actions. This became apparent in particular at the time of the second round of the presidential election when "the SLPP leadership had to be persuaded that it had lost the 2007 elections and needed to surrender the presidency to the APC. Even the Ambassadors of the People's Republic of China and Iran, which did not provide electoral support, joined in the effort of persuasion. Such broad networks of consensus are central to the effectiveness of international support for good governance" (Department for International Development 2008, 3). Second, the country's heavy dependence on international funding might also have played a role. Indeed, as the national budget relies principally on international donors and financial institutions, all political actors had to take into account the stands of the international community. Tentatively, the reliance of the national budget on the international community also lowered the incentive for fraud in the elections as in such case it would have been likely that international institutions would have suspended their funding.

While it is difficult to assess the contribution of each of the factors presented here to the peaceful conduct of the election, this overview enables us to suggest some of the measures that may have played a positive role in the electoral process. One of the key challenges in the Sierra Leone elections was organizing credible elections after a massive involvement of the international community in the 2002 elections and the widespread fraud in the 2004 regional elections. In that respect, the 2007 elections were generally successful. Several institutional actors were identified as playing a key role. Particularly, the election management body, the security forces and a well networked and well coordinated donor community have been highlighted as important actors in this specific case. More precisely, the case study has shown that some innovative institutional arrangements can help to increase

the legitimacy of elections. First, the restructuring of the NEC and the commissioner nomination procedure provided a renewed legitimacy to the commission, which it was able to retain by conducting the elections efficiently. Second, the creation of various platforms for exchange and dialogue with and between political parties – such as the Code of Conduct Monitoring Committee or the PPRC – helped in creating arenas of dialogue which enabled information flow and feedback from political parties to the EMB. Third, the new organization of the EMB which was composed of the NEC and the PPRC has provided a useful separation of roles enabling the NEC to keep some distance with political parties. At the same time, this arrangement might have created some ambiguities with regard to the role played by each institution. This potential problem seems to have been overcome by a good coordination between the various committees implicated in the elections, which was made possible thanks to the presence of members of the NEC in the other commissions (PPRC and security commission). Fourth, the international community played an important role in assisting the various institutions and has been well coordinated and unanimous in its actions. More generally, the case of the 2007 elections in Sierra Leone also showed the ability of the United Nations to empower local actors while granting them substantial support. In that respect these elections were a crucial step in establishing sustainable institutions that could run future elections.

3
Nepal – 2008 Constituent Assembly Elections

On 10 April 2008, after two postponements, more than 60% of eligible Nepalese elected a Constituent Assembly that would act as the interim legislature for a term of two years and in particular write a new constitution. It was the first election after the civil war, which for ten years had pitted the Communist Party of Nepal (Maoist) against the monarchy and which had officially come to an end through the signature of a Comprehensive Peace Agreement on November 21, 2006. While no single party won the majority, the Maoists gained most votes and thus – to the surprise of most observers – left the electoral contest as clear winners.

The elections were at the time, and still are today, widely regarded as a success and an essential step forward in the Nepal peace process: observers went as far as to term them "a triumph of democratic impulse rooted in the primacy of ballots over bullets" (FES 2008, 1) or "a crucial step toward inclusive democracy and a peaceful new Nepal" (DEAN 2008, 5). This positive assessment is mostly related to the fact that polling day was largely peaceful and that the entire process did not result in a relapse into armed conflict, despite the fact that there was not only a transfer of power, but also a change in the political system. Indeed, roughly a month after the elections, the Monarchy was abolished and Nepal was declared a Republic. Four years on the country remains at peace – even though crucial aspects of the 2006 peace agreement remain to be implemented, such as the promulgation of the new federal constitution and the integration and rehabilitation of former Maoist combatants.

It is similarly undisputed, however, that the campaign period leading to the elections was marred by violence and violations of the electoral code of conduct. EU observers (EUEOM 2008, 4) reported "numerous incidents of violence involving political parties" during the campaign period, which occurred in a "general climate of fear and intimidation," The Carter Center (TCC 2008, 3) said this period was "plagued with intermittent violence and violations of the electoral code of conduct" and DEAN, a coalition of Nepal civil society organizations, spoke of "widespread violence and intimidation" (DEAN 2008, 3). In line with this paper's focus on situations where violence and conflict was averted, this section thus assesses the factors contributing to the prevention of violence and conflict that could have emerged as a result of the electoral process, and in its aftermath, rather than as a part of, and during the process[15].

This section first examines the types and magnitude of factors that observers identified as threats to the viability of peaceful, non-violent change in the country and then attempts to list the factors and interventions that contributed to preventing the materialization of these threats. It needs to be stressed here that literature analyzing the causes of the success of the 2008 Elections in Nepal is scarce. Election observation reports (EUEOM 2008, TCC 2008, DEAN 2008) certainly contain much useful information, but their focus is on international standards of election administration rather than with conflict

15 This distinction is important for policy makers as the respective causes and dynamics – and thus also the tools for prevention and mitigation of violence and conflict – differ widely between the former (e.g. violent inter-ethnic clashes such as in Kenya in 2007) and the latter (e.g. intimation of voters by the ruling party such as in Zimbabwe in 2008). Various scholars have categorized various types of electoral violence and conflict according to various phases of the electoral cycle. UNDP (2009, 20-21) lists five phases; IFES (2002, 3) five different ones. Höglund's three (2009, 418) of pre-polling, polling and post-polling, are used here.

dynamics. Interestingly, most observers spent more time analyzing the "shock results" (ICG 2008b, 18) and reasons behind the Maoists' success than the reasons behind the absence of post-election violence and conflict.

3.1 Threats to the Electoral Process

On April 2, 2008, a few days before Election Day, the ICG (2008b, i) stated that the "elections [...] are likely to go ahead [...] but political unrest and violence could mar – or even derail – preparations, and the aftermath could bring turbulence." A brief look at the history of Nepal's internal armed conflict is warranted for a better understanding of the context in which the electoral process took place, and to identify threats external to the process that had the potential to trigger violence and conflict.

The civil war in Nepal started in February 1996 with an ultimatum – and subsequent attacks – by the Communist Party of Nepal (Maoist) to the coalition government under the Nepali Congress to implement a "40 Point Demand".[16] These demands, grouped under sections on "nationalism," "democracy," and "livelihood," aimed at a fundamental reform of Nepal's governance. They included, among others, the abolition of the monarchy and the drafting of a new constitution by democratically elected representatives of the people. The Maoists, a left-wing group, had grown increasingly frustrated with the poor responsiveness of government to what they perceived to be the needs of the Nepali people. Since the restoration of multi-party democracy in 1990, ruling coalitions had risen and fallen in rapid succession, the various governments being accused of incompetence and corruption. The internal armed conflict that ensued and that was to last for an entire decade created tremendous suffering among the Nepali people. More than 13,000 people died, and all parties to the conflict – be it the military police, the royal army or the Maoists – committed grave human rights violations. Over the years, the Maoists came to dominate rural areas and villages, while the government largely retained control over district centers and cities. In the early years of the conflict, the government response was primarily left to the police.

Conflict dynamics shifted in 2001 when King Birendra was killed in a massacre at the royal palace. He was replaced by his unpopular brother Gynendra, who in 2002 dismissed the elected Prime Minister and for the first time engaged the Royal Nepal Army in the armed conflict with the Maoists. In 2005, dissatisfied with the course of events, he stripped the parliament of most powers and effectively declared an end to democracy. This "coup," however, resulted in the King's isolation. That same year, seven parties represented in parliament (the "Seven-Party Alliance" or SPA[17]) reached an agreement with the Maoists. In early 2006, hundreds of thousands of Nepali citizens took to the streets in a second "democratic movement."[18] It forced the King to return power to parliament and paved the way for the Comprehensive Peace Accord (CPA) signed in November 2006 by the Nepal

16 For an analysis of the demands see ICG (2005), including the actual text on page 40.

17 The SPA consists of the centrist parties of the Nepali Congress (NC), Nepali Congress (Democratic), Nepal Sadbhavana Party (NSP-A) and four leftist parties - Communist Party of Nepal-Unified Marxist-Leninist (CPN-UML), United People's Front-Nepal (UPF-N), United Left Front (ULF) and Nepal Workers and Peasants Party (NWPP). Based largely on strong personalities, it was formed with the aim of resisting the takeover of power by the king.

18 The first, named "Jana Andolan", had taken place in 1990 as a multiparty movement that brought an end to absolute monarchy and eliminated the panchayat system (local self-government at the village or small town level).

Government and the Maoists. The agreement satisfied the Maoist's two key demands listed above: it stripped the King of his political powers and scheduled elections for a constituent assembly in June 2007. In early 2007, a new Interim Constitution was promulgated and the Maoists entered the Nepal Government.

It is thus important to note that by the time the Nepali Constituent Assembly elections took place, the defeat of the King had transformed the political landscape. The parties that were going to compete against each other in the elections were united in their opposition to the King. While an important threat to peaceful elections was thus removed, others were still very much present, and new factors emerged – or became visible as they had merely been covered by other factors – as the following shows.

3.1.1 Newly visible cleavages and persistent distrust between political parties

Once the common enemy – the monarchy – had been defeated, the underlying rifts among the parties emerged, in particular between the SPA and the Maoists. Even though all of them were able to unite behind the common vision of a democratic Nepal, the actual implementation of this vision was subject to fierce negotiations in a fragile environment where confidence between the actors was yet to be built. As Bächler[19] (FDFA 2008, 44) noted with regard to the disputes on the date and form of the elections: "the disputes [...] are a clear expression of a problem that already represented an obstacle throughout the entire peace process: a lack of trust between the parties in the conflict." The mistrust between the parties, and the resulting fragility of the peace process, is also the subject of two policy briefs by the International Crisis Group in September and December 2007 (ICG 2007a, 2007b). Bächler lists this situation as the first in five "fragile links in a complex chain of processes" that made elections "a risky undertaking."[20] The rift he identified, in particular between the Nepali Congress Party (NC) and the Maoists, was caused by a mutual disillusionment about the political intentions of the other. While the NC hoped to "tame" the Maoists by bringing them into the elections and was thus disappointed by the latter's fierce campaign rhetoric, the Maoists struggled to trust that the NC would be ready for the political, social and economic reforms it aimed at. This situation in which "initial pragmatism made way for an ideological burdening of the politics of transition" (FDFA 2008, 39) must be seen as part of the differentiation between parties that is usually triggered by an electoral process. This troubled relationship between the Maoists and the Seven-party Alliance became most clearly apparent with the Maoist walk-out from government in September 2007.

3.1.2 The inadequate implementation of the peace agreement

The lack of trust between the major political parties is both a cause and a result of the lack of implementation of multiple agreements. The ICG identified the weakness of the peace process as a key factor that could destabilize the electoral process (2008b, 22). Bächler (FDFA 2008, 39) summarized the situation in late 2007: "the controversial mandate for the Truth and

19 Bächler was Peace Building Advisor assigned by the Swiss Government and closely involved in the continuous negotiations.

20 For a detailed account of the five fragile links see Swiss Peace Policy 1/2008, pp. 34-44. As these factors cover the entire electoral process and not only the viability of the election results, two of them are not mentioned here: the inadequacy of the interim government (since this would in fact motivate actors to value the elections as a means to change the government) and the situation of the Maoist army in the cantonments (since this influenced two other 'links': violence during the campaign period and the violation of the code of conduct, and they are thus treated under that heading below).

Reconciliation Commission has not been approved, the commission set up for the restructuring of the state apparatus has never been called on, the reform of the security sector has been postponed, the issue relating to missing persons has been ignored, numerous internally displaced persons are still awaiting repatriation, and the arrangements with the Madhesi and indigenous peoples have been shelved." While one could argue that the timeline set by the CPA for the implementation of its provisions was utterly unrealistic, the threat that the situation represented for the elections remained. Indeed, every unimplemented aspect of the CPA could have been used and abused by potential spoilers as a justification to thwart the peace process.

3.1.3 The continued existence of the two armed actors who fought the war

The inadequate implementation of the peace agreement was particularly problematic in the security sector. The CPA had called for the integration of the Maoist combatants into the Nepali Army. According to the ICG, however, both the state and the Maoist armies were "intact, as strong as ever and ready to fight if necessary" (ICG 2008b, 21) at the time of the elections. Such a situation is generally troubling in any context because it reduces the obstacles to renewed armed conflict. However, as outlined further below, armies and arms were at least stationed in "barracks" (Nepal Army) and "cantonments" (Maoists) and monitored by the UN mission.

3.1.4 An overly ambitious timeline, premature elections

From the very moment the CPA was signed, observers of the Nepal peace process generally agreed that its implementation timeline was unrealistic (e.g. ICG 2006, 23). This was particularly true with regard to the elections, which not only would require the passing of various laws but also the delimitation of constituencies, the registration of voters, parties and candidates, as well as extensive civic education campaigns – to name just a few essential elements of the process, each of which was foreseen to entail lengthy negotiations. Premature elections thus threatened the viability of the results in two ways: by potentially reducing their credibility and by potentially limiting the inclusiveness of the process and perceived ownership by all actors.

3.1.5 Newly visible conflict cleavages between armed groups and the state

The end of the monarchy, the conclusion of the Comprehensive Peace Agreement and the related opening up of the political space revealed existing structural conflict cleavages, in particular those between marginalized geographic areas and ethnic groups and the state. Numerous new protest movements, by a wide range of different groups, perhaps represented the most important threat to the elections (see e.g. ICG November 2007). These groups' violent activities seemed motivated by their perception that this would be the only effective way to attract the attention of the interim government, as the successful struggle of the Maoists had shown. At the same time, these groups had grown disillusioned with the Maoists, whom they perceived to renege on the promises made during the armed conflict (see for example ICG 2007 July, 18 f). These protests mostly emerged in the marginalized and ethnically diverse Terai region and the most significant movements were

dominated by the Madhesi, i.e. the ethnic group which held the most severe grievances related to political, social, cultural and economic discrimination and exclusion. In late 2007, observers still wrote that "the Maoists, the NC and India all fail to accurately estimate the importance of the Terai protests and the Madhesi movement" (see e.g. FDFA 2008, 41) and while the government had by then negotiated with over twenty groups, the UN still listed "violence by groups opposed to the elections" as a major threat to peaceful elections (United Nations Mission in Nepal 2008a, 2008b, 2008c).

3.1.6 The violence during the campaign and violations of the code of conduct

In August 2007, USIP (2007) published the findings of a needs assessment for election security. It identified the Nepal Police (NP), the primary security agency for law and order, as the key agency responsible for election security with the Armed Police Force (APF, created in 2000 specifically to combat the Maoist Insurgency) being deployed as back-up. The main concerns expressed by USIP were an unclear chain of command between the APF and the Nepal Army, and that the APF had not been trained in election security or law and order operating procedures. USIP also listed the lack of resources as a challenge. USIP did cite a lack of public trust in the police, due to "inability of the police to maintain security, insufficient representation by certain ethnic or caste groups in the police, police abuses, police corruption or corruption at other justice sector levels that trickles down to the police, lack of responsiveness by police to certain crimes (e.g. rape), or a misunderstanding by the public of why certain cases were not pursued" (USIP 2007). ICG further questioned police neutrality, stating that it was "historically biased towards the NC, which also holds the home ministry and so has operational control of all security forces." However, neither USIP nor the ICG listed the involvement of the APF in the armed conflict with the Maoists as a major concern.

The security situation seemed to deteriorate the longer the pre-election period lasted (see UNMIN's three election reports, published between March 22 and April 6, 2008). Violence and other violations of the electoral code of conduct – be it by groups opposed to the elections in general, by parties participating in the elections but trying to influence the results, or by groups pursuing their usual criminal activities – represented a serious threat to the credibility of the elections, therefore to the viability of their results and eventually to the peace process as a whole.

3.2 Factors Contributing to the Prevention of Relapse of Armed Conflict

In light of the numerous, significant threats outlined above, it is rather surprising that polling day was carried out in a largely peaceful atmosphere and – even more importantly – that all parties and groups accepted the results and continued to stay engaged in the peace process. An examination of the Nepal case seems to indicate that while the various actors appeared to consider legitimate many means to *influence* the outcome of the elections, they were not prepared to *reject* this outcome.

3.2.1 The perceived stakes were high but not fatally high, and they were sequenced

The 2008 elections were of tremendous importance for Nepal's political parties. They were among the most essential demands that the Maoists had fought for, and the Constitution that the elected assembly was meant to draft was perceived to carry the potential of fundamentally changing Nepal, not just politically, but also economically and socially. The violence that accompanied the campaigning phase can be interpreted as an indicator of the importance of these elections.

The stakes of these elections were thus high, and yet there were checks to the power of the victors – and thus safeguards limiting the impact of defeat for the losers. The two-thirds majority required to make decisions on constitutional affairs made it nearly impossible for one or even two parties acting together to impose their will on the others. Consensus among a quite large number of parties would be required to make decisions.

That the executive branch of government was not directly elected by the people, coupled with the fact that no party reached an absolute majority, may also have contributed to stability. Indeed, in order to secure the right to form the government, the parties were forced to cooperate with others and to form coalitions. As defeat didn't imply fatal consequences for the losers, the motivation of actors to engage in violence was reduced, and an important threat was thus defused. In retrospect, it is worth noting that despite winning a plurality of votes, the Maoists' candidate was defeated when the Constituent Assembly elected the new President of Nepal in July 2008. They did however secure the post of Prime Minister a month later.

3.2.2 The Maoists won, but not an absolute majority

Ahead of the elections, a severe Maoist defeat was considered the biggest threat to peace by most observers. The International Crisis Group spoke of "near universal expectations" that the Maoists would "fare poorly" in the elections and suggested that they may be "tempted to reject the entire election" (ICG 2008 April, 7). Immediately before polling day The Economist (2008), also questioning whether the Maoists would accept the results, even went so far as to quote a rumor of a minimum quota of 80 seats out of 601 for the Maoists' "continued commitment to democracy" – while expressing uncertainty about the outcome of the elections. Observers were strengthened in their belief that a Maoist defeat would jeopardize peace both by the Maoists' rhetoric and their actions. They had threatened numerous times, publicly, that they could return to war in the case of an unfavorable result. According to the International Crisis Group, this may have even motivated some voters to vote for them (ICG 2008 July, 2).

The (limited) Maoist victory thus removed a major threat. As the Friedrich Ebert Foundation noted in a 2010 Report on Election and Conflict in Nepal: "The parties that believe in the parliamentary system have demonstrated their skill in persuading the UCPN (Maoist) to join the democratic struggle, with support from civil society and the international community.

They were able to bring the Maoists in to sign a peace accord, participate in the election and become an agent of peaceful social transformation." (FES 2010, 8)

However, had the Maoists won an absolute majority, this would have carried a significant conflict potential as well. It would have implied that the Maoists could form a government on their own and that they would control the army[21]. While it is impossible to know whether or not the latter – which had grown increasingly nervous and anxious to intervene in the electoral process as polling day approached[22] – would have accepted the results in such a situation, it is safe to say that the absence of an absolute Maoist victory certainly helped to preserve peace. Here again, the consequences of a loss weren't as dramatic as in other contexts and the motivation to trigger conflict was thus reduced.

3.2.3 The electoral system allowed for a very inclusive result

Aside from the Maoists, observers of the pre-election day period also mentioned armed militant groups, in particular from the Tarai region, as potential sources of post-election violence and conflict (see for example ICG 2008 April, 7). These groups – ethnic minorities and inhabitants of marginalized areas – fought for greater representation in government institutions. The elections resulted in a Constituent Assembly that was far more representative than previous parliaments and was termed the "most inclusive body Nepal has yet known" by then Special Representative of the Secretary General, Ian Martin (quoted in ICG 2008 July, 15). This inclusiveness, which was due to the specificities of the electoral system, contributed greatly (while certainly not sufficiently) to the widespread acceptance of the results and defused a major motivation to engage in conflict by addressing a structural cause thereof (see also Heiniger 2010, 53).

Nepal's electoral system for the 2008 Constituent Assembly elections had seen dramatic changes from the one that was used for the last elections in 1999, which had been a fully majoritarian, solely FPTP system. In 2008, 240 seats would be allocated through FPTP voting, 335 through proportional voting, and 26 seats would be appointed by the cabinet after the election.

The total number of seats had thus been raised to 601 in 2008 from 205 in 1999. This implied not only that more FPTP seats were available but also, and in particular, that the large number of proportional seats meant that less than a third of a percent of the votes would suffice for a party to win a seat. Indeed, the smallest party to win a seat gathered only 23,512 votes – or 0.22%. Had the system been entirely majoritarian, with the originally intended 240 seats, only 9 parties would have been represented in parliament and the Maoists would have received exactly 50% of the seats despite only winning slightly over 30% of the votes. With the addition of the proportional seats, the number of parties represented increased to 25 and the Maoists' share of total seats decreased to 38.1%. This diversity, which critics would term 'fragmentation', is visible in Graph 1, which reflects the respective share of seats of the parties in the CA.[23]

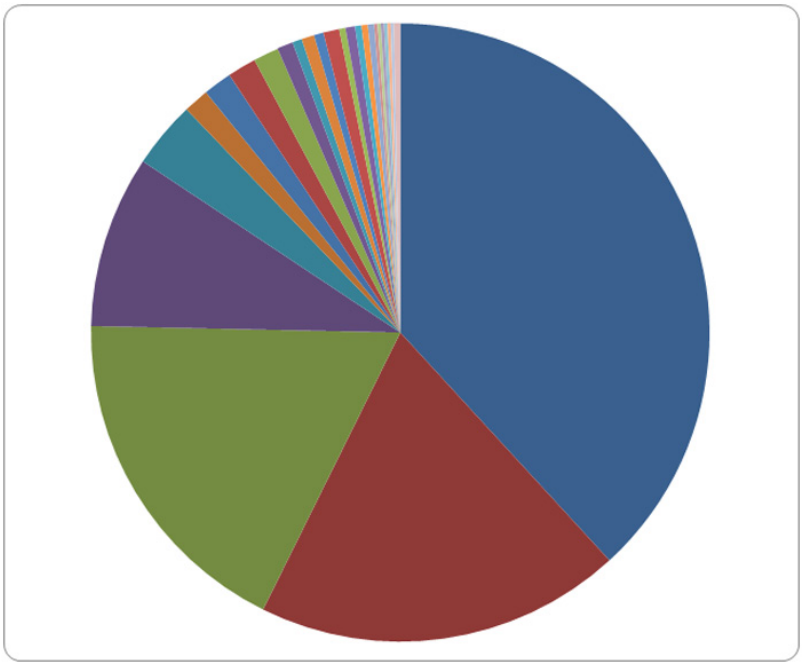
21 While the fifth amendment to the Constitution, passed in July 2008, states that the President, who is supreme commander of the Nepalese Army, shall be appointed by consensus among Constituent Assembly members, it also states that a simple majority suffices in case a consensus cannot be reached.

22 See for example a reliefweb posting on April 7, 2008: "UNMIN chief says no to army deployment during polls" http://reliefweb.int/node/261855

23 These calculations, made by the authors, are based on the official results published by the National Elections Commission and available at http://www.election.gov.np/EN/

In addition to giving proportional voting greater weight, the electoral system also guaranteed the inclusion of various minorities through fixed quotas: Women would get at least a third of the seats (they won 197)[24], Madhesi at least 76 (won 204), Dalits at least 32 (won 50), Janjatis at least 94 (won 192), so-called backward regions at least 8, and other minorities, including religious minorities (Catholics, Protestants, Buddhists and Muslims) at least 47.[25] It appears as if representation in the Constituent Assembly pleased most of the disadvantaged groups – in particular those with sufficient organization to engage in counterproductive activities – and thus defused a major threat of violence.[26]

Graph 1: Distribution of seats by party in the Nepali constituent assembly elected in 2008



Women in particular were better represented than ever before in Nepal's history, increasing their share of the seats from 6% in the 1999 election to 17.3% in the post-CPA appointed interim parliament to 32.8% through the Constituent Assembly elections (Renaissance Society Nepal 2009, 40). According to IDEA (2011, 75), women were "effective agents of inclusion" and their active engagement and success in the electoral process may have contributed to the viability of the outcome. Constituting half of the population, they represented a very large group that now had an enormous vested interest in protecting this outcome.[27]

24 "Of the 197 women in the CA, 30 were elected through the First-Past-Th e-Post (FPTP) system, 161 through the Proportional Representation (PR) system and 6 were nominated through the Council of Ministers. The PR system, within the mixed electoral system adopted by the Interim Constitution, calls for 50 per cent women candidates" (IDEA 2011, 51).

25 Candidates could of course meet several criteria simultaneously (e.g. a Dalit woman).

26 For a detailed discussion of the quota system, the process through which it was developed, and the effects it had, see. Butenschøn and Vollan (2011, pp. 110-151).

27 On the longer term impact on the peace process of the increased representation of women in Nepali politics since the 2008 elections, see Falch (2010) and IDEA (2011).

3.2.4 The electoral system was negotiated until all potential spoilers agreed to it

The conflict preventing nature of the electoral system raises the question about its design process. The Interim Constitution of Nepal, promulgated in January 2007, only foresaw a Constituent Assembly composed of 425 members (205 FPTP, 204 proportional, 16 nominated by the Interim Council of Ministers) but already tasked the parties with the responsibility to ensure "proportional" representation of the groups mentioned above. The electoral law, passed in June 2007, raised the number of seats to 497 (240/240/17). The final number of 601 seats (240/335/26) was the result of an agreement between the 7-party alliance and the Maoists in December 2007. The disputes around the electoral system involved the Maoists, who demanded a fully proportional system, and other parties (in particular the Nepali Congress), which favored a majoritarian system.[28] In order to reach agreement, the elections were postponed for a second time in October 2007. While this move was seen as increasing the likelihood of violence by observers at the time, in retrospect broad ownership of, and agreement with the electoral system seems to have been more important.

In addition to the 7-Party Alliance satisfying the Maoist demand for a greater share of proportional seats, the interim Government of Nepal also secured an agreement with the United Democratic Madhesi Front (UDMF) in February 2008, which, by (paradoxically) relaxing the electoral law, allowed for the inclusion of a larger number of Madhesi candidates on party lists.[29] This agreement succeeded in bringing the UDMF into the fold and tremendously reduced the threat of post-election violence (UNMIN 2008a, 2008b, 2008c).

3.2.5 Armies and arms were cantoned and monitored by the UN

The 2006 Comprehensive Peace Agreement foresaw the presence of a UN peacekeeping mission, which the UN Security Council mandated with five major tasks.[30] Three of these concerned the arms and armed personnel of both sides, while two concerned technical assistance to the electoral process. The cantonment of arms and armies on both sides, and the verification of these by UNMIN, provided a powerful deterrent to both sides to return to armed conflict.

According to Gross (2009, 13), "the symbolic presence of the UN is perceived to have deescalated the conflict, changed the acceptable rules of the political game, and exerted a psychological impact on the belligerents that deters violence." The role of the UN as a trouble shooter and conflict preventer became apparent again in the days before the elections. Three days before the polls, the UN SRSG reportedly managed to convince the army to stay in the barracks despite the latter's expressed "readiness to intervene".[31]

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28 It is an irony of history that the system that the Maoists demanded in effect reduced their share of seats in the CA. They had done much better than they themselves expected in the single-member FPTP constituencies.

29 See http://reliefweb.int/node/258726 Stringent quotas were only required of parties who fielded more candidates than 20% of all seats. By raising this number to 30%, small locally active parties would be able to file 50% more candidates without being subjected to any of the quota regulations. Madhesi parties were thus able to put more Madhesi candidates on their lists.

30 In detail, these tasks are: a) To monitor the management of arms and armed personnel of both sides, in line with the provisions of the Comprehensive Peace Agreement; (b) To assist the parties through a Joint Monitoring Coordinating Committee in implementing their agreement on the management of arms and armed personnel of both sides, as provided for in that agreement; (c) To assist in the monitoring of the ceasefire arrangements; (d) To provide technical support for the planning, preparation and conduct of the election of a Constituent Assembly in a free and fair atmosphere, in consultation with the parties; (e) To provide a small team of electoral monitors to review all technical aspects of the electoral process, and report on the conduct of the election; http://www.un.org/News/Press/docs/2007/sc8942.doc.htm

31 Article published by nepalnews.com, available at http://reliefweb.int/node/261855

3.2.6 Nobody expected the results, but they were perceived as credible

The International Crisis Group's assessment, quoted above, that there were "near universal expectations" (2008 April, 7) of a Maoist defeat, seems to be an accurate reflection of reality. In fact, the Maoists themselves were the only actor to believe in their own success. However, even they were at times in doubt and, as is visible in retrospect, similarly mistaken: their insistence on a greater share of proportional seats as a precondition for their participation in the elections turned out to have reduced their share of seats in the Constituent Assembly.

Despite the unanticipated nature of the results, actors did not challenge them. It could be argued that the losers were unable to react to this outcome because they did not expect it and were thus thoroughly unprepared, but as mentioned earlier, this was not the case: the armies were "intact, as strong as ever and ready to fight if necessary" (ICG 2008b, 21). However, the credibility of the election administration seems to have played a role. Very often, the level of criticism and blame with which an EMB is confronted can serve as an indicator of this credibility. It appears, in this particular case, that the parties were satisfied with the Elections Commission, and perceived at least polling day itself as credible. While most parties who fared more poorly than expected protested verbally, very few formal complaints were lodged. The EU Observer mission mentioned that complaints lodged by various actors (including political parties) led to re-polling in 106 polling stations out of a total of 20,889 polling stations nationwide (i.e. about 0.5%), and that re-polling was successfully carried out 9 days later (EUEOM 2008, 38).

International observation of the elections, in cooperation with local observation, appears to have had a positive effect on the credibility of the Elections Commission in general and polling day in particular. The EU Observation Mission, for example, in its preliminary statement issued on April 12, stated that "the Election Commission has acted as an independent body with integrity and competence," that the elections had "generally been organized in a professional and transparent manner" and represented a "crucial step toward the restoration of representative democracy in Nepal," and that "generally polling went smoothly" (EUEOM 2008, 4). The Carter Center's report contained similar praise and, as Whitfield (2008, 30) noted, "made a significant contribution to the credibility with which the process was received."

3.2.7 Overwhelming support for democratic change

It should not be forgotten that one of the specificities of the Nepal process toward peace and democracy was started by mass protests involving millions of Nepali citizens. It is particularly noteworthy that women played a vital role in these protests (IDEA 2011, 45), constituting a powerful force in support of democratic change.

A few months ahead of the elections and despite the challenges of political negotiations and electoral campaigning, International IDEA wrote in a study on the state of democracy in Nepal that "the overwhelming consensus among the political parties and the people of Nepal is that the country should be transformed into a republic" (IDEA 2008, 2) and listed the fact that "the process of social capital formation, which has been exhibited in several ways, ensures the sustainability and consolidation of democracy in Nepal" (IDEA 2008, 6) as the first of ten key findings. In such a situation of "overwhelming consensus," potential spoilers find it much harder to operate.

In sum, while different factors contributed to the peaceful nature of the election, the case study shows the crucial role of inclusiveness of the process as well as its outcome. The electoral system, negotiated with potential spoilers until the very last moment, was eventually "owned" by all key stake-holders and thus carried great legitimacy. It also included various quotas based on gender, ethnicity, religion, and caste and other rules that ensured the inclusion of previously marginalized groups. The representation of women in particular saw a tremendous increase from 6% in 1999 to almost 33% in 2008. While the particular outcome in terms of distribution of votes eventually lies outside the influence of "electoral engineering," the proportional aspects of the electoral system contributed at least in part to the result that no party won an absolute majority of the seats, which in turn reduced the impact of defeat for the losers. Rather than being determined by voters, the question of who would control the executive branch of government was going to require cooperation between parties. Similarly, no party could feel a priori excluded from the eminently important process of drafting the constitution and had at least some bargaining power within the system, an aspect that certainly reduced the motivation to use violence as a means to voice their preferences or express grievances. Such an inclusive process can be attributed on the one hand to the electoral system and on the other hand to the specific role and functioning of the constituent assembly, which requires a two-thirds majority for making decisions. The electoral system also guaranteed representation to various social groups. The overwhelming desire for (and support of) democratic change among the general population, exemplified by the mass protests against the King's grasp of power in 2005, was a factor that any potential spoilers of the process had to take into consideration.

4
Discussion

The case studies of the Sierra Leone 2007 and Nepal 2008 elections show that potential explanations for peaceful conduct are numerous and most likely it is the configuration of many factors that led to this particular outcome. At times very different factors emerged from the study of the two cases, which emphasizes the importance of context, and highlights that measures taken for preventing election-related violence are not universal but need to be tailored to the specificity of each case. Despite the differences, some of the factors identified were similar in both cases. In particular, we would like to point to three important factors that were present both in Nepal and in Sierra Leone.

Credible elections

The credibility of the election was important for reducing the opportunity for political actors to reject the results. Given that the elections were generally perceived as fair, political actors were less likely revert to actions – notably violent – outside of the institutions to achieve their goals. Credibility was achieved through different means including the respect of procedure and the perceived impartiality of the election management bodies, training of polling staff and of the population, the presence of numerous local and international observers, the good work of the security sector which in both cases can be at least partially attributed to a reform preceding the election. Both in Sierra Leone and in Nepal the relatively high turnout also gave the elections greater legitimacy.

Inclusive political processes

Both in Sierra Leone and in Nepal, the important decisions regarding the election followed an inclusive process which, we argue, played a positive role in diffusing conflict. This was the case in Sierra Leone, where the nomination of the chair of the electoral commission was key in establishing trust and thus the credibility of the institution. This important decision was taken following consultations with opposition parties. In Nepal, one of the potentially conflicting choices was in regard to the electoral system that would be used in the constituency assembly elections. The process of establishing this electoral system was slow but included all major parties and led to a compromise agreed on by all stakeholders. Furthermore, it is worth mentioning that this inclusiveness was achieved notably through institutional arrangements developed at various stages of the electoral cycle and seems to have allowed the prevention of some of the risks associated with the elections.

International involvement

The international community was very present in these two elections. This international support can be broadly assigned to two complementary mechanisms. On the one hand, the international community provided financial,

logistical and organisational support, notably by training polling staff and security forces and, on the other, it also played an important role by promoting fair elections and pressuring certain important actors to comply with the rules.

In addition to these factors applicable to both situations, those that are specific to each case should not be discounted. Sierra Leone's fully majoritarian electoral system, un-questioned by the political actors in that country and seemingly unproblematic, would in all likelihood have had a negative impact in Nepal, where the proportional component and the quotas, subject to intense negotiations, played a major role in ensuring the inclusiveness of the election's results and therefore their acceptance. Similarly, while the Security Sector Reform process was entirely stalled in Nepal, it can be argued that the fundamental restructuring and reform of both the army and the police in Sierra Leone played a crucial – and necessary – role in Sierra Leone.

All the factors presented above potentially explain why the 2007 elections in Sierra Leone and the 2008 Nepal elections did not result in widespread violence despite fears to the contrary. These important achievements shouldn't, however, overshadow some of the negative aspects of the elections. Indeed, the lack of a widespread conflict does not necessarily mean that the elections were a success either for democratization or for the long term peace process. In particular, in the case of Sierra Leone, the patronage links that characterize Sierra Leone politics remained; the elections resulted in a greater ethnic and geographical polarization and did not improve the accountability of elected politicians (see Kurz 2010). Similarly, there has not been progress in closing the participation and representation gender gap that characterizes Sierra Leone politics (see Castillejo 2009). As for the case of Nepal, the very inclusive electoral system and diverse composition of the constituent assembly may have negatively influenced the decision-making process as the qualified majority of two thirds for the approval of the new constitution has been very difficult to achieve. Along the same lines, the competitiveness of the electoral process may have put an end to the cooperative and consensus-oriented spirit of politics that prevailed until then (Heiniger 2010, 53). This raises questions with regard to governability in the long run, a factor that critics say is proved by the rapid succession of governments and the fact that today, more than four years after the elections, the constitution still hasn't been promulgated.

One of the challenges of this research is related to the lack of a clear conceptual framework regarding the risks associated with elections. The literature so far has mainly focused on case studies that were practically oriented and there have been only a few attempts to theorize the risks related to electoral processes, i.e. answering the question of what the causes and triggers of the emergence of violent conflict linked to elections are. This is precisely where the most fruitful avenues for future research are to be found. The development of a sound conceptual framework for the study of election-related violence would certainly be helpful for future research in this area. In that respect, while not directly contributing to this goal, our study provides some interesting insights that could be useful in the perspective of theory building. This would enable the development of a more theoretically-driven approach that would be very welcome for the study of additional cases, which represent the other major avenue for research. Ideally, future studies would include more cases, incorporating also elections that did not result in a peaceful shift in power in order to gain more insight into the factors that play a role in the preventing election-related violence.

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