

## **Transcript:**

Namaste, from Nepal. My name is Bhojraj Pokharel. I am from Nepal, a beautiful Himalayan country, squeezed between the two most populous countries in the world, India and China, which are poised to become the new global powers of the 21st century. I was appointed as Chief Election Commissioner in 2006 to lead the most challenging post-conflict elections that saw Nepal transition from war to peace.

I want to start with Nepal's brief historical background. Nepal had restored a multi-party democracy in 1990, through a massive people's movement after nearly 30 years of the King's authoritarian rule. A few Radical Communist factions were dissatisfied with the new 1990 constitution, because it was finalized through the negotiation between the political parties and the King's representatives. These radical Communist factions claim that the new Constitution was a compromise with the King. They demanded a new election to a Constitution Assembly (or CA) to draft the new Constitution. Their main argument was that the new Constitution, through an elected CA, would make the people fully sovereign, than the one gifted by the King.

The Nepali Congress Party, which got a majority in the 1991 parliamentary elections did not accept the demand raised by the radical Communists. Instead, the governing party claimed that the 1990 Constitution that stipulated the constitutional monarchy with parliamentary democracy was at its best. In turn, in 1996, the radical communist parties united under the banner of Communist Party of Nepal or the Maoist party and declared a protracted armed rebellion in the country, which until then was globally known for its peaceful coexistence among diverse communities. That is why, for ordinary Nepalese people, the armed war by the Maoist was a big shock. Peace talks took place a few times in early 2000, but all ended without making much progress. The Maoist insisted on CA elections which the Government was not willing to accept, as I said earlier.

Unexpectedly, in 2001, the “royal massacre” happened, which killed all the members of the reigning King Birendra. Then his younger brother, Garenra, became the king. Unfortunately the new king took a number of wrong moves that undermined democratic parliamentary parties. In February 2005, King Ganendra suspended Nepal's newly restored multi-party democracy by using the Maoist war as an excuse. This forced the parliamentary parties to collaborate with the Maoist to end the King's authoritarian regime, and restored democracy

As part of the political deal, the parliamentary parties accepted the Maoist demand for the CA elections in return for the Maoist abandoning their violent path. The interim constitution promulgated in January 15th, 2007 mandated to hold Constituent Assembly elections within the six months of its promulgation, or by June 2007. From this perspective, the CA election was instrumental for Nepal's peace process.

When I was appointed the Chief Election Commissioner, there were several political and technical challenges. The key political challenge was from the institution of the monarchy, which was expected to be abolished after the CA elections. The institution of monarchy was not only the oldest institution of Nepal, but also traditionally enjoyed the backing of the army. Hence there were insecurities that the monarchy would take the help of the army to jeopardize the elections, but later actions disproved it. We adopted several strategies to overcome this challenge, which I will elaborate later on.

Finally, we managed to hold the elections in Nepal on 10th of April 2008. One of its key achievements has been the declaration of the Republic peacefully. The institution of monarchy, which enjoyed political, cultural, and military power, was gone merely by an announcement in the 1st CA : without a single drop of blood being shed. And this was possible through the democratic election process. This is a big lesson to the world: the Maoists achieved their goal not through violence but through peaceful electoral process. That is why the post-conflict Constituent Assembly elections, that I managed to conduct, was a historic one. Without it, the transition from a monarchy to one of the newest republics of the 21st century would not have been peaceful. From what I know, I don't think any other countries have witnessed such a peaceful regime change.

Now, I will share a few achievements of that historic election.

The 1st achievement of the CA elections was that it brought the Maoist rebels to the democratic fold. Until the last day of the elections, there were uncertainties whether the Maoist would participate in these elections or not. During the election process there were a few moments that the Maoist nearly walked out of the election process. In October 2007, the Maoist decided to boycott the planned November elections which had led to its final cancellation. In order to ensure that the Maoist stick to the electoral process, I, as the head of the Election Commission — the Election Management Body — adopted several strategies. I engaged with them from the beginning, and managed to gain their trust. I ensured that the Commission was neutral to all the parties, because of which we gained credibility from all stakeholders, including the Maoist and the international community. These seem like simple strategies, but gaining trust and credibility were crucially important to ensure that the Maoist participated in this election. If the Commission was perceived as biased, then it would have led the rebels to walk out of the electoral process and the election process could be derailed.

Another key achievement of this election was that it ensured the most representative legislative and constitution-making body. Women's representation increased to 33 per cent from what it was recorded, as less than five per cent, in previous elections. At that time, Nepal became the 14th in the global ranking for women's political representation. Other disadvantaged groups such as *Madhesis*, *Janjatis*, *Dalits* [marginalized and ethnic groups] as well as the people from remote areas got their share of representation as per their population. In order to promote inclusion, we took both technical and political

initiatives. Technically, we introduced a mixed election system with the First-Past-the-Post (FPTP) and Parallel-Proportional Representation (PR). Even though the policy was decided by the political parties and leaders, our role was to implement it through the necessary provisions in the election law. Under the PR, we introduced a quota system as per the population. Politically, we engaged with diverse groups on a regular basis and ensured that the political leaders addressed their concerns on the election process.

Finally, the other key achievement of the CA elections is that Nepal got a new Constitution that institutionalized all the achievements of Nepal's peace process, including that of popular uprising in 2006. Even though this Assembly was dissolved in 2012, 90% of the agreements made in this Assembly were adopted by the second CA elected in 2013. Nepal has transformed from a traditional unitary Hindu kingdom to a modern, federal, secular republic. The new Constitution also has many inclusionary provisions and can be considered as far advanced on inclusion of diverse groups than the 1990 Constitution. This means that huge power transformations have happened in Nepal through democratic election process. Nepal presents an example to the world that so much can be achieved through peaceful democratic process than violence, as I also explained earlier.

Holding these elections was a herculean task. Countless obstacles, obstructions and challenges lay before us. Now, when I think about it, I wonder how we managed to deal with such difficult challenges. I am highlighting a few of these issues to share the complexities of the challenges we faced.

Security was the biggest challenge. During that time, most parts of the country was controlled by the Maoist, state presence was almost nil in those areas. Police posts were already displaced. Fear was pervasive among the general public. No one dared to speak or retaliate against the Maoists. The youth wing of Maoists, Young Communist League (YCL), with its coercive character, was dominant everywhere. Moreover, nearly six dozen armed groups spread terror in the southern plains, known as the Tarai. They warned of killing or abducting poll officials, candidates and others who were engaged in election processes. They bombed the various election offices, and forced the election officials to leave the districts where they had local election offices.

Moreover, various marginalized and indigenous communities/groups protested in the streets to pressurize for their proportional representation in the Assembly. There was not a single day without any protests, and one-third of the total 365 days were closed down due to the protests by one group or the other, to press the government to address their demands. The security was in the hands of Nepal Police, a demoralized force during the insurgency. Nominations in a few constituencies were done under the curfew, the same situation was there during the voter's education, campaign and counting. The campaign period remained violent, where people lost their lives. Contrary to it, the election day

remained comparatively peaceful. Given this fragile security situation, most people doubted if the elections would take place as scheduled.

The political situation was also fluid. Trust between the mainstream political parties and the Maoists was mostly low. There were insecurities that anytime the peace process could collapse. The elections were challenging in such a difficult political environment.

Finalizing the electoral system was a most difficult task. Parties had agreed on a mixed electoral system—first past the post and proportional representation—with equal ratio of seats. But to meet the demand of the agitating underrepresented groups and the Maoists, it was amended to elect 60 % from the PR category and 40 % from FPTP. The same story repeated in the number of total representatives, the initial number was 425, which was amended twice to make it 497 and finally to make it 601. The numbers of seats under FPTP were also increased which necessitated re-demarcation of the constituencies when the time was really tight.

The inclusion issue was highly contested among parties because of which they could not agree on the necessary policies. The constitution and electoral laws were amended again and again to woo the conflicting parties in the election process. For example, a major amendment related to the election was made just 45 days before the Voting Day.

In those days, the country was subjected to 18-hour long power cuts. That caused difficulties in preparing, printing and transporting election materials. Tough mountainous terrain, lack of road access and regular road closure complicated the task to transport essential election materials to the scattered polling locations. Due to a mixed electoral system, more than 241 types of ballot papers were to be printed and transported to nearly 20,000 polling booths within a short span of time.

The newly introduced mixed electoral system was very complicated for parties, candidates, poll workers and voters. Developing and dispatching voter education materials—posters, audio/videos—to diverse voters was a herculean task. Voter education materials were prepared and disseminated in 17 different languages owing to our multilingual societies.

The required laws for the elections were not ready on time. The electoral system was also not finalized on time. Without them, preparing the fresh voter rolls; designing rules, regulations, guidelines; identifying poll workers, their capacity building, and mobilization; logistics arrangements; carrying out voter education for a complex electoral system; ensuring a secure environment; and conducting elections within six months seemed like next to impossible.

Due to the continued dispute over the key issues among major political parties, the interim parliament failed to finalize the election laws. Consequently, in April 2007, the

election Commission was forced to announce its inability to hold the elections as scheduled in June. Making such an announcement without consulting parties was a big risk taken from the Commission side. This was especially so because there was a strong sense that the King wasn't ready for Constituent Assembly elections. Political parties protested against the commission, especially fear was rife among stakeholders that the Maoists could attack at the EC headquarters. But nothing serious happened as speculated. Notably, the Parliament approved the election law only in July 2007. The new poll date was announced for November 2007. The commission completed all technical preparations for it.

But the commission faced yet another obstacle. Maoists quit the government in September 2007. They put forth difficult conditions for the November polls, warning they would not participate in the election if their demands were not addressed. Consequently, on the government's request, the commission postponed the elections on the date slated for candidacy nomination. Again, the parties engaged in extensive negotiation, amended the Interim Constitution and fixed the polls for April 2008. Finally, the election was conducted in this third attempt.

Collecting the ballot boxes at counting centers and smoothly counting was yet another challenge. Some ballot boxes were confiscated and destroyed by the rebels. The parties, mainly the Maoist rebels and regional parties, tried to snatch and tore ballot papers, lock counting officials, and even captured the counting centers. Due to this, vote counting was stalled in some constituencies and even curfew had to be imposed.

Striking a balance between the spirit of the peace process and meeting the electoral integrity was challenging throughout. The success or failure of this election was directly linked to the ongoing peace process. Both the rebels and parliamentary forces created unnecessary pressure in every step of the election process. For example, the Maoists threatened to boycott the election if a specific election symbol wasn't given to their party. They put forth tough demands to defer the election, which was actually an instrument to bring Maoists into mainstream politics.

International community played a significant role during this process. On the request of Nepal, the United Nations established its mission called UNMIN to assist the peace process and provide technical support for the CA election. A separate high-level independent team was deployed to monitor and brief the UN Secretary General. Craig Genness, director UN election department, UNMIN chief Ian Martin including mission staff supported mobilizing international support, creating favorable environments and assisting technically to make election possible. Various bilateral and multilateral agencies and donors including the AusAID, DANIDA, EU, FINIDA, Germany, International IDEA, IFES, JICA, KOICA, NDI, Norway, UK AID, USAID provided financial support and technical knowledge as per our need. Moreover, our neighbors China and India met most of our logistical needs. I often say 2008's election was really an international event.

International community's support to Nepal to end conflict by holding the CA election was crucial. The Carter Center, European Union, ANFREL and other 21 international organizations mobilized more than 800 international observers. Around 63000 domestic observers from 148 Nepali organizations also observed this election. Their mobilization across the country also helped to build confidence, creating an enabling environment and hold elections in a peaceful manner.

Finally, I want to share a few strategies we adopted that were helpful in successfully holding elections amid such testing times.

Transparency was our biggest weapon. Except for the core internal meeting of the commission, we allowed media access to all our activities. They directly reported whatever they observed. That helped us to let the stakeholders know about the stances of the commission, government and the political parties. Further, we briefed the media and other stakeholders regularly on financial and other aspects related to election on a regular basis. That helped to create a conducive environment for elections.

The inclusive consultative process greatly helped the commission. All poll related tasks ranging from drafting electoral laws, policies, regulations, directives, code of conducts to selection of polling centers were decided only after holding a rigorous consultation among stakeholders including the political parties, civil society organization, professional organizations, government and marginalized communities and groups. Every stakeholder took ownership of results that emerged from those consultations. Such consultations helped to create a poll-friendly environment and implement the decisions.

The commission strictly worked independently in accordance with the prevailing law and electoral process, rather than working under pressure from any political forces or the government. The commissioners did not visit government offices but all the stakeholders including the Prime Minister, Ministers, Speaker, Highest political leaders were present for meetings at the commission. These raised public trust towards the commission. Actually, that trust became the biggest asset for the commission. Consequently, despite some disagreement all political parties accepted poll results.

We adopted a carrot-and-stick approach to hold the election. That expedited the electoral process as per prevailing law and procedure. In the meantime, without compromising on core values of electoral integrity the commission compromised on certain agendas by becoming flexible in handling sensitive and fragile situations so that the situation wouldn't worsen further.

For example, none of the candidates from *Madhesh*-based parties filed candidacy on the nomination day as those parties were agitating. They were in negotiations with the government even while continuing their protests. Holding the elections without involving

Madhes-based parties was a meaningless task. That's why the commission extended the candidacy nomination deadline twice at the request from the government.

Finally, the flexibility adopted by the commission worked out well. All political parties participated in the election.

I must say 2008 CA elections were held successfully despite enormous challenges. Sadly, the campaign period remained comparatively more violent than in the past and a few dozen people lost their lives. But the positive side is that all stakeholders accepted the election results. The rebels emerged as the largest political party in the Constituent Assembly becoming the mainstream party to lead the new government with fresh mandate. That election laid a strong foundation for constitution writing. Today, Nepal has moved from war to peace and is enjoying a new inclusive democratic framework through the new Constitution as aspired by the Nepalese people. Thank You.