



Preliminary Statement on June 28 Second Phase Local Elections

August 13, 2017

I. Introduction

On June 28, 2017 the Second Phase of local elections was held in Provinces 1, 5, and 7. Voters in newly formed local units turned out in impressive numbers to elect new representatives for the first time in nearly 20 years. Democracy Resource Center Nepal (DRCN) conducted observation of the elections in order to provide a critical, independent, and high-quality assessment of the electoral and political processes around the elections. This preliminary statement outlines findings and makes recommendations based on DRCN's observation before, during, and after the Second Phase elections.¹

DRCN released its first preliminary statement based on observation of the May 14 First Phase of elections on June 7, 2017. DRCN is currently planning to observe the third phase of polls that are scheduled for September 18, 2017. Once observation of all phases of polling is complete, DRCN will release a final comprehensive report about the local election process. DRCN's overall observation objective is to provide timely and valuable information about the local elections while making relevant policy recommendations for future elections.

II. DRCN Observation

On May 12, 2017, DRCN deployed four mobile observer teams to Provinces 1, 2, 5, and 7 to assess the pre-election environment while beginning preparations for observation of the June 28 Second Phase elections, which were initially scheduled for June 14.² Four additional teams of observers, including a roving team, were deployed on June 12 to observe the political and electoral processes across Provinces 1, 2, 5, and 7.³ DRCN teams assessed the general political and electoral climate leading up to candidate nominations day on June 18, 2017 and observed all electoral processes including candidate nominations, the campaign period, the security

¹ DRCN deployed eight mobile teams to observe the elections. Each DRCN team consisted of two qualified observers who were equipped with observation forms and checklists and requisite training on Nepal's electoral-legal framework and election observation standards.

² On May 31, the Government of Nepal decided to further postpone the Second Phase of elections after reaching an agreement with the protesting RJPN. See: <http://kathmandupost.ekantipur.com/news/2017-05-29/second-phase-election-postponed-for-june-23.html>

³ The roving team was sent to areas where the core team believed additional observation would be useful. The team also worked to support other teams when assistance was requested and followed up on incidents that other teams were unable to.

environment, the silence period, Election Day, counting, and the announcement of results. Teams stayed deployed until July 6, 2017 to observe the post-election environment.⁴

During the Second Phase elections, DRCN observers visited a total of 55 local units across 25 districts in Provinces 1, 5, and 7.⁵ DRCN teams also observed the general political and electoral climate in Province 2 until June 18.⁶

DRCN's core team consists of a Director, Electoral-Legal Analyst, Observer Coordinator, and Logistics Coordinator, in addition to other DRCN support staff, all working with the observer teams while also engaging national-level stakeholders about findings and recommendations. DRCN's observation and analysis is further informed by its political violence-monitoring project that is now focused on monitoring and analyzing election-related incidents.⁷

III. Political Overview

Nepal's new constitution was adopted on September 20, 2015 and requires that local, provincial and parliamentary elections be completed by January 2018. The new Constitution and the process through which it was adopted have been highly contested. Several minority and marginalized groups across Nepal continue to demand that the Constitution be amended to better represent their interests. Protests over the new Constitution between mid-September 2016 and early February 2017, which included a blockade at Nepal-India border by protesting Madheshi parties, resulted in over 50 deaths including that of security personnel.⁸

One major feature of the new Constitution requires the restructuring of Nepal's local government, including devolution of power to newly created provinces and local units. As mandated by the Constitution, a Local Level Restructuring Commission (LLRC) was formed on March 15, 2016 mandated to propose new local units within a year. On January 6, 2017 the LLRC proposed 719 local units when it submitted its report to the Government of Nepal (GoN). Following widespread dissatisfaction and contestations, especially by the protesting Madheshi parties, the GoN added 25 more local units which came into effect on March 15, 2017.⁹ The local level restructuring process was rushed to facilitate the expected local elections, and happened amidst protests, particularly from the Madheshi parties who were demanding the finalization of new provinces before the creation of local units.¹⁰ The number of local units continued to be a highly contested issue and led the GoN to propose 22 new units in certain Tarai

⁴ Candidate nomination was originally scheduled for June 16, 2017, but this date was changed on June 15 as major parties were yet to finalize their candidates.

⁵ On Election Day, DRCN teams observed opening, polling, and closing in 119 polling centers across nine local units in six districts.

⁶ Teams in Province 2 visited 18 local units across seven districts in order to assess the general political climate and better understand the impacts of the GoN and ECN's decision to postpone the elections there until September 18.

⁷ Find DRCN's political violence monitoring reports here: <http://democracyresource.org/political-violence-monitoring/>

⁸ See 'End of the Madheshi blockade: What it means for Nepal': <http://www.hindustantimes.com/opinion/end-of-the-madheshi-blockade-what-it-means-for-nepal/story-JixOIgsdWLprj8Lc6G0hQL.html>

⁹ See 'Govt okays taskforce proposal for 744 local units' <<http://www.myrepublica.com/news/15908/>>.

¹⁰ For details on contestations around the local body restructuring see DRCN's '[Preliminary Findings on Local Body Restructuring at the Local Level](#)'

districts as late as between the first and second phases of local elections in an attempt to bring the Madhesh-based parties on board for the Second Phase of the polls. The decision was stayed by the Supreme Court on May 26.¹¹ The Supreme Court on August 10, 2017 however vacated the previous stay order and scrapped the petition filed against the proposed increase. This has paved way for the possibility of adding new units in Province 2 again.¹²

On February 20, 2017, the GoN announced that the first local elections in nearly 20 years would be held on May 14, 2017. The announcement was received with enthusiasm but also significant skepticism. Of foremost concern was the short period of time left to conduct preparations for the polls. There were also outstanding disagreements between political parties and other stakeholders about even holding the elections. Protesting parties, most notably the then United Democratic Madheshi Front (UDMF), immediately and strongly opposed the decision to hold the elections. The UDMF insisted that a constitutional amendment be passed before the elections in order to address their longstanding demands in relation to federal demarcation and proportional representation, among others. Several Madhesh-based parties threatened to boycott and disrupt the elections without a constitutional amendment first being passed.

An increase in protests in the Tarai after the announcement of elections led to violence that peaked with five Madhesi protesters being killed when security forces opened fire in Maleth, Saptari on March 6, 2017.¹³ After the incident, the GoN negotiated with Madhesh-based parties to facilitate their participation in the elections. On April 23, 2017, an agreement was reached that included passing the long-debated constitutional amendment bill, with some revisions, before holding elections. In anticipation that this would bring dissenting Madheshi parties to participate, the GoN unilaterally announced that it would hold elections in two phases, the Second Phase to be held on June 14, 2017.

A development during this period important to the second and third phase of elections was the unification of several Madhesh-based parties into one. On April 26, 2017, six Madhesh-based parties unified to form the new Rashtriya Janata Party Nepal (RJPN). However, one of the leading parties of then UDMF, Upendra Yadav-led Sanghiya Samajvadi Forum Nepal (FSFN), did not merge with the RJPN and announced on May 26, 2017 that it would participate in the Second Phase of elections.¹⁴

Another important development between the First and Second Phase of elections was the change in Prime Minister and government. On June 6, Nepali Congress Chairman Sher Bahadur Deuba replaced Communist Party of Nepal (Maoist Centre)'s Pushpa Kamal Dahal 'Prachanda' as Prime Minister as per the agreement previously reached between the two major coalition

¹¹ See 'Supreme court stays decision to add local units'

<https://thehimalayantimes.com/nepal/supreme-court-stays-decision-add-local-units/>

¹² See 'SC scraps writ against govt decision to increase local units in Province-2'

<http://kathmandupost.ekantipur.com/news/2017-08-10/sc-scarps-writ-against-govt-decision-to-increase-local-units-in-province-2.html>

¹³ See: [Political Overview, Phase I Preliminary Report](https://thehimalayantimes.com/nepal/saptari-incident-one-succumbs-injuries-saptari/). Also see, 'Death toll in Saptari incident rises':

<https://thehimalayantimes.com/nepal/saptari-incident-one-succumbs-injuries-saptari/>

¹⁴ Six Madhesh-based parties formed a new party – Rashtriya Janata Party (RJP) Nepal on April 20.

<http://kathmandupost.ekantipur.com/news/2017-04-20/five-madhes-based-parties-unite-to-form-rastriya-janata-party.html>. One of the biggest parties in UDMF - Federal Socialist Forum Nepal (FSFN) – decided to participate in

the elections on May 26. <http://www.myrepublica.com/news/20765/>

partners. RJPN participated and voted to elect Deuba in anticipation that the new government would amend the Constitution before the Second Phase of elections.

On June 11, 2017, the newly formed RJPN announced that they would boycott and disrupt the Second Phase elections across the Tarai because the April 23 agreement had not yet been implemented. The polls were once again postponed until June 23, 2017, with the stated purpose of finding a way to ensure RJPN participation. The date was again swiftly changed to June 28, 2017 in consideration of the Ramadan festival occurring around June 23, celebrated by the Muslim community across the Tarai.

When the GoN failed to meet the RJPN demands for a constitutional amendment, and thus could not bring them to participate in the Second Phase, the elections in Province 2, covering eight districts in central and eastern parts of the Tarai, were postponed to be held in a third phase on September 18, 2017. This decision was made despite expressed reservations from the Election Commission of Nepal (ECN) and the main opposition party Communist Party of Nepal – Unified Marxist-Leninist (CPN-UML).¹⁵

IV. Electoral Legal Framework

Electoral Process

On June 28, the ECN held the Second Phase of local elections in 334 local units across Provinces 1, 5, and 7. 6,432,765 citizens were registered to vote in the Second Phase elections, and each voter was provided with one ballot to elect seven representatives for their local unit (municipality or rural municipality) and ward, including five ward-level representatives, one local unit chief (mayor or chairperson), and one deputy (deputy mayor or vice chairperson).¹⁶

Newly elected representatives are to form assemblies in their respective municipalities and rural municipalities. Each assembly will consist of a local unit chief, a local unit deputy chief, ward chairs, ward members, and Dalit/minority elected representatives.¹⁷ Similarly, all municipalities and rural municipalities should form an executive council within 15 days of the announcement of the election results that includes the local unit chief, a local unit deputy, ward chairs, and members elected from the newly formed assembly.

DRCN observers reported that the formation of executive councils had already started in some local units where final results had been announced.¹⁸ However, elected representatives that DRCN teams met in several areas visited between July 2 and July 7, 2017 expressed a lack of

¹⁵ See ‘Govt postpones polls in Province 2’:

<http://kathmandupost.ekantipur.com/news/2017-06-16/govt-postpones-polls-in-province-2.html>

¹⁶ There are 14,054,482 citizens registered to vote in Nepal’s local election. The voter register was closed on February 20, 2017, following the announcement of the date for local elections by the GoN.

¹⁷ Article 215 and 216 of the Constitution of Nepal 2015 state that members of the municipal/village executive shall include five/four women members elected by the respective assemblies from amongst the assembly members. The executive also include Dalit/minority members to be elected by the respective assemblies. These members can also be from outside the assembly.

¹⁸ According to the Local Election Act, election to the local executives must be held within 15 days of the announcement of the results.

awareness about their roles and duties. The local self-governance laws that are necessary for newly elected representatives to fully understand and exercise their duties have not been passed and are currently being deliberated in the parliament.

Legal Framework and Enforcement

The legal framework required to conduct the local level elections was enacted before the First Phase of elections.¹⁹ Some changes were made to the framework between the First and the Second Phase of elections to try and address problems encountered during the First Phase. For example, the ECN issued a new rule to security officers to restrict counting agents of political parties from getting too close to ballot papers. This change was made in response to the counting incident in Bharatpur Metropolitan City where agents of one political party were alleged to have torn ballot papers at a contested moment during counting.²⁰ DRCN observers in Dhankuta, Solukhumbu, and Dang districts reported that these orders were strictly implemented during counting.

Another change between the two phases of polls was that the ECN issuing an order on June 30, 2017 to all counting officials to commence counting in accordance with Section 60 of the Local Level Election Act 2017, even if candidates and counting agents were not present in the counting center. Observers, however, reported that counting officials were unaware of this provision, delaying the start of the counting process in some places. The ECN issued an additional directive to have counting officers establish the total number of ballot papers found in the ballot box as the actual numbers of votes cast. This was reportedly done to avoid disputes over the total number of actual votes when the total number of ballot papers inside the ballot box was found to be different from the total number of votes recorded as in the ballot box. This created confusion and led to counting disruption in some places, including in Jhapa and Kanchanpur districts.

Section 38 of the Local Level Election Act 2017 provides that senior citizens and people with disabilities should be allowed to exercise their right to vote through proxy voting. DRCN observer teams reported some confusion over this provision. Disagreements over who should be allowed to cast a proxy vote and whether there should be limitations on the age of the proxy voter were commonly observed. While the law allows only immediate family members as proxy voters, individuals outside family were also observed to have cast proxy votes. Observers reported that after much confusion, polling officers eventually allowed a nine-year-old boy to

¹⁹ Parliament passed the Election Commission Act 2017, Local Level Election Act 2017, and Act on Determination of the Number of Wards of Rural Municipality and Municipality 2017, and the Act Relating to Electoral Rolls 2017. The ECN also issued the Election Commission Regulation 2017, Local Level Election Regulation 2017, Regulation Relating to Electoral Rolls 2017, Local Level Election Directive 2017, Local Level Election Polling Directive 2017, Local Level Elections (Offences and Punishments) Directive 2017, Observation Directives for Local Level Election 2017, Local Level Election Code of Conducts 2017, and the Rural Municipal Executive and Municipal Executive Election Directives 2017. Other relevant laws on local elections include the Political Parties Act 2017 and the Election (Crime and Punishment) Act 2017.

²⁰ On May 28, vote counting was suspended in Bharatpur Metropolitan City, Chitwan after CPN(MC) cadres allegedly destroyed 90 ballot papers from Ward 19. The ECN decided to conduct re-polling in ward 19 according to the Local Level Election Act 2017. On June 4, a case was filed at the Supreme Court of Nepal against the ECN decision. After putting off the hearing several times, on July 30 the Supreme Court upheld the ECN decision to conduct re-polling in the contested ward.

cast a proxy vote on behalf of his grandparents in Dang district. The election law does not specify an age limit for proxy voting.

Amendments were made to the Local Level Election Act 2017 and Political Parties Act 2017 to facilitate RJPN's participation in the Second Phase of polls. On June 9, the Parliament amended Section 18 of the Local Level Election Act 2017 so that the party registration deadline could be extended to allow RJPN to register with the ECN. Section 10(7) of the Political Parties Act 2017 was also amended to allow RJPN to use an election symbol and flag of one of its constituent parties. The previous provision prohibited a unified party from using the flag, election symbol, or names of any constituent parties for one year from the date of unification.

V. Observation Findings

A. Pre-Election Period

Election preparations for the Second Phase of elections were disrupted by a lack of clarity about the election date. DRCN teams in all provinces reported widespread confusion and uncertainty about whether the elections would happen up until candidate nominations began, much like during the First Phase of polls. Uncertainty about whether the protesting RJPN would participate in the elections also led many to speculate the elections would not happen, and others to fear that the elections could turn violent. DRCN teams noted a strong difference in the level of enthusiasm and electoral preparedness across different areas visited – primarily between the hill and Tarai regions within and among districts.

Candidate Nominations Process

Candidate nominations and finalization for the Second Phase of local elections was conducted from June 18 to June 21, 2017. Originally scheduled to start on June 16, the GoN and ECN made a last minute decision on June 15 to postpone the nominations' deadline by two days. One of the main reasons cited for this postponement was the lack of preparedness of the major political parties in finalizing their candidates. The last minute postponement of nominations created widespread confusion across the districts visited by DRCN teams. The sudden decision to push the nomination date while maintaining the original Election Day of June 28 also shortened an already tight campaigning period. This was especially disadvantageous to independent candidates and candidates from smaller parties who were assigned election symbols only after finalization of candidates.

DRCN teams observed the Second Phase nominations process in six districts across Provinces 1, 5, and 7.²¹ In most places visited, the nominations process was reported as being better organized and more efficient than during the First Phase of elections. Candidate registrations were by-and-large conducted without significant problems, with publication of final candidate lists and distribution of symbols completed in most places in scheduled time. DRCN observation noted relatively fewer disqualifications and candidate withdrawals as compared to the First Phase.

²¹ DRCN teams observed candidate nomination process in Dhankuta Municipality in Dhankuta; Solu Dudhkunda Municipality in Solukhumbu; Sunawal Municipality in Nawalparasi; Ghorahi Municipality in Dang; Gulariya Municipality in Bardia; and Tikapur Municipality in Kailali.

However, while generally better than the First Phase, there were still some problems with the nominations process. Significant delays did impact the process in Solukhumbu, where registration and preparation of the final candidate list stretched until 5:00 AM the following morning.²² In certain parts of Nawalparasi District, nominations were conducted under an uncharacteristically high level of security as the district had been categorized as sensitive due to RJPN threatening to disrupt the nominations process.²³ Candidates and staff still expressed frustrations over what was seen as a time consuming, highly bureaucratic and complicated process.

Independent and smaller party candidates continued to express their dissatisfaction with the candidate nominations process in all areas. These candidates felt the period of time from nominations to the elections was too short, particularly with the changes in dates during the Second Phase, impacting their ability to effectively campaign.

Campaign Period

Major political parties began campaigning well in advance of the official campaign period in many places visited by DRCN teams. Some major parties including CPN (Maoist Centre) candidates started campaigning weeks before the official nomination period – the party had finalized their candidates well before they had to officially register. Other major political parties determined their candidates much closer to the official registration date and mostly campaigned along party lines relying on the mobilization of their cadres and organizations.

Campaigning for the Second Phase was similar to that during the First Phase. Priority was given to door-to-door meetings, with limited public assemblies and rallies being held. While major party campaigns were visible in most places visited by DRCN, campaigning by independent and smaller parties was reported to have been weak and sporadic. The uses of campaign flags, t-shirts and hats were widespread. Rumours of large banquets and parties thrown for communities as a way of influencing voter decisions were commonly reported to DRCN observers.

Although the actual amounts of money spent during the election are not possible to determine, nearly all the respondents DRCN teams met with reported the level of spending during this election as exponentially higher than previous elections. Political party leaders in all districts visited were worried that becoming elected is growing increasingly beyond the reach of the common person. Some leaders of major political parties in districts like Banke, Bardia, Morang and Jhapa also expressed serious concerns that the parties had given candidacies to those with

²² The delay was largely due to a lack of clarity in the process among candidates as well as the officials, and also a result of some technical and personnel issues. Many candidates (including political parties) were unaware of all the documents required for registering nominations. There was also confusion among the staff at the Chief Election Officer's office regarding verification of documents and process. In terms of technical issues, registration of nominations were being maintained both physically (on paper) as well as electronically. This was due to lack of confidence in constant electrical supply and internet access for updating to the ECN's system/software.

²³ A number of factors were cited for the high level of security in Nawalparasi, including RJPN opposition to the elections, possible attempts of disruption by CK Raut supporters, and events that had occurred in the district in the lead up to the nomination day. For details please refer to *Pre-Election Security and Violence* section below.

high spending abilities rather than those who had provided dedicated service to the party and the community.

Campaigning was starkly different between the hill and Tarai regions within and between different districts in which DRCN observed. Observers reported the level of campaigning, overall environment, and the mood as more muted and low-key in Tarai areas. DRCN teams found this to be the case in Nawalparasi, Kapilvastu, Morang and Sunsari districts, all consisting of both hilly and Tarai regions. In Nawalparasi particularly, no formal campaigning occurred in large sections of the local units south of the East-West Highway in the district with higher influence of RJPN, while campaigning along the highway and the northern regions of the district consisting of predominantly hill ethnicities were enthusiastic and rigorous before and around the nominations day. DRCN teams also reported subdued campaigning in the southern Tarai belts of Morang and Sunsari districts that have significant RJPN influence.

Campaign Silence Period

The silence period began 48 hours prior to Election Day. In most places observed there were no major reports of incidents or breaches of the silence period. There were however widespread rumours of political parties still holding meetings, gatherings and organizing feasts in private settings. No official complaints were lodged in any of the areas where DRCN observers were present.

Pre-Election Security and Violence

RJPN's decision to not participate in the elections and threats of active disruptions from groups like CPN (Biplav) created major security concerns during the build up to the Second Phase of elections. Of particular concern was the potential for violence in Tarai districts with significant influence from RJPN, and potential disruptions from fringe groups like that of CK Raut. After the GoN failed to put the constitutional amendment bill to vote, and unilaterally announced on June 15 that the Second Phase elections would move forward but that elections in Province 2 would be further postponed to September 18, RJPN decided to continue to protest against the elections, CPN scaled up its protest against the election, and other political parties participating in the elections intensified their campaigns.²⁴

Major incidents of election violence did not materialize as feared leading up to the election, but election-related incidents were still prevalent during the pre-election period. According to Nepal Monitor, there were a total of 89 election-related incidents during the official campaign period from June 12 to June 25, 2017.²⁵ Of these, 40 incidents were related to RJPN's protests against elections; 15 incidents involved CPN (Biplav); 13 incidents entailed inter-party disputes; 12 incidents involved unidentified groups and improvised explosive devices (IEDs); two incidents

²⁴ The GoN said that the decision to postpone the elections in Province 2 was reached after an agreement with the RJPN, and that it would allow more time to create an environment for RJPN to participate in the elections. RJPN denied reaching such agreements and called for election in all four provinces to be postponed until their demands were addressed through a constitutional amendment.

²⁵ See DRCN and Nepal Monitor Report: Campaign Period Incidents Prior to Second Phase (June 28) Local Elections. <http://democracyresource.org/wp-content/uploads/2017/07/Analysis-Update-8.pdf>

involved party members' dissatisfaction about selected candidates; and one incident was related to residents protesting against the structure of the newly formed local units.

A major incident occurred in Ramgram, Nawalparasi on June 17, 2017 at an anti-election rally addressed by senior RJPN leaders who encouraged cadres to protest the candidate nominations occurring the following day. Towards the end of the event, a group of RJPN supporters burned campaign t-shirts and flags belonging to the CPN-UML and vandalized furniture outside the nearby transportation office, just around the corner from the protest rally. Police fired teargas and rubber bullets as events unfolded injuring at least four protesters. The police arrested some protesters, but the numbers were not independently verified.²⁶

RJPN cadres were also threatened and pre-emptively arrested by security forces around the June 16 candidate nominations period in Morang and Sunsari districts. One district level RJPN leader in Sunsari told DRCN that the police came to the houses of RJPN cadres and threatened to arrest them indefinitely if they participated in protests and disruptions around nomination day. Pre-emptive arrests of CPN (Biplav) cadres and leaders were also commonly reported to DRCN teams across all districts visited, but more prevalently in districts like Rukum, Rolpa, Kailali and Bajura where CPN (Biplav) was perceived to have greater influence. DRCN teams across the districts visited reported that all arrests were made under the Public Offence Act.²⁷

Other notable incidents during this period included protests in Kathmandu organized by the All Nepal National Free Students Union (ANNFSU), a student wing of CPN-UML, against the GoN's decision to postpone the elections in Province 2; the arrest of the spokesperson of a separatist Madhesh movement led by CK Raut in Gulariya, Bardia for conducting 'anti-election activities'; two Nepali Congress candidates in Jhapa allegedly trying to bribe voters; a group led by a potential independent candidate in Gaur, Rautahat allegedly beating four Dalits and threatening them to not vote for other candidates; a Nepal Army Captain and a Police Inspector allegedly threatening a CPN (MC) candidate in Badikedar Rural Municipality in Doti; and six persons who threatened election candidates being arrested from Ghorahi Sub-Metropolitan City in Dang.

Six more incidents were recorded during the silence period, including four separate incidents of inter-party clashes in the districts of Achham, Darchula, Rukum and Sunsari; one death after an improvised explosion device (IED) detonated in Dhangadhi, Kailali; and one incident of a candidate beating up a local citizen.²⁸

Voter Education

²⁶ The police would not verify the number of rubber bullets fired, the number of injured people, nor the number of arrests made after the incident. Local radio reported that the police fired three rounds of rubber bullets injuring four RJPN cadres. One RJPN leader at the district-level told DRCN that at least five cadres were injured by rubber bullets.

²⁷ Under the Public Offence Act 1970, the Chief District Officer has jurisdiction to look after 'public offences,' incidents which do not have to go through the regular judicial processes.

²⁸ See DRCN and Nepal Monitor 2017; [Local Level Election, Silence Period and Election Day: Second Phase Factsheet - 2](#)

The confusion created by frequent postponement of the election, general uncertainty about whether or not the elections would happen, and the short period of time to conduct the elections, negatively impacted the level and quality of voter education across the districts visited by DRCN. A new and complex election system and the large and complicated ballot paper also made education efforts difficult and created widespread confusion among both the educators and the voters.

Voter education was commonly reported as inadequate and poorly conducted in all places visited by DRCN observers. In Morang, voters DRCN teams met said that voter education had not reached their communities, even in urban centers like Biratnagar. This was despite claims from the Regional Election Office that 640 volunteers had been provided a two-week long training before being deployed across the district. In all remote districts visited, including Bajura, Darchula, Solukhumbu, Rolpa, Taplejung and Terhathum, all interviewees raised concerns that most citizens had received little or no voter education.

In some Tarai districts like Dhanusha and Rautahat in Province 2, DRCN observed active disruption of the training of voter educators by protesting RJPN activists.

Education efforts in many places were faced with challenges, including inadequate staffing and resources. Respondents including representatives of political parties and voters told DRCN observers that the volunteers tasked with providing voter education did not receive sufficient and timely orientation. Lack of education materials in local languages was cited as a major challenge in some places of districts like Banke and Bardia. Many people interviewed by DRCN had concerns that voter education volunteers were loyal to political parties and that they only focused their education on supporters of their own party. DRCN observers heard complaints in Rolpa and Solukhumbu that some volunteers told voters that their votes would be invalid if they did not vote a certain way.

The timing of the elections also impacted volunteers' abilities to provide effective voter education. In districts like Bardia and Rupandehi, volunteers told DRCN that it was difficult to reach all the voters because many farmers were busy in the fields as the voter education period overlapped with planting season. Volunteers in remote districts like Darchula, Taplejung and Solukhumbu explained that some places were very difficult if not impossible to reach during the rainy season.

Voter Registration

Political party representatives and voters had similar complaints about voter registration and the register across the districts DRCN teams visited. Those interviewed by DRCN were primarily concerned that many voters were missing from the roll due to the abrupt closing of the register on February 20, 2017 when the May 14 election date was announced.²⁹ Errors concerning the content of the register were also commonly reported. The most common issues included names

²⁹ Under Section 4 of the Electoral Rolls Act 2017, voter registration is to be suspended upon the announcement of the election date.

of people who voted in previous election no longer having their name on the list; errors in personal details; wrong photos being associated with names on the list; names being repeated on the list; and incorrect assignment of ward to voters.

A large number of seasonal migrant workers who travel to India for work were reported as missing from the list in districts like Achham, Bajura, Dadeldhura, Darchula, and Rolpa. In districts like Mahottari, Parsa, and Rautahat respondents said that people were focused on bigger political issues like constitutional amendments and hence did not prioritize registering for the local elections.

Voter Identification Cards

Many voters DRCN observers met expressed confusion about whether official identification other than voter identification cards could be used to vote on Election Day. Despite maintaining throughout the pre-election period that only voters with voter identification cards would be allowed to vote, the ECN decided the day before the polling that other forms of national identification would also suffice if the voters were registered in the voters roll DRCN recorded no cases of voters with names on the list being denied their right to vote. There was also confusion during distribution of identity cards over who could collect and distribute the cards. In Solukhumbu, DRCN heard complaints from multiple respondents that representatives of political parties collected cards in bulk to distribute to supporters. Voters in remote districts including Bajura and Rolpa expressed frustration that they had to walk for many hours to collect the cards.

B. Election Day

The June 28 Second Phase of local polls brought citizens from across Provinces 1, 5, and 7 out to elect 15,038 representatives in 334 local units. Despite the day falling in the middle of the monsoon and planting season, voter turnout was 73.69 percent of the registered population, comparable to the First Phase. While there were protests, calls for boycott, and IEDs found near polling centers and houses of candidates in the lead up to the Election Day, feared larger scale problems were averted and the elections were generally reported by the both the media and the observers as being technically sound.

Inter-party skirmishes and clashes occurred in all provinces on the Election Day, with some involved sustaining injuries. DRCN teams reported such incidents in Achham, Arghakhanchi, Bajhang, Dang and Kanchanpur districts. Polling was temporarily halted in Achham's Mellekh Rural Municipality Ward No. 6 after a fight broke out between CPN-UML and CPN (MC) cadres. In Rolpa Municipality Ward No. 10, polling was suspended after a voter was accused of pouring acid into the ballot box. Security around ballot boxes was increased in other polling centers across Nepal after the news from Rolpa became public.

DRCN teams observed at 119 polling stations in six districts across Provinces 1, 5, and 7.³⁰ Teams mainly reported polling as being conducted smoothly and without any major inconsistencies. With a few exceptions, voting started on time, management and operation of

³⁰ DRCN teams observed the opening, polling, and closing in Solukhumbu, Dhankuta, Nawalparasi, Bardia, Dang and Kailali districts.

polling centres through the course of the day was reported as satisfactory and closing formalities and procedures were concluded properly.

The ECN maintained throughout the pre-election period that only voters with voter identification cards could vote in the Second Phase polls, but once again issued a last minute directive that allowed voters to cast their ballots using other forms of official national identification. DRCN teams did not observe any voters being turned away based on the identification they presented.

DRCN observers did note some areas of concern. In some polling centres, like Gulariya in Bardia, polling booths reportedly lacked required privacy with election and security officials able to see for whom the votes were being cast. Another concern reported by DRCN teams was the close proximity of political party agents and election staff/officials in terms of their seating arrangements. This was largely due to a lack of sufficient space at polling centers.

DRCN teams also observed communities in Bhujhawa, Nawalparasi and Tingla, Solukhumbu boycotting the electoral process in protest of the recent restructuring of their local units.

Counting and Invalid Ballots

The Second Phase counting process was observed by DRCN teams as being conducted in a more efficient manner than during Phase One. This was largely attributed to the experience and lessons learned from Phase One, for example, election officials in many centers ran multiple counting stations simultaneously. There were still some problems, for instance in Punarbas, Kanchanpur and Dharan, Sunsari where counting was delayed due to inconsistencies and accusations from some political parties that counting officials were favoring particular parties.³¹

Although more efficient than Phase One, counting was still lengthy. Noticeable delays were caused by the large size and complicated nature of the ballot paper, a lack of proper protocols for reviewing ballots, lack of sufficient staff to run multiple counting stations, as well as a need to recount different wards due to a difference in numbers recorded by ECN officials and political party agents. Some confusion and delays were also reported to have occurred when the total number of ballots in the ballot box and official number of votes cast in the respective polling centers differed. In some instances, lack of clarity on whether the presence of all party agents was necessary for counting to move forward led to delays.

While DRCN is yet to obtain complete data, results obtained by observers across different local units show a very high rate of vote invalidation. For example, in Nawalparasi district, complete ballot invalidation in Pratappur Rural Municipality was 10.38% of total ballots cast. However, some individual races had an invalidation rate of up to 69.99%.³²

³¹ See: <https://thehimalayantimes.com/nepal/vote-counting-dharan-sub-metropolitan-city-still-disrupted/>

³² The 69.99 percent invalidation rate reported was for the Dalit woman member race in Pratappur Rural Municipality, Ward No. 8 where only 479 of 1596 total votes cast were considered valid. In the same Rural Municipality, 28.57 percent of the ballots cast for chairperson and 31.81 percent of ballots cast for vice chairperson were invalid.

At the counting centers where DRCN observers were present, the most common reasons for ballot invalidation were ballots or races being left unmarked (no candidate selected), casting multiple votes for a single race, and stamping outside the borders of the ballot paper. Votes for symbols without candidates was also another commonly observed reason, although teams reported there were relatively fewer instances of this happening.

In terms of voting patterns observed during counting, DRCN observers noted that the majority of votes were made along party lines (panel voting). There were some cross-voting trends observed (votes given to candidates campaigning under different party symbols), however in the cases this happened it was mostly a single vote being given to a candidate of another party, as opposed to a voter voting for several different candidates from different parties. It was also noted that cross-voting patterns (both in terms of total percentage of ballots with votes for more than one symbol, as well as the number of votes given to more than one symbol on one ballot paper) seemed to be higher in urban areas than in rural polling stations.

It must be noted that DRCN's findings on both ballot invalidation and voting patterns are preliminary and anecdotal and should be followed up with a more comprehensive analysis once a detailed set of election results is released by the ECN.

Post-Election

DRCN teams carried out limited observation of the post-election climate in selected districts of Provinces 1, 5 and 7.³³ Respondents that DRCN met with, including winning and losing candidates, expressed no significant grievances and said that inter-party relations were generally normal. Concerns however continued to be raised in districts like Kapilvastu and Nawalparasi about RJPN not participating in the elections and how it might impact the political dynamics going forward. Elected officials that DRCN met expressed some concerns about the absence of the Local Governance Act and other relevant governing laws for the new local units. Uncertainties were also expressed regarding newly elected officials' specific roles and responsibilities, including the amount of budgets each unit would receive from the federal government.

VI. CONCLUSION AND RECOMMENDATIONS

Conclusion

The Second Phase of the local elections was concluded without major violence or contestation of official results. In local units where there were complaints or results were contested, election officials managed to resolve the issues and conclude the process locally. This is a positive and

³³ DRCN teams observed the post-election environment in Sunsari, Udaypur, Nawalparasi, Kapilvastu, Arghakhanchi, Banke, and Kanchanpur districts.

laudable accomplishment especially given the less than ideal conditions and environment in which the elections were conducted.

Frequent postponements, date changes, and overall uncertainty about the elections up until the day of nominations – just 10 days prior to the Election Day – resulted in a lot of confusion and unnecessary apprehension for the public and candidates about whether the polls would go forward. Political developments on the national level like the change in government in between two phases of the elections, as well as political disputes and failure to reach a promised agreement on the issue of constitutional amendment to address RJPN’s demands, increased speculation about intentions and added to the uncertainty.

The inability of major political parties and RJPN to reach an agreement resulted in elections being delayed once again in Province 2 until September 18, 2017. This raised further doubts about the sincerity of major parties in holding polls in Province 2, and reinforced perceived and real divisions that exist between the Madhesh and the rest of the country. While the general mood after the completion of the Second Phase of polls in several quarters is that the elections have been by-and-large completed, it is important to not forget that a significant percentage of the population has yet to vote for their own representatives.³⁴

The Second Phase elections also had a large and visible security presence, including the deployment of the Nepal Army in certain districts, particularly in the Tarai belt including Nawalparasi, Kapilvastu, Morang and Sunsari districts. While the GoN justified the presence on the grounds of a sensitive security situation, it does not reflect well on the overall democratic election process and could set a dangerous precedent as Nepal moves towards provincial and parliamentary elections.

Another concerning aspect of these elections was the preemptive arrest of cadres and local leaders belonging to the protesting and boycotting groups. While assurance of a secure environment for polling is an important duty of the state, it should not come at the cost of civil liberties and citizens’ rights to vote in a peaceful and non-intimidating environment.

DRCN teams observed a stark difference in the level of campaigning and enthusiasm for the elections between and within certain districts. This was especially noticeable in districts like Nawalparasi, Morang, and Sunsari where there are areas with both hill and Madhesi ethnic majorities. The level of excitement and campaigning was higher in the hill-majority areas than in the Madhesi-majority areas, where the entire election process was largely reported by DRCN observers as being subdued. Although citizens across these districts participated in the elections, and in several places voter turnout was high, this should not be considered indicative of all communities in these areas being satisfied with the new Constitution or social arrangements.

During both phases of local elections there were violent incidents involving major parties, especially during the campaign period. According to DRCN and Nepal Monitor reports on pre-election incidents before the Second Phase elections, there were at least 13 incidents and clashes

³⁴ 2,664,792 of 14,054,482 (18.9%) of total registered voters are registered in Province 2.

involving major political parties only.³⁵ In districts like Rolpa, Solukhumbu and Bajura, respondents told DRCN teams that there was a long history of inter-party clashes during election. Leadership of the political parties must work to change this culture and ensure that the political space is open and accessible to all.

While the ECN was able to pull off elections in a challenging environment and under a cloud of uncertainty, there are worrying trends and serious concerns that need to be addressed before the third phase of local elections and forthcoming provincial and national elections. On the electoral side, maintaining a proper voter register, ensuring adequate and effective voter education, ensuring the timely passage of electoral laws, and providing the ECN adequate time and resources to plan and manage the elections must be priorities for all stakeholders. On the political side, the resolution of longstanding disagreements over provisions in the Constitution must be seriously addressed for forthcoming elections to be fully accepted by all.

Recommendations

Based on its long-term observation of the electoral and political environment around the Second Phase elections, DRCN makes the following recommendations. DRCN believes that these recommendations will help improve the Third Phase of local elections, and the forthcoming provincial and parliamentary elections.

- The GoN and major political parties need to resolve outstanding political disagreements, especially regarding key contested provisions in the new Constitution. Long-term security around elections should be based on national agreements and a general acceptance of the Constitution and political processes rather than deploying a high level of security forces.
- Future elections should not be broken into phases. This is a convenient mechanism for postponing the real need of addressing political problems, and is problematic for other reasons including: it can perpetuate perceived and real divisions within the country; it can create a sense of great uncertainty about whether or not the elections will happen (and delay preparations for elections); the results from one phase can influence voting and voter choice in subsequent phases (and may lead to greater chance for certain parties/candidates to capitalize or take advantage); and it can lead to postponement of important electoral decisions, for example what happened in Bharatpur Metropolitan City during the First Phase elections.
- While deciding the date and calendar for the elections, serious considerations should be made on the duration between the nominations day and the day of polling to ensure

³⁵ Of the 89 election-related incidents recorded by Nepal Montior during the campaign period between June 12-25: 40 incidents were related to RJPN's protests against elections; 15 incidents involved CPN (Biplav); 13 incidents entailed inter-party disputes; 12 incidents involved unidentified groups and improvised explosive devices (IEDs); two incidents involved party members' dissatisfaction selected candidates; and one incident was related to residents protesting against the structure of newly formed local units. See: <http://democracyresource.org/wp-content/uploads/2017/07/Analysis-Update-8.pdf>

sufficient period for campaigning, especially keeping in mind the disadvantages faced by small party and independent candidates.

- All the major political parties must make public and binding commitments to prevent inter-party violence before and during the Election Day. The ECN and the GoN must ensure that breaches of the election codes of conduct are strictly held accountable for.
- Election laws and directives have to be passed and implemented in a timely manner to ensure a smoother election process. During the First and Second Phase elections, the electoral framework was approved and implemented at the last minute leading to confusion for staff, candidates, as well as voters.
- Both the quality and reach of voter education must increase. The level of training as well as numbers of voter educators deployed needs to be reassessed and improved. Hiring of fresh graduates, as well as longer deployment of voter educators, could make voter education more effective in the future.
- Large, complicated, and poor quality of the ballot paper was reported to be one of the leading causes of vote invalidation. The ECN should consider having two separate ballots: one for the chief and deputy of the local unit, and another for ward level representatives. The kind and quality of ink should be reviewed, and any new ink procured should be tested prior to new elections. Ideally a different color of ink than that of symbols on the ballot should be considered.
- The date of elections should be carefully considered as to ensure maximum voter participation. Farming, major cultural and religious holidays, and meteorological calendars should be consulted when an election date is fixed. This will impact not only voter turnout but also costs involved in conducting elections.
- The local-election counting process should be reviewed and improved based on lessons learned during the first two phases of polling. A new ballot design could assist in improving the process. A manual or protocol on how every official should participate in the counting process would also help to increase the quality and efficiency of the process.
- Increased staff training would also help to improve the quality and efficiency of the election process. This could include mock candidate nomination, polling, and counting exercises. The deployment of election staff should be carefully planned and be done considering Nepal's topographic challenges and population distribution.
- Campaign finance should be reviewed and proper regulations created and enforced. Election budgets and regulations regarding costs should take into consideration the realities of Nepal's different elections, positions being elected, and communities. Having a "one-size-fits-all" approach makes it unfair and difficult for certain local administrations as well as candidates in terms of conducting and campaigning for elections.

- The role of observers should be clearly defined and communicated on all levels to ensure that observers have proper access to all aspects of the elections, including counting and election results.