DEMOCRACY RESOURCE CENTER

Preliminary Statement on September 18 Third Phase Local Elections

October 31, 2017

1. Introduction

On September 18, 2017 the third and final phase of local elections was held in Province 2 consisting of eight Tarai districts. Voters in newly formed local units turned out in impressive numbers to elect new representatives. Democracy Resource Center Nepal (DRCN) conducted long-term and short-term observation of these elections to provide a critical and independent 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 third phase of local elections.[1]

DRCN released its first preliminary statement based on observation of the May 14 first phase of elections on June 7, 2017; and the second preliminary statement based on the June 28 second phase of elections was released on August 13, 2017. This third preliminary statement will be followed by a final comprehensive report covering all three phases of the local election process. DRCN's objective is to provide timely and valuable information about the local elections while making relevant policy recommendations for future elections.

1.1 DRCN Observation

On September 4, 2017, DRCN deployed three mobile long-term observer (LTO) teams to Province 2 to observe the third phase of the local elections. These LTO teams travelled across all eight districts in the province to meet with stakeholders and citizens at the district, municipality, and rural municipality levels to better understand the Election Commission of Nepal's (ECN) preparations for polling, the candidate nomination process, campaigning, and the security environment, among other important aspects of the election process.[2] An

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[1] DRCN deployed three mobile long-term observer (LTO) teams and 13 short-term observer (STO) teams to observe the third phase 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, elections code of conduct, and election observation standards.

[2] The three LTO teams were stationed in Rajibiraj Municipality, Saptari; Janakpur Sub-metropolitan City, Dhanusha; and Birgunj Metropolitan City, Parsa. The LTO teams observed pre-election processes in all eight districts: the Rajbiraj team in Siraha and Saptari; the Janakpur team in Mahottari, Dhanusha and Sarlahi; and the Birgunj team in Parsa, Bara and Rautahat.

additional 13 mobile short-term observer (STO) teams were deployed on September 15 to observe the silence period, election day, and vote counting processes.[3]

DRCN LTOs visited a total of 14 local units in the province before election day. DRCN STOs observed the opening, polling, and closing in 172 polling centers in 42 local units on election day.

DRCN's core team consists of a Director, Observer Coordinator, Electoral-Legal Analyst, Media Monitor, Logistics Coordinator, and other support staffs who work with observer teams while engaging national-level stakeholders about findings and recommendations. DRCN's observation and analysis is further informed by its political violence monitoring project, which is now focused on monitoring and analyzing election-related incidents.[4]

2. Political Overview

Nepal's 2015 Constitution was adopted on September 20, 2015 which requires the local, provincial, and parliamentary elections to be completed by January 2018. The 2015 Constitution also mandates the restructuring of Nepal's local government, including the devolution of power to newly created provinces and local units. The Local Level Restructuring Commission (LLRC) was formed on March 15, 2016 and was tasked with proposing 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).[5] Following widespread dissatisfaction and contestations, especially by the protesting Madhes-based parties, the GoN added 25 more local units that came into effect on March 15, 2017.[6]

The local level restructuring process was rushed to facilitate the expected local elections, and happened amidst protests, particularly by Madhes-based parties who were demanding the revision of provincial boundaries before the creation of local units.[7] The number of local units was a highly contested issue and led the GoN to propose 22 new units in certain Tarai districts between the first and second phases of local elections in an attempt to convince the Madhes-based parties to participate in the second phase of the polls. The decision was stayed by the Supreme Court of Nepal on May 26.[8] However, on August 10, 2017, the Supreme Court vacated the previous stay order and scrapped the petition filed against the proposed increase. This ruling paved the way for nine local units to be added in Province 2.[9]

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[3] The three LTOs were joined by 13 STOs for the observation of the Silence Period, the Election day, and counting. There were two DRCN observer teams in each of eight districts in the Province for the election day observation.

[4] See: DRCN's political violence monitoring reports

[5] See: Country to have 719 village and municipal councils

[6] See: Number of local units reaches 744

[7] For details on contestations around the local body restructuring, see: DRCN Preliminary Findings on Local Body Restructuring

[8] See: Supreme court stays decision to add local units

[9] Following the SC decision, the government decided to add nine local level units in Province 2 on August 11, resulting in the creation of 59 rural municipalities and 77 municipalities including one metropolitan city in the province. See: Govt prepares to add 9 more local levels in Province 2

An important political development prior to the first phase election was the unification of several Madhes-based parties into one. On April 26, 2017, six parties unified to form the new Rashtriya Janata Party Nepal (RJPN) which decided on June 11, 2017 to boycott the second phase of local elections. However, one of the leading Madhes-based parties, the Upendra Yadav-led Federalist Socialist Forum Nepal (FSFN) announced on May 26, 2017 that it would participate in the second phase of local elections.[10] The FSFN had also participated in the first phase elections – which covered Provinces 3, 4 and 6 and did not consist of any Tarai districts – after forming an electoral alliance with Naya Shakti Nepal led by former Prime Minister Baburam Bhattarai.[11] The alliance, which was expected to result in a party unification, dissolved after the second phase following poor results and increasing differences within the top leadership.

Another important development between the first two phases of elections was the change of government. On June 6, Nepali Congress President 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 partners. The RJPN participated and voted to elect Deuba in anticipation that the new government would amend the Constitution, a key RJPN demand, before the second phase of elections. On June 11, 2017, the newly formed RJPN announced that they would boycott and disrupt the second phase of elections across the Tarai because the April 23 agreement on constitutional amendment was not implemented by the GoN. The polls were postponed until June 23, 2017 in order to ensure RJPN's participation. The poll date was rescheduled to June 28, 2017 in consideration of the Muslim communities celebrating Ramadan around June 23. The GoN failed to meet RJPN demands for a constitutional amendment and thus could not bring them to participate in the second phase. The elections in Province 2 were postponed to a third phase of local elections on September 18, 2017. This decision was made despite reservations from the ECN and the main opposition party, Communist Party of Nepal – Unified Marxist-Leninist (CPN-UML).[12]

RJPN warned that it would actively boycott and disrupt the second phase of elections. A major incident occurred at an anti-election rally in Ramgram, Nawalparasi on June 17, 2017 where senior RJPN leaders encouraged cadres to protest the candidate nominations scheduled for the following day. Towards the end of the event, a group of RJPN supporters burned campaign t-shirts and flags belonging to CPN-UML and vandalized furniture outside the nearby transportation office. Police fired teargas and rubber bullets in response, injuring at least four protesters. The police arrested some protesters, but the number of arrests was not independently verified. By contrast, various RJPN hopefuls filed their candidacies as independents in districts like Rupandehi and Nawalparasi. Security was heightened across Tarai districts and there were widespread arrests of RJPN cadres to prevent them from disrupting the election process. There were no reports of RJPN cadres attempting to actively disrupt polling on election day.[13]

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[10] See: Six Madhesh-based parties unite to form a new Rashtriya Janata Party. See: Upendra Yadav-led FSFN to contest local polls

[11] See: Forum, Naya Shakti form alliance; to contest local polls with common symbol

[12] See: Govt postpones polls in Province 2

[13] For summary of security incidents and arrests made by the police prior to the second phase elections, see: DRCN Campaign Period Incidents Prior to Second phase (June 28) Local Elections

On August 11, after several rounds of dialogue, the ruling parties and the RJPN agreed to put the constitutional amendment bill to vote in the parliament. The bill was registered with an understanding that RJPN would take part in elections regardless of the result of voting. The bill foreseeably failed to secure passage, and on August 23 RJPN formally announced that it would participate in the third phase of local elections, as well as in the provincial and parliamentary elections.[14]

Electoral Legal Framework

Electoral process

On September 18, the ECN held the third and the final phase of local level elections in 136 local units across eight districts of Province 2. Of 14,054,482 citizens registered to vote for the local level elections, 2,664,792 (18.9 %) were eligible to vote in the third phase. Each voter was provided with one ballot to elect seven representatives for their local unit and ward, including five ward-level representatives, one local unit chief (mayor or chairperson), and one deputy (deputy mayor or vice chairperson).[15] The September 18 third phase elections elected 6,627 local representatives from a total of 22,861 candidates.

An assembly will be formed in all municipalities and rural municipalities consisting of a local unit chief, a local unit deputy, ward chairs, ward members, and a Dalit/minority representative.[16] Similarly, all municipalities and rural municipalities will have an executive council formed within 15 days of the announcement of the election results of respective local units.[17] The municipality and rural municipality executive councils will comprise a local unit chief, a local unit deputy, ward chairs and, members elected from the newly formed assembly.[18] While the formation process for the Executive Councils already began in some local units, concerns remain over the potential failure to enact local self-governance laws that allow newly elected representatives to perform their duties.

Legal Framework and Enforcement

Laws required for the conduct of the third phase of local level election were enacted and enforced before the first phase of local level elections held on May 14.[19] Acts, Regulations,

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[14] The constitution amendment bill was put to vote in the parliament on August 21, 2017. The amendment fell short of 48 votes. See: Constitution Amendment Bill fails to get through House.

[15] At the ward level, voters elect one ward chairperson, one female member, a female Dalit member, and two open members. Voters also elect one rural municipality chairperson and one vice-chairperson (in rural municipalities) or one municipality mayor and one deputy mayor (in municipalities).

[16] Refer to Article 222 and Article 223 of the Constitution of Nepal 2015 for the formation of rural municipal assembly and municipal assembly respectively.

[17] Article 215 and 216 of the Constitution of Nepal 2015.

[18] Ibid. Eight members of municipality will include five women and three Dalit/minority representatives and, six members of rural municipality will include four women and two Dalit/minority representatives.

[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

Directives, Orders, and Codes of Conduct governing local level election were implemented in the same manner as during the previous two phases. The ECN issued additional rules – especially for counting – to existing electoral legal framework during the second phase but not during the third phase.

The ECN issued an order on June 30 to all counting officials to begin counting in accordance with Section 60 of the Local Level Election Act 2017 even if candidates/counting agents were not present in the counting center. DRCN election observation of the second phase counting found that this order was necessary because election officials were unclear about rules governing counting process. DRCN observers made similar observations in Mahottari, Saptari, and Parsa districts during the third phase of elections.

On election day, DRCN observers across the province found that polling officials were confused about polling rules especially regarding proxy voting. A polling officer in Garuda Municipality – 5, Rautahat was seen inaccurately stating that proxy voting was prohibited by law. Section 38 of the Local Level Election Act, 2017 allows immediate family members to cast vote on behalf of elderly and disabled family members. DRCN observers reported that polling officers in many polling locations allowed people other than immediate family members to cast proxy votes, with even election and security officials assisting in casting ballots.

In some polling locations in Saptari, Parsa, and Mahottari districts, DRCN observers witnessed a clear violation of voters' right to privacy. In one polling center of Ward 3 of Chinnamasta Rural Municipality of Saptari district, polling booths were placed facing towards voters and other people inside the polling center. In polling centers in wards 30 and 31 of Birgunj Metropolitan City, Parsa, and in ward 9 of Manra Siswa Municipality, Mahottari district, polling booths were placed narrowly and people standing in queue could easily see voters marking their ballots. DRCN observers saw on many occasions that several voters joined voters in front of the polling booth and whispered about how and where to mark the ballot. Polling officials did not seem concerned about the integrity of the voting process as they permitted these breaches of basic electoral standard in polling centers.

During the third phase of local level election, the ECN issued written statements to the government, the Deputy Prime Minister, and political parties for breaching election codes of conduct. On September 10, the ECN also sought explanation from the Deputy Prime Minister Bijaya Kumar Gachhadar as he and his party cadres were involved in using an excess number of vehicles for election campaigns in Birgunj Metropolitan City, Parsa. On September 11, the ECN urged the government not to violate the election code of conduct, when it expanded the cabinet adding three ministries and one state minister on the same day. DRCN observed that the ECN monitored violations of the election code of conduct more actively during the third phase of local level elections compared to the previous two phases.

The passing of the Local Level Election Act 2017 and Political Parties Act 2017, and the amendment on June 9 paved the path for RJPN to participate in the remaining phases of local election. These amendments allowed RJPN to file nomination papers, use an election symbol,

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.

and have a flag of one of the constituent parties. However, the RJPN did not participate in the second phase of local level elections because of their demands for a constitutional amendment. On August 23, RJPN formally announced their participation in the third phase of local level elections and upcoming parliamentary and provincial elections despite the failure of the constitutional amendment bill in the parliament.

3. Observation Findings

3.1 Pre-Election Period

The decision to hold a third phase of local elections on September 18 was publicly announced on June 15. This provided ample time compared to the first two phases for elections officials, candidates, and political parties to prepare. Uncertainties as to whether the elections would have full participation of all political forces in Province 2 continued until August 23. While a handful of intra- and inter-party disputes occurred in Province 2 leading up to the elections,[20] the overall environment was largely peaceful.

Candidate Nomination Process

Candidate nominations and finalisation for the third phase of local level elections was conducted between September 6 – 9, 2017. As per the official schedule, nominations were filed by September 6, complaints were filed by September 7, withdrawals were filed by September 8, and the final list published and the symbols distributed by September 9. DRCN observed nominations in Janakpur Sub-Metropolitan City, Dhanusha, Birgunj Metropolitan City, Parsa, and Rajbiraj Municipality, Saptari.

DRCN's observations of the nomination process in the aforementioned districts revealed some common trends and issues that were similar to ones observed in the first two phases of nominations. These issues included (i) lack of training and/or understanding among officials of the nomination registration process; (ii) significant delays in completing candidate nomination, which extended into the early hours the next morning; (iii) difficulty adhering to the official nomination schedule; (iv) a cumbersome and complicated registration process for candidates.

Other observations of note from third phase nominations included language barriers in Birgunj where officials had difficulty in communicating in local Bhojpuri language. In Janakpur, as many as 32 candidate nominations were disqualified by a returning officer due to minor errors or missing information. Lack of proper guidelines and protocols for allowing nominees to complete the filing of their candidacy was commonly reported in Rajbiraj. The process of distributing election symbols also caused concerns. In Birgunj, independent candidates were allowed to choose from just three symbols and not from all available symbols on the ballot. In Jankapur, two candidates were said to have been assigned the same symbol, which led to unnecessary confusion.

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[20] A total of 8 incidents were recorded August 3 – September 5, 2017. For details see "Incidents Prior to Nomination for the Third phase Local Election", DRCN, Analysis Update – 11, published on 8 September 2017. (http://democracyresource.org/wp-content/uploads/2017/09/Analysis-Update-11-Eng.pdf)

As in the previous phases, the delays caused by the inefficiency and postponement in the nomination process disproportionately affected the campaigning activities of independent and small party candidates.

Campaign Period

The official campaign period for the third was between September 9 – 15. This round of campaigning followed trends from the previous phases, with importance placed on door-to-door campaigns and public assemblies. As in previous phases, the election code of conduct was violated in terms of use of vehicles, promotional materials like banners, flags, t-shirts, and campaign spending that likely exceeded the limits set by the ECN. Reports of political parties distributing cash to buy votes just prior to the election day were commonly heard but not independently verified in districts like Saptari and Rautahat.

This round of elections saw greater scrutiny by the ECN which enforced the code of by removing campaign materials from public places, conducting police raids on printing shops, and using vehicles with loudspeakers and DJs in rallies by political parties. These measures were observed in Parsa, Mahottari, Bara, and Saptari. Larger political parties were generally perceived as more active in campaigning than smaller parties and independent candidates. Interviewees hinted that this was due to funding and spending power of the bigger parties.

There were fewer security related incidents during the third phase elections campaign period than campaign periods in first and second phases. 11 incidents were recorded during the campaigning period in Province 2, as opposed to 56 and 89 incidents recorded during phases one and two respectively. Of the 11 election-related incidents, eight involved unidentified groups detonating improvised explosive devices (IED), one concerned intra-party conflict, one involved anti-election activity, and one was a physical assault on a candidate. There were two additional incidents recorded during this period, one related to local-level restructuring, and the other a local-level governance-related incident.[21]

Campaign Silence Period

The silence period was enforced 48 hours prior to election day (16-17 September). There were numerous reports across Province 2 of police removing campaign materials, such as flags and banners, from public spaces during these two days. While no major reports of incidents or breaches of the silence period surfaced, there were widespread rumours of political parties distributing cash, continuing to hold meetings and organizing feasts in private settings. No official complaints were lodged in any districts observed by DRCN.

Pre-Election Security and Violence

Despite pre-election concerns on the possibility of inter-party clashes, campaigning concluded without major incidents of violence. One election-related death was reported in Rautahat District but the actual cause was yet to be independently verified. Most stakeholders DRCN teams spoke to across the province said they were satisfied with security preparations

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[21] For details on incidents during campaign period, see "Campaign Period Incidents Prior to the Third phase Local Elections", DRCN Analysis Update – 12, published on 15 September 2017.

for the elections with some expressing concerns about 'extremely high' level of security deployment.

Most parts of Province 2 were categorized as 'highly sensitive' because all of the districts share an open border with India, and there were recent incidents of large-scale political protests and violence. DRCN observers reported that security was 'visibly higher' than in the previous two phases, as the Armed Police Force and the Nepal Army patrolled major urban centers, sometimes with armored vehicles. One election official in Bara district expressed concern that this extremely high level of security might be deemed intimidating given the recent violent protests and movements. DRCN observers met with security officials who believed they were well-prepared and would ensure peaceful elections.

The security officials in most of the districts said they had not identified particular security threats disrupting the elections. The presence of Netra Bikram Chand 'Biplav'-led Communist Party of Nepal (CPN) was considered 'negligible' by security officials. The security agencies did not consider CK Raut's call to protest the election by urging people to vote outside the ballots as a security threat. However, one security officer in Saptari said they were monitoring the activities of some fringe armed groups that were active in the past.

Voter Education and Ballot Invalidation

Interviewees frequently complained about 'very poor' and 'insufficient' voter education in all of the districts. Poor voter education and the complicated ballot paper were expected to result in very high percentages of vote invalidation. Despite the official claims that voter education was conducted before all three phases of local elections at considerable financial cost to the state, citizens and key respondents were very concerned about poor voter awareness. In a mock polling exercise conducted by a major political party for its cadres in Rajbiraj, up to 60% of the total votes were invalid. This is much higher than the number provided by the District Election Office whose mock polling showed 5-7% of total ballot invalidation, and 12-15% of partial ballot invalidation.

Voter Registration

Representatives of political parties and voters across districts expressed concerns that voter registers were not updated and many names were missing.[22] Some interviewees complained that voters who had voted previously in CA elections were not included in the new voter list – a complaint also raised in the first and second phase of local elections.[23] Many eligible voters were not included in the list in districts like Siraha and Saptari due to the high level of out migration from these districts to the Gulf countries and India. Voter registration may have also been affected by voter apathy, lack of awareness about the voter registration dates and process, and the Madhes Movement and related protests. In Mahottari, Parsa, and Rautahat respondents said that people were focused on political issues like the constitutional amendments and therefore did not prioritize registering.

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[22] This was mentioned by interviewees in Rautaha and Bara, among other districts.
[23] This issue was raised in many places including Birgunjin Parsa and Janakpur in Dhanusha.

Voter Identification Cards

Voter IDs were distributed beginning three days prior to the election day. In many districts observed, the distribution process occurred without major issues. While there was much confusion in previous election phases about whether secondary national IDs would be allowed in order to cast a ballot in lieu of a voter ID, it was clear early on during the third phase that secondary IDs would be accepted. However, DRCN observers reported that ballots were cast using other people's IDs in some polling centres at Tilathi-Koiladi Rural Municipality in Saptari.

1.1 Election Day

The third phase of local elections occurred in Province 2 on September 18, 2017 to elect 6,627 representatives in 136 local units.[24] The official voter turnout was 77% of the 2,664,950 registered voters. 16 DRCN observer teams visited a total of 172 polling centers to observe opening, polling and closing on the election day. DRCN also set up a media monitor desk in its Kathmandu headquarters to assess and follow up the real time developments.

Various challenges on election day contributed to voter confusion and some conflicts. Polling location management was inconsistent due to the physical spaces of the polling locations and the lack of clarity on part of the polling location staff and voters. Polling location spaces sometimes contributed to a lack of privacy for voters. For instance, some polling locations were located too close to the road or private homes so votes could be observed.[25]

The lack of informed polling location staff contributed to interpersonal and group scuffles as well as inefficient voting practices. According to DRCN teams, 36.8% of polling locations observed opened on time and 63.2% opened about half an hour later. Delays were sometimes attributed to polling staff or candidates arriving late. Several DRCN teams also noted a lack of female police and polling staff to manage female voters. Furthermore, DRCN observers in numerous locations reported that political party officials were standing too close to polling locations raising concerns for potential voter coercion.[26] The polling staff's knowledge about the voting process and the local voters also posed issues. Though voter lists are required to be posted outside the polling location, this was only affirmed 33.8% of the time by DRCN teams observing the polling process. Police and polling officials at polling locations across the province claimed to be unaware that it is mandatory to post the voters list outside of the location. Furthermore, some polling officials, like a police woman in Pheta Village – 7, Bara, had difficulty managing voters because they did not know the local language and the voters did not know Nepali.

People identified by DRCN observers as members of marginalized groups; such as women, the elderly, and differently-abled people tended to face more challenges. The proxy voting

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[24] "Over 18,000 file papers for Sept 18 polls," The Himalayan Times: 9/7/2017. (https://thehimalayantimes.com/nepal/18000-file-papers-september-18-polls/)

[25] One polling location in Pheta - 7, Bara was located near private homes from which people were looking into the voting booths until a policewoman blocked their view with a bedsheet.

[26] In Tilathi Koladi - 8, Saptari "[s]ome candidates were found to be hanging inside the polling location and in voter queues unnecessarily."

process was confusing for many and resulted in the consensual or non-consensual casting of votes by people on behalf of voters.[27] Observers noted polling staff and others in numerous locations casting proxy votes or accompanying voters and then marking their ballots for them.[28]

In general, women voters participated in higher numbers but also faced obstacles to voting. In some locations, men claimed that they needed to vote for women in their families who didn't know how to vote.[29] For instance, at a polling location in Dhankaul – 4, Sarlahi observers noted that some people claimed to help elderly voters, primarily elderly women.

Voter education was a consistent issue underlying the voting process. DRCN teams noted that it often took longer for women to cast vote. In Pheta – 3, Bara, DRCN observers noted that "an elderly woman requested that her son vote on her behalf because she was confused about the symbols to vote for."[30] Some women voters in Dhanushadham – 2, Dhanusha claimed they were not taught how to vote. However, a volunteer voter educator replied that women did not attend the training when she came to teach in the village. Similar instances were commonly observed in all eight districts in the province.

While clashes were not widespread, they occurred intermittently. Police fired a warning shot in Maulapur, Rautahat where members of rival political parties clashed following disagreements over number of party agents allowed inside the polling location. Minor scuffles also occurred and were dispersed and contained without major use of force. The security level for the entire province was reported as 'visibly higher' than in previous phases with a significantly greater presence of Nepal army which was seen patrolling the major streets and areas around polling locations in major cities.

While there were challenges during this phase of voting, there were also notable successes. Women were perceived by observers and the media as having higher participation than men.[31] Some DRCN observers learned that this trend may be due to the relatively larger numbers of men from Province 2 working outside Nepal who were unable to travel back for the local elections.[32] In terms of polling location management, there are worthy positive instances. The ability to vote with secondary identification cards was initially seen as integral to the success of this phase of elections.[33] An encouraging 90.6% of polling locations

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[27] At a location in Tilathi Koiladi - 1, Saptari voters and polling staff alike were confused about the proxy voting process for differently-abled people. A visually impaired voter was allowed to use a proxy voter and then a number of voters also claimed to be visually impaired to obtain proxy voters. An election official then announced that he would personally test the voters' eyesight to determine if they were differently-abled.

[28] In Bramhapuri - 3, Sarlahi, a political party agent was observed asking a policeman to vote for an elderly person and the policeman complied.

[29] In Pheta -7, Bara, a DRCN team observed that a "few men aggressively demanded to cast votes on behalf of their female family members because '"the women didn't know how to".' Polling officers refused to let the men in this location vote on behalf of women.

[30] In response, a polling officer advised her of her voting rights and that she should vote as she wished.

[31] See: High women participation

[32] Observers in Jaleshwor -7, Mahottari reported that there was a higher presence of women than men in that location and polling officers and security staff expressed "that most men from this location have gone abroad as migrant workers therefore, there was higher presence of women in [the] polling line."

[33] In Parsauni -2, Bara, observers interviewing polling staff found that "about 5% of the people who visited the location up until that point were sent back because their names were not on the list and therefore, no voter IDs

observed during the polling process allowed voters to vote with a secondary identification card. Furthermore, some observers indicated that greater numbers of polling booths and more experienced staff in some locations contributed to a more efficient polling process.[34]

The complex events of this third phase of elections underscore the importance of insights contributed by independent election observers. However, some DRCN observers remarked that it was rare to encounter monitors from other agencies at polling locations. Despite this, it is encouraging that observers were allowed to monitor at each polling station visited.

1.2 Post-Election

Counting

While counting was concluded slightly faster than for the previous two phases, there were various issues and challenges observed across the province. Security was significantly heightened in and around the counting centers with many of the locations barbed to separate the counting officials from the party agents.

Vote counting was obstructed in four local units of Bara District due to dispute among party representatives and mistakes from the election officials. In Kolhabi Municipality of Bara, election officials wrongly reported that UML mayoral candidate received 500 more votes.[35] In Baragadi Rural Municipality, CPN (Maoist Center) obstructed vote counting for two days claiming that the ballot box was opened in their absence.

Political parties disrupted vote counting in some local units of other districts demanding recounting of votes. In Garuda Municipality of Rautahat, counting process was disrupted after the CPN-MC sought a recount of votes when NC chairperson candidate Krishna Kumar Sahani defeated CPN-MC candidate Shailadevi Sahani by a margin of one vote. Ali Hussain Dewan, the NC candidate from Birgunj – 30, Parsa, was declared winner by one vote on September 20. CPN-UML candidate Amanat Miya who lost the race demanded a recount and, was later declared winner by 11 votes. In Lahan Municipality, Federal Socialist Forum (FSN-Nepal) also demanded recounting of votes.

Vote counting was delayed due to logistical issues in some local units. Election officials were reported to be managing and ensuring the security of counting center by installing CCTV cameras that delayed vote counting in Birgunj Metropolitan City. In many counting centers, vote counting did not start because political parties failed to send counting representatives on time. In Pipra Rural Municipality, Mahottari counting did not start until 3 PM the following day. In Rajbiraj Municipality, Saptari counting was obstructed for two days and resumed only after counting representatives of political parties and ECN officials made an agreement to resume counting.

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were issued for them. They had the receipts for the application and witnesses who confirmed that they did apply for the IDs."

[34] Observers in Gaur: 5, Rautahat noted that the assistant polling officer's experience contributed to a timely polling process.

[35] See: Dispute mars vote count in Bara

While there are widespread reports about potentially 'very high' vote invalidation across the Province, the ECN is yet to make the details on invalid votes public.

2. Conclusion and Recommendation

Conclusion:

The third 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 laudable accomplishment especially given the less than ideal conditions and environment in which the elections were conducted. DRCN commends the efforts of the ECN in concluding the third phase of the 2017 local elections. The Government of Nepal, the political parties, civil society, media, and observer groups all played important roles in assisting the ECN's efforts to conduct the polls on September 18. DRCN lauds the enthusiasm shown by the people of Province 2 to choose their own local representatives in 20 years – as reflected in a high turnout of around 77 percent – and congratulates the newly elected representatives. DRCN considers all three phases of these local elections to be an important step forward in Nepal's political transition.

The third phase elections happened against the backdrop of major uncertainties surrounding the election date and electoral calendar, and a longstanding contestation against some key provisions in the new constitution – most notably by a significant portion of Madhesh. The participation of one of the largest Madhesh-based parties, RJPN, was uncertain until the conclusion of the second phase. Frequent postponements, date changes, and overall uncertainty about the elections since the first date of local elections were announced on February 20, 2017 resulted in a lot of confusion and unnecessary apprehension for the public and candidates about whether the polls would go forward.

DRCN observation recorded significant issues and challenges in both the electoral and political preparations for the third phase elections. Major electoral processes including the candidate nominations, and the conduct of polling and counting were fraught with procedural inconsistencies and a lack of clarity on the part of election officials. DRCN teams also received frequent and widespread complaints about understaffing and deployed officials not being present in the designated polling locations. In some polling locations in the flood-affected areas of Rautahat, important election materials had not reached the polling locations as late as the night before the election day. Widespread confusion was reported during the election day with the issue of proxy voting leading to inconsistencies, and in some places to minor conflicts and tensions.

The third phase elections were largely peaceful although most areas in Province 2 were categorized as 'highly sensitive' with heavy security deployment. Compared to the first two phases, the deployment of the military was notably higher with both the army and the armed police forces regularly patrolling major roads and urban centers before and during the election day. While it is commendable that the elections were peaceful and the security forces used restraint to defuse clashes, concerns were raised by different stakeholders about the

'extremely high presence' of security forces potentially being seen as intimidating by the citizens.

The level of voter education continued to be inadequate and inefficient in the third phase. Key respondents including representatives of political parties and civil society leaders described the voter education as 'dismal' and 'totally inefficient'. This was reflected in widespread confusion expressed by voters during polling and seeking assistance in marking the ballots. DRCN has made strong recommendations to improve both the quality and quantity of voter education in its previous two reports for the first and second phases. Interlocutors that DRCN met in all districts expressed serious concerns about poor voter education leading to high vote invalidation. ECN has yet to make the invalidation data public for all three phases. DRCN urges the ECN to make this important information public so that there can be better preparations for the upcoming parliamentary and provincial elections.

The key challenge in the third phase elections continued to be the conduct of the major political parties with both DRCN teams and the media reporting breaches of election codes of conduct. The breaches were most notable – but not limited to – excessive expenses during campaigning. The ECN officially warned some ministers and senior politicians for breach of codes of conduct, but DRCN teams did not find any incidence of legal actions. Some key election officials told DRCN that the codes of conduct were only 'morally binding' rather than 'legally binding' and they did not have adequate authority and resources to enforce them strictly. DRCN believes that the political parties must abide by such important rules, and the ECN must be better prepared with adequate training and resources to ensure that important upcoming elections will meet the standards of democratic elections.

Recommendations:

Based on its long-term and short-term observation of the electoral and political environment around the third phase local elections in Province 2, DRCN makes the following recommendations. DRCN believes that these recommendations will help improve the upcoming provincial and parliamentary elections.

- Election officials and staff must be better prepared to ensure that election processes follow democratic and legal standards. DRCN heard numerous complaints of poor preparations and understaffing in all eight districts. ECN needs to provide adequate resources and timely trainings to its staff to improve both the quality and efficiency of the entire election process. These could include regular mock candidate nomination, polling, and counting exercises. Adequate staffs proficient in major local languages should be deployed in order to better communicate with voters.

- Some Chief Returning Officers (CRO) expressed serious concerns regarding a lack of clarity about their own responsibilities. District judges said the nature of their work generally does not require any major political engagement and planning. Similarly, DRCN teams also heard issues regarding coordination among CROs, Chief District Officers (CDO), and the Security heads. The ECN must ensure that the authorities of CROs and other stakeholders are clearly defined and communicated properly.

- CROs and election officials in all eight districts expressed concerns about inadequate resources and staffing. In every district, officials had to work extended hours often late into the night. Similarly, they lacked adequate resources to set up offices, communication devices, and other logistical requirements. There has to be a better management of resources to ensure that the officials have adequate time and supplies to plan and conduct the elections better.

- 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. Education materials should be made available in local languages and dialects.

- Security personnel should be trained better on the overall election processes besides crowd-management and providing security.

- Future elections should not be broken into phases especially for political reasons. 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 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.

- 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.

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- 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 from all three phases. 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.

- 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.

- DRCN urges the ECN to make vote invalidation data public for all three phases of local elections.