



## **Preliminary Statement on May 14, 2017 First Phase Elections**

**June 7, 2017**

### **I. Introduction**

On May 14, 2017, Nepal voted in the first of two phases of local elections to elect representatives for newly formed local government units. Since May 1, 2017, Democracy Resource Center Nepal (DRCN) has deployed eight teams of mobile observers to observe both phases of these elections on May 14 and June 14.<sup>1</sup> DRCN's limited observation seeks to provide a critical, independent, and high-quality assessment of the electoral and political processes. The objective of the observation is to provide timely and valuable information to stakeholders and to make relevant policy recommendations for future elections.

This preliminary statement outlines findings from DRCN's observation of the local political and elections-related dynamics before, during and after the first phase of elections. DRCN will release its second preliminary report immediately after the completion of the second phase of elections, followed by a final comprehensive report.

### **II. DRCN Observation to Date**

On May 1, DRCN deployed three mobile observer teams to Provinces 3, 4, and 6 to observe the first phase of the local elections. An additional roving team was deployed in the second week of May.<sup>2</sup> The teams have been travelling within their assigned provinces to meet with stakeholders and citizens at the district, municipality and rural municipality level 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. As of June 5, DRCN observers had visited a total of 45 local units across 26 districts to observe the pre-election environment, Election Day of the first phase, and post-election developments.<sup>3</sup>

On May 12, DRCN deployed an additional four observer teams to Provinces 1, 2, 5, and 7 to begin preparations for observation of the second phase of elections expected to be held on June 14. To date, these four teams have travelled to eighteen districts across four provinces. The three teams that observed in Provinces 3, 4, and 6 and the roving team will soon move to

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<sup>1</sup> Each DRCN team consists of two qualified observers who are equipped with observation forms and checklists and requisite trainings on Nepal's electoral legal framework and election observation standards.

<sup>2</sup> The 'roving team' is sent to areas where the core team believes additional observation would be more useful, including supporting other teams or following up on incidents that other teams are unable to.

<sup>3</sup> During pre-election observation, DRCN teams observed in nine rural municipalities and eight municipalities across seven districts. On Election Day, DRCN teams observed at 106 polling locations in nine local units across six districts, including aspects of opening, polling, closing, and counting. During post-election observation, DRCN teams have visited 31 units across 20 districts, to date.

Provinces 1, 2, 5, and 7 to support observation of second phase of elections now expected for June 28. DRCN observer teams will continue to observe the pre-election environment to better understand the political situation of and preparations for the second phase of elections. The teams will also observe polling on Election Day, counting, and the post-election environment.

DRCN's core team consists of a Director, Electoral-Legal Analyst, Observer Coordinator, and Logistics Coordinator, in addition to other DRCN support staff, which is working with 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, which is now focused on monitoring and analyzing election-related incidents.<sup>4</sup>

### **III. Political Overview**

Nepal adopted a new constitution on September 20, 2015 requiring that the local, provincial and parliamentary elections be completed by January 2018. The new constitution and the process through which it was adopted are highly contested. Several minority and marginalized groups across Nepal have been demanding that the Constitution be amended to better represent them. The protests, which included a blockade by the protesting Madheshi parties lasting several months, resulted in over 50 deaths.<sup>5</sup>

One major feature of the new constitution was the restructuring of Nepal's local government, including devolution of power to newly created provinces and local units. As required by the Constitution, Local Level Restructuring Commission (LLRC) was formed on March 15, 2016 with the mandate to propose new local units within a year. The LLRC proposed 744 local units, which were approved by the government and came into effect on March 15, 2017. The local level restructuring process was rushed in order to facilitate expected local elections, and happened amidst protests, particularly from the Madheshi parties who were demanding the finalizing of new provinces before local units.<sup>6</sup> The number of local units created has also been a highly contested issue. This has led the government to propose 22 new units in certain Tarai districts as late as between the two phases of elections in an attempt to bring the Madhesh-based parties on board for the second phase of elections.<sup>7</sup>

On August 4, 2016, a new government was formed under Prime Minister Pushpa Kamal Dahal. The coalition government consisting of the Communist Party of Nepal – Maoist Center (CPN-MC) and Nepali Congress (NC) received support from Sanghiya Loktantrik Madheshi Morcha (Madheshi Morcha). The government and the Madheshi Morcha reached an agreement that the Constitution would be amended to address Madheshi Morcha's demands before holding local, provincial and parliamentary elections.

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<sup>4</sup> Find DRCN's political violence monitoring reports [here](#).

<sup>5</sup> Mainly those represented by the then Madheshi Morcha, however, several other Tharu groups and smaller parties remain dissatisfied.

<sup>6</sup> See DRCN's research and analysis on the local body restructuring process here: <http://democracyresource.org/political-situation-and-constitution-implementation/>

<sup>7</sup> '12 Tarai districts to get 22 more local units'; The Kathmandu Post; <http://kathmandupost.ekantipur.com/news/2017-05-23/12-tarai-districts-to-get-22-more-local-units.html>. The Supreme Court of Nepal on May 26 has issued a stay order against the government's decision to add more local units.

Prime Minister Dahal's government worked to pass a constitutional amendment but was unable to gain the necessary support in Parliament. The first attempt to amend the constitution was met with significant opposition by the Communist Party of Nepal – Unified Marxist-Leninists (CPN-UML), and led to violent protests in Province 5 as the amendment proposed redrawing provincial boundary separating the Tarai and hill districts.<sup>8</sup>

After several unsuccessful attempts to amend the constitution, the government decided to move forward with local elections, saying it would pass the constitutional amendment as election preparations were underway. On February 20, 2017, the government announced that it would hold local elections on May 14, 2017. This triggered protests across the Tarai as the proposed amendment of the Constitution was not yet passed.

On March 3, CPN-UML launched its *Mechi-Mahakali* campaign, the beginning of its election campaign, which would take party members across the Tarai. CPN-UML moved forward with the campaign despite significant concerns that the Madheshi parties would actively work to oppose it. On March 6, a clash between Madhesh-based party cadres and security forces in Saptari during a CPN-UML *Mechi-Mahakali* event led to the killing of five Madheshi protesters. The event triggered further protests in the Tarai, including vandalism of public offices and the Chief Election Commissioner's house, attacks on a National Human Rights Commission delegation, and continued clashes between CPN-UML cadres and Madheshi and Tharu activists.<sup>9</sup>

On March 15, the Madheshi Morcha withdrew its support from the government and said it would boycott and disrupt the scheduled May 14 elections unless its demands were met through a constitutional amendment.

The Madheshi Morcha's withdrawal of support to the government raised concern that the political environment in the Tarai would not be conducive for holding successful elections there. The protests also prevented the ECN from making necessary preparations for conducting polls in certain Tarai districts. On April 22, the government decided to hold local elections in two phases, the first phase on May 14 in provinces without Tarai districts, and the second phase on June 14 in the rest of provinces.

The decision to hold elections in two phases was made after reaching an understanding with Madhesh-based parties that the constitution would be amended through a "fast-track process" before the second phase of elections. The number of campaigning-related incidents increased in districts where elections were scheduled to happen, while protests in the Tarai significantly reduced.<sup>10</sup>

Uncertainties about the May 14 elections remained until candidate nomination began on May 2. There were also doubts about the ECN's ability to complete preparations for the polls up until the week before May 14, as well as concerns that the elections might have to be postponed due to delayed delivery of materials including voter identification cards. DRCN observers and media alike reported that candidates and parties did not fully begin campaigning until they were convinced that polling would move forward after candidates were nominated.

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<sup>8</sup> 'Anti-amendment protests erupt in districts' <http://www.myrepublica.com/news/10211/>

<sup>9</sup> See DRCN's [Analysis Update 2 – Impact of the Saptari Incident on the Electoral Environment](#)

<sup>10</sup> See DRCN's [Analysis Update 5 – Incidents During Campaign Period Before May 14 Elections](#)

Despite the uncertainty, the polls were highly anticipated by citizens who were eager to elect their own local representatives for the first time in nearly 20 years. This was reflected in the high voter turnout in Provinces 3, 4, and 6, reported to be 73 percent.

The dates for the second phase of elections have been changed twice after the first phase in order to facilitate negotiations with the boycotting Madhesi parties. While negotiations are ongoing in Kathmandu, DRCN observers have reported confusion and uncertainty among citizens and local political representatives especially in the Tarai districts.

#### **IV. Electoral Legal Framework**

##### *Electoral process*

On May 14, the ECN held elections in 283 of the 744 local units in Provinces 3, 4 and 6. A total of 14,054,482 citizens are registered to vote in the local elections. Of these, 4,956,925 were eligible to vote in Provinces 3, 4, and 6. Each voter was provided with one ballot to elect seven representatives for their ward and local unit, including five ward-level representatives, one local unit chief (mayor or chairperson) and one deputy (deputy mayor or vice chairperson).<sup>11</sup> In the first phase, 13,556 representatives were elected to hold new local level positions from among 49,337 candidates fielded.

Elected representatives form an assembly at the municipal or rural municipal level. This assembly will hold elections for the Dalit/minority and women members of its executive council within 15 days of the announcement of the election results. The Dalit/minority and women members of the executive council will be elected from among all elected Dalit/minority and women representatives of the local unit.<sup>12</sup> For the executive council of rural municipalities four women and two Dalit/minority representatives will be chosen, while the executive council at municipality level will include five women and three Dalit/minority representatives.<sup>13</sup> Elected mayors or chairpersons and deputy mayors or deputy chairpersons and all ward presidents will automatically be on the executive council. While elections are being held for rural municipality and municipal executives, the Local Governance Act is yet to be enacted. This could delay the functioning of these executive bodies in full capacity.

##### *Legal Framework*

The acts, regulations, directives, policies, orders, and codes of conducts governing the local elections were either enacted by Parliament or issued by the ECN, as per the general framework provided by the Constitution of Nepal 2015.<sup>14</sup>

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<sup>11</sup> 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).

<sup>12</sup> Article 215 and 216 of the Constitution of Nepal 2015 states 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.

<sup>13</sup> Article 215 (4) of the Constitution of Nepal 2015 and Article 216 (4) of the Constitution of Nepal 2015

<sup>14</sup> Parliament passed the Election Commission Act 2017, Local Level Election Act 2017, Act on Determination of the number of Wards of Rural Municipality and Municipality 2017, and the Act Relating to Electoral Rolls 2017. The ECN 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

The Local Level Election Regulation and Local Level Election Directive 2017, issued by the ECN, provide basis for the management of the local elections. The ECN also issued more specific directives for managing certain aspects of the elections. The Local Level Election Polling Directive 2017 issued on May 6, provides details on trainings and procedures for polling officers, and lists materials needed at polling locations. The ECN also issued the Local Level Election Counting Directive 2017 on May 11. Additional guidelines were provided to counting officials on May 13. These included provisions allowing counting officials to use flexibility during counting to reduce invalid votes. The Rural Municipal Executive and Municipal Executive Election Directives 2017 issued by the ECN on May 16, 2017 provide for current election officers to conduct executive council elections. Separate codes of conducts were issued for non-government organizations, media, political parties and national observers.

Delays in enacting some laws and the late announcement of the election date affected the ECN's preparations for polls. The ECN repeatedly said it was not given adequate time to prepare for the elections.<sup>15</sup>

A key point of debate during the passage of election-related laws was whether the ECN should have the authority to announce the date of the elections.<sup>16</sup> The ECN wanted to be able to announce the date to allow it and other stakeholders to properly prepare and plan for the elections. The argument was that this would help to ensure complete logistical and technical preparations, adequate voter education, the updating of voter register, and timely printing of voter identification cards. However, the Election Commission Act 2017 provides that the government shall set the election date in consultation with the ECN.<sup>17</sup>

Under current law, voter registration is to be suspended upon the announcement of the election date.<sup>18</sup> The government's abrupt announcement of the election date thus compromised the ECN's ability to include more eligible voters in the register.

Political parties without representation in the national legislature were restricted from receiving nationwide election symbols. Section 26 (6), (7) of the Local Level Election Act 2017 allows only parties represented in the existing Parliament to have their election symbols printed on local election ballots. In line with this provision, parties with no representation in parliament have had to partake in upcoming elections with their members registered as independent candidates, each candidate potentially being assigned a different symbol than other candidates in the same party. While it was explained that this law was passed because it would be impossible to accommodate all party symbols on ballots, the law was widely perceived as favoring larger parties.

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and Municipal Executive Election Directives 2017. Other relevant laws on local elections include the Political Parties Act and the Election (Crime and Punishment) Act.

<sup>15</sup> "Election laws are guiding documents for making preparations for the elections. It would be easier for us to make preparation if the necessary laws are introduced before Mid-December," said Chief Election Commissioner Ayodhee Prasad Yadav. Available at: <http://kathmandupost.ekantipur.com/news/2016-12-13/lack-of-election-laws-puts-ec-in-a-fix.html>

<sup>16</sup> For example, see: <https://thehimalayantimes.com/nepal/election-commission-vested-authority-announce-election-dates-ila-sharma/>

<sup>17</sup> See Section 3 of the Election Commission Act 2017

<sup>18</sup> See Section 4 of the Electoral Rolls Act 2017

Some rules related to campaign financing were considered overly restrictive. The Local Level Election Directive 2017 allows a candidate for the position of mayor to spend a maximum of NPR 750,000 on the campaign, which was reported by some candidates to be inadequate.<sup>19</sup> However, the rules on campaign spending were generally not strictly enforced, leading to unequal, unregulated and unaccounted spending.<sup>20</sup>

The Local Level Election Directive 2017 and Local Level Election Observation Directive 2017 guide and regulate election observation. However, the election officials and other stakeholders reportedly had limited information about the provisions related to observation, especially observers' access to polling and counting. These directives were thus inconsistently implemented and observers were denied access to some counting centers.<sup>21</sup>

## **V. Observation Findings**

### **A. Pre-Election Period**

As reported in DRCN's May 11 pre-election statement, election preparations for the May 14 polls were nearly complete by the time the campaign silence period began on May 12.<sup>22</sup> Polling locations and requisite supplies were arranged, the candidate nomination process was completed and viewed as generally successful, and campaigning was well underway before the start of the silence period. The ECN conducted technical preparations in a short period of time and should be commended for its efforts.

While generally successful, there were some problems reported by DRCN observers and the media during the pre-election period. The candidate nomination process was viewed as being held in too short of a period, making it disorganized and last late into the night. Independent candidates expressed frustration regarding the short campaign period – they had just a week to campaign with their election symbols. Several clashes also occurred between party cadres, and there were reports of candidates being intimidated to withdraw nominations. The media reported one casualty on May 10 in Gaurishankar Rural Municipality of Dolakha district.<sup>23</sup>

Finally, the rushed implementation of the elections, a confusing ballot, and inadequate voter education led many to worry about a potentially high level of vote invalidation. There were last minute calls for increased voter education, including by DRCN in the days before the elections.

#### *Candidate Nomination Process*

The candidate nomination process happened May 2-5, with independent candidates receiving their symbols on May 5.<sup>24</sup> Candidate nominations were completed with isolated problems in a

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<sup>19</sup> No. 174 of Local Level Election Directive 2017

<sup>20</sup> Respondents reported to DRCN observers that most candidates did not comply with campaign finance rules.

<sup>21</sup> Directive No. 11 of the Local Level Election Observation Directive 2017 recognized observers' duty to observe the vote counting process, but in some counting centers observers were initially denied access. Other related policies and directives do not specifically mention observers' right to access polling and counting locations, leaving decisions on access for observers to the discretion of polling and counting officials.

<sup>22</sup> See DRCN's Pre-election Statement: [Elections Preparations Nearly Complete for May 14 Polls](#)

<sup>23</sup> See <https://thehimalayantimes.com/nepal/1-dead-dozens-hurt-cpn-m-uml-cadres-clash-dolakha/>

<sup>24</sup> A candidate is nominated by one proposer and one seconder by submitting financial deposit, a formal nomination letter from his/her party (not applicable in the case of independent candidates), a citizenship

few locations. Political parties and independent candidates in locations observed by DRCN teams expressed frustration about the process being complicated and time consuming. For example, in Chaukune of Surkhet district and Pokhara-Lekhnath of Kaski district, candidate nomination ran well after midnight. Similar delays were reported in some locations in Jajarkot, Dolakha and Lamjung districts.

### *Campaign Period*

Most parties and candidates interviewed said their campaigns officially started on May 5, after the candidate nomination and distribution of election symbols. While candidates of parties with nationwide symbols could begin their campaign prior to May 5, observers across districts visited were told that many did not begin until they were convinced elections would occur after candidate nominations began. Some political parties and candidates expressed frustration about the short campaign period, particularly independent candidates who had only about six days to campaign with their assigned election symbol – it was difficult for these individuals to reach voters with their message and symbol in less than a week. A political representative in Surkhet for example compared the campaign period to previous elections and said it was too short and inadequate, especially considering the new local units are much larger compared to the old ones.

Observers reported election campaigns as vibrant in places visited just before the silence period. However, in all places observers reported that most parties and candidates conducted door-to-door campaigns, mostly due to statutory limitations on campaign expenses, although respondents reported to DRCN observers that most candidates did not comply strictly with campaign finance rules, and some parties held larger rallies.

### *Campaign Silence Period*

The campaign silence period was the 48 hours prior to the elections during which campaigning was prohibited. No major breach of silence period was reported, with the exception of Dolakha where the CPN-UML held a protest rally against the killing of their cadre Kul Bahadur Tamang on May 10 in Gaurishankar Rural Municipality.<sup>25</sup>

### *Pre-Election Security and Violence*

There were major security-related concerns in the period leading to the elections. Of particular concern was the potential for violence in the Tarai districts if a political agreement was not reached between the government and agitating parties. When polling was postponed until June 14 in Provinces 1, 2, 5, and 7, concerns about security were reduced. However, the first phase polls were not without incident. In the pre-election period between April 22 and May 10, there were at least 54 election-related incidents recorded, with 34 of them violent. One election-related death occurred during this period of time.<sup>26</sup>

Although security was a concern, nearly all stakeholders interviewed during the pre-election period expressed satisfaction with the steps taken by the GoN, ECN, and security forces to

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certificate, and proof of record of his/her name in electoral rolls of the concerned ward. An additional proof of being from the Dalit community is required in the case of Dalit candidates. See Local Election Directive 2017.

<sup>25</sup> See <https://thehimalayantimes.com/nepal/1-dead-dozens-hurt-cpn-m-uml-cadres-clash-dolakha/>

<sup>26</sup> See DRCN's Analysis Update 5 – [Incidents During Campaign Period Before May 14 Elections](#)

prepare for polling. Stakeholders believed that if incidents were to occur, they would be isolated and that security forces were prepared to manage them.

#### *Pre-election Incidents Involving Communist Party of Nepal (Biplav)*

The Netra Bikram Chand ‘Biplav’-led Communist Party of Nepal (CPN (Biplav)) was identified by the Government of Nepal (GoN) as a potentially serious security threat to the elections. CPN (Biplav) leaders made statements that they would disrupt the elections, and the government and security forces took steps to mitigate potential incidents.

Over 15 election-related incidents involving CPN (Biplav) cadres were reported between April 22 and May 10.<sup>27</sup> DRCN observers found CPN (Biplav) to be most active in Surkhet, Kalikot and Jajarkot districts, with cadres intimidating party representatives and candidates to the extent of threatening to abduct them. CPN-MC cadres in Puchchegaun of Kalikot explained that CPN (Biplav) cadres had attacked them in an attempt to disrupt their campaign. DRCN observers were also told that CPN (Biplav) cadres were most active in the more remote areas of Province 6, and that there were concerns about potential CPN (Biplav) efforts to disrupt polling activities in these areas. In Kaski district, CPN (Biplav) reportedly distributed pamphlets in some locations urging parties to withdraw their nomination. Observers reported another major incident in Rara Chhayanath Municipality in Mugu district where CPN (Biplav) cadres looted election materials including communication devices from the police on May 13.<sup>28</sup>

#### *Pre-election Incidents Involving Major Political Parties*

Election-related incidents between NC, CPN-UML, and CPN-MC were prevalent through the election period, especially as their campaign activities increased closer to Election Day. Incidents were generally between groups of party cadres of opposing political parties competing at ward-level, or for positions in rural municipalities or municipalities. There were at least 13 incidents where major parties clashed during campaigning that led to injuries.<sup>29</sup>

Clashes between cadres of three major parties were identified as a potential cause for violence on Election Day by observers in all provinces visited, but especially in Dolakha and Jajarkot districts. In Dolakha, DRCN observers were informed about the long history of Election Day violence between the major parties by multiple interlocutors, including district election officials. Concerns about clashes at polling locations and the potential for *booth capture* were also raised.<sup>30</sup>

#### *Voter Education and Ballot Invalidation*

Inadequate voter education potentially leading to high ballot invalidation was identified as a major concern in every location visited during the pre-election period. Interlocutors explained

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<sup>27</sup> See DRCN’s Analysis Update 5 – [Incidents During Campaign Period Before May 14 Elections](#)

<sup>28</sup> DRCN observers spoke with security officials and eyewitnesses who said about 50 masked CPN (Biplav) cadres attacked the polling location with sticks and stones and seized all election materials, communication devices from the police, and a laptop belonging to the polling officer. One police officer conceded that they could not coordinate additional support. The election materials were supplied the same night by Nepal Army and election happened normally on May 14. No arrests have been made in relation to the incident.

<sup>29</sup> See DRCN’s Analysis Update 5 – [Incidents During Campaign Period Before May 14 Elections](#)

<sup>30</sup> ‘Booth Capture’ refers to various ways by which a polling location is taken into control by supporters of one or more competing parties to manipulate the voting at that location.



to DRCN observers that voter education was inadequate for the following reasons: elections were rushed and voter education did not start on the scheduled date of April 14; educators did not receive proper training and could not explain the complicated ballot paper; education materials did not arrive in the districts on time; and the educators did not reach many polling locations, especially in rural parts of districts like Jajarkot, Kalikot, Lamjung, and Dolakha. Major political parties were reported to have carried out their own limited voter education, mostly in urban areas in districts like Kaski, Kavrepalanchok, and Lalitpur.

The ECN formally began voter education on April 14. DRCN observers in all three provinces however reported a delay in implementation of voter education in some places. In Jajarkot, the volunteers collected the educational materials from the District Election Office 10 days later than scheduled date of April 14. Although one volunteer was assigned per polling location to conduct education for voters, stakeholders DRCN met with expressed dissatisfaction about the effectiveness of the voter education. Election officials in visited districts cited insufficient time for both training and deploying the volunteers to polling locations, and delay in arrival of education materials, while local level interlocutors were generally more critical that voter education was not reaching most people. In Dolakha and Kaski districts, respondents reported to DRCN observers that the remoter parts of the districts received the least voter education as the volunteers had to walk for days to reach their assigned polling locations. Interlocutors in Jajarkot and Kalikot districts also reported cases of voter education being disrupted by the boycotting CPN (Biplav).

### *Voter Registration*

Local elections were called abruptly on February 20, 2017. Citizens and representatives of political parties complained about the voter register closing on this date, particularly because they were not aware about this provision. DRCN observers in Tanahun and Lamjung districts were told that this led to the exclusion of large numbers of individuals who would have registered and voted. Respondents in Jajarkot and Kalikot districts said that a significant number of people who travel to India for work were excluded because of the abrupt closing of registration.

An election official in Mustang told DRCN observers that his office identified significant issues with the voter register. Reportedly 150 voters who had voted in the 2013 CA elections were excluded from the current list, while the names of 117 people who had their photos taken for the new voter register did not appear in the final list. The official reported the issue to the ECN. The ECN revised and included these names and sent back a new list with 244 names. However, on the new list, only 198 names had accurate details. Some names were repeated three times while others were missing.

### *Voter Identification Cards*

There were widespread concerns reported to DRCN observers in every location visited about voter identification cards, mostly because there was little information available about when and how IDs would be distributed. The ECN made an announcement on May 10 about how cards would be distributed, but observers found that concerns remained about whether cards could be effectively delivered in the short time period from May 11-13. The day before the polling, the ECN made another announcement that voters who had their names on the list but had not obtained their cards would be allowed to vote with other valid identification documents, like their citizenship certificate or drivers' license.

## *Rural Communication*

Communication between the ECN and more rural and remote areas caused some problems for election staff. This was particularly the case when the ECN was making last-minute decisions during the rushed election. A major concern raised by election officials in remote districts like Mustang and Jajarkot was that poor telephone reception and intermittent and slow internet connection made preparations difficult. According to one official in Mustang, the ECN sent directives and circulars via email, which they did not receive due to the internet not working. Another official in Jajarkot told DRCN observers that they could not send the candidate nomination numbers from some remote areas in the district to the ECN, despite the ECN asking them to update the information daily.

### **B. Election Day**

On Election Day, DRCN observers reached 106 polling centers. DRCN's findings on the conduct of Election Day are limited and cannot provide a comprehensive assessment as teams did not visit the requisite number of polling centers for a representative sample. DRCN findings were largely in line with what other major observer groups reported about Election Day, including the National Election Observation Committee (NEOC), the General Election Observation Committee (GEOC), and Sankalpa.

Election Day was widely welcomed across the provinces where elections were held, with voters enthusiastically responding about electing new local representatives for the first time in nearly 20 years. Turnout of over 70 percent – as reported by the ECN and roughly confirmed by DRCN observation on Election Day – showed citizens' interest in having elected representatives at the local level. 13,556 officials were elected from among 49,337 candidates.

DRCN's limited observation found that polling went technically well in places observed with polling centers opening on time and voting and closing concluding without any major problems, barring a few exceptions. Observers reported that election officials mostly followed procedures during opening, polling, and closing. Turnout was consistently high in the initial hours with DRCN observers reporting all voters in line at closing being able to vote. DRCN observers also reported that the last minute directive issued by the ECN to respect the will of voters, including allowing valid identification other than the voter identification card appeared to have been followed in all places visited. DRCN did not observe or come across reports of voters being turned away from the polls.

There were 81 election-related incidents recorded between May 12 – the beginning of the silence period – and May 15. There were 43 violent incidents, with three deaths and 43 injured. Nearly all events were attributed to contestation between major political parties, CPN (Biplav) protest against the election, or caused by unidentified groups—which in several areas were believed to have been carried out by CPN (Biplav).<sup>31</sup>

Potential CPN (Biplav) attempts at disrupting polling were identified as one of the major security risks by the government, and high security was present at many polling locations to mitigate this risk. CPN (Biplav)-related incidents did interfere with polling in several places, but did not lead to significant interruption of polling across the country. There was one major

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<sup>31</sup> See DRCN's [Factsheet 1 – Electoral Violence and Contestation during Nepal's Local Election](#).

incident reported in Kalikot district where there was re-polling because CPN (Biplav) cadres stole ballots and burned them. Attempted disruptions of polls were also reported in Humla and Mugu districts. Police fired retaliatory shots at CPN (Biplav) cadres in Humla, but no injuries were reported. Early incidents of violence reported on Election Day also included minor scares involving IEDs in Madhyapur Thimi Municipality in Bhaktapur district. In Nuwakot, one person was reportedly injured after an IED exploded near a polling location.<sup>32</sup>

DRCN observers reported re-polling in two polling locations in Kalikot (due to the looting of a ballot box by CPN (Biplav) in one, and the sealing of ballot boxes before all the votes were cast in the second polling location); two in Kavre (due to the death of a ward member candidate in one, and killing of a local by police on May 13 in the second); one in Bhaktapur (to where ballots meant for a different district were dispatched); one in Sindhupalchok (due to disagreements regarding ECN directives); one in Dolakha (due to the looting of the ballot box and the killing of one individual by the police), one in Chitwan (due to the death of a candidate by lightning); and one in Humla (where a ward member candidate had died of pneumonia).

The highest number of clashes and security incidents on Election Day were reported in Dolakha. There were several major incidents in the district that involved the major political parties, including Nepali Congress, CPN-UML and CPN-MC. CPN-UML boycotted polling halfway in several polling locations of Baiteshwor, Melung, and Tamakoshi Rural Municipalities, accusing NC of *booth-capture*, which resulted in the temporary disruption of polling. In Baiteshwor, all CPN-UML candidate representatives walked out of polling location temporarily accusing NC of attempting to loot the ballots. In Melung, police fired on party members allegedly attempting to conduct *booth-capture* resulting in one death.

### **C. Post-Election, Counting and Invalid Ballots**

#### *Counting and Invalid Ballots*

DRCN teams observed counting at five centers in five different districts.<sup>33</sup> Of the five counting centers, Lalitpur Metropolitan City was the only place where counting began on the same day as polling. In Pokhara-Lekhnath Metropolitan City and Bhimeshwar Municipality, counting started around noon on May 15. In Kathmandu Metropolitan City and Birendranagar Municipality, counting started around 3 PM on May 15. In Kathmandu, officials cited having to organize and manage large numbers of ballot boxes as the main cause of delay, whereas in Birendranagar and Pokhara-Lekhnath the delay was caused by political parties failing to agree on counting procedures.

At all centers visited, the beginning of counting was observed as being confusing, chaotic, and time consuming. A complicated ballot, frequent disagreements among party agents about invalid ballots, and insufficient counting staff were cited as the main reasons for slow counting in the early stages. Counting was interrupted multiple times in Pokhara-Lekhnath and Lalitpur Metropolitan Cities due to disagreements between two major political alliances:

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<sup>32</sup> While CPN (Biplav) did not claim responsibility, it was widely believed that they are responsible for the explosions.

<sup>33</sup> Teams observed counting in: Lalitpur Metropolitan City in Lalitpur district; Pokhara-Lekhnath Metropolitan City in Kaski district; Bhimeshwar Municipality in Dolakha district; Birendranagar Municipality in Surkhet district; Kathmandu Metropolitan City in Kathmandu district.

NC and CPN-MC versus CPN-UML and Rastriya Prajatantra Party (RPP). Recounting of ballots occurred in Ward 5 of Pokhara-Lekhnath after it was found that 98 ballots were left out in the first round of counting.

The counting process where DRCN observers were present, and more broadly across the three provinces where observers visited after, was reported as being mostly conducted in a transparent way. Although slow and at times contested, it was positive that all ballots were being carefully reviewed and that party agents were able to view the counting and raise objections.

The low level of voter education and complicated ballots for newly elected positions caused concern about the potential for a high level of vote invalidation. The ECN's decision to not have one invalid race, or several invalid races spoil an entire ballot was positive, as observers found that in many cases voters incorrectly voted for one or several races, but correctly for others. Although this slowed counting, it respected the will of voters. Also positive was the ECN's last minute directive with more details about how to process ballots with stamping and inking inconsistencies.

DRCN teams did not see a high number of entire ballots being invalidated at places observed. There however were many instances where voter's votes for a specific race, or several races, were invalidated. Some more commonly observed reasons for a vote to be considered invalid included: a voter voting for multiple candidates for the same race, voters not marking their ballots for certain races, voters using fingerprints instead of the swastika stamp when voting, and voters voting for more than two candidates for the two open ward races in the 6<sup>th</sup> and 7<sup>th</sup> columns of the ballot paper. Observers also reported that the confusion created by late alliance formation led to a significant number of invalid votes, especially in mayoral and deputy mayoral races.

One counting officer in Surkhet told DRCN observers that the counting staff did not have adequate orientation and information about the detailed counting procedures. He said that they did not anticipate the counting process to be as complicated and said that small issues like the ballot paper and the stamp being the same color, and the poor quality of ballot paper, made the counting process long and cumbersome.

At certain counting centers visited by DRCN observers there was some confusion about whether or not observers should be allowed to observe the process. This appeared to be due to officials being unaware of the ECN's directives to allow observers into counting. DRCN observers were denied access during the collection of the ballot boxes at the counting station in Birendranagar, Surkhet. The observation team was however provided access the following day after requesting permission from the Chief District Officer. Similarly, temporary restrictions were placed on observer and journalist access to counting centers in Pokhara-Lekhnath, Kaski, and Bhimeshwar, Dolakha. The counting happened at the local unit level, and many of the employees may have been unfamiliar or uneducated about ECN policies concerning observers.

### *Post-election Environment*

DRCN teams have observed the post-election environment in 31 local units across 20 districts while meeting with different stakeholders including election officials, political party members, journalists, and newly elected candidates to better understand the post-election

climate, including acceptance of results, the general security environment, and expectations. Observers have found in all places visited that results have been accepted and that citizens remain enthusiastic about the potential of having elected local representatives. The security environment remained stable in all places visited, with incidents in a few isolated places that were related to vote counting or directed at party victory rallies. There were 13 post-election incidents recorded across Nepal between May 15 and 21, down from 81 between May 12 and 14.<sup>34</sup>

In Bharatpur, Chitwan the counting has been suspended after some ballots were destroyed on May 28. The Election Commission has decided to conduct re-polling in ward 19. The decision has been opposed by CPN-UML by obstructing the parliament. A case has also been filed at the Supreme Court against the ECN decision to have re-polling.

DRCN observers have reported that they expect the political situation to remain stable in provinces where elections have occurred, with interviews in all provinces expressing few concerns about their localities, but more about the next phase of elections in the Tarai districts.

The village and municipality executives must be elected within 15 days of the announcement of local election results as required by the Constitution. The elections will be run by the Returning Officer and elect four women and 2 Dalit or minority members to village executives, and five women and three Dalit/minority members to municipality executives. As of May 25, DRCN observers had reported that the village executive election had begun in Mustang district, where the DRCN team observed the nomination process in Ghorajpang Rural Municipality on May 21. The election has been scheduled for May 30. DRCN observers will continue to observe the executive elections in other areas.

## **VI. Conclusion and Recommendation**

DRCN commends the efforts made by the Election Commission of Nepal (ECN) to hold the first phase of the 2017 local elections in provinces 3, 4 and 6. The Government of Nepal (GoN), the political parties, civil society, media, and observer groups all played important roles in assisting the ECN's efforts. DRCN further praises the enthusiasm shown by citizens of Nepal who were finally able to elect local representatives for the first time in 20 years. DRCN also congratulates the newly elected representatives and hopes that they will play instrumental role in bringing development and democracy to the local level.

There are important lessons to be learned from the first phase elections. Despite the ECN's best efforts to prepare necessary technical and logistical arrangements in a short period of time, some major concerns remain. The short time frame for holding the elections led to rushed preparations, including a confusing ballot design, a low level of voter registration, problems with voter registration and identity cards, shortened nomination and campaign period, and under-prepared election officials, especially when it came to counting.

The most important concern was the conduct of major political parties before and during the elections. As widely reported in the media, and verified by DRCN observer teams, there were sporadic but significant incidents of violence between the political parties leading to at least six deaths. Violence should not be acceptable and must be denounced by political parties.

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<sup>34</sup> See DRCN's [Analysis Update – 6 Incidents During the May 14 Elections Counting Period](#)

The first phase of elections was an important step forward towards implementing the new constitution. However, uncertainties exist about the second phase of elections now scheduled for June 28, 2017. DRCN strongly urges both the governing and protesting parties to show will and urgency in resolving the outstanding political issues to create a conducive environment for a peaceful second phase of elections.

In light of the observation findings and conclusion outlined above, DRCN urges the Election Commission of Nepal, the Government of Nepal, political parties, and other relevant stakeholders, to:

*Create Political Conditions for Second Phase Elections*

- All political leaders and stakeholders must exercise flexibility and keep compromise at the front of the agenda in order to create an environment conducive to holding elections in the remaining provinces, especially in areas of the Tarai where groups have said they will protest elections if demands are not heard.

*Mitigate Election-Related Violence*

- All political parties should strictly follow the laws and election codes of conduct and respect citizens' rights to participate in a peaceful election.
- All political party leaders should instruct their candidates and cadres to refrain from using violence during the elections.
- Security forces should exercise maximum restraint while serving to protect the elections, especially in areas where there have been recent incidents of protest and violence between protestors and the police.
- All acts of violence, regardless of the perpetrator, should be properly investigated and those guilty punished according the laws of Nepal.

*Ensure Adequate Voter Education and Proper Voter Registration*

- The ECN, GoN, political parties, and civil society should make all efforts to immediately increase voter education for the June 28 elections to avoid delays in materials and volunteers reaching assigned locations.
- An increased number of radio ads, particularly in local languages, could be of significant reach in more remote areas and the Tarai.
- Errors in the voting register, including misspelling of names, mismatching of photos and names, missing names, and repeated names were frequently reported. DRCN urges the ECN to properly maintain and manage the voter register, update it periodically, and have it verified at local units ahead of the election.

*Provide Sufficient Trainings*

- Proper and timely trainings should be provided to all stakeholders, including election and security officials, journalists, and national observers to ensure that all are aware of the laws, directives, and codes of conduct relevant to the elections.

### Ensure Swift Counting

- Polling and counting officials should be provided adequate training and orientation, including mock counting sessions in advance to address confusion and prevent delays in counting. Trainings on conflict mitigation during polling and counting should also be considered.
- More election officials should be deployed for counting, especially in local units with high numbers of voters to speed up the counting process.
- The ECN should consider reviewing its counting procedures to find ways that can increase the speed of counting without jeopardizing transparency and the security of the process.

### Ensure Observer Access

- The ECN should ensure that the district and local level officials have clear instructions and information on the rights and responsibilities of national observers.