

**Elections to Nepal's House of Representatives,  
National Assembly and  
Provincial Assemblies**

**Final Observation Report**

**May, 2018**

**DEMOCRACY  
RESOURCE CENTER**

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## Acknowledgment

Democracy Resource Center Nepal (DRCN) would like to congratulate and thank the people of Nepal for their participation in the recently concluded House of Representatives and Provincial Assembly elections, and for their contribution to the research and observation conducted by DRCN. DRCN appreciates the Election Commission of Nepal's (ECN) accreditation of DRCN observers and the ECN's continued support throughout the entire observation process. All political party representatives, members of civil society and media, government officials and security agencies cooperated during the DRCN election observation.

The DRCN election observation was led by Sudip Pokharel and coordinated by Nayan P. Sindhuliya, who co-authored the report with Alok Pokharel and Namrata Jha. Caroline Vandenaabeele, Shalini Tripathi, John Tyynela and Ajay Das from the Governance Facility provided useful suggestions and valuable guidance throughout.

DRCN is sincerely grateful to the teams of long-term and short-term observers who travelled across many districts to observe both phases of these elections, and the National Assembly elections, and to the DRCN management and administrative staff for their support throughout.

The observation was financially supported by the Governance Facility, a joint mechanism between the embassies of Denmark and Switzerland, and United Kingdom's Department for International Development (DFID). All findings in this report are based on DRCN's observation, and do not necessarily reflect the views of the Governance Facility or its partner governments.

## 1. Introduction

### 1.1 About DRCN

Democracy Resource Center Nepal (DRCN) was established in 2014 with the objective of producing robust independent research around Nepal's political transition. DRCN began its work conducting localized research about the drafting of the country's new constitution.<sup>1</sup> DRCN then conducted field-based research on the local body restructuring process that occurred after the new constitution was adopted in 2015.<sup>2</sup> DRCN mobilized long-term and short-term observations before, during, and after all three phases of the 2017 local elections.<sup>3</sup> Similarly, DRCN observed both phases of elections to the House of Representatives (HoR) and Provincial Assemblies, as well as the National Assembly elections. DRCN is currently conducting a nation-wide research and observation around the implementation of the new constitution at the local and provincial levels.

### 1.2 DRCN Methodology and Observation

DRCN focuses on conducting localized independent research and utilizes qualitative and quantitative analytical tools in its work. DRCN used two sets of methodologies for its election observation: one for the long-term and another for the short-term observation.

DRCN's long-term observation methodology entails observers conducting key informant interviews, citizen interviews, focused group discussions, direct observation, and analysis of the local media to better understand the electoral and political contexts before, during, and after polling day. The long-term outputs are recorded by observers in observation forms that are designed to capture a deeper understanding of the electoral and political situation at the district level and at the local level. During these elections, observers visited multiple districts within the province they were assigned to, and at least two local units per district visited. Local units were selected to ensure that both the urban centers and the remoter and less accessible regions within the district were visited.

DRCN's short-term observation methodology is more technical and is designed to assess key electoral processes against the legal framework guiding the elections. Short-term observers are equipped with separate checklists to observe opening, polling, and closing during the election day, and a separate checklist to observe counting. All the forms and checklists for these elections were developed by DRCN's core team, with the help of election experts. All short-term observations were sent by observers to core team staff via the ELMO election observation software, which significantly increased the speed and

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<sup>1</sup> See: DRCN's "Political situation and mobilizations around the January 22, 2015 political commitment to promulgate the constitution" < [http://democracyresource.org/wp-content/uploads/2017/04/Political-Situation-and-Mobilizations-around-the-January-22-2015-Political-Commitment-to-Promulgate-the-Constitution\\_March-2015.pdf](http://democracyresource.org/wp-content/uploads/2017/04/Political-Situation-and-Mobilizations-around-the-January-22-2015-Political-Commitment-to-Promulgate-the-Constitution_March-2015.pdf) >

<sup>2</sup> See: DRCN's "Preliminary Findings on Local Body Restructuring at the Local Level" < [http://democracyresource.org/wp-content/uploads/2017/04/Preliminary-Findings-on-Local-Body-Restructuring-in-Nepal\\_September-2016.pdf](http://democracyresource.org/wp-content/uploads/2017/04/Preliminary-Findings-on-Local-Body-Restructuring-in-Nepal_September-2016.pdf) >

<sup>3</sup> See: DRCN's election observation reports from all three phases of local elections: < <http://democracyresource.org/election-observation/> >

efficiency of analysis. DRCN's election observation analysis and findings were also bolstered by regular media monitoring, as well as DRCN's Political Violence Monitoring project which has been tracking and analyzing incidents throughout the entire election cycle.<sup>4</sup>

All DRCN observers were provided with training by DRCN core team and election experts. Trainings were held before all phases of observation and were on the following topics: observation methodology, the electoral legal framework, the election codes of conduct, and international best practices in democratic elections.

The first HoR elections under the new Constitution, along with the first ever elections to the seven provincial assemblies, were held in two phases. The first phase was held on November 26, and the second phase on December 7, 2017. DRCN conducted long-term and short-term observations of both phases to assess the electoral processes before, during, and after the election days, as well as to monitor the overall political and security situation around these elections.

On November 19, 2017 eight mobile DRCN long-term observation (LTO) teams were deployed to observe campaigning and preparations for the first phase of elections. Six additional short-term observation (STO) teams were deployed on November 22 to observe the campaign silence period, election day processes, and ballot security.<sup>5</sup> On December 1, the eight mobile LTO teams moved to the districts going to polls on the second phase to observe pre-election developments. Fifteen additional STO teams joined the LTO teams on December 4 to observe the silence period, election day processes, and counting. In both phases, DRCN observed pre-election developments in sixteen districts, covered a total of 376 polling centers across 39 districts during the two election days, and observed vote counting in 21 districts. DRCN observed the National Assembly elections in six of the seven provinces, with Province 2 not requiring voting after all the members were elected unopposed.

## **2. Political and Security Overview**

The new Constitution of Nepal mandated that elections to all three newly restructured levels of government be concluded by January 21, 2018. The first set of elections to the local units was concluded in three phases: the first phase on May 14, the second on June 28, and the third on September 18, 2017.<sup>6</sup> On August 21, 2017, the Government of Nepal (GoN) announced that the elections for both the HoR and the seven provincial assemblies

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<sup>4</sup> DRCN has been analyzing the incidents and producing periodic updates since March 2017 following the announcement of local elections. All these updates on the election-related incidents can be accessed here: <<http://democracyresource.org/political-violence-monitoring/>>

<sup>5</sup> Including the pre-election period and on election day, DRCN LTO and STO teams observed in 13 districts during the first phase elections and 35 districts during the second phase elections.

<sup>6</sup> Read DRCN's final report based on observation of all three phases of local elections here: <[http://democracyresource.org/wp-content/uploads/2017/11/DRCN\\_Local-Election-Final-Observation-Report\\_Eng.pdf](http://democracyresource.org/wp-content/uploads/2017/11/DRCN_Local-Election-Final-Observation-Report_Eng.pdf)>

would be held on November 26, 2017.<sup>7</sup> Responding to the ECN's logistical concerns about holding the elections in a single phase, the GoN, on August 30, rescheduled the elections to be held in two phases: the first on November 26 and the second on December 7.<sup>8</sup> Following this decision, the ECN announced that the first phase of elections would be held in 32 mountainous and high-hill districts, and that the second phase would then be held in the remaining 45 lower-hill and Tarai districts.<sup>9</sup>

In one of the key political developments prior to these elections, the Communist Party of Nepal Unified Marxist-Leninist (CPN-UML) and the Communist Party of Nepal (Maoist Center) [CPN(MC)], two of the three major political parties, along with the Baburam Bhattarai-led Naya Shakti Party, announced a broad electoral alliance on October 3, 2017, with plans to unify into a single party after the elections.<sup>10</sup> The Naya Shakti Party, however, left the alliance within days following disagreements with the top leadership about the allocation and distribution of candidacies.<sup>11</sup> This led the ruling Nepali Congress Party to form its own alliance with smaller parties, including the Kamal Thapa-led Rashtriya Prajatantra Party (RPP). The Rashtriya Janata Party Nepal (RJPN) and the Federalist Socialist Forum Nepal (FSFN) – the two major parties influential in Madhesh – also formed their own alliance. The formation of these national and regional alliances fundamentally changed the political scenario and subsequent campaign environment.

The major pre-election security concern was the frequent explosion of improvised explosive devices (IED), often targeting candidates. Some of the targets of these IEDs included central-level leaders of major political parties. One temporary police personnel died after sustaining serious injuries in an IED explosion in Dang on November 28.<sup>12</sup> During the official campaign of the first phase elections, between October 22 and November 23, NepalMonitor.org recorded a total of 114 election-related incidents, of which 45 incidents were related to unidentified groups and IEDs.<sup>13</sup> Similarly, 64 election-related incidents were recorded during the second phase campaign period between November 27 and December 4, of which 50 incidents involved unidentified groups and

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<sup>7</sup> See: 'Govt calls two major elections for Nov 26'

<<http://kathmandupost.ekantipur.com/printedition/news/2017-08-22/govt-calls-two-major-elections-for-nov-26.html>>

<sup>8</sup> See: 'Cabinet approves elections in two phases' <<http://kathmandupost.ekantipur.com/news/2017-08-30/cabinet-approves-election-in-two-phases.html>>

<sup>9</sup> See: EC divides districts for two phases of elections. < <http://kathmandupost.ekantipur.com/news/2017-09-01/ec-divides-districts-for-two-phases-of-elections.html> >

<sup>10</sup> See: 'UML, MC, Naya Shakti form broad alliance'

<<http://kathmandupost.ekantipur.com/printedition/news/2017-10-04/uml-mc-naya-shakti-form-broad-alliance.html>>

<sup>11</sup> See: 'Naya Shakti Nepal quit left alliance due to prohibitory policy: Bhattarai'

<<http://kathmandupost.ekantipur.com/news/2017-10-23/naya-shakti-nepal-quit-leftist-alliance-due-to-prohibitory-policy-bhattarai.html>>

<sup>12</sup> 23-year old Binod Chaudhary died while undergoing treatment after sustaining serious injuries in an explosion targeting a mass rally that was being addressed by Prime Minister Sher Bahadur Deuba.

See: 'Temporary policeman injured in Dang explosion dies'

<<http://kathmandupost.ekantipur.com/news/2017-11-29/temporary-cop-injured-in-dang-explosion-dies.html>>

<sup>13</sup> See DRCN's 'Analysis Report on Campaign Period Incidents Prior to First Phase

Elections': <<http://democracyresource.org/wp-content/uploads/2017/11/Analysis-Update-15.pdf>>

IEDs.<sup>14</sup> While no groups claimed responsibility for these explosions, a central level leader of the Biplav-led Communist Party of Nepal (CPN) issued a press statement immediately after the second phase election claiming responsibilities for “all explosions around the elections.”

There were widespread pre-election concerns that these explosions would impact both campaigning and voter participation on the two election days. DRCN did not find strong evidence of campaigning and voter turnout being significantly affected, an assertion commonly made by district level security and election officials, and backed by impressive turnouts on both election days.<sup>15</sup> Security and administrative officials told DRCN that, barring some notable exceptions, these attacks were carried out to create fear among the candidates and party cadres rather than to cause large-scale casualties. While exact numbers are difficult to obtain, several Biplav-led CPN cadres were held in preventive detention across the districts visited by DRCN. CK Raut, who has been campaigning for an ‘Independent Madhesh’, was arrested on the morning of December 7 election day from his residence in Janakpur. Police did not provide details on the charges against him, but one officer told DRCN that the arrest was made for “breaching the election code of conduct during silence period by making public comments to the media.” Over 70 intra and inter-party clashes were reported, however it was considered to be less common than during the local elections. Election days in both phases were largely peaceful, with some exceptions. The level of security deployment was generally very high, with areas categorized as ‘sensitive’ and ‘highly sensitive’ receiving additional security.<sup>16</sup>

### 3. Electoral Legal Framework

#### *Overview of the Constitutional Legal Framework*

The Constitution of Nepal 2015 requires the formation of legislative assemblies at the local, provincial, and federal levels.<sup>17</sup> As constitutionally mandated, a bicameral legislature at the federal level and a unicameral legislature in each of seven provinces have been formed after the elections. The federal parliament is comprised of the House of Representatives (HoR), with 275 members, and the National Assembly (NA), with 59 members. Under Article 84 of the Constitution, the HoR consists of 165 elected members under the first-past-the-post (FPTP) electoral system, and 110 members elected under the proportional representation (PR) system. The NA is composed of a total of 59 members elected through an electoral college, with eight members elected from each of seven

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<sup>14</sup> See DRCN’s ‘Analysis Report on Campaign Period Incidents Prior to Second Phase Elections’: <<http://democracyresource.org/wp-content/uploads/2017/12/Analysis-Update-16.pdf>>

<sup>15</sup> The ECN said the official voter turnout was around 65% for the first phase of elections and around 70% for the second. See: ‘Turnout revised up to 69.58pc’ <<http://kathmandupost.ekantipur.com/news/2017-12-09/turnout-revised-up-to-6958pc.html>>

<sup>16</sup> See: ‘Ministry of Home Affairs has ‘robust’ plan for election security’ <<https://thehimalayantimes.com/nepal/ministry-home-affairs-robust-plan-election-security/>>

<sup>17</sup> Assemblies have already been formed in all 753 local units after the local level elections were concluded in three phases on May 14, June 28 and, September 18, 2017.

provinces, and the remaining three members nominated by the president under recommendation of the cabinet.<sup>18</sup> Each province has an electoral college which consists of members of the provincial assembly, chairpersons and vice-chairpersons of the rural municipalities, and mayors and deputy-mayors of the municipalities in the respective provinces. The weight of the members in the electoral college varies under Article 86 of the constitution.

60 percent of the members of the HoR and each provincial assembly are elected through FPTP system while the remaining 40 percent are elected through the PR system. The proportion of members elected via FPTP and PR was changed from the last two Constituent Assembly (CA) elections, during which 40 percent of the CA members were directly elected under the FPTP, and the remaining 60 percent were elected through PR. Having a higher percentage of members elected through PR led to a more inclusive assembly. The Constitution requires that political parties ensure proportional representation of women, Dalits, indigenous peoples, Khas-Arya, Madhesi, Tharu, Muslims, backward regions, and the representation of persons living with disability, while filing candidacy under the PR system for both the HoR and the provincial assembly elections.

The government formed the Election Constituency Delimitation Commission (ECDC) on July 30, 2017 under Article 286 of the Constitution. The ECDC was tasked with delimiting Nepal's new electoral constituencies and preparing a report within 21 days. Although the report submission deadline was later extended, the time provided to the ECDC was inadequate given the complexities of the commission's task.<sup>19</sup> The ECDC submitted its report to the GoN on August 30, 2017. The ECDC delimited 165 FPTP constituencies for the HoR, with each district having at least one constituency. Similarly, a total 330 FPTP provincial electoral constituencies were delimited – twice the number of HoR constituencies.

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<sup>18</sup> Eight members elected to the NA from each province should include at least three women, one Dalit, and one person representing either people with disability or from a minority group. The President nominates remaining 3 members, which must include at least one woman, on recommendation of the government.

<sup>19</sup> See: 'CDC was given unrealistic 21-day deadline for constituency delimitation'  
<<http://kathmandupost.ekantipur.com/news/2017-09-04/cdc-was-given-unrealistic-21-day-deadline-for-constituency-delimitation.html>>



*Composition of the HoR and seven provincial assemblies*

Province	Number of HoR seats under FPTP	Number of HoR seats under PR	Number of PA seats under FPTP	Number of PA seats under PR	Total PA seats	Total HoR and PA seats
1	28	110	56	37	93	121
2	32		64	43	107	139
3	33		66	44	110	143
4	18		36	24	60	78
5	26		52	35	87	113
6	12		24	16	40	52
7	16		32	21	53	69
<b>Total</b>	165			330	220	550
<b>Aggregate of nation-wide representatives (HOR + provincial assemblies)</b>						815

*Overview of the Electoral Legal Framework*

Based on the constitutional framework and mandate, the parliament and the ECN enacted and enforced essential laws for the conduct of the HoR and provincial assembly elections. The Act Relating to Election of Members of House of Representatives 2017 and the Act Relating to Election of Members of Provincial Assembly 2017 – both passed by the parliament on September 4, 2017 – were the two major laws guiding these elections. Under Section 79 of these laws, the ECN issued other important laws and regulations including the Regulation Relating to Election of Members of House of Representatives 2017 and the Regulation Relating to Election of Members of Provincial Assembly 2017. These laws regulated the key aspects of the election including: announcement of the election dates and the electoral calendar; appointment of election officials; candidacy and nomination processes; procedures for filing candidate lists under the PR system; distribution of election symbols; management of polling locations, ballot papers and ballot boxes; polling procedures; and, declaration of election results, among others.

Section 80 of the Act Relating to Election of Members of House of Representatives 2017 and the Act Relating to Election of Members of Provincial Assembly 2017 authorized the ECN to issue directives and procedures to conduct these elections. Two additional directives were passed to regulate proportional system for the HoR and the provincial assembly elections. The ECN provided the details for the PR system including the gender and social inclusion requirements for political parties while filing the closed-list of candidates through these directives.<sup>20</sup>

<sup>20</sup> For example, while filing the closed-list of candidates for the HoR under the PR system, political parties had to ensure the following representation: 31.2 % from Khas-Arya, 28.7 % from Adibasi Janajati, 15.3% from Madheshi, 13.8% from Dalit, 6.6% from Tharu and, 4.4 % from Muslim.

The House of Representatives and Provincial Assembly Directive expanded the provisions and processes mentioned in aforementioned Acts and Regulations. The House of Representatives and Provincial Assembly Voting Directive helped polling officers regulate different aspects of polling while the Directive on Monitoring of Violations of Election Code of Conduct allowed central and district level bodies and election officials to monitor violations of the election code of conduct. Directives were also issued to settle election related disputes, and to oversee election related crime and punishment.

Vote Counting Directive was issued one day prior to the first phase of elections which provided counting officials instructions for dealing with ballot invalidation. The ECN also enforced election codes of conduct for the government, the political parties, the media, and the domestic and international observers, among others.

### *Findings on Electoral Legal Framework*

DRCN's analysis of the electoral legal framework is based both on its observation findings, and assessment of prevalent electoral laws against nationally and internationally recognized principles and democratic standards.

#### *(A) Right to Vote*

The Act Relating to Electoral Rolls 2017 allows Nepali citizens who are 18-years-of age at the time of the announcement of election dates to be registered as voters. A total of 15,427,938 citizens were registered in the voter roll as of August 21, 2017 when election dates were announced. The Universal Declaration of Human Rights (UDHR) of 1948 and the International Covenant on Civil and Political Rights (ICCPR) of 1966, both binding to Nepal, guarantee citizens their basic right to vote. DRCN observation noted that all registered voters were allowed to exercise their rights to vote, even when they were not able to present voter ID cards during both elections.

Security and election officials deployed to conduct the elections outside of the constituencies they were registered to vote were deprived of their right to vote. DRCN has not been able to obtain an exact figure, but it has been estimated that there were over half a million officials who were deprived of their right to vote. During the two previous CA elections, officials were allowed to vote in after being issued temporary voter ID cards. The ECN said it was unable to ensure such provision because of a lack of time.<sup>21</sup> A case filed at the Supreme Court against the ECN and the GoN for failing to secure voting rights of deployed officials is still pending.

#### *(B) Voter Registration*

Voter registration was conducted under the Act Relating to Electoral Rolls 2017. A total of 1,373,249 new voters were added between the conclusion of the local-level elections

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<sup>21</sup> See: 'Poll duty to deprive lakhs of right to vote' < <https://thehimalayantimes.com/nepal/poll-duty-deprive-lakhs-right-vote/> >

and the announcement of the HoR and the provincial assembly election date on August 21.<sup>22</sup> Section 4 of the Act Relating to Electoral Rolls 2017 provides that the voter registration automatically ends with the announcement of the election date. This act authorizes the ECN to direct, inspect, and control nearly all aspects of voter registration, but not the closing. International practice requires that sufficient time be provided for voter registration, and that the public has to be informed about the overall process for voter registration.<sup>23</sup> DRCN observation had noted that there were widespread complaints about the public not being aware about the closing of the voter registration upon the abrupt announcement of the election dates. This, the observation had shown, led to a significant number of eligible voters being excluded from the voter roll.<sup>24</sup>

### *(C) Issues around the Delimitation of Electoral Constituencies*

The ECDC which was formed on July 30, 2017 delineated Nepal into 165 HoR and 330 provincial assembly electoral constituencies. As per the first amendment to the Constitution, the main basis for constituency delimitation was population, along with geographical convenience and specificity of a district.<sup>25</sup> DRCN observation noted that the process of constituency delimitation was done in a rushed manner and lacked adequate public participation and consultation. There were also frequent reports of the major parties and individual leaders exerting undue influence in the entire process. A commissioner was reported to have expressed major reservation about the process being externally influenced.<sup>26</sup>

Concerns have also been raised about whether the delimitation process at the federal level adequately followed the mandated basis, especially criteria regarding population: the ratio of registered voters in each constituency. For example, Ramechhap district with a single constituency had a total of 152,559 registered voters whereas Kathmandu constituency-1 only had 42,430 voters.

International best practices on electoral constituency delimitation require that the process follow principle of representativeness, ensure equality of voting strength of all constituencies, and be non-discriminatory while maintaining impartiality and transparency.<sup>27</sup> DRCN observation found that some of these principles and standards

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<sup>22</sup> DRCN observation found that new registration had been conducted in every district visited, including 43,000 in Kavre, 46,766 in Dang, 15,000 in Dolakha, 22,409 in Nuwakot, 9400 in Parsa, 20,402 in Gorkha, 5397 in Bajura, 57,298 in Kailali, 8057 in Parbat, and 20,177 in Surkhet for example.

<sup>23</sup> OSCE/ODIHR, Handbook for the Observation of Voter Registration and, Election Obligations and Standards, A Carter Center Assessment Manual, Carter Center.

<sup>24</sup> See: DRCN's Final Observation Report on Nepal's Local Elections 2017 < [http://democracyresource.org/wp-content/uploads/2017/11/DRCN\\_Local-Election-Final-Observation-Report\\_Eng.pdf](http://democracyresource.org/wp-content/uploads/2017/11/DRCN_Local-Election-Final-Observation-Report_Eng.pdf) >

<sup>25</sup> See: Article 84 of the Constitution of Nepal.

<sup>26</sup> See: 'CDC submits its report with 165 electoral constituencies' < <http://kathmandupost.ekantipur.com/printedition/news/2017-08-31/cdc-submits-its-report-with-165-electoral-constituencies.html> >

<sup>27</sup> See: Boundary Delimitation, Ace Project (2012) at <http://aceproject.org/ace-en/pdf/bd/view> and, Dr. Lisa Handley, Challenging the Norms and Standards of Election Administration: Boundary Delimitation at [https://ifes.org/sites/default/files/4\\_ifes\\_challenging\\_election\\_norms\\_and\\_standards\\_wp\\_bndel.pdf](https://ifes.org/sites/default/files/4_ifes_challenging_election_norms_and_standards_wp_bndel.pdf)

were compromised by the ECDC.

*(D) Independence of the ECN*

Under Nepal's existing legal structure, the ECN is dependent on the GoN for two fundamental aspects of the election process: declaration of election date and, enactment of major electoral laws. Section 3 of the Election Commission Act and Section 6 of The Act Relating to Election of Members of House of Representatives 2017 and the Act Relating to Election of Members of Provincial Assembly 2017 authorizes the government to declare election dates. This legal provision was a subject of a regular debate since before the local level elections. The ECN expressed concerns about not having adequate time to make necessary preparations. The ECN had to constantly request the government to declare election dates.<sup>28</sup> In one particular case, when the GoN announced on August 21, 2017 that the elections for both the HoR and the provincial assemblies would be held in a single phase, the ECN raised logistical concerns and asked the government to conduct these elections into two phases.<sup>29</sup> Announcement of election dates and revisions of election timelines were politically influenced, affecting the functioning of the ECN.

Another commonly raised issue was the rushed nature of, and delays in, passing important electoral laws. Prior to the elections, the ECN had to constantly urge the government and the then parliament to enact necessary laws in order for the commission to have enough time to prepare for the elections. The enactment of crucial laws, like the Act Relating to Election of Members of House of Representatives 2017 and the Act Relating to Election of Members of Provincial Assembly 2017, were delayed and thus left the ECN with less than three months to prepare for the elections. The DRCN observation found that this significantly impacted the ECN's logistical and technical preparations, including voter registration, voter education, and trainings and deployment of officials.

*(E) Rushed law-making process*

The rushed legislative process also resulted in lawmakers overlooking some provisions important to the elections. For example, the Act on the Composition of the House of Representatives 2017 left out the percentage requirement for backward region that political parties were required to meet while filing their candidacies under the PR system. A case was filed at the Supreme Court challenging the constitutionality of the Act. Although the Supreme Court did not pass any decision on the case, the ECN addressed the challenge by issuing the Directives on the House of Representative 2017, which mandated the political parties to ensure 4.3 percent representation of the backward regions<sup>30</sup> Representatives of people living with disability filed another case at the

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<sup>28</sup> See: 'EC officials urge PM to announce date for parliamentary election' <<http://kathmandupost.ekantipur.com/news/2017-08-15/ec-officials-urge-pm-to-announce-date-for-parliamentary-election.html> >

<sup>29</sup> See: 'EC preparing for two-phase provincial, parliamentary polls' <<https://thehimalayantimes.com/nepal/election-commission-preparing-two-phase-provincial-parliamentary-polls/> >

<sup>30</sup> See: 'Did the election act violate the constitution?' <<https://www.kantipurdaily.com/news/2017/09/06/20170905205124.html> >

Supreme Court challenging the HoR and the provincial assembly election laws for not guaranteeing their proportional representation.<sup>31</sup>

*(F) Lack of Adequate Training*

The ECN deployed many election officials who had previously served during the local-level elections. DRCN observation of the HoR and the provincial assembly elections noted an improved implementation of the electoral laws compared with the local level elections. Officials DRCN met across the districts however continued to say that they had not received enough training and orientation on the legal framework and electoral processes in order to competently undertake their responsibilities.

While the existing laws only allowed immediate family members to cast votes on behalf of the elderly and people with disabilities, DRCN observed officials in many polling locations allowing people other than immediate family members to assist in voting. In many polling centers, polling officers seemed confused about provisions on assisted voting. DRCN also observed that the opening and closing procedures were not consistently followed. In a polling center in Bajura, one individual was allowed to assist three voters although he was not related to either of them. In another polling center in Rolpa, one polling officer asked DRCN observers to check and sign in the polling opening form – a requirement that had to be completed by political party agents – because the party agents did not arrive on time. DRCN observation also commonly noted polling and security officials assisting the voters with marking and folding ballot papers.

*(G) Amendment of Laws*

The ECN had to amend some laws due to political developments after the announcement of the poll dates. One amendment led the printing of separate ballots for the HoR and the provincial assembly election under FPTP system; this following the Supreme Court ruling in response to a writ filed by RJPN leader Sarbendra Nath Shukla.<sup>32</sup> The ECN also had to amend the House of Representatives Proportional Representation Election Directive requiring political parties to finalize their list of candidates under the PR system within three days to manage the tight electoral calendar – originally, parties were given seven days.

*(H) Election Disputes and Settlements*

Polling officers, returning officers, the ECN and the courts were authorized to settle election-related disputes. A returning officer had authority to adjudicate disputes over forged documents during nomination, while the ECN had the right to settle campaign finance related disputes.

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<sup>31</sup> See: 'NFDN files a writ in Supreme Court for the political rights of Persons with Disabilities' <<https://nfdn.org.np/news/writ-against-government-political-rights.html>>

<sup>32</sup> See: 'SC orders separate ballots for two polls' <<http://kathmandupost.ekantipur.com/printedition/news/2017-10-26/sc-orders-separate-ballots-for-two-polls.html>>

Some election-related cases were filed at the Supreme Court, none of which have been decided. One such major case regards election officials' right to vote. Six cases disputing the final election results have been filed at the Supreme Court, all of which are still pending.

*(I) Violation of Election Code of Conducts*

DRCN observers noted widespread violations of the election code of conduct, but no action was taken against violators. According to media reports, a total of 1900 complaints were filed at the ECN.<sup>33</sup> Most of these violations came from major political parties and candidates. In multiple places, district level election officials told DRCN that many complaints were resolved informally through reminders and phone-calls. One official in Bara district told DRCN that the election codes of conduct were morally rather than legally binding, and that the election offices did not have adequate resources to take action against every complaint. The government was also involved in violating election codes of conduct when it ignored the 27-points directive issued to it by the ECN.<sup>34</sup> Some of these violations included expanding the cabinet ministry and misusing state facilities, among others.<sup>35</sup>

#### 4. Pre-Election Period

*Candidate Nomination Process*

**Candidate nominations were mostly smooth, and concluded on time. Observers attributed this to a smaller number of candidates being nominated than during the local elections, and an increased efficiency of officials.**

DRCN could not observe the candidate nomination process as the observer teams were deployed when the official campaigning period had already begun. In the districts where DRCN observers visited, respondents, including candidates, said the process was generally well-organized and concluded on time, with no significant challenges. In many districts, including Nuwakot and Chitwan, the process of verifying candidacies was started a day early so that officials would have enough time to complete the candidate finalization process on time. The process was reported to have been notably smoother than during the local elections, largely because of the relatively smaller number of candidates being registered, and a greater efficiency of election officials.

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<sup>33</sup> See: '1900 poll code violation complaints filed at EC' <<https://thehimalayantimes.com/kathmandu/1900-poll-code-violation-complaints-filed-at-ec/>>

<sup>34</sup> See: 'EC issues 27-point directive to government' <<https://thehimalayantimes.com/kathmandu/election-commission-issues-27-point-directive-government/>>

<sup>35</sup> See: 'Government has violated election code' <<https://thehimalayantimes.com/kathmandu/government-violated-election-code/>>

## *Campaigning*

**Campaigning was generally vibrant across the country. The formation of major electoral alliances at the national and regional level prior to the elections changed the overall nature of campaigning with many places reporting it to be ‘less enthusiastic’ compared to previous elections.**

All the major political parties and candidates campaigned actively in the districts DRCN teams visited. The mode and nature of the campaigning was reported to have changed in comparison to the local elections. This was largely due to the formation of major electoral alliances prior to the elections. The most notable of these alliances were the ‘Left Alliance’ between CPN-UML and CPN-MC, and the coalition between the Nepali Congress and other parties, including the Rashtriya Prajatantra Party (RPP).

Common sentiment was that the campaigns were ‘less vibrant’ than during the local elections. The parliamentary and provincial constituencies are larger than the local units, which significantly reduced candidates’ abilities to reach out to individual voters at the ward-level through door-to-door campaigning, which was the most common form of campaigning during local elections. This led to party cadres and candidate representatives leading campaign activities at the local levels with major leaders and candidates participating in bigger rallies and mass meetings.

**While the two major alliances were active nationwide, regional and smaller parties focused in regions of their influence. Corner meetings and door-to-door campaigning were common with major parties and alliances holding mass rallies addressed by central level leaders. Use of national and local media was widespread with some small parties and independent candidates also using social media platforms.**

Two major parties, the FSFN and the RJPN – who formed an electoral alliance of their own – were most active in the Tarai, with FSFN also active in some hill districts. Smaller parties and independent candidates concentrated their campaigning in areas of their influence. Parties like RPP, RPP(Democratic), Rashtriya Jana Morcha, Nepal Majdur Kisan Party, and Naya Shakti Party campaigned nationally, but were influential only in selected regions. The newly formed Bibeksheel Sajha Party focused most of their campaigning in the Kathmandu, and a few urban centers in other parts of the country.

Corner meetings, door-to-door visits, and mass rallies were the most common forms of campaigning. The major political parties, especially the Nepali Congress and the CPN-UML and CPN-MC, held several large-scale mass meetings at the district-level that were addressed by central-level leaders. DRCN teams reported common use of flags, banners, and posters, especially during the final days of campaigning. Use of vehicles with loudspeakers broadcasting slogans and campaign songs were observed mostly in district headquarters and urban areas. Major parties and alliances made active use of local and national media outlets to publish and broadcast promotional advertisements and infomercials. Local and community radio stations were commonly used, more commonly

in areas with limited access to print and broadcast media. In some places these promotional materials and advertisements were disseminated in local and regional languages. All the major candidates, as well as some smaller parties like Sajha Bibeksheel Party, widely used social media platforms. DRCN heard complaints in multiple districts that the major national and media outlets gave disproportionate coverage favoring the two major alliances.

**Some new and innovative approaches in campaigning were noted. Aggressive campaigning were seen in districts and constituencies which were perceived to be 'extremely competitive'.**

DRCN observers noted political parties and candidates using innovative campaigning strategies in several instances. For example, CPN-UML distributed *hawai patra*, which were personalized aerogram letters promising stability and prosperity under the new 'Left Alliance' government, and signed by its chairman, K. P. Oli. In some districts, like Rolpa and Dolakha, DRCN observers reported that campaign activities were relatively muted. According to key respondents, this was due to an anticipation of a 'definite victory' for the CPN-UML and CPN-MC alliance. In some other districts, like Nuwakot, Dhanusha and Sindhupalchok, DRCN observers conversely witnessed aggressive campaigning, with some major central-level leaders becoming involved in highly-contested races.

*Campaign Codes of Conduct*

**Widespread breaches of election codes of conduct were observed and reported but no major actions were taken.**

Election officials in many districts claimed that codes of conduct were followed and enforced more effectively than during the previous elections. Although DRCN observers did not directly come across any official complaints and enforcement, they heard widespread reports of such violations. In Janakpur of Dhanusha district, DRCN observers found that candidates from major political parties were using children to distribute and post pamphlets by paying them Rs. 1,000 per day. DRCN observers also heard multiple reports of political parties fielding independent 'dummy' candidates. According to key respondents, these candidates were fielded in order to increase the number of party agents, and to obtain permits for multiple vehicles for use during campaigning and on the election day.<sup>36</sup>

*Campaign Silence Period*

**There were widespread unofficial reports of parties and candidates distributing cash and kind to influence voters during the silence period.**

Although the ECN mandated an upper ceiling on a candidate's campaign expenditure, there were reports and claims by multiple stakeholders that most candidates exceeded

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<sup>36</sup>DRCN teams reported such instance in multiple districts including Dhanusha, Kapilvastu, Jhapa, Kathmandu and Kailali.



their limits.<sup>37</sup> DRCN heard from multiple respondents in all districts visited that there were activities occurring that violated the code of conduct – like feasts for voters and distribution of cash and in-kind benefits to buy influence over voters – during campaign silence period. According to DRCN teams, reports of excessive spending were more common in districts and constituencies with closely contested races.

#### *Pre-Election Security*

**Frequent explosions of IEDs during campaign period raised serious pre-election concerns, but there was no indication of the campaigning and voter turnout being significantly affected.**

Frequent IED explosions that often targeted leaders and candidates raised concerns that campaigning and turnout on election day would be affected. DRCN teams, however, reported that there was no strong indication of campaigns being significantly impacted, and that the explosions did not seem to deter voters from participating on either election-day.

#### *Voter Education*

**Voter education was both ineffective and inadequate across the districts visited. Efforts were limited to teaching people how to mark the ballots.**

DRCN observers across all districts reported that voter education was generally inadequate. Respondents, including voters and representatives of political parties, expressed concern that very little information regarding the overall electoral process, proper ways of marking ballots, and the differences between provincial and parliamentary elections had reached the voters. Confusion regarding the separate ballots for the provincial and parliamentary FPTP races, and the single ballot for both provincial and parliamentary elections under PR, was very common.

**Volunteers were deployed by the ECN at each polling location but they did not have adequate time to reach all voters. Printed materials, infomercials in print and broadcast media, and street plays were commonly used to educate voters. Confusions around multiple ballots were the most common leading to concerns about a potentially high vote invalidation.**

ECN officials claimed that efforts had been made to educate voters through volunteer deployment to the local level, advertisements and infomercials on both local and national media, putting up posters and pamphlets in public places, and street plays, among other methods. Mock-polling had also been conducted in many districts visited by DRCN, but some officials told DRCN that they could not manage to conduct as many mock-polls as they would have liked. DRCN observers, however, found that most of these activities

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<sup>37</sup> For the FPTP post the ECN has capped NPR 2.5 million and 1.5 million for parliamentary and provincial candidates respectively. Similarly, expenditure limit for PR candidates is set at NPR. 200 thousand and 150 thousand.

were rushed and did not reach all the voters. The inadequacy of voter education was acknowledged by many ECN officials who said their efforts were majorly impacted by the last-minute change in the separation of FPTP ballots for the parliamentary and provincial elections.<sup>38</sup> Political parties and candidates also initiated their own voter education campaigns, using sample ballots to urge voters to vote for their particular parties or alliances. Many interlocutors told DRCN that the potential for invalidation was higher for PR ballot – which was a single ballot for both provincial and parliamentary elections – as uninformed voters were likely to mark only one candidate selection of the two required selections. Another common concern raised was the possibility of voters marking more than one symbol due to the late formation of electoral alliances.

### *Voter Registration and Voter IDs*

#### **New voters were added in the roll in all districts after the conclusion of local level elections. Technical errors including wrong and incomplete personal details of the voters were common in the voter register.**

In all districts visited, new voters were added to the voter roll in the period after the conclusion of the local elections.<sup>39</sup> There was no report of any specific group being left out from the voter register. However, there were several cases of technical errors in the list, including mistakes in serial numbers, discrepancy in the alphabetical sequence, and misspellings. DRCN observers found cases where voters had obtained their ID cards, but their names were missing from the final list, thus rendering them unable to vote.<sup>40</sup> There were also cases where voters from the same family were listed at separate polling locations. This added to the confusion among voters and election officials on the polling day. Additionally, a significant number of voters, particularly government officials, security personnel and observers, were excluded from exercising their voting rights.<sup>41</sup>

## **5. Election Day**

Although the pre-election day periods for both phases of elections were marred by violence, both election days were generally peaceful, barring some exceptions. Throughout both polling days, DRCN observers noted a greater awareness and enforcement of the polling procedures by officials, when compared to the local level elections. However, some major challenges persisted, including inconsistency in application of assisted voting procedures, and voter confusions around multiple ballots.

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<sup>38</sup> In response to a contempt of court writ filed by RJPN leader Sarbendra Nath Shukla, the Supreme Court issued an order to ECN to separate the FPTP ballots for the parliamentary and provincial races just one month before the first phase election. See: <http://kathmandupost.ekantipur.com/news/2017-10-26/sc-orders-separate-ballots-for-two-polls.html>

<sup>39</sup> A total of 1,373,249 new voters were added between the conclusion of the local level elections and the announcement of the HoR and the PA election date on August 21.

<sup>40</sup> DRCN noted such incidence Banganga, Kapitvastu; Birendranagar, Surkhet; and Bharatpur, Chitwan.

<sup>41</sup> See: <http://kathmandupost.ekantipur.com/news/2017-11-01/sc-to-discuss-voting-rights-for-civil-servants-security-personnel-on-poll-duty.html>

## *Opening*

### **Most polling locations opened on time, with some minor exceptions. Opening procedures were largely followed during both election days.**

Fewer than 60 out of 369 polling centers observed failed to open at the designated poll opening time of 7:00 A.M. However, most of the delays were only by a few minutes. The top three reasons stated by DRCN observers for polling center opening delays were: party representatives arriving late to polling locations (40 reports), lack of polling center preparation by election officials and party representatives (13 reports), and inclement weather (2 reports). The lack of paperwork available at some voting locations was often cited as a reason for late polling location opening times. Additionally, some polling locations only began to set up the location when party representatives arrived, leading to delayed start.<sup>42</sup>

## *Polling*

### **Polling was largely peaceful, but procedural inconsistencies were commonly noted.**

While DRCN observation indicates that many voters, polling officials, and party representatives received inadequate voter education for the national elections, polling procedures were largely upheld by both party representatives and the polling staff. In some cases, however, there was confusion regarding some of the legal provisions regarding assisted voting, acceptable ID for voting, etc. In some instances, voters complained of being unaware of polling processes mainly due to inadequate or ineffective voter education, for example in Bhimeswor, Dolakha.

### **Lack of voter privacy was common.**

DRCN observers reported 47 instances in which voter privacy was violated during polling. Instances included:

1. **Police and polling staff positioning themselves too closely to the voting booths, enabling them to potentially see voters' ballots (25 instances).** This issue was also prevalent during the local elections. It was notable during the national elections that in some occasions this violation was discouraged. In ward 2 of Janakpur, Dhanusa, DRCN observers noticed that a security official was caught looking at a voter's ballot and was subsequently moved to another location after the incident.
2. **Lack of space and/or poor arrangement of space at locations led to disorderly queues and allowed polling staff and onlookers to be too close to voters (16**

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<sup>42</sup> While the reasons for late party representative arrivals was mostly unspecified, DRCN observers in Makwanpur were told that party representative arrival delays there may be due to the large size of wards and the restrictions on vehicular movement.

**instances**). Areas with larger voting populations sometimes experienced crowding, which in certain circumstances reduced voter privacy. DRCN observers in Makwanpur noted that some polling centers were better designed than others. Some centers had a separate line for the elderly and people living with disabilities, while other centers were haphazardly designed, allowing voters who had cast their ballots to return among people queuing and glancing into the voting booths.

3. **Voters showing their ballots willingly to other voters, or voters talking with other voters about their votes while inside the polling booth (6 instances)**. Observers found this behavior to be more common in crowded polling centers.<sup>43</sup>

### **Confusion about the voting process for the FPTP and PR races was common on both election days.**

Each voter was required to make four marks across three ballot papers: one mark on the HoR FPTP ballot paper; one mark on the provincial assembly FPTP ballot paper; and two marks on the ballot paper that was for the HoR and provincial PR races. Positively, all ballot boxes were marked in different colors to assist voters while casting their ballots. This, however, did not prevent all voter confusion.

- **Voters were confused while determining which ballot paper and ballot box corresponded with the FPTP and PR races**: It was often difficult for voters to differentiate between FPTP and PR races as well as HoR and PA ballot papers. DRCN observers reported multiple incidents where voters placed ballots in incorrect boxes.
- **Voters indicated the incorrect number of candidates per ballot and were also unaware of the number of ballots that needed to be cast**<sup>44</sup>: In the worst-case scenarios, voters submitted invalid votes.

### **Assisted voting caused confusion and controversy.**

As in the local level elections, assisted voting caused widespread confusion at polling locations and resulted in polling staff and party representatives enforcing policies inconsistently. DRCN observation noted that elderly women seeking assistance was more

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<sup>43</sup> Observers in ward 1 of Birgunj, Parsa noted that the mismanaged flow of voters during the polling created challenges in the voter's queue. This created less distance between the queue and the booth, causing people to communicate from inside the booth to next booth and even voters outside in the queue. Observers in ward 2 of Bindabasini RM, Parsa noted that crowded polling spaces facilitated a lack of adherence to election laws with one voter attempting to take a photo as he stamped on the ballot paper.

<sup>44</sup> In ward 10, Ghorahi Sub-Metropolitan, Dang, voters confused the ballots and did not vote for as many candidates as needed on the FPTP and PR ballots. The entire polling location stopped voting for five minutes while polling staff compared the number of votes cast thus far and the number of ballots distributed.

common.<sup>45</sup> In some other cases, including in Sarlahi and Bara districts, DRCN noted that representatives of some political parties were demanding that they should be allowed to vote on behalf of ‘elderly women and illiterate voters’. Cases of security and election officials assisting the voters in folding and placing the ballot papers in appropriate boxes were also common.

### *Closing*

#### **Polls closed mostly on time, and closing procedures were consistently followed in places observed.**

Polls were mandated to close at 5:00 P.M. and DRCN observers reported only two instances of polling centers closing later than the scheduled time. Furthermore, while the FPTP and PR voting methods were confusing during the polling phase, there seemed to be fewer issues when handling these ballot boxes at closing time.<sup>46</sup>

## **6. Post-Election**

### *Ballot Security*

#### **Despite initial concerns regarding the security of ballots that were stored after the first phase elections, adequate security was provided at the collection centers and there were no notable problems reported.**

Considering the possibility that results of the first phase of elections would influence the second phase of elections, the ECN decided to begin vote counting only after the completion of the second phase of polling was completed. Ballot boxes were secured at designated locations at district headquarters after the first phase of elections. Concerns were raised initially about ballot security. However, DRCN observers found that the ECN provided adequate security while party agents took turns in order to provide around-the-clock watch over the ballots. DRCN heard no major complaints regarding the securing of ballots.

### *Counting and Vote Invalidation*

#### **The counting process, although initially slow, was more efficient than the local level elections because of simpler ballot papers, fewer races, and deployment of an adequate number of counting officials.**

After second phase polls closed, counting commenced at 5 PM on December 7, 2017 in the districts where the elections had taken place in the first phase. Counting started the

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<sup>45</sup> In ward 3, Paachkhaal Municipality, Kavrepalanchok, DRCN observers saw a polling official assisting multiple elderly women voters although they were accompanied by their immediate relatives at the polling center.

<sup>46</sup> In ward 1 of Khadchakra Municipality, Kalikot “separate rooms were allocated for the Parliamentary Constituency, Provincial Constituency and Proportional Representation ballot boxes.”

following day, in districts where elections had taken place in the second phase, with the exception of Syangja and Arghakhanchi.<sup>47</sup>

Counting was initially slow but gathered pace as the officials gained experience. The counting of ballot papers for FPTP races was relatively faster when compared to the counting of PR ballots. DRCN observers noted a visible lack of interest from party and candidate representatives during the counting of PR ballots.

**Constituency-wise details are still unavailable, but DRCN analysis of some races has shown a high rate of vote invalidation. The invalidation rate is especially high for PR races. Most of the invalid ballots were attributed to poor voter education, multiple ballots and races, and the late formation of electoral alliances.**

DRCN has not obtained complete details on ballot invalidation rates from the ECN, but significant numbers of invalid votes were noted in places observed. DRCN observers also reported a higher incidence of invalidation among PR ballot papers than in the FPTP races.<sup>48</sup> Multiple stamps for the same race was reported as the most common cause of vote invalidation by observers. Incorrectly marked ballots, ballots with fingerprints instead of the designated swastika mark, and unmarked ballots were other common forms of invalidation. DRCN teams also reported a few cases where ballots placed in the wrong ballot box were deemed invalid.

### *Results*

**The election results have been largely accepted by all parties. CPN-UML won the highest number of seats in both the HoR and six out of seven provincial assemblies. The alliance of CPN-UML and CPN-MC won a clear majority in the HoR and six of seven provincial assemblies.**

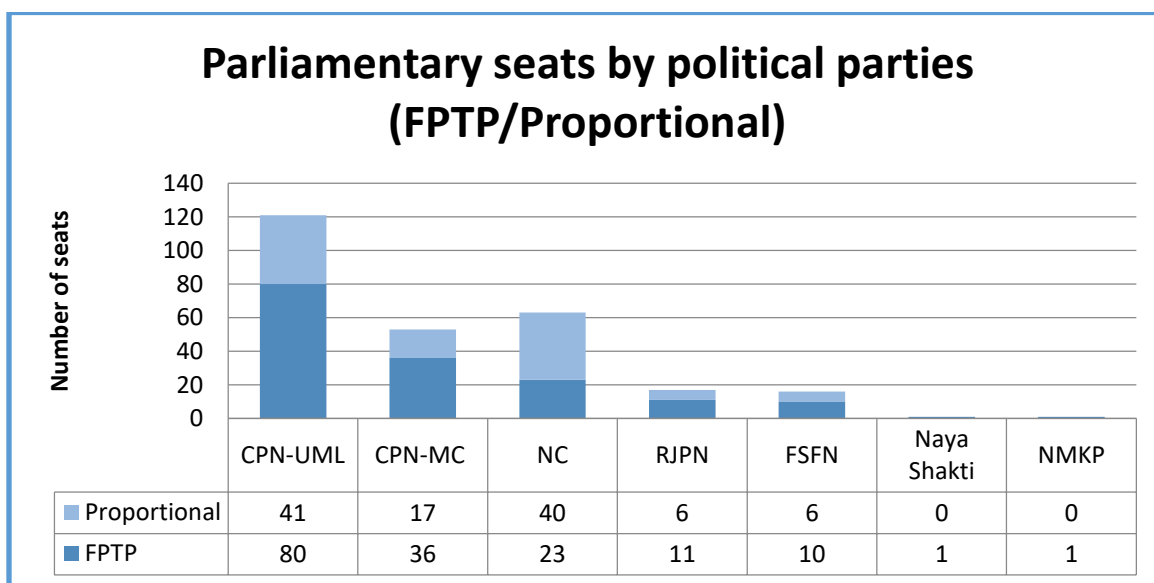
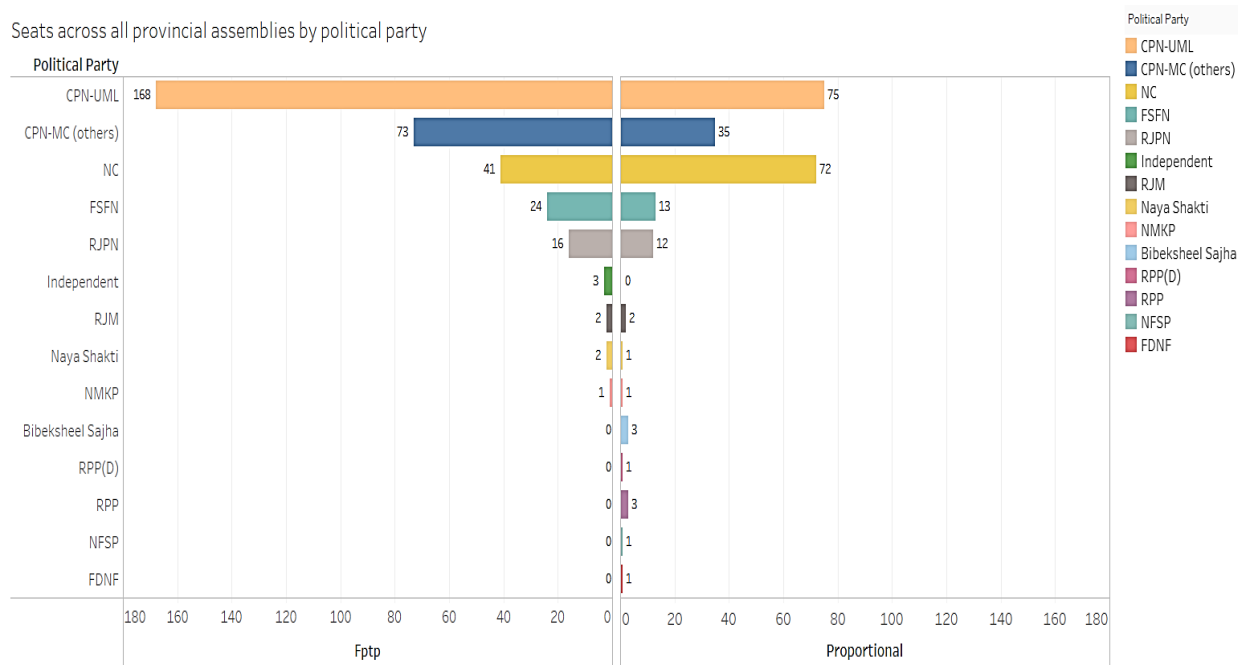
The election results have been broadly accepted by all the major parties and there has been no indication of inter-party relations deteriorating or potential tensions emerging. The alliance of two major parties, CPN UML and CPN-MC, formed just prior to the elections, registered an impressive victory, winning more than two thirds of the FPTP seats and more than half of the PR seats in the HoR. The alliance also won majority of seats in six of the seven provincial assemblies.

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<sup>47</sup> In Syangja, two major alliances accused each other of rigging the votes in some locations and demanded re-polling. Subsequent disagreements led to significant delays, with the counting commencing only on December 10. In Arghakhanchi, there was re-polling in two polling centers of a polling location in Neta on December 9, and the counting began on the same night. See: <http://kathmandupost.ekantipur.com/news/2017-12-10/stalled-vote-counting-to-begin-from-today-in-syangja.html>

<sup>48</sup> DRCN's preliminary analysis shows a similar trend, with the invalidation rates for the Parliamentary election under PR higher than the invalidation rates for both Parliamentary and Provincial FPTP races. The highest invalidation rates have been noted in the provincial elections under PR. For example in three parliamentary constituencies of Dang district, around 6% votes were invalid in the parliamentary races under FPTP; the rate of invalidation was about 10% for the parliamentary PR; and almost 15% in the provincial PR

Seats across all provincial assemblies by political party



The constitution ensures mandatory inclusion of women and other marginalized communities in provincial assemblies and the federal parliament, with women guaranteed at least one-third of the total seats in both houses of the federal parliament. Widespread concerns have been raised about the low number of women and minorities that filed for candidacy, and about the low number of them that were ultimately elected through the FPTP races.<sup>49</sup> This led the major parties to fulfill representation requirements by selecting most of their women representatives under the PR system.

<sup>49</sup> Only six women candidates won out of the 165 FPTP seats in the HoR (3.6%). Of the total 1925 candidates filled nationally, only 144 were women (7.5%). Similarly only 17 women won the FPTP seats

### *Complaint and Adjudication*

**There were no major election-related complaints. One directly elected HoR member, accused of orchestrating the Tikapur incident, has yet to be officially sworn in.**

DRCN observers reported that there was low number of election-related complaints filed in areas observed. In one case filed, the Nepali Congress candidate in constituency 2 (1) in Tanahu district, Pradip Paudel, filed a complaint demanding re-polling in some locations in which more ballots were found than documented.<sup>50</sup> He had lost the election only by 5 votes. Since the ECN has already made the formal announcement of the result, he has now filed a case in court. Resham Chaudhary, accused of being involved in the Tikapur incident in which eight policemen and an infant were killed, won the election for HoR from Kailali-1. The ECN initially said that his victory certification will be sent to the HoR and not handed over to him directly. The Supreme Court, on December 24, denied Chaudhary's writ to collect the certificate through a proxy.<sup>51</sup> Chaudhary has since surrendered himself to the authorities, but the case is yet to be decided.<sup>52</sup>

### *Observer Access*

**DRCN observers' access to some key electoral processes was limited. Similar concerns were raised by other domestic and international observer groups. This was against the rights of accredited observer organizations as clearly stated in the election observation directives.**

DRCN observers reported concerns regarding limited observer access to some key electoral processes, most notably during early stages of counting. In multiple cases, DRCN observers were allowed to observe counting for a very short period of time. In some locations observers were asked to stand in a corner from where it was difficult to observe the important processes. Similar issues of observers being denied access have been raised by other domestic and international observer groups.

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from the total of 330 seats in the provincial assemblies (5.2%). Of the 3239 total candidates for FPTP races in seven provincial assemblies, only 240 were women (7.4%).

<sup>50</sup> See: <http://english.onlinekhabar.com/2017/12/10/410588.html>

<sup>51</sup> See: <http://kathmandupost.ekantipur.com/news/2017-12-24/sc-denies-resham-chaudhary-from-collecting-election-certificate-through-attorney.html>

<sup>52</sup> See: 'On the run for long, Resham Chaudhary surrenders' <  
<http://www.myrepublica.com/news/37004/?categoryId=81> >



## 7. National Assembly Elections

Elections to the 59-member National Assembly concluded on February 7, 2018.<sup>53</sup> DRCN was invited by the ECN to observe these elections in six of the seven provinces – voting was not required in Province 2 as all the eight members were elected unopposed.<sup>54</sup>

The process leading to the elections was fraught with delays, disagreements and legal challenges. The failure of the previous legislature to draft the law guiding this election led the caretaker government to issue an ordinance to be approved by the president. Some provisions within the ordinance – most notably regarding the electoral system – became a subject of significant contention between the major parties, leading to political deadlock.<sup>55</sup> With the CPN-UML and CPN-MC alliance winning a clear majority in the HoR and provincial assembly elections, they were opposed to using the single transferable voting system for the NA elections – a key feature of the ordinance filed by the NC-led caretaker government.<sup>56</sup> The president conducted a series of political consultations, but did not approve the ordinance leading to a prolonged political impasse.<sup>57</sup>

A case was filed at the Supreme Court on December 28, 2017 asking for the prompt endorsement of the ordinance.<sup>58</sup> The ECN had meanwhile decided to withhold the final announcement of the HoR results under PR citing the constitutional provision which required at least one third members of the federal parliament to be women.<sup>59</sup> It was argued that the ECN can be ensured of the required representation only after the National Assembly elections. The president finally signed the ordinance on December 29, 2017. Subsequently, it was announced on January 5, 2018 that the NA election would be held on February 7, 2017.

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<sup>53</sup> The composition of the NA is such that 56 members – eight each from the seven provinces – are elected by an electoral college consisting of the PA members, Mayors and Deputy-Mayors of municipalities, and the Chairpersons and Vice-Chairpersons of rural municipalities. The remaining three members are nominated by the President in recommendation of the government.

<sup>54</sup> Six DRCN teams with two researchers in each team observed these elections in Biratnagar in Province 1; Lalitpur in Province 3; Pokhara in Province 4; Dang in Province 5; Birendranagar in Province 6; and Dipayal in Province 7.

<sup>55</sup> See: 'Parties stick to their guns on ordinance' < <https://thehimalayantimes.com/nepal/parties-stick-guns-ordinance/> >

<sup>56</sup> For the details about the single transferable voting system, see: IFES's Frequently Asked Questions on the 2018 National Assembly Elections <[http://www.ifes.org/sites/default/files/2018\\_ifes\\_nepal\\_national\\_assembly\\_elections\\_faqs\\_final.pdf](http://www.ifes.org/sites/default/files/2018_ifes_nepal_national_assembly_elections_faqs_final.pdf)>

<sup>57</sup> See: 'Prez consults NC leaders on NA poll ordinance' < <https://thehimalayantimes.com/kathmandu/president-bidya-devi-bhandari-consults-nc-leaders-national-assembly-election-ordinance/> >

<sup>58</sup> See: 'SC moved to press prez to endorse ordinance' < <https://thehimalayantimes.com/nepal/writ-filed-sc-demanding-national-assembly-election-prior-new-govt-formation/> >

<sup>59</sup> See: 'PR results only after upper house vote: Yadav' < <http://kathmandupost.ekantipur.com/news/2018-01-01/pr-results-only-after-upper-house-vote-yadav.html> >

## *Election Day*

The NA electoral college consisted of 2056 elected local and provincial members, including 1506 heads and deputies of local units, and 550 members of seven provincial assemblies.

According to the **Ordinance Relating to National Assembly Elections**, votes were weighted in such a way that each PA member's vote would equal 48 points, while each vote from a local level representative would count for 18 points. Each voter was given four different ballot papers. The four ballot papers corresponded to four races: one for the mandatory women category; one for the mandatory Dalit category; one for the mandatory minority/people with disability category; and one for the open race. In each province, two out of eight members – mandatory Dalit, and mandatory minority/people with disabilities members – were elected under the FPTP system, while the remaining six members were elected under single transferable voting system. A lot of races were determined before the elections as definite victories led to candidates being elected unopposed. 24 out of the 56 races across seven provinces were thus decided.<sup>60</sup>

DRCN observers found that the polling was conducted smoothly. The small scale of the election, with fewer candidates and voters, made the process easier to organize than the previous elections. Counting also concluded swiftly, and the results were announced on the same day. There was no contestation of the official results. While the process went well, DRCN observers found that there was widespread confusion about the how process worked. People met during the observation including the citizens, political leaders and civil society members expressed concerns over there being an inadequate amount of information available regarding the composition and responsibilities of the NA, and the concepts of electoral college and single transferable voting system.

## **8. Conclusion and Recommendations**

The completion of these two important elections is a significant step forward in Nepal's political transition. DRCN commends the efforts of the ECN in ensuring the success of the elections amidst political and logistical challenges. DRCN also congratulates the people of Nepal who turned out in impressive numbers in the face of sometimes significant challenges. The political parties, national and international media, domestic and international observer groups, civil society, and international community all played important roles in creating an environment conducive to holding the elections. DRCN observed many improvements in the areas of election management and administration, political party conduct, and security arrangements, when compared to the local elections. Disagreements over the National Assembly elections delayed announcement of final results of the federal parliament. This raised further questions on the ability of the ECN to independently conduct important elections.

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<sup>60</sup> 6 candidates in Province 1, 8 in Province 2, 1 in Province 4, 3 in Province 5, and 6 in Province 7 were elected unopposed.

Despite the largely peaceful polling day and high turnout of voters in both phases of the elections, DRCN observation has found significant concerns and challenges in both political and technical processes around the elections. High voter turnout alone doesn't adequately represent the will of the people. While the details are yet to be made public, DRCN has observed very high rates of vote invalidation – over 15% in some races. Voter education continued to be both inadequate and ineffective, with the ECN's efforts being limited to teaching voters how to mark ballots. DRCN observers found that a significant number of voters were unaware of the new state structures and what they were voting for. Widespread concerns have also been reported about the increasing influence of money on elections, with the ECN both unwilling and lacking in resources necessary to enforce the election codes of conduct.

On the political side, major political parties and alliances continued to engage in clashes and breaches of codes of conduct. The parties also did not seem genuine in ensuring the inclusion of women and marginalized communities as reflected in the very low number of women and minority candidates for directly elected races. Concerns were also raised over subsequent election legislation undermining the constitutional spirit of proportional inclusion, as the laws allowed already well-represented groups to benefit from reservations. The failure of the previous legislature to enact necessary laws on time also provided for fresh political challenges in the immediate aftermath of the elections. The lack of legal clarity on the formation of the NA has already indicated that similar challenges may arise in the future.

It is commendable that political parties conducted themselves generally well, barring some exceptions. Hundreds of incidents involving IEDs were reported during the election cycle. Many were targeted at candidates, civilians and security personnel, and a few resulted in injuries, and one death. All incidents should be reviewed and be addressed at both political and security level for the next elections.

DRCN urges all relevant stakeholders to draw important lessons from these elections. The ECN must plan and execute electoral preparations like voter education and voter registration better. Importantly, voter and civic education should be prioritized throughout the election cycle, and not just be limited to a narrow window once elections are announced. Major political parties and alliances must change the political culture and work to overcome their shortcomings by ensuring compliance with the Constitution and working towards ensuring long-term peace and security based on inclusive and participatory democratic principles.

## **Recommendations**

### *To the government of Nepal*

- The government of Nepal should allow adequate time for the Election Commission to make all the necessary preparations to hold elections, either by allowing the ECN to announce the election date, or itself announcing the date well enough in advance.

- The ECN must be provided all necessary legislation and resources in order to prepare for, and hold successful elections.
- The GoN and political parties should stick to the timeline of elections to avoid last-minute decisions, which can create voter confusion and reduce voter confidence in the process.
- Review constitutional provisions on constituency delimitation, as well as other electoral legislation, in order to address existing inconsistencies.
- Ensure arrangements for members of security forces and government officials deployed for elections to be able to vote.
- Arrange a separate, independent mechanism to settle election-related disputes and contestations.

*To the Election Commission of Nepal*

- Voter education should be a part of larger and continued civic education explaining not only the system of voting but also the premise in which an election is conducted.
- Ensure that voter IDs are distributed on time or ensure that decisions to allow voters to vote with alternate ID cards be taken in advance, and circulated widely.
- Ensure that voter registration drives are continued at the local level.
- Ensure that election administrators are aware of the election laws, and that there is consistent implementation by providing adequate and timely trainings.

*To the political parties*

- Strictly encourage that party organization, rank and file adhere to the election codes of conduct, including provisions related to campaign finance.
- Observe principles of proportional inclusion and ensure representation of marginalized communities, including women.
- Elected leaders at all levels, and especially those at the local level, should review and communicate to the ECN the ways election laws were reinterpreted at polling centers and recommend potential local or national voting policy reforms that aim to increase voter franchise.