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The Framing of a New Constitution: History, Issues and Challenges

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About the Author



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Preface

Nepal has experienced some catalytic political changes in the recent decades. The Maoist insurgency, the monarchy's assertion to direct rule, the reinstallation of democratic rule through the second democratic movement and the polarization of the Maoists and the other political forces of the country to restructure the Nepalese state, etc have been some of the significant developments. Nepal's quest for a secular, republican and inclusive democratic state has been the most significant aspect of the process of transformation of the Nepalese politics.

The formation of the Constituent Assembly (CA) in April 2008 and its decision of May 2008 to give away with the age old institution of monarchy and declaring Nepal as a republican state set the tone for rebuilding the state and democracy in Nepal. The federalism and the inclusive democracy as agreed upon by the political parties since the polarization of democratic forces in 2005, laid a framework for the promulgation of a new constitution for the country.

However, the subsequent governments in the country failed in providing a strong structural foundation to the ideas of secularism, federalism and inclusive democracy. The constituent Assembly constituted with great enthusiasm in 2008 failed in framing a new constitution despite repeated extensions in its time period. The instable governments, weak and fragmented leadership, non-cooperation of major political parties' the lack of consensus on major issues and excessive social and political mobilization of masses and the failure of the government in responding to their rising aspirations, etc were the major causes of a deadlock. The Constituent Assembly had to be finally dissolved in May 2012. The decision of holding elections to constitute a new Constituent Assembly was unparallel in the history of democracy. But Nepal hardly had any alternative, except to elect a new Constituent Assembly on 19 November, 2013.

The formation of the Constituent Assembly-II has generated more suspicions than the hopes for a new constitution within the stipulated time frame of one year. The fractured mandate to political parties and the political stunts of the Maoists ever since their losing the CA election are some disappointing developments. However, the people of Nepal have once again, expressed their commitment to a democratic form of governance in an impressive manner with 70 percent voter turn out. The issue is whether the political leaders and parties

have learnt a lesson from the past and that they would seriously commit to framing of a constitution?

This study is an attempt to highlight the factors, forces and the process of formation of the Constituent Assembly II. Actually the structure of the Constituent Assembly will go a long way in attaining its final goal to frame the constitution. It is with this objective that this study is being carried out.

I had the opportunity to visit Nepal as an International Observer for the Constituent Assembly election and watch the electoral process closely. In the completion of this study, I received assistance from a number of institutions and persons. Particularly, I would like to express my sincere thanks to Vivekananda International Foundation, New Delhi for providing me the opportunity to visit Kathmandu.

I would also like to express my thanks to Dr. Uddhab Pyakurel, Dr. Indira Adhikari, Prof. Vishanu Upreti, Mr. Shiva Adhikari, Raj Lama and others for their help in Kathmandu. I am also grateful to the Election Commission of Nepal and the CEOC Nepal for their support.

I have tried to do full justice with the subject. However, any lapses left out inadvertently are regretted.

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Chapter-I

CA Electoral Rules, Regulations and Issues

The election of the Constituent Assembly was conducted in accordance with the rules and regulations framed by the Election Commission of Nepal. The Election Commission, constituted as per provisions of the Interim Constitution of 2007, is the primary agency responsible for the smooth conduct of elections and also to ensure that elections are held as per the legal framework stipulated in the interim constitution. The Election Commission is solely responsible for the framing of the laws and their implementation to hold the elections.¹

The Constituent Assembly Members Elections Rules 2070 provided detailed procedural matters relating to nomination of the candidates, etc. There are certain important aspects relating to the election of the Constituent Assembly. Some of these may be discussed here.

The Constituent Assembly

The Maoists and the Seven Party Alliance (SPA) had agreed to frame a new constitution for the country in order to realize the goals of a new democratic order. It was agreed upon that a new constitution will be framed by the representatives of the people. So the unanimous understanding was that the new constitution will be framed by a Constituent Assembly duly elected by the people on the basis of universal adult franchise.

The Interim Constitution of 2007 stipulated for the formation of a 330 members Constituent Assembly comprising of the elected members on the basis of popular adult franchise. It was named as Legislature-Parliament, Initially, it comprised of the 209 members of the Parliament constituted in 1999 that had not been dissolved so far. They belonged to different political parties, particularly the Seven Party Alliance. It also included 73 members of the Communist Party of Nepal (Maoist) and they were nominated by the party itself. The other 48 members were nominated from the United Left Front and from among the intellectuals and professionals as also the civil society.

Later on, the membership of the Constituent Assembly was raised to 601 through an amendment in the Interim Constitution in 2007. Out of the 601 members, 240 were to be elected on the basis of First Past the Post (FPTP) System and 335 members were to be elected on the basis of Propositional

Representation System. The remaining 26 members were to be nominated from the civil society.

Dual Representation System

Thus a dual representation system was adopted in the Constituent Assembly to elect its members. Initially there was some controversy over this system but subsequently a consensus emerged in following the dual representation system.

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First Past the Post System

This system of election has been popular in some of the European countries, USA, Canada and New Zealand. This phrase, First Past The Post (FPTP) has been drawn from the formula adopted in the horse race. In the horse race, a horse which crosses the wooden post first is declared as winner. Similarly, in a constituency, the candidate seeking the highest votes is declared as the winner. Nepal adopted this system in 1958 and 1990 constitutions. Therefore, it has not been new to the country. It is also known as the majority system, as one among the many candidates gets the popular mandate to become the member of the legislative body. The interim constitution stipulated that, “The candidate securing the highest number of votes shall be elected as the member of the Constituent Assembly First on the basis of one member in one election constituency from the election constituencies determined in pursuance to clause (a) of section 3 under the First Past the Post Electoral System”.³ According to the constitution, one person may file nomination in this system for maximum two constituencies. It has also been suggested in the constitution that for nominating the candidates, the political parties should take into consideration the notion of inclusive democracy.

This system, though popular and easier in operational terms, is best suitable for the two party systems. It always does not reflect upon the popular support that a party has obtained. For example, a political party may seek majority of seats in the legislature but the total votes it secured may be lesser in comparison to another political party which has received less seats in the legislature.

Proportional Representation System

The interim constitution states that each political party has to nominate its candidates for election under the Proportional Representation (PR) system. Each

political party has to submit its list of candidates at the time of filing nominations. However, the candidates contesting election under the FPTP system cannot be nominated for election under the PR system.

The Act of 2007 laid down qualifications for the candidates as following:

1. He/she must be a Nepali citizen
2. He/she must have obtained minimum 25 years of age.
3. The candidate must not have been convicted of a criminal offence involving moral turpitude.
4. Must not be holding an office of profit. Office of profit means any position other than political for which any remuneration is being paid out of the government funds.

A person is disqualified to appear as a candidate in the elections for the following reason:

- I. A person whose name is not enlisted in the electoral rolls of the country.
- II. An incumbent office bearer of the Government of Nepal or any organization that has been owned, controlled by or is receiving funds from the Government of Nepal.
- III. A person who has not completed two years after he was released from a jail.
- IV. A person who has been prosecuted due to charges of corruption.
- V. A person who has been black listed by bank or any financial institution for being a defaulter.
- VI. Mentally retarded person.
- VII. A person who has been charged by the Probe Commissions for abuse of authority, damaging public property, national resources etc, violation of human rights and misuse of treasury during the 2006 democratic movement.

Detailed provisions have also been made regarding electoral offences, electoral expenses, election and polling management, etc.

Political Parties

Political Parties are the primary vehicles to bring into operation a democratic political order and realize the aspirations of a democratic system through the mechanism of the government. While the stability and growth of the democratic

system depends on the nature and dynamics of the political parties, it is the political parties which are the main actors in the whole electoral process.⁴

The Interim Constitution of 2007 states that persons who are committed to a common political ideology, common programme or agenda and a common philosophy are entitled to form, organize and operate a political party of their choice. It also has made it clear that the political organizations that are not agreed to the principles and objectives laid down in the constitution as reflected in its preamble are disqualified for registration with the Election Commission.

Every political party desiring to contest the elections and take part in political activities has to register itself with the Election Commission.

A political party seeking registration with the Election Commission of Nepal required fulfilling the following requirements:

- I. Name of the Political party and address of its head quarters or its central office.
- II. Name of the leader and names and address of the members of the executive committee or any such other committee of the political party.
- III. The income sources of the political party along with its details.

The political parties will also have to meet the following conditions.

- A. The constitution of the political party must be democratic.
- B. There has to be a provision in the constitution for elections of the office bearers once in every five years.
- C. The party shall follow policy of inclusiveness in its membership which means it should have adequate provisions to include tribal, women, backward class people, etc.
- D. The political party should ensure discipline among its members.

A political party shall not be registered with the Election Commission if it exercises any discrimination in the distribution of its membership on the basis of religion, caste, tribe, language or gender. It is also necessary that the political parties should not adopt such a symbol which harm religions sentiments of a community or disturb communal harmony in the society or threatens integrity of the nation. Each political party is required to submit an application to the Election Commission for registration, along with a list of signatures by at least 10 thousand voters who are supporters of that particular party.

It may be pointed out here that during the initial phase of democracy, there were very few political parties. The Nepali Congress and the Communist Party of Nepal were the main parties and the parties which came up subsequently were the splinter groups from these two major parties. During the Panchayat era (1962-1990), political organizations and organized political activities were totally banned, therefore the growth and the role of political parties was checked. A few political parties tried to operate through their offices in India, but they were cut off from the mainland, could not take part any political activity and hence were non-operative.

The growth of political parties more effectively began since the 1990 movement for democracy and their number has increased continuously since then. There are 132 political parties out of which 122 political parties contested in the 2014 Constituent Assembly election.

Table No. 1

Regional Political Parties

Year	Parties Registered	Parties Contested in Election
1991	44	20
1994	65	24
1999	100	41
2008	74	54
2013	132	122

It clearly shows that there has been a tremendous growth of political parties in Nepal after the 2006 second democratic movement. It has, in fact, happened largely due to the excessive social and political mobilization of various communities in the country. The issues of inclusive democracy, the rise of the issues of ethnicity, autonomy and identity have mobilized people politically. The political assertion of dalits, minorities, etc has motivated them to act in an organized way. There is much more political mobilization in Terai region in comparison to earlier decades. The question of federalism and inclusive democracy has aroused political aspirations of the people of Terai as a result of which a number of smaller political parties have come up. The quest for power, leadership clashes and fragmentation within parties has led to the emergence of a large number of splinter groups.

It shows that Nepal has a multi party system and there is an up surge of regional parties. Similar is the case of ethnicity based political parties. The smaller parties have also entered into united fronts of various sorts.

Electoral Issues, Promises and Campaigning

The various social, economic and political issues, promises by political parties and the individual contenders, claims and counter claims, allegations, promises and proclamations during the course of election forms an essential part of campaigning during an election in a democratic system.

In the form of party manifestos, a particular political party reflects upon the future course to be taken in respect to diverse issues and problems, in case the party gets an opportunity to come to power. Even as an opposition party, its manifesto is considered as the party's stand on various issues of national significance.⁵ Therefore, it is customary in a democratic system, for political parties to reflect upon its policies, programmes and stand on various issues. All this is supposed to be based on the ideology of a political party. It is altogether a different issue; to what extent political parties remain serious about their manifestos once the election results are out.

In a democratic system, there are two assumptions. One, as stated above, is that the political parties are organized on the basis a particular ideology. Secondly, that the party manifesto reflects upon the mechanism to attain the goals of the party as reflected in its ideology. In fact, it is a work plan to implement the ideology and objective of the party. However, one may mention here that in the developing countries particularly, there has been a sharp decline of the ideological orientation of the political parties. What matters most for the political parties is the politics for power and supremacy. Therefore, they do not have much concern for the national issues and their realization on the basis of their own ideological foundations.

These trends can also be observed to a large extent, in the context of election in Nepal.

The Primary Focus

The election for the formation of a Constituent Assembly is different in comparison to a general election, which is held to form a legislative body alone. A Constituent Assembly has a limited task: to frame a constitution. But it is a

crucial task as the survival and sustenance of the democracy in the country would depend on that constitution. The framing of a constitution is a time bound programme and any delay or failure may prove to be disastrous.

In 2008, elections for the Constituent Assembly took place for the first time in the history of Nepal. It was supposed to frame a new constitution within a stipulated time period of three years, along with its functions as a parliament for the interim period. The framework of the new constitution was a secular, republican, federal, inclusive democratic system. But the Constituent Assembly failed in attaining its objective despite extensions in its time period.

The question of formation of a new Constituent Assembly came up only because of such an un- avoidable situation. Nepal had no alternative but to go for a new Constituent Assembly. The primary focus of the new Constituent Assembly would be obviously the framing of a new constitution: completing the unfinished task of the earlier Constituent Assembly.

As pointed out earlier, there is a tremendous increase in the number of political parties this time. To what extent all these political parties are committed and prepared to frame the constitution within a year, as has been pledged by some of the political parties, is an important issue? A brief overview of the manifestos of some major political parties would give an idea in this regard.

The Nepal Congress (NC)

The Nepali Congress, the oldest party with a national party stature, having been in power several times, gave a poor performance in the 2008 polls, as it failed in securing a majority or in emerging as the largest party in the assembly. It was due to these reasons primarily that the party remained almost ineffective in the constitution making process. There was an element of negativism in its attitude and performance. The party, although as a part of Seven Party Alliance (SPA), had agreed to the restructuring of the Nepali state as a federal state, was not very clear about the basis of federalism.

In its manifesto, the Nepali Congress Party once again committed itself to the objectives of a Republican, Democratic, Secular and Federal state. The Nepali Congress reproduced a long document in the form of its manifesto. It has tried to defend its approach to several aspects of socio economic development, as an organization devoted to the ideology of socialist democracy.

The party tried to defend its position and role in the previous Constituent Assembly. The party's perception was that the United Communist Party of Nepal (M) acted as a winner party in the Assembly and therefore, no cooperation was possible among the political parties.

It recognizes the plural character of the Nepali society and proposes a federal, democratic, republican state. The party believes that in the federal structure of the state, multiple cultural and historical identities of the people have to be recognized properly.

The party has suggested seven states in the proposed federation out of which two are proposed in Terai. The Nepali Congress has also supported parliamentary form of governance with president as head of the state to be elected through an electoral college.

The party has shown its concern for the upliftment of youth, labour, children, women, Madhesi, Kamayas, Muslims and other minorities. It has promised to follow equitable relations with its two neighbours: India and China.

The Communist Party of Nepal-United Marxist-Leninist (CPN-UML)

The manifesto of CPN-UML began with a condolence to the President of Nepal Muslim Ethehad Organization who was also a member of the Central Bureau of the UML party. The CPN-UML has given the slogan of **Happy Nepalese and an Inclusive Prosperous Nepal**. The party also states that politics is not a profession but a service to the people.

The CPN-UML party in its manifesto reflected upon the reasons for the failure of CA-I and also the basis for framing a new constitution. According to the party, the main reason for the failure of CA-I was its unfavourable structure and also unfavorable balance of power. It states that since the party had a weak position in the Assembly, it could not take a lead in framing the constitution. There was no consensus among the political parties on issues of structure of state, social and economic issues, etc. The delay in peace process, issues of hardships during the Maoist movement and internal disputes within the parties were other factors responsible for the failure of the Constituent Assembly-I.

The party has agreed to a federal parliamentary structure with the Prime Minister to be elected directly by the people. The party also focused in its manifesto on language policy, secularism, women, etc.

On foreign policy issues, the party has given importance to national interests, autonomy and friendly relations with all. It stated that the Nepalese land will not be allowed for use against any friendly country. It also emphasized on strengthening of SAARC.

United Communist Party of Nepal (Maoist)

The Maoists believe that they are the makers of new history of Nepal. The UCPN (Maoist) believes that Nepal has entered into a new era of capitalist democracy and a republican state with an end to monarchy and feudalism. The UCPNM blamed NC and CPN-UML for their dubious role and surrendering character.

The party has proposed restructuring of the unitary state of Nepal into 11 autonomous federal units having distinct ethnic identity that ensures the rights of all communities of the country.

The UCPN-M in its manifesto has taken a different position on the form of governance. It has pleaded for a directly elected presidential system. Similarly, in the case of issues of national significance, it has suggested to hold a referendum in order to take a decision. The party has also promised to constitute the following commissions.

Women Commission

Dalit Commission

Indigenous and Janjati Commission

Commission on Differently Abled Persons

Worker Peasant Commission.

All these commissions will work as constitutional bodies. The party has also supported public-private partnership in development. The party believes that Nepal should give up the mentality of a buffer state. It has also advocated equal relations with all the countries.

Rashtriya Prajatantra Party

Rashtriya Prajatantra Party (RPP), a right wing political party which was once a strong supporter of the monarchy, appeared to be quite critical of the CA-I. It stated that the CA-I wasted four years. The developments which have taken

place in the past have taken the country backwards. The Maoists, NC, NCP-UML & MJM failed in taking over the responsibility of the country. In fact, they failed in every area.

The party, therefore, called upon the people of Nepal to make a critical appraisal of the past activities of the major political parties and then decide to cast the vote. The people have to elect the right alternative and that is RPP.

The party supported a federal, democratic, plural republican political system. It also supported a Presidential system of governance. The party believes that geography and historical background should be the basis of the federalism. It has suggested creation of seven states: two in Terai and five in the hills. The names of these federations may be decided on the basis of a consensus in the Constituent Assembly later on. The party believes that federalism should not be based on a special treatment to any particular caste. The party recognizes the plural character of the Nepalese society. The RPP also believes that there has been a serious problem of identity and self-respect of the people of Terai and has pledged an end to discrimination against the people of the region.

The party believes that geo-political considerations have to be taken in view in the formulation of foreign policy. Economic diplomacy has to be the main focus of international relations. The party has supported a balanced foreign policy.

Sadbhawana Party-Rajendra Mahto

The major contention of the Sadbhawana party has been to fight against discrimination against the people of Madhes, the Tribes and the Dalits. The party has focused on federalism, the problem of citizenship, problem of reservation, social unity, problems of Muslim community, etc, in its manifesto.

The party has strongly opposed the idea of separation of Terai. It supports the idea of one Madhes Autonomous Region. It has also favoured a parliamentary system of governance. It supports the provision of right to reject the elected members. The party has also supported public-private partnership.

Terai Madhes Loktantrik Party (TMLOP)

The party considers Nepal as a multi-nation state. In its manifesto, TMLOP has highlighted the distinct historical, geographic and socio-cultural identity of Terai. It considers Madhes as a nation in itself.

The party's main concern has been the rights, self-respect and self rule of Terai people. It strongly believes that federalism is the only solution to the problems of Terai region. It has also advocated for the rights of Dalits, Tribals, Women, Youth and Kamayas.

Federal Socialist Party

This party also supports delineation of federal provinces on the basis of ethnic identity, so that ethnic communities and the other marginalized sections of the society are guaranteed inclusive rights.

It supports the directly elected president on whom all the executive powers are vested.

Madhes Janadhikar Forum- Democratic (MJF-D)

The party states that the Terai region has been a victim of internal colonialism. It supports federalism with inclusive democracy. It has emphasized:

Mixed economy

Socialist democracy

Social justice

The party is committed to recognition of all languages, history, life style and traditions. It has also advocated representation in politics and administration on the basis of population.

The other political parties also brought out manifestos, hand-outs almost on a similar pattern. It is not possible to discuss all of them here. However, it is clear that almost all the parties have agreed to the vision of building a new Nepal, as agreed upon after the second democratic movement of 2006. The notion of federalism, republican state and inclusive democracy is accepted by all. However, the issues of diverse approach are: the basis of federalism and whether there has to be one Terai or it has to be divided into different federal units. The Terai based parties are strongly opposed to the idea of dividing the Terai region. They have strongly adhered to the idea of *One Pradesh, One Madhes*.

There are also differing approaches regarding the form of governance. The debate is on whether it should be parliamentary or presidential system? The

questions of directly elected Prime Minister or election of the President etc have also come up.

On the whole, it appears that the debate still continues over the forms and patterns of restructuring of the Nepali state. One may recall here that these were the main stumbling blocks in the earlier Constituent Assembly. The federal structure is again going to be a crucial issue if these manifestos of major political parties are any indication. Since the bases of federalism are still debatable, the political parties had hardly anything to state about mechanism for the working of the federal system.

It is strange that the major political parties have blamed each other for the failure of the earlier Constituent Assembly in framing the constitution. None of the political parties have done any introspection in this regard. It is a fact that the lack of a clear vision, conceptual clarity about forms and pattern of federalism and inclusive democracy and lack of consensus among the parties led to delays and ultimately failure in preparing a new constitution for the country. The major political parties, except the Nepali Congress had the opportunity to share power, but they seemed more concerned about wielding power and the framing of constitution became a secondary issue. The Nepali Congress has also neither defended its position in the CA-I nor explained as to what compelled it to adopt negative postures. It may be recalled that the Nepali Congress was in power till 2004 with certain gaps. It had played a significant role in the formation of the Seven Party Alliance. It agreed to the Maoist proposal of restructuring the state and then joined hands with them. The party was instrumental in the preparation of the 2007 interim constitution and also led the care taker government and the interim government later on. Then why the party took a back seat in the Constituent Assembly needed much more clarifications in the manifesto. Similarly, the Maoist party was also expected to defend its role in the Constituent Assembly both during the time when it was in power and later on.

References

1. See for details of the formation and functions of the Election Commission of Nepal, **Interim Constitution of Nepal 2007**, Kathmandu, 2007:64-66.
2. See, **Election to Members of the Constituent Assembly Act 2007**, Act No.2 June, 2007.
3. See, **n.2**.
4. For an overview of political parties in Nepal in the past decades see, Haruhiro Fukei (ed.), **Political Parties of Asia and the Pacific**, Green Wood Press, Westport, vol.2, 1985.
5. For electoral manifestos of various parties in the 2008 Constituent Assembly elections, see, B.C. Upreti, **Nepal, Transition to Democratic Republican State**, Kalpaz, New Delhi, 2010: 79-90.

Chapter-II

The Political Changes Leading to Constituent Assembly: The Context

The installation of a democratic system and a constitution has not been a problem in most of the developing countries in the contemporary context. Even the autocratic states have been following the path of some sort of democracy in order to legitimize their rule in one way or the other. However, the sustenance of democracy and constitutionalism has been the real challenge. It may be pointed out here that in most of the developing countries, the democratic system has generally been viewed as an instrument of legitimacy and the constitution as a channel to use the instrument of democracy. Therefore, the constitution and the democratic order have remained personalized by the individual rulers or the political parties. This has resulted in new constitution or new form of governance with the change of individual rule or the political party.¹ As a result, stabilization of the constitution and the democratic order has not been possible for many of the developing countries.

Nepal is one country which joined the democratic camp as early as 1950, but is still struggling for democratic stability and constitutionalism. The people of Nepal have shown a great zeal for democracy but the stabilization of democratic and constitutional order has been a complicated issue. In fact, Nepal has been home to different types of political experiments. Generally, it is believed that the decade of 1950 was a phase of democratic instability when Nepal had stepped on the path to democracy but was over powered by authoritarian and feudal powers. But the fact is that despite the installation of a full-fledged democratic and constitutional system, the decade of 1990s and onward has proved to be much more unstable and problematic. The multifaceted challenges of sustenance of democracy have ultimately resulted in the formation of a new Constituent Assembly.

An overview of the post- 1990 Nepali politics would help us understanding the context of the Constituent Assembly-II of Nepal.

Prelude

Nepal's road to a republican state has been fascinating, hazardous and highly complicated. A highly centralized, authoritarian, feudal and monarchical state

though stepped on the path to democracy in 1950, could not sustain the transition as the socio-economic bases of power remained traditional and non-democratic in nature. The forced unification of the Kingdom of Nepal in 1769 was historical and it laid the foundation of the modern Nepali state.² The transfer of power from the Saha Kings to the Rana Prime Minister in 1846 was forced and brutal. It only marked change of the ruling elite. The authoritarian-feudal character of the Nepali state and society remained the same. But the transition in 1950 was historical as it laid the foundation of democratic governance in the country, although the transition was faulty in the sense that it retained the traditional power elite as a major stake holder in the power structure of Nepal.

The Shah rulers established modern Nepal by the right of conquest; hence legitimacy was based on the power of the sword. The hierarchical social order based on the principle of caste supremacy and feudal economic order became the main bases of power. It was the main source to sustain the authoritarian regimes of the Shah rulers and later on the Ranas. After 1950, the political modernization began to take place but the social and economic bases of power and authority remained the same. Hence the project of democracy remained fragile and monarchy acquired a central stage in power politics. The political parties had a weak organizational base and moreover they were infested with dissensions and leadership clashes.

King Mahindra's royal take over after abrogating the popularly elected government in 1960 was an indication of the strength of the traditional power elite in Nepal. However, after the democratic resurgence in the country in 1950, it was not possible to totally abandon the democratic aspirations of the people. Therefore, the monarchy envisaged a new system of governance called Panchayat System and introduced it in the country in 1962. The four tiers (later on three tiers) Panchayat System was a devise to ensure the central authority of the monarchy under the cover of a democratic system. The Panchayat System though provided a formula of popular representation directly at the lowest level of the panchayat hierarchy and through indirect representation at the higher levels, the political parties and the organized political activities had no place in the Panchayat System. As such, the new system was only a facade of democracy and the King was the supreme political authority.

The political parties though banned, never accepted the new political order and tried to oppose it by different means individually. Despite opposition from

different quarters, King Mahendra and later on King Birendra tried to consolidate the Panchayat System and weaken the sources of opposition to it by various means.

The first nationwide popular upsurge against the Panchayat System came up in 1979-80 but it got diffused with King Birendra's declaration to hold a referendum to decide whether the people of Nepal would like a change to multi party democracy or continuation of the Panchayat System. The outcome of the referendum was obviously in favour of the Panchayat System and it was also obvious that the democratic elements did not agree to it.

However, it took a full decade for the democratic elements to once again start a nationwide democratic movement. There were two significant changes this time. There was a polarization of political parties to fight for a multiparty democracy through a Joint Front. Secondly, external encouragement and support, particularly political leaders in India, proved to be significant in further mobilizing groups and leaders in Nepal to launch such a movement. The monarchy realized the intensity of the movement and declared Nepal's transition to multiparty democracy, which came in to operation in 1991.³

Post- 1990 Democratic Order

The most unfortunate part of the post 1990 democratic process in Nepal was that the political parties themselves failed in sustaining the democratic process. The decade of 1990's proved to be highly disturbing. On the whole, there were the following major problems:

1. Persistence of the influence of the traditional elite.
2. Failure in meeting of the goals and aspirations of the 1990 movement.
3. Failure in delivering goods to the people.
4. Slow pace of development.
5. Failure in initiating social transformation and restructuring social and political-bureaucratic order.
6. Ignorant about forging economic reforms.
7. Political instability: frequent governmental changes.
8. Internal and intra-party conflicts
9. Leadership clashes contest and disputes.
10. Competition for power and positions.
11. Corruption.

12. Lack of consensus on national issues.

Two national parties: NC and CPN-UML, instead of stabilizing the democratic process and creating an environment for the much needed socio-economic changes, indulged in personalized politics and power wielding. The frustration among the radical left groups, which had supported the 1990 democratic movement with high hopes, had begun to surface immediately after the 1991 elections and more explicitly in the 1994 mid-term elections. All these factors contributed to the growth of a violent radical movement in the country towards the later half of the nineties.

The government and the democratic forces did not take seriously the indications given in several quarters that Nepal was heading towards a serious conflict.

The Maoist Movement and its Implications

As pointed out-earlier, the radical communist groups of Nepal had participated in the 1990 democratic movement with an objective to abrogate the undemocratic Panchayat System and open doors for the establishment of a broad based multi party democratic system in the country. These hardcore communists participated in the 1991 general elections under the banner of the Unity Centre and emerged as the third largest party in the Parliament. But very soon they got frustrated with the working of the parliamentary democracy. Their expectations from the government were belied. As said earlier, their main problem was the failure of the political parties in attaining governmental stability and good governance, continuation of the political influence of the traditional elite particularly the political assertion by the monarchy and the government's apathy towards addressing itself to the issues of socio-economic reforms. As a result after 1994 particularly, the hardcore communists took up a confrontationist approach towards the government. They did not participate in the 1994 midterm elections and started preparing for a nationwide violent movement.

Thus a new movement called Maoist Movement based on guerrilla war strategy began in February 1996. In its 40 point demand charter, the Maoists included demand for a new constitution to be drafted by the people's representatives, declaring Nepal a republican state and establishment of a new democracy in the country. The Maoists were convinced that an inclusive democracy was not possible in Nepal unless a new constitution was promulgated by the people

themselves through their representatives. Hence, the Constituent Assembly formed the core of the Maoist demands.⁴ The government did not take the rise of the Maoist movement seriously and also, its approach was to find out a hard solution to the problem by the use of force. They considered it a law and order problem.

The Maoists intensified their protracted war after 1996 in a gradual but steady manner. They not only consolidated their organizational strength but also expanded their areas of influence particularly in the countryside. Apart from their protracted guerrilla war against the state, the Maoists also used the instrument of peace negotiations in order to realize their political goals. They declared a ceasefire on 23 July 2001; two days after Sher Bahadur Deuba had been appointed the new Prime Minister of Nepal. It may be pointed out here that Deuba had been earlier involved in negotiations with the Maoists. Prime Minister K.P. Bhattarai had constituted a committee under the chairmanship of Deuba to suggest ways and means for the resolution of the Maoist problem. The Deuba Committee had submitted its report on 7 November 2000. It agreed that there were problems with the structure of the Nepali state and the system of governance in the country. It suggested looking into the root causes of the Maoist insurgency. But the committee did not state anything regarding the Maoist demand for restructuring of the state and the framing of a new constitution. Earlier Prime Minister Lokendra Bahadur Chand had constituted a committee under the chairmanship of communist leader Prem Singh Dhimi in April 1997, to suggest ways and means for the resolution of the Maoist problem. Though the Dhimi Commission talked of the need to bring the Maoists in the political mainstream and also to introduce socio-economic reforms; it did not refer to the Maoist political agenda. So none of the political parties were willing to open their mind regarding the Maoist demands for the Republican State and the Constituent Assembly. It is true that the question of republican state was complex and none wanted to take a risk in the context of the prevailing political scenario in the country. But they also did not talk of constituting a Constituent Assembly to frame a new constitution for the country.

The Deuba Government was much more enthusiastic about finding a solution to the Maoist problem. It is true that earlier he had been involved in the peacemaking efforts but the fact was that he was selected leader of the parliamentary party by the Nepali Congress due to a conflict among its top ranking leadership. Hence, he wanted to establish that he was capable of finding

out a solution to the Maoist problem. Another important point is that after the June 2001 Royal Palace Massacre, King Gyanendra had assumed the throne and he was in search of political legitimacy. The Maoists had taken an aggressive posture after the sad demise of King Birendra and his whole family. They had expressed the view that after King Birendra's brutal murder, monarchy had come to an end in Nepal. Therefore King Gyanendra was looking for support from various quarters. He also wanted to show that he was committed to peace and stability in Nepal and wanted a solution to the Maoist insurgency. He was looking for popular acceptance to his ascension to the throne.

Failed Peace Initiatives

It was towards the beginning of the decade of the new century that the government seemed somewhat serious in entering in to peace negotiations with the Maoists, although for its own vested interest in the post- Birendra phase.

Three rounds of peace talks were held between the government and the Maoists from August-November 2001. These peace talks, however, failed as the government was not prepared to accept the Maoist demands for declaring Nepal a Republican State and constituting a Constituent Assembly for the promulgation of a new constitution. Both these demands were much against the status and role of the monarchy. Moreover, here was a monarch looking for an effective political role for himself. Hence it was hardly possible that the government would concede to the demands of the Maoists. The monarchy would have also not liked the Maoist demand for an inclusive democracy as he was also conscious about strengthening his social base by relying on the traditional bases of the monarchy in Nepal. Any attempt towards the broadening of the social contours of democracy would have eroded that base.

The Maoists on the other hand were not prepared to accept anything less than restructuring of the state and a new constitution framed by the Constituent Assembly. The 2003 talks between the Maoists and the government also failed as the government was in no mood to concede the Maoist demand and the Maoists were also in has no mood to compromise on any of these issues.

These peace initiatives failed in finding any solution to the Maoist insurgency. However, the Maoists succeeded in strengthening their political position. They could also take a firm position on the issues that they had been taking about viz. republican state and a new constitution for Nepal framed by the Constituent

Assembly. It also helped them to make the people of Nepal aware of these issues. In term of their strength, the Maoists had established their hold nearly on 45 out of the 75 districts in the country. It was also a strategic success of the Maoists as they got time to consolidate their position during peace talks with the government.

Implications of the Royal Takeover

The political situation in Nepal began to take a sharp turn with the royal takeover of February 1, 2005. It was a setback to democracy and the political parties in the country. But incidentally it gave an opportunity to the Maoists to change their political strategy. At the same time, the political parties also began to realize that the monarchy was the main obstacle to the stabilization of democracy in the country.⁵ This realization brought the political parties and the Maoists on a common platform. The Maoists' demands for the restructuring of the state and the society began to acquire a broader space with the growing Maoist understanding with the political parties. In fact, the post February 2005 political developments were highly significant in building an atmosphere of political change in Nepal and developing a broader acceptance of the demand for elections to the Constituent Assembly. In fact, the Maoists had realized that it was not possible to attain their political objectives merely through an insurgency. In the changed context, a democratic approach appeared more feasible to them.

King Gyanendra's royal coup was motivated by his desire to consolidate political powers in his hands and at the same time to bring the political parties and the Maoists under pressure. But Gyanendra's calculations did not favour him and it went the other way round. The King lost domestic and international sympathy and support and on the other hand it brought the political parties and the Maoists on a common platform. It opened doors for the subsequent polarization of democratic forces and Nepal's transition to democracy and the restructuring of the state.

The King declared a state of Emergency in the country. In his announcement, the King said that he himself would assume all powers and rule the country directly as Chairman of the council of ministers for a period of three years.⁶ He, in fact, took advantage of the constitutional provisions under Article 19 of the 1990 constitution, which provided for Emergency powers of the King. However, Gyanendra's action was uncalled for as there was no such urgency for

declaring Emergency in the country. The kind of situation that prevailed in the country then had been in vogue for the last many years and there was nothing extra ordinary at that particular time period. Secondly, many scholars believed that the King's action was not in accordance with the spirit of the 1990 constitution.⁷ It was not clear as to what was the justification behind announcing his direct rule for three years. No doubt the King was highly ambitious. He wanted to become a real power holder. But no one would have thought of such a drastic and early action by King Gyanendra. The Royal Nepali Army assisted the King in the implementation of his political motives. The civil rights provided in the 1990 constitution were suspended.

King Gyanendra's assumption of powers followed a series of actions against his political adversaries. The main political leaders were put under house arrest or detained or placed in jails. All kinds of communications: print and audio visual services were brought under his control. The media persons, intellectuals and other persons of the civil society who had been supporting the cause of democracy were also arrested or they were compelled not to move outside their city or district. Gyanendra alleged that the political parties had failed in containing violence, controlling corruption in the country and improving the economic situation. He also blamed the political parties for not taking any serious step towards controlling the Maoist problem. He was not happy with the working of the political parties. Gyanendra also alleged that the government had failed in holding the general elections. The King was perhaps trying to hold political parties responsible for all kind of violence and disorder in the country and at the same time he was trying to justify his own action.

King Gyanendra also tried to find out an alternate support base for himself. The Royal Army was already supporting him. He decided to seek assistance from the old guards of the Panchayat era. On 2nd February, the King announced a 10 member council of ministers. On 14 February, he appointed Tulsi Giri and Kirti Nidhi Bisht as Vice Chairmen of the council of ministers. He brought back those leaders of the Panchayat era who had been out of active politics since long but who had been strong supporters of the monarchy. Thus, the King tried to return to the Panchayat era.⁸ He also took a number of administrative measures with the objective to consolidate his powers.

Towards the middle of the year, he announced withdrawal of the Emergency. But control over media, communication, etc. continued. Actually, the withdrawal of Emergency was done just to satisfy the international community,

which was pressurizing the King to return to the multi-party democracy. The King continued with his absolute control over state power. He also tried to seek support from the international community in the name of controlling the Maoist insurgency. India, USA, UK and the other donor countries to Nepal though not happy with the action of King Gyanendra, continued to support him so as to bring the Maoist insurgency under control. Nepal also sought support from China, Pakistan, Russia, etc.

The military action against the Maoists was also consolidated after the royal takeover. But the Maoists also retaliated in a big way and attacked the government establishments heavily.⁹ King Gyanendra announced that the Maoists should surrender their arms and return to the mainstream politics. It was made clear that those who would follow this direction would be rewarded and those who do not agree to it would face military action. He was, however, not prepared for any negotiations with the Maoists. The Maoists called for a 3 days strike in February 2005 and then 11 days long strike in April 2005. The Maoists and the King were aware of each other's intentions and goals hence; there was no possibility of any understanding between the two.

Seven Party Alliance and Movement for Democracy

King Gyanendra had adopted a confrontationist attitude towards the political parties and was not willing to negotiate with them. He blamed them for mis-governance, corruption and weakening of the process of national integration. The King's actions against the leaders of various political parties further pulled them apart. The royal takeover had already created a hiatus between the monarchy and the political parties. The disgusted political parties began to search possibilities for launching a united struggle against the King's takeover. In May 2005, seven political parties including NC, UML, NC (D), Janmorcha Nepal, NWPP, ULF, NSP (Anandi Devi) and NSP (AD) agreed to form an alliance to fight against the despotic rule of the King. The Seven Party Alliance (SPA) announced a 6 point programme to fight for the restoration of democracy in the country. It included: restoration of the House of Representatives as of 1999 and the 1990 constitutions, management of conflict, progressive movement for the restoration of democracy on the basis of 1990 constitution, adherence to multi-party democracy and elections for a Constituent Assembly. The SPA gave a call to do away with the autocratic rule of the monarchy. It accorded top priority to the restoration of the House of Representatives.

The Alliance was the first major attempt of the political parties against the royal take over. It also paved the way for the polarization of the democratic forces in the country. It also gave a positive message to the civil society. On the whole, it was a significant development and generated a new hope among the democratic forces, despite the criticism that it had chalked out a weak agenda. Nevertheless, it was a welcome development in the prevailing circumstances. The political parties for the first time included in their agenda the issue of constituting a Constituent Assembly.

The attitude of the Maoists had considerably changed keeping in view the positive developments including the polarization of the political parties and their acceptance of some of the demands of the Maoists and a unanimity with the rest of the political groups that the monarchy was the main hurdle to the smooth working of democracy in the country. They began to realize that the political dynamics of the country was quite complex and the methodologies that they were applying were becoming doubtful in terms of realization of their political objectives. Despite a strong protracted war against the state, the monarchy had brought itself to the centre stage of politics. The Maoists began to conceive that it was an opportune time to drive a wedge between the King and the political parties who too were opposed to his actions now. King Gyanendra had viewed both the political parties and the Maoists as major obstacles to his direct rule. Thus, in the King's perception, both were his political advisories. The political parties had realized that the restoration of democracy was not possible without a struggle against the monarchy. This prompted them to come closer to each other and also to look into the possibilities of joining hands with the Maoists.

The Maoists wanted to provide a comfortable atmosphere to SPA for the consolidation of its struggle against the King. So they declared a three months unilateral ceasefire, from September 2005. It was an important strategic move on the part of the Maoists because it created a difficult position for the King. It had made it essential on the part of the government to respond to the Maoist ceasefire in a positive way. The government did not agree to do that. It argued that the Maoists were not serious about initiating a peace process in the country and that the declaration of the ceasefire was only a strategy to strengthen their activities and programmes and streamline their organizational base. The Maoists, however, succeeded in gaining mass sympathy and confidence by declaring the unilateral ceasefire, as it gave an immediate relief to the people.

It may also be noted here that the Maoist ceasefire also gave a positive message to the international community because King Gyanendra was trying to play the terrorist card in order to seek international support against the Maoists on the plea that they were indulging in terrorist activities. The Maoists gave the message that they were interested in peace and conflict resolution and did not support terrorism and violence. The Maoist ceasefire helped in building confidence among the political parties and the civil society in the sense that some new hopes were generated to restore peace and democracy in the country.

The Maoists and the political parties both were realizing that there was a need to fight jointly against the King, as political parties had been dislodged once again. Though King Gyanendra had lifted the Emergency and there was some moderation in his attitude, it was clear that he was neither prepared to accommodate the democratic forces nor there was any change in his attitude towards the Maoists. The Maoists had already shown the change in their attitude by declaring a unilateral ceasefire. After a series of consultations among leaders of the political parties and the Maoist leaders bilaterally and with the mediation of some Indian political leaders and other member of civil society, both the groups agreed to work out a common strategy for the restoration of democracy in the country.

Maoist-SPA Understanding

On 17 November 2005, the Maoists and SPA agreed on a 12 point programme.¹⁰ It emphasized on the re-structuring of the state for the establishment of a broad based democracy in the country. There was an understanding to do away with the constitutional monarchy. The 12 points agreed upon were as following:

1. To establish absolute democracy by abandoning autocratic monarchic rule, thereby creating an appropriate atmosphere for long term peace and stability.
2. Restoration of the House of Representatives, to form an all party government and work towards holding elections for the Constituent Assembly.
3. Bringing an end to armed conflict through a dialogue and seek international mediation for this purpose.

4. Expressing commitment to democratic norms, and values and complete faith on multi party democracy, civil liberties, human rights, rule of law and the fundamental rights.
5. The CPN (Maoist) expressed its commitment to create a congenial environment for the installation of democracy by allowing political activists of various political parties, who had been displaced during insurgency, to return to their earlier positions.
6. The CPN (Maoist) expressed its commitment not to repeat past mistakes.
7. The Seven Party Alliance expressed its commitment not to repeat past mistakes, while in the government.
8. Respect to the norms and the values of human rights and press, freedom of press and move ahead accordingly.
9. Boycott of the forthcoming municipal elections as the King announced them with selfish motives.
10. Commitment to project the independence, sovereignty, geographical integrity of the country and national unity. Maintenance of peaceful relations with all countries based on the principle of peaceful, co-existence and good -neighbourly relations with the neighbouring countries.
11. Call to civil society, professional organizations, diverse communities and regions, intellectuals and the media to participate in the peaceful movement to be launched on the basis of understanding between the political parties and the Maoists.
12. To settle any problem emerging between the two through peaceful dialogue at the concerned level or at the leadership level.

The Second Democratic Movement

In March 2006, it was decided to launch a nation movement for the restoration of democracy. The Maoists withdrew a 20 day economic and transport blockade scheduled from March 14, 2006, at the request of SPA. The movement that was finally initiated in April against the direct rule of the King received widespread support from all walks of the Nepali society. It clearly showed that the monarchy had lost popular faith. It was for the first time that the monarchy was denounced by the political parties and the people. The movement launched by the Seven Party Alliance had the full backing of the Maoists. The King tried his best to suppress the movement by use of force and other means. Curfew was

imposed in Kathmandu. But it could not prevent the people from organizing widespread demonstrations against the King. The crackdown on the masses by the government further agitated the people. The King was abused and denounced like a common man.¹¹ He was, in fact, badly exposed and there was a strong internal pressure on him. The King's policy of suppression was not bearing fruit. He also came under strong external pressure and ultimately had to concede and step down.

It may be pointed out here that India played a significant role in persuading different political groups in Nepal to work in favour of democracy.¹² It also tried to convince the monarchy to provide a space for negotiating with the political groups of Nepal. India's objective was to help strengthen democracy, peace and stability in Nepal as initiated by the people of Nepal themselves.

Restoring the 1990 Parliament

King Gyanendra could not resist the pressure of democratic forces and after the 18 day long agitation, he declared restoration of the 1999 House of Representatives and handed over powers to the leader of the Seven Party Alliance.

What compelled the King to withdraw? Actually, King Gyanendra had tried to dilute the democratic forces and also to keep the political parties and the Maoists apart. But the two forces had come together due to his actions. It was not possible to withstand their pressure for long. The King was also under pressure of the international community. India had already suggested the King to restore the parliament. There were clear indications that the monarchy was losing its respect and importance and that the people were becoming highly critical of King Gyanendra's role. It is also said that the dissatisfaction was gradually brewing up among the armed forces, on whose support the King was critically dependent.

The SPA had been demanding since the beginning restoration of the 1999 parliament. But the Maoists did not appreciate it as they believed that it would delay Nepal's progress towards the goal of elections for a Constituent Assembly. They alleged that the Seven Party Alliance was betraying the people's movement.¹³ The Maoists were in favour of an all party conference in place of the restoration of the parliament. They believed that they were being sidelined by SPA in this regard and that their support for the April movement

was not yielding the desired outcome.¹⁴ Later on, they agreed to it. The SPA elected G.P. Koirala of the Nepali Congress Party as its leader. Madhav Nepal leader of the UML party declared that “the announcement of Constituent Assembly elections will be the main agenda of the reinstated parliament.”¹⁵

The Eight Point Agreement

The negotiations of the Seven Party Alliance with the Maoists finally arrived at an eight point agreement along with a code of conduct. The agreement included framing of an interim constitution, establishment of an interim government, which would take up the task to conduct elections for the Constituent Assembly, issues relating to disarming the Maoist forces, future of the Maoist army and peace building. The code of conduct included the cessation of hostilities from the Maoist forces in rural areas, release of the Maoist prisoners by the government, disbanding of parallel government of the Maoists and return of the underground Maoists to overground.¹⁶ This agreement was important as it formed the basis for the subsequent negotiations between the Maoists and SPA.

SPA formed a new government under the Prime Ministership of G.P. Koirala. The positions distributed to the constituents of the SPA in the council of ministers were: CPN-UML-6, NC-7, NC (D)-4 and one each to ULF, NSP and Jana Morcha.

The Maoist- SPA agreement was of far reaching consequences. It led to the shaping of a process towards political transformation in the country along the lines of rebuilding democracy.

Problems in the Peace Process

Taking further the peace process was the most challenging issue. It was accepted by all the parties concerned that the question of the Maoist arms management was important in taking the peace process further due to many reasons. There was an impression in Nepal that the peace process would not proceed further unless the issue of arms possessed by the Maoists and their armed forces was settled properly. It is true that the Maoists and SPA had reached at an understanding to work together for the restoration of peace and democracy in the country, but both the groups were of diverse opinion as far as the strategies for arms management and rehabilitation of the Maoist combatants was concerned. The political parties were not much enthusiastic in this regard.

Nevertheless, there was an effort from both sides to carry the process of democratization further. In the summit talks held between Prachanda and G.P. Koirala on 8 October 2006, it was agreed that the CA elections would be held in June 2007. The issues relating to arms management, etc. were also discussed. But at the same time, it was also remarked by the Congress leader that if the CPN-(M) would not cooperate, they would move ahead on their own. The SPA constituents later unanimously agreed to the six point agreement signed with the Maoists.

Six Point Agreement

The six point agreement concluded between SPA and the Maoists on 7 November, 2006 reaffirmed their commitment to work together for peace, stability and democracy in Nepal. It was also agreed that all the agreements concluded earlier would be implemented. The charges leveled against the Maoist leaders were withdrawn and it was agreed to release all the political prisoners. The Maoists and SPA also agreed for the management of army and arms, finalization of the interim constitution, interim legislature, interim government, the future of monarchy and other issues. It was a comprehensive agreement and the understanding relating to the Maoist army, interim constitution and elections for CA were important as they had been the cause of concern for both since June 2006. The CPN-UML though one of the signatories to the agreement added its note of dissent stating that the fate of monarchy should be decided by a referendum along with the elections of the CA and that proportional system should be adopted for the elections of the CA.

The management of the arms possessed by the Maoists and their combatants was an important issue as the peace process and further political steps towards the CA elections would rest on it. The government and the Maoists succeeded in resolving this issue despite initial confusion. The process of arms verification and registration of the Maoist combatants began in February 2007 under the supervision of a UN team and continued in different phases.

The Comprehensive Peace Accord

The comprehensive peace accord of 21 November 2006 conveyed full commitment of the Maoists and the government of Nepal to build peace, democracy and stability in the country. It stated that no authority relating to government will rest with the King. All property possessed by late King

Birendra and his family was to be nationalized and placed under a Trust. It stated that all property of King Gyanendra received by him in the capacity of the King of Nepal will be nationalized.

Both the parties agreed to strengthen multi-party competitive democracy and resolve the issues relating to gender, ethnic, Dalit and regional identities. It also mentioned about management of the Maoist arms and the armed forces as per earlier agreement concluded. Both sides agreed to abandon all kind of activities that would create a war like situation and expressed their determination to realize peace in the country. The agreement declared an end to the armed conflict. Adherence to human rights, fundamental rights of the people of Nepal and humanitarian laws were also expressed. It also added economic and social rights along with political rights of the people.

A significant aspect of the accord was the declaration that: “Both sides agree to become responsible and accountable in a personal and collective way and not to repeat further mistakes committed in the past and also to correct these mistakes on a gradual basis”

The agreement appealed to the civil society, the professional groups, the class organizations, the media, the intellectual community and all the Nepali people to actively participate in building a new Nepal and establishing lasting peace through the elections to the Constituent Assembly by ending the armed conflict.

The peace accord was significant as it paved the way for the settlement of the pending political issues. It also gave a message to the Nepali masses that serious efforts were being made towards peace and stability in the country. It was a confirmation on the part of the Maoists that they were prepared to end the armed conflict.

Action against King Gyanendra

The withdrawal of the powers of the King and making him ineffective in the politics of the country was an important decision taken by the government. There was a strong opinion that King Gyanendra and his associates had committed lot of atrocities on the people during his direct rule. The interim government took a number of decisions to besiege the King. It was declared that the King would no more be the head of the state and the Chief of the Army. The Raj Parishad was abolished. The reinstated parliament curtailed the King's privileges. It ended the concept of King in parliament. The requirement of the

royal assent to the bills passed by the parliament was withdrawn. The King's assets were brought under the review of taxation. The Nepali Congress was though still toeing with the idea of a ceremonial monarchy; the Maoists were not prepared to make any compromise with regard to the institution of monarchy.

The government constituted a Commission under the chairmanship of Justice Krishna Jung Raimajhi to recommend action against 202 people including King Gyanendra who had committed atrocities. Justice Raimajhi submitted its report to the government on 20 November 2006. The Commission held King Gyanendra responsible for the atrocities on the people at the time of April 2006 pro-democracy movement. It was also recommended that action be taken against King Gyanendra not in his capacity as the King but as the then head of the state. It was also clarified that though King Gyanendra did not respond to the questions send by the Commission, it would not mean that the he did not do any wrong. It was for the first time that a Commission was constituted against the King of Nepal.

The monarchy lost all its credibility. It can be said that the role played by King Gyanendra had proved to be detrimental to the status, prestige and powers of the institution of monarchy in Nepal. It seems that King Gyanendra in his capacity as the head of the state had to pay for all that happened during his direct rule. Not only that his powers were withdrawn but the facilities provided to him were also curtailed. His personal property was under scrutiny. The monarchy lost powers and popularity. The King and members of the royal family were also asked to declare their property and provide details about their personal accounts in banks in Nepal and abroad. It was decided not to provide any allowance to the King and the members of the royal family. Earlier there was a provision of an allowance of Rs. 18.7 million for the King and the royal family.

The steps taken by the caretaker government were important not merely from the point of view that a person responsible for committing atrocities on the people was punished, but also because of the fact that it prepared a background for the political transition in Nepal subsequently.

Main Aspects of the Interim Constitution

We have already pointed out various significant features of the interim constitution of 2007 in the previous chapter. Here only some references have

been made to the provisions of the constitution relating to the structure of the Constituent Assembly.

The interim constitution initially provided for the constitution of a 425 member Constituent Assembly as follows (before amendment):

1. 202 members of the Constituent Assembly to be elected directly from the existing parliamentary constituencies on the basis of First-Past the Post System.
2. The Political parties were to nominate 204 members in proportion to the votes they would score in the election to the Constituent Assembly.
3. 16 members were to be nominated by the council of ministers.

Every Nepali who has attained 18 years of age was given the right to vote in the election to the CA. The time accorded to the CA for the framing of the constitution was two years from the time of its constitution. However, the election date scheduled for June 2007 was postponed to 22 November 2007 and again to April 10, 2008. The Constituent Assembly has to perform dual functions: as a constitution making body and as a legislature for the interim period.

The interim constitution was amended for the first time on March 9, 2007 to accommodate the demands of the people of Terai. It was decided to grant proportional representation in all state organs to Madhesis, Dalits, ethnic groups and backward castes. A Constituency Delimitation Commission was also constituted later on. The second amendment to the interim constitution was to abolish monarchy by two third majority of the interim parliament if he was found indulging in sabotaging the elections to the CA. In another amendment, the membership of the Constituent Assembly was raised to 601.

Though the Maoists were expected to join the government even earlier, due to the unsettled political issues there was an overall delay in all aspects of political life in Kathmandu. It was, however, a positive development that despite the Maoists annoyance over the delays in taking the peace process further, they could be persuaded to join the interim government.

In subsequent developments, G.P. Koirala resigned as Prime Minister of the care taker government and the interim parliament again appointed him as Prime Minister of the interim government. There was a common understanding among the SPA and CPN (Maoist) to reappoint Koirala as Prime Minister. Koirala

became Prime Minister of Nepal for the sixth time. Two significant aspects of the cabinet formation were that for the first time the King did not administer the oath of office to the members of the cabinet. Similarly, for the first time oath was taken in the parliament instead of the Narainhity Royal Palace as was customary earlier.

The interim government consisted of 21 members including 16 cabinet ministers and 5 ministers of state. The Nepali Congress received 4 cabinet positions namely, defence, home, finance and peace and reconstruction; the CPN (Maoist) got 5 including information and communication, local development, physical planning and works, forest and women; the UML got 5 cabinet ranks and four minister of state and Nepali Congress (D) three cabinet ranks and one minister of state. The Maoists joining the interim government was a significant development not only from the point of view of taking up the agenda of political transformation further but also because the country was relieved from a serious insurgency.

The interim government reiterated its main objectives as holding elections to the Constituent Assembly, establishing law and order in the country and promoting economic development. The formation of the interim government was highly praised by the political leaders and parties. The Maoists also expressed their determination to share the responsibility to build a new democracy in Nepal by being a partner in the government

Delays in Holding CA Election

But then there were reasons to make Maoists unhappy and full of anxiety. In fact, the Maoists were not in a mood to waste time in announcing elections for the Constituent Assembly. They were not happy with the delaying tactics of the government and also with the attitude of the Nepali Congress Party on several issues. The Maoists also had the fears that the royalist forces could play a disruptive role and create problems in the smooth conduct of the CA elections if early steps were not taken in that direction.

Unfortunately, the elections could not be held in June 2007 as there were no preparations for that. The elections to CA were postponed for November 2007. The Maoists now changed their stand and demanded to declare Nepal a republican state before elections to the Constituent Assembly were held. The Nepali Congress did not agree to it. The Maoists were also worried about the

non-response to their demand for adjustment of the Maoist combatants in the security forces. They also threatened that if this issue along with the problem of adequate facilities in the Maoists army camps were not resolved, they would not cooperate with the second round of the verification of the arms possessed by the Maoist army.¹⁷

The Maoists submitted a 22 point demand charter to the government, which included abolition of monarchy, declaring Nepal a republican state before holding elections to CA and adopting the proportional representation system for election to all the seats of CA. It may be recalled here that it had already been decided in the interim constitution that half of the seats of CA would be elected on the basis of proportional representation. Why Maoists wanted a change in the electoral system was an issue not very clear to the other segments of the government. However, it is a fact that the Maoists, both as a revolutionary group engaged in protracted guerrilla war and as a partner in the government with SPA involved in peace process, had established the fact that they were a political force to be reckoned with. Now they were worried about their political future within the democratic political set up of the country. The delay in the elections to the CA was a serious issue for the Maoists as the political future of the country was to rest upon it. The 2007 Terai agitation had weakened the base of the Maoists in that region. So they were worried that more delays could be disastrous for them.

Therefore, the Maoists declared on 18 September 2007 to leave the interim government as it was not taking any cognizance of the demands raised by them. It was a serious blow to the peace process in Nepal. Immediately after that, the Maoists decided to resign from the government. The decision taken by the Maoists added to the political uncertainties in the country. They clearly said that they would not join the government again unless their demands were met. The Maoists had also talked of waging a nationwide movement in order to create a momentum for the formation of a federal democratic republic. The 87 members of the parliament led by the Maoists registered an application with the Prime Minister to call a special session of the parliament to amend the constitution to change the election system of the CA.¹⁸

Yet another setback to the peace process was the decision of the government on October 5, 2007 to postpone the elections of CA indefinitely.¹⁹ This decision of the government was not unexpected in the context of their differences with the Maoists. It was feared that Maoists could boycott the elections if they were to

be held on the scheduled date. But what was unfortunate was that the government had failed in deciding about the elections almost for a year.

The CPN (UML) and two other left parties registered their note of dissent over the issue of postponing the CA elections. The civil society and the international community also expressed its displeasure over the decision of the government to postpone the elections for the CA indefinitely. The Indian view point was that it affected the credibility of the government and also disturbed the process of democratic transformation and legitimization in the country. The United States of America and Britain also expressed their displeasure over the decision of the Nepali government.²⁰ Similarly, China also expressed its concern over the postponement of the CA elections. The chief of UNMIN, Ian Martin called upon the Maoist leaders and urged them to be soft on their demands. It showed that the international community was also concerned over the postponement of the elections. The general impression was that the postponement of the CA elections for a longer time period could be counterproductive. Hence efforts were immediately made to reach at some understanding with the Maoists. The demands raised by them were discussed in the parliament in November 2007. There was, by and large, a consensus on the issue of the republican state. But the government made it clear that it would only be done by the Constituent Assembly. The peace process was derailed between October-December 2007. But both the Maoists and the government had shown enough resilience. They were engaged in negotiations all the time. It appears that the political groups in Nepal learned from the circumstances. The civil society had become much more active to resolve the tangle.

December 2007 Agreement

The Maoists and the government finally reached an agreement on 23 December 2007, which brought the peace process back on the track once again. It can be said here that both the groups had exhibited political maturity and determination. In fact, despite several ups and downs, at no stage, efforts to come to the negotiation table were abandoned. It was decided to hold the CA elections on 10 April 2008. Taking all issues into consideration, it was agreed to keep the strength of the CA to 601 seats: 240 to be elected on the basis FPTP system, 335 to be elected on the basis of proportional representation and 26 members to be nominated by the council of ministers from among different walks of the society. It was also agreed to declare Nepal a republican state but the formal declaration was to be made in the first meeting of the Constituent

Assembly. The Maoists joined the government again in early 2008, and the process of elections to the Constituent Assembly began subsequently.

The aforementioned brief history clearly explains that Nepal's political history in the recent past has been a chequered one. There have been several ups and downs. There have been constant attempts on the part of the monarchy to remain in the centre stage of politics. However, there has also been a zeal for democracy in the country.

The post 1990 political developments have been sharp and of far reaching consequences. The failure of the political parties in keeping with the goals of the 1990 democratic movement resulted in the rise of the Maoist insurgency while King Gyanendra's lust for power went against his own interests and set the tone for Nepal's shift to a republican state.

The post 2006 political development were also quite hazardous. The Maoist-SPA understanding reached on the verge of collapse on many occasions. However, the commitment of the Maoists made it possible to initiate formation of the Constituent Assembly.

One may also point out that the role of external powers has also been significant in supporting the peace process in Nepal.

References

1. See, Rajni Kothari, *Rethinking Democracy*, Orient Longman, New Delhi 2008 M.N. Karma (ed.) *Democracy, Pluralism and conflict*, Rawat Jaipur, 2006; Samuel P. Huntington, *The Third Wave Democratization in the Late Twentieth Century*, Harman 1991.
2. See Rishikesh Shah, *Modern Nepal* 2vols. Manohar, New Delhi, 1990.
3. See, B.C. Upreti, *The Nepali Congress*, Nirala Delhi 1993; Laxman K.C., *Recent Nepal*, Nirala, Delhi; Michael Hutt (ed.), *Nepal in Nineties*, Oxford University Press, Delhi, 1993; Martin Hoften et.al *People, Politics and Ideology, Democracy and Social Change in Nepal*, Mandala Book Point, Kathmandu, 1999.
4. For a detailed discussion of the post 1990 political issues see, Arjun Karki and David Seddon (eds.), *The People's War in Nepal, The Left Perspective*, Adroit Publishers, New Delhi, 2003; Deepak Thapa (ed.), *Understanding the Maoist Movement in Nepal*, Kathmandu, 2003; International Crisis Group, *Nepal's Maoists: Their Aims, Structure and Strategy*, Asia Report No. 104, Nepal's Maoists: Their Aims, Structure and Strategy, Asia Report No. 104, 27 October, 2005; Bishnu Raj Upreti, *Armed Conflict and Peace Process in Nepal*, Adroit Publishers, Delhi, 2006; Sambhu Ram Simkhada and Fabio Oliva, *The Maoist Insurgency in Nepal, A Monograph*, Geneva, March, 2006. Lok Raj Baral (ed.) *Nepal, Facts on Maoist Insurgency*, Adroit Publishers, Delhi, 2006, B.C. Upreti, *Maoists in Nepal, From Insurgency to Political Mainstream*, Kalpaz, New Delhi, 2008.
5. B.C. Upreti, "Will Monarchy Survive" *Seminar*, 546, April, 2005.
6. The *Kathmandu Post*, February 2, 2005.
7. Manjushree Thapa, "Nepal's Troubled Kingdom", *The Hindu*, April 23, 2006.
8. Michael Hutt, "Nepal and Bhutan in 2005, Monarchy and Democracy can they coexist?" *Asian Survey*, Vol. XLVI, No. 1 January-February 2006:121.
9. Uddhav P.Pyakurel, *Maoist Movement in Nepal: A Sociological Perspective*, Adroit Publishers, Delhi, 2007:118.

10. *Nepal Weekly* (Kathmandu), Vol. 6, No. 15, November 20, 2005.
11. *The Hindustan Times*, April 24, 2006.
12. Nilobia Roy Choudhary, “The Great Indian Balancing Act,” *The Hindustan Times*, April 23, 2006.
13. *The Hindu*, April 26, 2006.
14. International Crisis Group, *Nepal’s Peace Agreement: Making it Work*, Asia Report No. 126. December 15, 2006:3.
15. *The Hindustan Times*, April 26, 2006.
16. Sita Ram Yechuri, “Learning from Experience, an Analysis of Approaches of Maoists in Nepal and India”, *Economic and Political Weekly*, April 9, 2005.
17. For details of the developments during 2007 see, Bhojraj Pokherel, Shrits Rana, **Nepal Vote for Peace**, Foundation Books New Delhi, 2013:90-113.
18. *Asian News Digest*, October 20-26, 2007: 6412.
19. *The Himalayan Times* (Kathmandu) October 6, 2007.
20. *The Times of India*, December 25, 2007.

Chapter-III

The Constituent Assembly-I: A Failed Exercise in Constitution Making

The Constituent Assembly was constituted on 10 April 2008 with high hopes. It was for the first time that the task of constitution making was assigned to a popularly elected body. The Constituent Assembly failed in fulfilling its task and had to be wound up after several extensions in its time period. It is something unusual that a Constituent Assembly could not complete its task of framing a constitution. What were the reasons behind its failure? It had indeed serious implications as the country had to decide on yet another Constituent Assembly. An over view of the factors and forces that affected the working of the Constituent Assembly would help us in understanding the reasons behind the failure of the Constituent Assembly.

The Structural Imperatives

The Constituent Assembly-I took shape on 10 April 2008. It would be interesting to note here that in 1970 when referendum was held to decide the future of the Panchayat System, the issue of opposing the Panchayat System jointly by all the political parties of the Kingdom was suggested by some. But the Nepali Congress suggested that all the political parties, leaders and groups should independently campaign in favour of multi-party democracy instead of forming any joint front. The political parties lost in the referendum.¹In the 1990 movement for democracy, the same political parties had agreed to form a united front and succeeded in out lodging the Panchayat System and establishing multi-party democracy in the country. But again in the 1991 general elections, each party looked upon its own prospects of coming to power and hence decided to contest in the elections on its own and none of the major parties agreed for a united front, except for some small factions. During the nineties, political parties remained fragile, weak and fragmented.²In the 2006 movement for the restoration of democracy, again political parties formed a Seven Party Alliance and the Maoists joined it. As a result, democracy was reinstalled. But the Seven Party Alliance disappeared in the 2008 CA elections, with the result that none of the political parties gained a majority. This point has been raised here just to explain the argument that in Nepal, the united efforts of the political

parties have proven to be viable in attaining their objectives in comparison to their individual efforts.

Major Issues for the Constituent Assembly

The election of the Constituent Assembly: 240 seats under FPTP and 335 seats under PRS were held on 10 April 2008. In total, 55 political parties were registered with the Election Commission. The major political parties were Communist Party of Nepal-Maoist, Nepali Congress, Communist Party of Nepal-UML, Rashtriya Prajatantra Party, Sadbhavana Party, Madhes Janmukti Morcha, etc. A considerable number of political parties belonged to Terai region. Another significant trend was that a considerable number of political parties belonged to ethnic groups, Dalits, etc.

The major issues for the Constituent Assembly as proposed by the political parties were federalism, inclusive democracy, republican state, peace and stability in the country and so on. The Maoists also emphasized upon introducing new land reform policies, restructuring of the army as a national army, etc. The Terai based parties were largely interested in promoting interests of the Madhesi people, autonomy and identity of the Terai region. On the whole, the following issues were important:

- Parliamentary form of governance with indirectly elected President. However, some political parties also suggested for an elected President.
- Abolition of the institution of monarchy and the establishment of the Republican State of Nepal.
- Replacement of the unitary state by a federal state.
- Declaring Nepal a Secular State.
- Inclusive democracy.
- Balanced foreign policy based on equal relationship with its two neighbours.
- Economic reforms.

It is interesting to note that out of 54 political parties whose candidates contested in the election, only 9 political parties registered victory.

Performance of Political Parties

As pointed out earlier, 240 seats were fixed out of total 601 seats for election under the First Past The Post system, distributed over 75 districts of the country. 54 Political parties nominated their candidates for these seats. Interestingly,

only 9 political parties could register their victory. It means that 45 political parties could not even make their entry to the Constituent Assembly. Thus, the percentage of unrepresented political parties was 83.3. Only 16.7 percent political parties got representation in the CA through FPTP system. Rashtriya Prajatantra Party, a strong supporter of constitutional monarchy, was one among the many political parties, which failed in making their representation in CA.

The Rise of CPN (Maoist)

The Communist Party of Nepal (Maoist) emerged as the largest party by securing 120 seats. Thus, the party obtained 50 percent of the total seats under FPTP. There were expectations that the CPN (M) would have done a better performance in the elections looking back to the party's role in the immediate past. In fact, it was the CPN (M) which had brought the country to this stage. The credit for elections to the CA should go to the Maoists. The strategy of the Maoists to give up insurgency and move on the democratic path for the realization of its political goals also proved to be fruitful in terms of their participation in the elections. The commitment of the party for the abolition of the monarchy and declaring Nepal a republican state, restructuring of state, inclusive democracy, federal structure and autonomy, etc, attracted different sections of the society particularly the ethnic and the marginalized communities. The Maoists could mobilize support from diverse sections of the society, women, youth, peasants, labourers, tribals, dalits, etc. The Maoists had their strong bases, particularly in mid-western Nepal. The emergence of CPN (Maoist) as the largest party in the elections is also significant keeping in view of the fact that:

: The party and its leaders hardly had any experience either as a ruling party or opposition party, compared to the Nepali Congress, UML, National Democratic Party or CPN (ML), etc.

: The Maoists had been involved in a protracted war fighting against the state for over a decade.

: They had been declared terrorists and the Royal Nepal Army had been deployed to contain them by force.

: The large number of people, particularly in the countryside had become victims of Maoist atrocities.

The most significant aspect of the developments in the country was that in mid 2006, the Maoists gave up protracted guerrilla war and joined hands with the Seven Party Alliance for a peaceful and democratic political transition. So, the Maoists formed a different category of political group in Nepal. It seems that the people wanted a change: the restructuring of the society and the state. They laid their hopes on the Maoists who had indeed exhibited a strong commitment to restructuring of the state and society.⁴

The Dismal Performance of NC

The Nepali Congress which had been the doyen of democratic movements in Nepal, on the other hand, exhibited poor performance by bagging only 37 seats. The party obtained 15.5 percent of the total seats. An almost similar fate was that of the CPN (UML), a party that claimed to be a major communist force in the country in the past. The party secured only 33 seats with its percentage of seats being 13.7. Both the parties were considered to be the largest parties in the country having a wide social base. But the problem with these political parties was that they could not take a clear stand on the issues that had been coming up on the Nepalese political scene for the last few years. The Maoists had changed the trend. They had aroused popular aspirations and a lot of social and political mobilization. The people of Nepal wanted a change and these parties were not forthright on the issue of changes to be brought about in the country. For instance, on the question of monarchy vis-à-vis republican state, the Nepali Congress maintained an ambiguous position at the initial stage. The problem with the UML was that party had been considering itself as the main proponent of the communist ideology in Nepal. But they were overtaken by the Maoists. So they too were hesitant in lending their all out support to the issues raised by the Maoists.

It is true that the CPN (Maoist) too failed in securing a majority. But it is also a fact that it was not as established a political party as the Nepali Congress or the UML were.

The Rise of Madhesi Parties

In comparison to the performance of the Nepali Congress and the CPN- UML, the Madhesi Janadhikar Forum registered a much impressive performance. A party that had made a very recent debut did quite well by bagging 30 seats- a share of 12.6 percent. The Madhesi Janadhikar Forum being a regional party

secured all its seats from the Terai region itself. In fact, the party was a strong proponent of regional autonomy and had participated in the Terai agitation. A significant point that needs to be mentioned here is that the Madhesi Janadhikar Forum had emerged as the fourth largest party in the Constituent Assembly. Another party from Terai, the Terai Madhesi Loktantrik Party secured 9 seats and its percentage was 3.7. It also emerged as a political party in the backdrop of the 2007 Terai agitation. The Sadhbawana Party representing Terai since quite some time was pushed to the background in comparison to these two parties as they could bag only 4 seats. Nevertheless, it can be said that it was for the first time that the Terai region got some representation in the representative institutions of the country.

The Nepal Majdoor Kishan Party and its undisputed leader Narainman Bijukche once again established that Bhaktpur was its strong hold. It won in both seats of Bhaktpur. One would like to recall here that the party had been representing these two constituencies since long. Bhaktpur is an important segment of the Kathmandu valley and here the literacy rate is quite high, much above the national average. But one has also to bear in mind that the party could not win a single seat from any other place in the country.

The other parties too had a marginal representation such as Janmorcha Nepal (2 seats) and Rashtriya Janmorcha (1 seat). The independent candidates too had a dismal performance as out of 800 independent candidates, only 2 could reach the Constituent Assembly.

The performance of the political parties according to the three distinct geographic regions in Nepal was also interesting. It may be noted that the distribution of seats (FPTP) according geographic regions was also mountains (22), hills (102) and Terai (116). The distribution of seats among the political parties in the three geographic regions reveals certain interesting features. In the mountains, it was CPN (Maoist) which proved its dominant position. It bagged 16 out of 22 seats, thus its share being 72.7 percent. The CPN (UML) secured 4 seats while the Nepali Congress could win only two seats.

In the hill areas, the three major political parties, the CPN (Maoist), Nepali Congress and CPN (UML) performed almost equally. CPN (M) received 51.6 percent of its total seats from the hills, Nepali Congress 51.4 and the CPN (UML) 54.6 percent. The other parties which recorded their victory in the hills were Nepal Majdoor Kishan Party (2) and Rashtriya Janmorcha (1).

In the Terai region, the Nepali Congress performed better in comparison to the CPN (M) and CPN (UML). The Terai region had been viewed as a traditional strong hold of the Nepali Congress. But in the Constituent Assembly elections, what appeared to be detrimental to the Nepali Congress and CPN (M) to some extent was the emergence of the regional parties in the context of the autonomy movement in Terai. It underlined two important upcoming trends in Nepali politics thus:

1. Increased representation of the Madhesis in national political institutions.
2. Significance of the question of regional autonomy and identity.

On the contrary, in comparison to the regional parties, the ethnicity based parties had a dismal performance in the Constituent Assembly elections. The Mongol National Organization, a fairly older organization in comparison to the recently organized Terai parties could not register victory on a single seat. Similar was the case with other ethnic based parties such as Tamasaling Nepal National Party, Nepal Sukumbasi Party, etc. The story of Dalit parties like Nepal Dalit Shramik Morcha and Salit Janjati Party was no different.

Table No. I
Final Result of the CA Elections 2008

Political Party	PR	FPTP	Appointed by Council of Ministers	Total Seats
	Seats	Seats		Seats
CPN (M)	100	120	9	229
NC	73	37	5	115
NCP UML	70	33	5	108
MJAP	22	30	2	54
TMLOP	11	09	1	21
Sadbhawana Party	5	4	0	09
CPN ML	8	0	1	09
RPP	08	0	0	8
Janmorcha Nepal	5	2	1	8
NWPP	2	2	1	5
CPN- United	5	0	0	5
RPP Nepal	4	0	0	4
Rastriya Janmorcha	3	1	0	4
Rastriya Janshakti Party	3	0	0	3
Other parties/Independents	16	2	1	19
Total	335	240	26	601

Source: The Election Commission of Nepal, 2008.

Table-II
Constituent Assembly Elections 2008
FPTP Results

Political Party	Total	Candidates	Winning	Candidates	Total	Per centage	Per centage
Party	M	F	M	F		Seats	Votes
CPN (M)	198	42	96	24	120	50.0	30.52
NC	214	26	35	2	37	15.42	22.79
CPN UML	212	27	32	1	33	13.75	21.63
MJAF	100	3	28	2	30	12.50	6.15
TMLOP	90	4	8	1	9	3.75	3.35
Sadbhawana Parti	83	4	4	0	4	1.67	1.69
Janmorcha Nepal	175	28	2	0	2	0.83	1.33
NWPP	71	27	2	0	2	0.83	0.64
Rastriya Janmorcha	107	15	1	0	1	0.42	0.91
Independents	774	42	02	0	2	0.83	1.20
Total					240	100.0	

Source: The Election Commission of Nepal, Kathmandu 2008.

Table No. III
Constituent Assembly Elections 2008
PR System Results

S.N.	Political Party	Received votes	Based percentage	Proportional Seats	Representation Percentage
1	CPN (M)	3,144,204	29.28	100	29.85
2	NC	2,269,883	21.4	73	21.79
3	NCP UML	2,183,370	20.33	70	20.90
4	MJAF.N	678327	6.32	22	6.57
5	TMLOP	338930	3.16	11	3.28
6	RPP	263431	2.45	8	2.39
7	CPN ML	243545	2.27	8	2.39
8	Sadbhawana Party	167,517	1.56	5	1.49
9	Janmorcha Nepal	164,381	1.53	5	1.49
10	CPN United	154968	1.44	5	1.49
11	RPP Nepal	110,519	1.03	4	1.19
12	Rastriya Janmorcha	106,224	0.99	3	0.90
13	Rastriya Janshakti Party	106,224	0.99	3	0.90
14	NWPP	74,089	0.69	2	0.60
15	Sanghiya Lotantrik Rashtriya Manch	71,958	0.67	2	0.60
16	Rastriya Janmukti Party	53,910	0.50	2	0.60
17	Nepal Janata Dal	48,990	0.46	2	0.60
18	NCP Unified	48,600	0.45	2	0.60
19	Dalit Janpati Parti	40,348	0.38	1	0.30
20	Nepal Rastriya Parti	37,757	0.35	1	0.30
21	Samajbadi Janta Parti Nepal	35,752	0.33	1	0.30
22	Churebhavar Rashtriya Ekta	28,575	0.27	1	0.30
23	Nepal Loktantrik Samajbadi Dal	25,022	0.23	1	0.30

24	Nepal Pariwar Dal	23512	0.22	1	0.30
	Total	10,471,630	100.0	335	100.0

Table-IV
Party wise Representation of Ethnic Groups in Constituent Assembly 2008
Ethnic Groups

S.No.	Party	Bahun	Chettris	Janjati	Madhesi	Dalit	Unstated	Total
1	CPN (M)	32	16	52	08	07	05	120
2	NC	13	08	10	05		01	37
3	CPN UML	10	05	12	04		02	33
4	MJAF	02	01	03	24			30
5	TMLP	01			07		01	09
6	SP				04			04
7	NMKP			02				02
8	Jan Morcha	01		01				02
9	Rastriya Janmorcha		01					01
10	Independents				02			02
	Total	54	31	80	54	07	09	240

The structure of the Constituent Assembly clearly shows that it became very complicated. The three major political parties had no clear understanding regarding the task of the CA and the issues to be finalized by it. The Terai based parties had their own regional agenda. The CPN- Maoist, the largest party in the Assembly and the party considered to be the champion of the restructuring of the state, had its own problems. A good number of its representatives in the CA belonged to ethnic groups, women and Dalits. The party was bound to incorporate the issues relating to them in the new constitution. Its support base, the Maoist combatants, had already become a complicated issue. So there were a number of complicated matters and it was not clear to what extent it would gain support and cooperation of NC and CPN-UML in resolving these issues.

Working of the Constituent Assembly

In its first meeting on 28 May 2008, the Constituent Assembly resolved to abolish the monarchy and declared Nepal a democratic republican state. The principle of secularism was also endorsed.

The main task of the Assembly, however, was to frame a constitution within the framework accepted in the 2007 interim constitution as well as with reference to the various agreements and understanding which the political parties had reached at from time to time.

Framework of the New Constitution

There was a broader understanding between different political parties regarding the framework of a new constitution as agreed upon from time to time. The major issues which had been agreed upon included:

1. The constitution will be called the Constitution of Nepal 2067 BS (Bikram Sambat), the Nepali National Calendar.⁵
2. The preamble, as agreed in the concept paper, stated Nepal as People's Competitive, Multiparty Democratic Proportional Representation System of Governance.⁶
3. Acceptance of the principles of civil liberties and human rights, universal adult franchise, freedom of press, periodic elections, competent, impartial and independent and the concept of the rule of law;
4. Acceptance of multiethnic, multilingual, multi religious, and multicultural nation;
5. Democratic republican state;
6. Secular state;
7. Inclusive democracy;
8. Addressing the question of Dalits, minorities and other backward and underprivileged groups; and
9. Empowerment of women.

Despite the above framework accepted by all the parties, the making of the constitution proved to be a complex task. The question of ethnicity that has been used by the Maoists during insurgency⁷ took most of the time of the CA but without any outcome.

Problems in Government Formation

The formation of the government after the election of the Constituent Assembly became a contentious issue as none of the political parties acquired majority in the Assembly. The Maoists emerged as the largest party but they did not have sufficient strength so as to form the government on their own. There emerged three possibilities: Girija Prasad Koirala, Prime Minister of the interim government, would continue with the support of other parties; the Nepali Congress and the CPN (Maoist) would form the government and that a multiparty coalition government would be formed. None of the major parties, however, took a clear stand on the issue of government formation and a

situation of uncertainty continued for some time. Two major political parties, the Nepali Congress and the CPN (Maoist) failed to arrive at any consensus over this issue. There was utter confusion and each party blamed the other for indecisiveness. It seems that the political parties were not in a position to take any initiative as they did not have a clear mandate. But they also did not try to promote other political parties by supporting them. This was particularly true of the Nepali Congress Party. Thus, the political parties lacked a clear perception and proper initiatives. G.P. Koirala on the other hand, for once, refused to resign as Prime Minister of the interim government unless some concrete steps were taken towards formation of the government.

The Maoists also failed in forming a government in time. There was lot of confusion among the party leaders. At one stage, the party supremo, Prachanda said that in the election manifesto of the party, he (Prachanda) had been projected as the first President of Nepal. Therefore, he would be the President vested with all executive powers. Again after some time, the CPN (M) demanded both the positions of the President and the Prime Minister. Initially the CPN (M) appeared to be under the impression that since it was the largest party in the Constituent Assembly both the positions of the President and the Prime Minister should go to it. Therefore, while Prachanda was being projected as a candidate for the President, Babu Ram Bhattarai the second in command of the party was projected as the party's candidate for the Prime Ministership. However, the largest parties, the CPN (M), NC and UML failed in reaching at any consensus. Here one may state that Girija Prasad Koirala being the Prime Minister of the interim government had an important role to play in this regard. The Maoists were of the opinion that G.P. Koirala as a senior and experienced leader needed to play a role in mobilizing the leaders and the parties to arrive at a consensus and help formation of the government. It was opined by one of the senior Maoist leaders thus:

“We do not want Koirala to step down or resign. Rather, we want him to be the guardian of the new coalition and guide it at every step. Actually we want him to play a political role similar to Sonia Gandhi in the United Progressive Alliance government in India”.⁸

It is difficult to say whether Koirala was prepared to take up any such role. The CPN-UML was also silent over the issue of formation of the government. In the meantime, elections for the office of the President and Vice-President were held. The Nepali Congress candidate won as President in the second round of

polling in the CA and Madhes/Janadhikar Forum candidate won as the Vice President. These elections were of course also not free of party politics.

The issue of the formation of the government was ultimately decided by the Constituent Assembly. The CPN (M) nominated Prachanda as its candidate for Prime Minister while the Nepali Congress nominated Sher Bahadur Deuba, senior leader and three time Prime Minister of Nepal, as its candidate. Sher Bahadur Deuba got only 113 votes while Prachanda secured 464 votes in the Constituent Assembly. Thus Prachanda was elected as Prime Minister.

The other 21 political Parties elected to the Constituent Assembly announced their support to the CPN (M), while the People's Front of Nepal and the Nepal Workers and Peasants Party boycotted the election. The CPN-UML and the Madhesi Janadhikar Forum joined the cabinet. The Nepali Congress, the second largest party in the Constituent Assembly, decided to remain in the opposition. The party leaders accused each other for delays, distrust and indecisiveness. The formation of the government was a crucial issue and it was by sheer chance that it did not lead to any kind of breakdown. The CPN (M) chief wanted to seek assurance of the Constituent Assembly that the government will not be pulled down for two years as it was considered important in the context of the consolidation of peace process. Moreover, the whole issue of the exercise in constitution making depended on the governmental stability and cooperation of the political parties. It may be noted here that the way the process of the formation of the government went clearly reflected upon the desire of the political parties to share power and at the same time a quest to ensure their identity in the country's emerging political set up.

These were indeed clear indication about the functioning of the Constituent Assembly in the course of time. It was clear that the political parties were interested more in their personal power and status. It also gave an impression that they were in no mood to cooperate with each other. Their initial behavior indicated as if the making of the constitution was a secondary objective for them.

However, the most frustrating aspect of the political developments in Nepal after the initial deadlocks was that the CPN (M) failed in providing governmental stability which obviously affected the constitution making process.

Political Instability and its Implications on Constitution Making

Though the Constituent Assembly had started functioning soon after its first meeting in May 2008; it got embroiled in raising issues without any concrete solution and any consensus over them. There were dilly-dallying tactics on the part of the government as there was hardly an agreed upon answer to issues such as federalism. It is because of these unnecessary delays that the CA failed in the promulgation of the constitution within the stipulated time period of two years. In May 2010, the time period of the Constituent Assembly was extended for one year. Then again in mid 2011, an extension of 6 months was granted. But the Constituent Assembly did not mark any progress in framing the constitution.

The Issues of Rehabilitation and Arms Management

It may be pointed out here that an issue that disturbed the peace process and the promulgation of the constitution in the post CA elections phase was the rehabilitation of the Maoist combatants. The CPN (Maoist) was committed to resolve this issue for obvious reasons that they had fought a protracted war and they were living in the United Nations Mission in Nepal (UNMIN) observed cantonments. There was an understanding among all the concerned groups since the beginning that the Maoist combatants have to be rehabilitated properly. However, the bone of contention was their absorption in the state army of Nepal. The Maoists asserted since the beginning that these combatants should be absorbed in the army according to their earlier ranks. There was, however, lack of consensus over this issue. There was a lingering fear among the other political parties that the Maoist combatants were a politicized group and their joining the army would also adversely affect the armed forces.

In the course of time, the question of the Maoist army became a political issue. The Maoists themselves appeared to be making it a political issue at times. Though settled later on considerably on the basis of compensation and absorption, the question of arms management and rehabilitation was largely responsible for diversions in the Constituent Assembly.

However, the government and the political parties could not develop a consensus on several issues and that left a situation of indecisiveness on many points which were fundamental to the framing of the new constitution. Nine major political parties like the Nepali Congress adopted a non-cooperative

attitude. There were differences over the rehabilitation of the Maoist combatants. More than 19,000 Maoist combatants were living in the UNMIN supervised camps and the Maoist-led government was under pressure to rehabilitate and integrate them. There was an impression all around that it was not possible to frame the constitution unless the peace process was taken to its logical conclusion.

Prachanda's Resignation

The Prachanda government resigned after a conflict with the army chief over the issue of the integration of the Maoist combatants. The dawn of the Prachanda government naturally also delayed the constitution-making process. It was an unfortunate development which no one had expected despite the problems creeping up. But what was more frustrating is that the political parties failed in reaching any consensus over the issues of the formation of a new government. The issue was brought to the Constituent Assembly, which was also to act as legislature in this matter. But it failed to obtain a majority of votes in favour of any of the candidates of political parties for the post of Prime Minister. Actually, it required a two third majority in the House for the election as Prime Minister as per provisions of the interim constitution. It was only after more than 15 rounds of failed elections in the Constituent Assembly that a new Prime Minister could be elected and a new government could be formed. However, the governments led by the CPN-UML leaders first by Madhav Nepal and thereafter by Jhala Nath Khanal proved to be short-lived. They too had to resign from the respective government one after another. It was clear that the political parties were more interested in manipulating power, and they hardly seemed to be interested in activating the constitution-making process and building a consensus over broader provisions to be incorporated in the constitution. The delays in the government formation obviously affected the constitution-making process.

Parties in Conflict and CA in a Fix

Yet another serious development by this time was that the internal dissensions within the political parties and the leadership clashes began to surface. Internal differences within the parties were there even earlier. But now the political parties and leaders were getting frustrated over the poor performance and deadlock in the Constituent Assembly. It resulted in further delays in the constitution-making process. The CPN- Maoist (UCPN-M) was more worried

over the continuous deadlocks and the complications in resolving the tangles in the Constituent Assembly. The party was again looking for the possibilities to again form the government. But it was seriously infested with leadership conflicts. The hardcore within the party were not happy with the delays in resolving the problems of the Maoist combatants. On the other hand, differences had crept up between senior leaders of the party Pushp Kamal Dhal, Prachanda and Baburam Bhattarai.

The party ultimately succeeded in getting Babu Ram Bhattarai elected as the new Prime Minister in August 2011. However, the Constituent Assembly remained ineffective over finalizing the constitution except to the extent that the time limit for the framing of the new constitution was once again extended till November 2011. Towards the end of the year, pressure was mounting from various circles and there were all the apprehensions that the Constituent Assembly would not be able to frame the constitution. Therefore, it became imperative for the Bhattarai government to take certain steps urgently. In fact, the delays in framing of the constitution had given rise to fears that the failure of the Constituent Assembly would encourage non-democratic forces to take advantage of the situation and start asserting themselves politically. Already the pro monarchy elements had begun to talk about alternatives.

Six-Point Deal

Amid these apprehensions and realizing that the time was running out of hand, the major political parties reached a six-point deal on 1 November, 2011. It was agreed to adopt a time-bound calendar for the promulgation of the constitution. A six-point agreement was concluded among the UCPN (M), Communist Party of Nepal (Unified Marxists-Leninists) (CPN (UM-L)), Nepali Congress, and the Samyukta Loktantrik Madhesi Morcha on 29 November 2011.

It was agreed that the new constitution would be enacted between 21 and 27 May 2012. The first integrated draft was to be prepared between 13 and 27 February 2012. The draft constitution was to be endorsed by 5 March 2012. It was decided to seek public opinion on the draft constitution between 20 April and 30 May 2012. A Constitution-Drafting Committee was formed. There was also a Dispute Resolution sub-Committee under the constitution drafting committee. Despite all this, the Constituent Assembly could not make any impressive progress. It was claimed by some that a larger part of the

constitution had been drafted. But the fact remains that no such draft came out and more over there were no indications that the core issues had been resolved

Impending Issues and Constraints

A brief analysis of the unresolved issues and major areas of divergence would help us in understanding the challenges before the Constituent Assembly.

The extension of the time period of the Constituent Assembly was every time a debatable issue among the Nepalese political circles and the civil society forums. But from nowhere did any voice in the form of a counter agitation or pressure come up. There were differences among the political parties about extension in time period of the Constituent Assembly. The UCPN (M) wanted an extension of six months, while the Nepali Congress and the CPN (UM-L) wanted an extension of only three months. The Supreme Court directed the government to extend the time period of the Constituent Assembly for the last time. The alternatives suggested were either to go for a referendum or to hold fresh elections to the Constituent Assembly.

The Nepali Congress reiterated again and again that the drafting of the constitution was not possible until the peace process was completed. Actually as stated earlier, the question of Maoist combatants had been a major issue in the peace process. There had been strong differences over the issue of their rehabilitation. The other political parties were not clear on this issue. Even the Maoists at a later stage began to follow an ambiguous attitude in this regard.

There was a debate over the form of government in the new constitution. In a meeting of the Task Force, all the political parties had agreed to recommend a mixed model with sharing of executive powers between a directly elected President and Prime Minister. The UCPN (M) had supported an executive President, while the Nepali Congress had reiterated that it was in favour of an executive Prime Minister. It clearly show that the major political parties were still in a bargaining mood and the delays in the framing of the constitution has been taken seriously.

The socio-political mobilization that had taken place in Nepal in the post-2005 phase had aroused a great deal of interest in, and a large number of expectations from, the new constitution and the emerging political order. In fact, it was during the Maoist insurgency phase that such expectations had begun to surface. The ethnic minorities, Dalits, women, and regional issues had become

important. All these groups were looking for a space in the new political set-up of the country. If their expectations were not fulfilled in the new constitution, it could lead to the politicization of these groups. The question of a reservation policy for the backward and unprivileged communities had come up in a big way. Therefore, the issue of inclusive democracy had become extremely significant in the new constitution. In fact, Nepal was gradually witnessing the intricacies of a plural society and granting privileges to select communities and regions was no longer possible now. But the CA could not devise a clear formula of inclusive democracy.

It had been agreed that Nepal will go for a federal state structure in the new constitution. However, what kind of federalism it would like to follow was not clear. The Maoists, for the first time, raised the issue of dividing the country into 12 autonomous units represented by the traditional ethnic groups and specific regions. A more or less similar formula for creating a federation was advocated since then. The important issue here is whether Nepal was going for an ethnicity-based federation or a region-based federation or a mix of both. Both the forms had their positive and negative dimensions. The people of Terai had made it clear that they will not accept a divided Terai. They had raised the slogan of **‘One Desh One Madhes.’** Therefore, federalism was a sensitive issue and took most of the time of the political parties.

The decision of the government to legalize the land and property transactions made by the parallel governments run by the Maoists during the insurgency phase had been strongly opposed to by the opposition political parties particularly the CPN (UML). It had generated a lot of differences among political groups and, therefore, it was also an important issue in the framing of the new constitution. It also indicates that there were several other issues where the political parties had differences and they proved to be roadblocks to the framing of the new constitution. Only a consensual approach could have realized the task of constitution-making. It is equally important to note that the Madhesi Janadhikar Forum had said that if the government would not promulgate the constitution within the allotted time or if it was proved to be a constitution against the sentiments of the Madhesis, then they would write a constitution of their own. The judiciary had also expressed its concern over the delays in the drafting of the constitution. Several countries and international agencies, too, had expressed their concern in various informal ways over the delays in framing the constitution. The civil society also took a serious note of

the delays. Therefore, internal and some external pressure was built up for the completion of the task of constitution-making in Nepal. However, that too did not work. The major political parties were still not united on many issues. The timely enactment of the constitution depended upon the cooperation among the political parties. However, the largest party, the UCPN (M), itself was highly faction-ridden. The Bhattarai and Prachanda groups were trying to settle their scores, while the hardcore group within the party, led by Mohan Baidya, was strongly opposed to the policies of the party. It had also opposed the six point deal.

It seems that the politics of power had prevailed over the constitution making process. Therefore, there were delays, complication of issues and uncertainties.

Dissolution of the Constituent Assembly

The political circumstances made it almost difficult for the Constituent Assembly to frame the constitution. Some attempts had been made by the sub-committee to draft the constitution. But there was no agreement on major issues. In fact, it appears that there was no willingness on the part of the political parties to resolve the differences and build a consensus.

The Supreme Court in its decision clearly said that the time period of the Constituent Assembly could not be extended beyond 27 May 2012. Attempts were still made by the government to get the term of the Constituent Assembly extended one more time. But the single bench of Chief Justice Khil Raj Regmi issued an order on 24 May 2012 upholding the decision of the Supreme Court of November 2011. It was decided towards the end of 2012 to dissolve the Constituent Assembly. The Supreme Court of Nepal had already made it clear that it was not possible to further extend the time period of the Constituent Assembly.

After several attempts, the political parties agreed to constitute a caretaker government and hold fresh election for a new Constituent Assembly. The leadership of the caretaker government was assigned to Justice Khil Raj Regmi. Initially it was decided to hold election in mid 2013, but the political parties did not agree to that. Finally, it was decided to hold the election in November 2013.

Constituent Assembly-I: An Assessment

The Constituent Assembly failed in completing its task of framing the new constitution. There was not one reason behind its failure. Instead there were a number of reasons which could be held responsible. There were structural deficiencies as well as procedural incompetence and flaws. Some of these reasons may be mentioned here:

1. The political parties were initially apathetic towards holding the election to the Constituent Assembly. The government also did not appear to be much enthusiastic. The date for voting was changed again and again. In fact, except the Maoists, other political parties adopted an attitude of wait and watch. It was only after a threatening message from the Maoists that the election of the Constituent Assembly was finalized.
2. It was unfortunate that the political parties were interested more about their own political future. Therefore, the framing of a new constitution was not their primary objective.
3. The major political parties did not agree to form an electoral alliance. There were only some very weak electoral alliances by insignificant political parties.
4. The structure of the Constituent Assembly was quite fragile and none of the political parties could gain a majority. This itself made the task of the Constituent Assembly quite complicated. The making of the constitution required a two third majority in the House, while it lacked even a simple majority.
5. The political parties lacked a national consensus on vital issues. For instance, it was accepted that Nepal would be made a federal state. But there was no consensus over the principles of federalism. There were also differences over the form of governance, the question of autonomy and identity of the Terai and many more issues.
6. The instability of the government was a big problem. There was time when the Prime Minister could not be elected for a pretty long time. As a result, the constitution making process was held up. The CA had also to work as a Legislature- Parliament and most of the time it remained confined to petty political matters. As a result the Constituent Assembly wasted its time.

7. The Communist Party of Nepal (Maoist) which was the largest party in the CA had the greater responsibility not only because it was the largest party in the House but also because the idea of a federal state, inclusive democracy, secularism, etc had been floated by the Maoist themselves. Initially, the Maoists were quite enthusiastic about timely completion of the task of constitution making but gradually their attitude also changed and they became less concerned.
8. The leadership clashes and dissensions within the CPN (M) and the then Prime Minister Prachanda's conflict with the army chief also played a negative role.
9. The split in the Maoist party in June 2012 further complicated the situation.
10. The rehabilitation of the Maoist army was a complicated issue and it took a long time in settling them and much of the precious time of the Constituent Assembly was lost. The major dilemma in this regard was that which should be taken first, the framing of the constitution or rehabilitation of the Maoist army? Each political party viewed this problem on the basis of its own political interests. There was a wrong assumption that the peace process could be completed with the integration of the Maoist army. But it was wrong as there were many more vital issues which were ignored. The Maoist also played the People's Liberation Army card at times.
11. As pointed earlier, there was a continuous process of making and breaking of the governments. Each party in the government aspired to take the credit for framing the constitution. Hence, it did not cooperate with the party in the government at a particular point of time.
12. Almost all the major political parties were internally faction ridden. There were sharp differences over party leadership and many other issues. It naturally affected the constitution making process.
13. As pointed earlier, the whole idea of restructuring the state was not prioritized within the Constituent Assembly. There were opinions in favour and against it and the political parties wasted time in putting their own arguments. The Constituent Assembly unnecessarily gave them space and ultimately time was lost. The issue of federalism itself took most of the time of the Constituent Assembly and it became a primary reason behind the failure of the CA.

14. The ethnic issues became so prominent that the CA appeared to be divided along ethnic lines. The ethnic leaders appeared more concerned about the issues of identity rather than the national issues.
15. It is difficult to state whether the size of the Constituent Assembly was unmanageable but some scholars have argued that the size of CA was quite large and it was not manageable.¹²

In the aforementioned circumstances, it was obvious that the Assembly failed in realizing its objective of promulgating a constitution. The government, the political parties and the leaders were confined to promoting their own interests and allowed the Constituent Assembly to dissolve without fulfilling its task. The framing of a constitution is not a difficult task. What was needed was a national consensus on its fundamental principles. It was indeed this aspect where the failure of the Constituent Assembly- I became prominent.

References

1. D.P. Kumar, *Nepal: A Year of Decision*, Vikas, New Delhi, 1980.
2. B.C. Upreti, *Nepal, Democracy at Cross Roads Post-1990 Dynamics, Issues and Challenges*, Kanishka Publishers, Distribution, New Delhi, 2007:107-124.
3. For details see, B.C. Upreti, *Maoists in Nepal, From Insurgency to Political Mainstream*, Kalpaz Publications, Delhi, 2008: 73-100.
4. See, Arjun Karki and David Seddon, (eds) *The People's War in Nepal, Left Perspective*, Adroit, Delhi, 2003.
5. See, the *Interim Constitution of Nepal 2007*, Kathmandu, 2007 Introduction
6. Preamble of the Constitution, N.5.
7. For some related issues see, Chaitanya Subba, "The Ethnic Dimension of the Maoist Conflict: Dreams and Designs of Liberation of Oppressed Nationalities" in Lok Raj Baral(ed.), *Nepal: Facets of Insurgency*, Adroit, Delhi, 2006:32-56.
8. *The Hindustan Times*, June 4, 2008.
9. See on federal issues, Mahendra Lawati, *Federating the State Building: Challenges in Framing the New Constitution*, Bhrikuti Academic Publications, Kathmandu, 2010.
10. B.C. Upreti, "Political Transition in Nepal: Implications for India", *Diplomatist*, April, 2013:16-17.
11. Bhojraj Pokharel, Shrishti Rana, *Nepal, Votes for Peace*, Foundation Books, New Delhi, 2013: 198-199.
12. *N.11*: 201.

Chapter-IV

Formation of The Constituent Assembly-II

The elections to the Constituent Assembly held on 19 November 2013 was a unique event as nowhere in the history of democratic governance a Constituent Assembly had to be constituted for the second time for the same cause. It was a difficult time as well for the voters to elect members of the Constituent Assembly amid uncertainties due to call of boycott by a group of political parties. For the political parties participating in the elections as well, it was a crucial phase as they themselves were solely responsible for the failure of the Constituent Assembly-I. Nevertheless, it generated new hopes as it would be possible to complete the task of drafting the constitution. Therefore, it was an opportune time for the people of Nepal to take part in the election of the Constituent Assembly in an effective manner.

This chapter seeks to understand the process of election to the Constituent Assembly and also to analyze its nature and pattern.

Structural Arrangements

The Election Commission of Nepal made arrangements for the secure and successful completion of the voting for the CA. It may be pointed out here that Nepal's problem in conducting elections has been that there are a number of remote areas where supply of election material, formation of polling booths and bringing back ballot boxes have been a challenging task in every election. Apart from adverse weather conditions, there are no proper means of communication and transportation in these areas.

The Election Commission had constituted 10013 polling localities and 18457 polling centers. There were 125858 polling personnel and 944 volunteers. The security personnel deployed for the smooth conduct of elections were as follows:

Army	:	62000
Nepal Police	:	48000
Temporary Police:		45000
NID Police	:	4000

It shows that tight security arrangements were made for the election. The observation during polling in the Kathmandu and Bhaktpur districts also supports that the security arrangements were quite tight. One may also state that the arrangements in the polling centres were also up to the mark, except that in certain localities, polling stations were made quite near to each other and it was very congested. The total expenditure incurred on the election was Rs. 7.75 billion NR.

Provision for Voters ID Cards

The Election Commission, though towards the last moment, decided to issue voter identification cards to the voters. All the polling stations were instructed to distribute identity cards to the voters in their area as per the voters list by 17th of November. It created problem for the polling officials as they had to inform the voters and distribute identity cards to them. In several polling areas, it was reported that they had to work day and night to distribute the cards. It was informed by the officials that the cards were distributed at most of the places within the stipulated time.

The distribution of identity cards was a welcome decision as it helped streamlining of the voting procedure. It was also helpful in checking illegal or fake voting.

Political Parties and Candidates

In the 2013 election, the highest number of 130 political parties were registered with the Election Commission. Out of them 122 political parties nominated their candidates for election.

As pointed out earlier, election was held for 240 seats under First Past The Post (FPTP) system and 335 under the Proportional Representation system. Thus election was to be held for a total of 575 seats.

The total number of candidates under FPTP system was 6128 including independents and 10709 under the PR system. The number of independent candidates was lower in this election in comparison to the 2008 election. It may be due to the dismal performance of independents in 2008.

Table No I
Number of Candidates

2008	FPTP	3948	PRS	5781
2013	FPTP	6127	PRS	18709

The poll schedule was as follows:

Voting : 19 November, 2013 7.00 AM-5.00 PM

Final result of FPTP : 26 November, 2013

Final result of PR : 06 December 2013

The Election Commission took certain tough decisions to stream line the voting:

1. No private or government vehicles were allowed to move on roads for the whole day on 19 November 2013. The Ministry of Home Affairs issued passes for vehicles involved in polling and emergency vehicles and only they were allowed to move on roads.
2. The mobile phones were not allowed inside the polling centres.
3. In a last minute decision, any kind of photography and videography in and around the polling centres was prohibited. These orders of the Home Ministry reached the polling centres after the voting had begun. Therefore, photography and videography had already been done at many places before that.

There was an extensive appeal, announcements and broadcasting through the audio-video channels to mobilize and encourage people to cast their votes. On poll eve, the President of Nepal also appealed to the people to exercise their franchise.

Table-II
Voters and Voting Trends

S.No.	Categories	2008	2013
1.	Total Voters	17611832	12147865
2.	Voters		Male---- 5980881 Female- 6166829
3.	Total Votes Polled	11146540	FPTP 9516724 PR 9776703
4.	Invalid Votes	3.66	FPTP 4.96

			PR	3.66
5.	Voting Percentage	63.29		70.0

The total registered voters were 12147865, out of this 5980881 were male and 6166829 were women voters. Total votes polled were FPTP 9516724 and PR 9776703. The percentage of invalid votes was 4.95 in FPTP and 3.66 percent in PR system. The voting percentage was 70.0 percent. It was for the first time in the electoral history of Nepal that the voting took place on such a large scale. Kathmandu district had the highest number of voters at 532110 while Manang district in the remote Himalayan region had the lowest number of votes at 9795. Bhaktpur-II constituency had the highest number of votes at 82218. In Thawang Village Development council of Rolpa district in Mid-Western Nepal, the voting percentage was zero.

It is interesting to note that the total number of voters had gone down by 5413967 in comparison to 2008. It is well understood that there has been an increase in the overall population of Nepal during the previous years. Then why the number of voters had gone down considerably? Was it because that their registration was cancelled? But even if there were no new registrations of voters it would not have come down so sharply. The equally important issue here is that whether the number of voters in the 2008 election was manipulated? There were some complaints this time that the names were deleted from the voters list. But nothing came up.

It is also interesting to note that the number of women voters was higher. It may have happened due to the immigration of males.

The Call for Boycott of Elections

The splinter group of the UCPN (Maoist) party under the leadership of hardcore radical leader Mohan Baidya decided to boycott the election of the Constituent Assembly. He formed a 33 Party Alliance, mostly splinter groups, and decided to disrupt the elections by all means. This group was against constituting the second Constituent Assembly. The government did not take the call for boycott of elections seriously. Two parties later on left the alliance but the call for boycott continued. The UCPN (Maoist) party did not make any serious attempts to persuade Baidya to withdraw the call for boycott.

In early November 2013, Baidya declared a 10 day general strike. The vehicular traffic was also blocked just before the preparations for the election had begun. It caused inconvenience to the general public and businessmen. The strike was meant to thwart the preparations for the election. Mohan Baidya had said that they were compelled to opt for the general strike as the other political parties had failed in preparing a proper atmosphere for holding the election.¹ The government did not take notice of the arguments given by Baidya and the call for boycott also hardly had any impact on the election.

The Pre Poll Assumptions

It is obvious that different opinions, assumptions and points of view are expressed by different sections of the society before voting takes place. A review of some of such assumptions would help us understand the concerns of the Nepalese people on election and the other vital issues.

In general, people were not happy with the whole episode of the failure of the Constituent Assembly: I and then elections for the second Constituent Assembly. But there was hardly any choice left with the people except to go for a new Constituent Assembly. At least there was a ray of hope so far as completing the task of framing the Constitution was concerned..

This election was considered to be highly significant as it was not possible to repeat it in future. Whether political parties would learn from their past mistakes and would prove to be more concerned about promulgation of the constitution was one issue that bogged the minds of the people at large.

There was an assumption that the major political parties had failed in persuading the 33 party alliances and to bring them in the electoral process.²

There was also a concern that the political parties were still holding contradictory opinions over issues of national significance. It was opined that “Even of greater concern is the fact that their (Political Parties) respective and mutually divergent positions regarding the crucial issues in state restructuring that resulted in the failure of CA-I have remained unchanged, thus pre- staging the failure of the CA-II even before it is born”.³ Such statements were discouraging at a time when people were going to vote for a new CA, but it came out of the frustration with the performance of the political parties earlier. In a way such apprehensions are obvious because of the fact that the political

parties and the leaders allowed the earlier Assembly to be a failure in constitution making.

Looking back at the political history of Nepal, no one thought of the country opting for a federal structure. The smaller size of the country, an exclusive socio-political order and the hegemony of the hill culture and the dominance of the hill power elite were sufficient reasons to hold Nepal as a unitary state. It is not that there was no resentment. The people of Terai had expressed their resentment as early as the 1950s when the issue of Hindi language was raised. Later on also the demand for autonomy was raised in the Terai region. But neither such demands were ever heard nor there was any idea of going for a federal state structure. It was towards the end of the seventies and the beginning of the eighties that the ethnic communities also began to demand for their rights in an organized way. The Maoists for the first time brought the notion of federalism in Nepali politics, during the insurgency in order to mobilize support from various ethnic groups and the people of Terai. The Maoists clearly talked in terms of an ethnic federation and drew an ethnic based federal structure. The political parties while entering into an agreement with the Maoists accepted the Maoist proposals. Why this proposition was accepted by the political parties and if it was acceptable to them why it was not accepted in the CA? In fact, if the agenda of ethnic federalism were resolved, it would not have been difficult at all to promulgate the constitution. But the fact remains that most of the political parties talked differently in the public and behaved differently in the CA. The people of Nepal were indeed apprehensive of the dubious role of the political parties. It has rightly been pointed out that for a period of 6 years since 2007, the country was ruled on the basis of agreements and understanding.⁴ The political parties did not show any concern for this situation during the election campaign as well.

The question that what should be Nepal's priority has been raised by both the civil society and the media. It has been opined by many that in the past years there was too much of talk about ethnic and identity issues. No doubt these are important and need to be resolved in an amicable manner as the country's stability and peace would rest on their proper resolution. But many believed that Nepal needs to seriously concentrate on the development issues.⁵ It is in fact what a country like Nepal would need at the moment and in the years to come but unfortunately the issues relating to development priorities of the country

hardly received any attention in the election campaign of the political leaders and parties.

The political parties' in fact undermined the popular aspirations and allowed dissolution of the Constituent Assembly without completing its task.⁶ It was indeed a pitiable situation for the political parties. But not much was done by them even during the campaign in defending their position and visualizing for the new Constituent Assembly. However, the top leaders of the party were worried about their own victory as they were apprehensive of people going against them in the polls keeping in view their role in the Constituent Assembly. Hence, they were concerned about their own victory rather than the party. Even Prachanda wanted his party cadres to take all measures to ensure his victory.

There were mixed reactions regarding Prachanda's role in the post 2008 phase. His national awareness programme from Kakarbhitta to Mahendra Nagar for 8 days was seen with high hopes by many. He was also seen as a strong political leader. But his past approach and role were viewed as a stumbling block in his political prospects. Actually the masses had high hopes from him as he was seen by many as a promising leader, a leader committed to transform the Nepali society and polity. But ultimately he could also not rise above petty politics and indulged in promoting his own political interests. It was frustrating to the people who had high hopes from the Maoists.

There was a general opinion in various circles in Kathmandu that it was difficult for any party to seek majority. Doubts were also raised about the performance of the CPN (M) party. One newspaper opined before voting thus:

“The CPN (Maoist) would not be able to retain its single largest party position in Constituent Assembly, baying political analysts referring to the thinning of crone of mass meetings addressed by Prachanda during the past four weeks in various parts of the country”.⁷

It clearly indicates that there were prior assumptions about the dismal performance of the Maoists. There were some possibilities seen in certain intellectual circles in Kathmandu, for better performance by the Nepali Congress party but such a point of view could not gain any mass appreciation primarily due to the fact that it was believed that the party did not have a strong leadership.

The Election Results: Performance and Trends

Before the election, there was a feeling that due to threats of sabotage by the 33 party alliance, the percentage of voting may go down. In fact, with the use of petrol bombs and other means of threatening the people on the previous day of voting, such apprehensions had become prominent. But the Nepalese voters did not show any concern over such threats and took part in voting with all enthusiasm and spirit. In fact, it was for the first time in the electoral history of Nepal that such an encouragement was seen among the voters. Even on the voting day, bomb blasts took place in Kathmandu city itself. But it hardly had any impact on voters.

Seventy percent voter turnout was something unbelievable in the given circumstances. It indeed showed the democratic commitment of the people of Nepal. In 2008, the voting percentage was 63.29. So in comparison to that, the voting percentage in 2013 was quite impressive. The percentage of invalid votes was 4.96 in FPTP and 3.66 in PR system.

The voting was by large peaceful except a few incidents of clashes, booth capturing, etc. Nevertheless, one may opine that all these incidents were insignificant.

Performance by Political Parties

The performance of the political parties in FPTP and PR system were as follows:

FPTP

In the First Past the Post system, 121 political parties had nominated their candidates. Only three political parties; Nepali Congress, CPN-UML and UCPN (Maoist), nominated their candidates in all the 240 seats of FPTP. The RPP Nepal was next to them with 238 seats followed by RPP with 235 seats. Nearly 31 political parties nominated only 1-5 candidates as they were required to nominate candidates in the election in order to save their registration with the Election Commission. There were 1115 independent candidates in the electoral fray. Out of this huge number, only two independent candidates could register victory. It clearly shows that the voters did not trust the independents at all.

Table III
The Winner Parties (FPTP)

S.No.	Party	Total Candidates	Seats won
1.	Nepali Congress	240	105
2.	Communist Party of Nepal-UML	240	91
3.	United Communist Party of Nepal (M)	240	26
4.	MJF (Democratic)	176	4
5.	TMLP	114	4
6.	RPP	235	3
7.	Madhes Janadhikar Forum Nepal	128	2
8.	Independents	1115	2
9.	NMKP	127	1
10.	Sadbhawana Party	133	1
11.	Terai Madhes Sadbhawana Party	74	1
	Total		240

The Nepali Congress emerged as the largest party in the CA with 105 seats, followed by NCPN (UNL) 91 and UCP N (Maoist) 26. There were only 10 political parties that could register victory. A significant aspect of this election was that the Maoists lost the election badly and were reduced to the third position. But the more striking development was the downfall of the Terai based political parties like MJF and TMLP, which lost in the election badly in comparison to their positions in 2008. Altogether there were significant changes in the party positions between the two Constituent Assemblies.

Table IV
Comparative Party Position in Two CA's (FPTP)

Political Parties	Seats Won in 2008 CA	Seats Won in 2013 CA	+ -
Nepali Congress	37	105	+68
CPN (Maoist)	120	26	-94
CPN (UML)	33	91	+58
Madhes Janadhikar Forum	30- MJF D	4	-28
	-MJF N	3	
TMLP	9	4	-5
NMKP	2	1	-1
Sadbhawana Party	4	1	-3
RPP	-	3	+3
Terai Madhes Sadbhawana Party	-	1	+1
Independents	2	-	-2
Janmorcha Nepal	2	-	-2
Rashtriya Jammorcha	1	-	-

The aforementioned table clearly shows that the Maoists were at a big loss by losing in 94 seats. The Congress, which got only 37 seats in 2008 made a remarkable improvement by gaining 105 seats in 2013, an addition of 68 seats. Similarly CPN UML also had a gain of 58 seats over the 2008 election. The Rashtriya Prajatantra Party which could not get a single seat in 2008 made a poor entry in 2013 with 3 seats. But the Janmorcha and Rashtriya Janmorcha could not win a single seat this time.

But the most interesting part of the 2013 CA electoral outcome is the dismal performance of the political parties of the Terai region. The Madhes Janadhikar Forum which had captured 30 seats in 2008 was far behind this time. The MJM Democratic secured 4 and MJM Nepal 3 seats only. The TMLP was also reduced from 9 to 4 seats. The Sadbhawana Party also lost three seats. Actually in the past few years, the Terai region has been flooded with political parties. There have been divisions in Janadhikar Forum, Sadbhawana, etc. This rise of faction ridden political parties in the Terai proved to be self-defeating.

In 2008, one significant trend was the rise of regional political parties but it had receded this time.

Table No V
Single Party Dominating Districts in 2013 Election

Districts	Nepali Congress	UML	CPNM
Taplejung		√	
Sankhuwasabha	√		
Pachthar		√	
Teharhum		√	
Bhojpur		√	
Solukhumbu	√		
Khotang		√	
Dhading		√	
Lalitpur	√		
Makwanpur		√	
Gorkha		√	
Manang	√		
Mustang	√		
Myangdi	√		
Baglung	√		
Rukum			√
Rolpa			√
Pyuthan		√	
Dang	√		
Dolpa			√
Mugu			√
Jumla	√		
Kalikot			√
Humla	√		
Dailekh		√	
Bajura		√	
Achham		√	
Bajhang		√	
Darchula		√	
Baitadi	√		
Dadeldhura	√		
Kanchanpur	√		
Total districts =32	13	14	05

Out of 75 districts of the country, 32 districts were such where a single party captured all the seats. The CPN-UML had hold on 14 districts, Nepali Congress 13 districts and the CPN-M in 5 districts. However, one may add here that the CPN-Maoists retained their strong hold in the mid-western hill districts. For the

Nepali Congress and the CPN-UML, it was mixed results in both hills and Terai.

Gender Profile

The issue of appropriate representation of gender in elected bodies has been a recent phenomenon in Nepal. However, it is important in the context of inclusive democracy. In the 2008 CA elections, women occupied 30 seats in FPTP system. Out of them, 24 belonged to the Maoist party alone.⁸ The Maoists had indeed mobilized women during the Emergency in order to gain their support.

In the 2013 CA election, only 10 women got elected. Thus, there was a huge decline in the representation of women in the elected body. Out of these 10 women representatives, 7 belong to Nepali Congress and three to CPN-UML.

Table No VI

Gender Position in 2008 & 2013 CA

S.No.	Gender	2008	%	2013	%
1.	Female	30	12.5	10	2.40
2.	Male	210	87.5	210	97.60
3.	Total	240	100	240	100

Table No VII

Party Representation of Gender in CA in 2008 & 2013

S.No.	Party	2008	2013
1.	NCP-Maoist	34	Nil
2.	Nepali Congress	-	07
3.	NCP-UML	-	03

In terms of ethnicity, the situation is again a mixed one. None of the ethnic based political parties were able to register victory in the 2013 election. However, through different political parties, the ethnic groups like Gurung, Limbu, Sherpa, Magar, Tharu, Tamang, etc have got representation in the Constituent Assembly. The people of Terai have also got representation in the Assembly both through the Nepali Congress, CPN-UML and UCPN-ML.

The age structure of the newly constituted CA members under FPTP also goes in favour of the representatives of higher age. There are only 10 members below the age of 40 years. Rest of the representatives belong to the age group of 40-76 years. Most of the representatives belong to the 40-55 years age group.

Party Position under PR system

In the Proportional Representation system, 18709 candidates were nominated. This number was quite high in comparison to 2008 CA elections where the number of candidates for PR seats was 5781.

The total votes secured by major parties for 335 seats under PR were as following:

Table No VIII

S.No.	Parties	Votes Secured
1.	NC	2418370
2.	CPN-UML	2239609
3.	UCPN-Maoist	1439726
4.	RPP Nepal	630697
5.	RPP	260234
6.	MJF Democratic	274927
7.	MJF Nepal	214319

The Nepali Congress secured the highest number of seats at 91 followed by CPN-UML 84 and UCPN-Maoist 54 and RPP 24. The Maoists touched a somewhat respectable number due to the seats that they obtained in the PR system.

A review of their seats in the CA in 2008 shows that the Maoists lost almost half of the seats in 2013.

Table No IX

A Comparative Statement of Party Positions in 2008&2013 CA under PR System

S.No.	Party	2008	2013	Position
1.	UCPN-Maoist	100	54	-46
2.	Nepali Congress	73	91	+18
3.	CPN-UML	70	84	+14

Out of 122 political parties who nominated their candidates in the PR system for 335 seats, 30 parties registered victory. But only 6 parties got the double digit in 2013 while only 25 political parties got representation under PR system.

Table No X
Seats Secured by Political Parties in PRS

S.No.	Political Party	Seats
1.	CPN-UML	84
2.	UCPN-Maoist	54
3.	RPP Nepal	24
4.	Nepali Congress	91
5.	CPN-ML	5
6.	TMLP	7
7.	Sadbhawana Party	5
8.	RPP	10
9.	MJF Nepal Democratic	10
10.	Sanghiya Loktantrik Rashtriya Munch (Tharuhat)	1
11.	Nepal Pariwar Dal	2
12.	Rashtriya Janmukti Party	2
13.	Samajwadi Janta Party	1
14.	MJF Nepal	8
15.	Rashtriya Jan Morcha	3
16.	CPN –United	3
17.	Nepali Janta Dal	1
18.	NMKP	3
19.	Daldit Janjati Party	2
20.	Terai Madhes Sadbhawana Party Nepal	2
21.	MJF Democratic	1
22.	Nepal: Rashtriya Party	1
23.	Sanghiya Sadbhawana Party	1
24.	Rashtriya Madhes Samajwadi Party	3
25.	Khumbuwan Rashtriya Morcha	1

	Nepal	
26.	Akhand Nepal Party	1
27.	Tharuhat Terai Nepal Party	2
28.	Sanghiya Samajwadi Party Nepal	5
29.	Janjagaran Party Nepal	1
30.	Madhes Samta Party Nepal	1
	30	335

In the 2008 Constituent Assembly, the position was almost similar. Except 5 political parties, the rest were only seeking their entry in the CA.

Fractured Verdict

The above discussion clearly shows that once again there is a fractured verdict in the Constituent Assembly. Despite an impressive 70 percent voting, none of the political parties could gain a majority. As pointed out earlier, even before voting, there were calculations that none of the political parties will be able to secure a majority. Perhaps these calculations were based upon the performance; concerns and role of these political parties in the erstwhile Constituent Assembly. The only difference this time is that the Maoist party has been relegated to the background and the Nepali Congress and the CPN-UML have come to the fore front. But the unfortunate part is that the situation is no way better in comparison to the 2008 CA because none of these two parties have reached the figure of the CPN-M in the 2008 CA. Therefore, the smooth functioning of the Constituent Assembly and promulgation of the constitution again becomes a critical issue. Much would depend on the cooperation between NC and CPN-UML. Both the parties have a combined strength of 371 seats. They cross the majority but do not reach up to two thirds majority.

References

1. *Nepal Weekly* (Kathmandu) November 12, 2013.
2. *The Himalayas Times* (Kathmandu), November 19, 2013.
3. Behari Krishna Shrestha, "Today's CA Election" *The Himalaya Times*, **November 19, 2013. n.2.**
4. Gyan Basnet, "Nepal Voters: To What End", *Kathmandu Post*, November 19, 2013.
5. Chandra Mani Bimoli, "Way Forward", *Kathmandu Post*, November 19, 2013.
6. Kaml Dev Bhattarai, "Rocky Road Ahead", *The Kathmandu Post*, November 19, 2013.

7. B.C. Upreti, *Nepal, Transition to Democratic Republican State*, Kalpaz, New Delhi, 2010:103-105.

Appendix

Table No I

Constituent Assembly Election 2013 Party Position Under FPTP

S.No.	Political Parties/ Independents	Total Candidates	Elected
1.	Nepali Congress	240	105
2.	Communist Party of Nepal (UML)	240	11
3.	United Communist Party of Nepal (M)	240	26
4.	Madhesi Jandadhikar Forum Nepal (Democratic)	176	4
5.	Terai-Madhes Loktantrik Party	114	4
6.	Rashtriya Prajatantra Party	235	3
7.	Madhesi Janadhikar Forum Nepal	128	2
8.	Independent	1115	2
9.	Nepal Majdur Kishan Party	127	1
10.	Sadbhawana Party	133	1
11.	Tari Madhes Sadbhawana Party	74	1
12.	Communist Party of Nepal ML	154	0
13.	Churebhawar Loktantrik Party	11	0
14.	Nepal Janbhawana Party	1	0
15.	Khas Samaweshi Rashtriya Party	44	0
16.	Churebhawar Rashtriya Ekta Party Nepal	11	0
17.	Rashtriya Madhes Samajwadi Party	10	0
18.	Rashtriya Laktontrik Yuva Party	3	0
19.	Khambawan Rashtriya Morcha Nepal	26	0
20.	Nepal Rashtriya Yatayat Vikas Dal	1	0
21.	Nepal Sadbhawana Party (United)	28	0
22.	Nepal Shanti Kshetra Parishad	4	0
23.	Nepal Yuva Kishan Party	18	0
24.	Rashtriya Yatharthawadi Party Nepal	23	0
25.	Rashtriya Prajatantra Party Nepal	238	0
26.	New Nepal Nirman Party	22	0
27.	Madhes Janadhikar Forum Madhes	22	0
28.	Janjagarn Party Nepal	27	0
29.	Rashtriya Jan Morcha	135	0

30.	Nepal Sadbhawana Party (Gajendra wadi)	16	0
31.	Nepal Samajwadi Party (Lohiyawadi)	8	0
32.	Naya Nepal Rashtriya Party	1	0
33.	Sanghiya Gantrantik Samajwadi Party Nepal	63	0
34.	Tharuhat Terai Party Nepal	43	0
35.	Hariyali Nepal Party	17	0
36.	Rashtriya Janmukhi Party	144	0
37.	Madhesi Jan Adhikar Forum (Gantrantik)	67	0
38.	Nepal Labour Party	26	0
39.	Loktantrik Janta Party Nepal	7	0
40.	Deshbhakta Paryawaraniya Samajik (Depsa) Morcha	6	0
41.	Samyukta Rashtravadi Morcha Nepal	17	0
42.	Terai Madhes Pahad Himal Ekta Party	37	0
43.	Samajwadi Janta Party	40	0
44.	Nepal Rashtriya Seva Dal	4	0
45.	Nepal Rashtriya Vikas Party	5	0
46.	Nepal Nyak Dal	2	0
47.	Sanghiya Loktantrik Rashtriya Manch (Tharuhat)	11	0
48.	Nepali Janta Dal	38	0
49.	Liberal Democratic Party	12	0
50.	Janta Dal Nepal	5	0
51.	Limbuwan Mukti Morcha	5	0
52.	Nepal Nagrik Party	11	0
53.	Matribhumi Nepal Dal	10	0
54.	Deshbakti Samaj Dal	12	0
55.	Rashtriya Janta Dal Nepal	47	0
56.	Nepal Sadbhawana Party	79	0
57.	Akhand Nepal Party	105	0
58.	Nepal Pariwar Dal	180	0
59.	Nepal Samaweshi Party	5	0
60.	Nepal Janta party	35	0
61.	Madhes Samta Party Nepal	19	0
62.	Communist Party of Nepal	60	0
63.	Akhand Sudurpachim party Nepal	14	0
64.	Nepal Jansamaweshi Ekta Party	5	0

65.	Lok Dal	13	0
66.	Rashtriya Nagarik Party	9	0
67.	Janta Party Nepal	44	0
68.	Janta Dal United	9	0
69.	Communist Party of Nepal (UML Socialist)	30	0
70.	Rashtriya Mukti Andolan Nepal	6	0
71.	Mangol National Organization	36	0
72.	Rashtriya Shivsena Party	63	0
73.	Churebhawar Rashtriya Party	11	0
74.	Limbuwan Mukti Morcha Nepal	21	0
75.	Nepal Rashtriya Party	14	0
76.	United Green Organization	4	0
77.	Janta Dal Loktantrik Party	17	0
78.	Federal Sanghiya Samawesi Samajwadi Party Nepal	3	0
79.	Jantantrik Terai Madhes Mukti Tiger	39	0
80.	Rashtriya Churebhawar Party	18	0
81.	Rashtriya Swabhiman Party Nepal	31	0
82.	Om Sena Nepal	2	0
83.	Social Republican Party	25	0
84.	Shiv Sena Nepal	81	0
85.	Nepal Gaurawshali Party	4	0
86.	Rashtrawadi Ekta Party	14	0
87.	Rashtriya Janvikas Party	3	0
88.	Communist Party of Nepal (United)	72	0
89.	Garib Ekta Samaj Party	3	0
90.	Jan Morcha Nepal	30	0
91.	Nepal Loktantrik Samajwadi Dal	12	0
92.	Sahkari Party Nepal	8	0
93.	Pichadawarg Nishad Dalit Janjati Party	4	0
94.	Nepal Shramjivi Dal	2	0
95.	Dalit Janjati Party	80	0
96.	Tamasisling Rashtriya Janekta Party	2	0
97.	Sanghiya Samajwadi Party Nepal	185	0
98.	Janumity Cooperative party Nepal	53	0
99.	Yuva Shakti Nepal Party	1	0
100.	Rashtrawadi Janta Party	10	0

101	Loktantrik Party Nepal	8	0
102	Wishwa Satyawadi party	4	0
103	Madhes Terai Forum	39	0
104	Bahujan Samaj Party Nepal	5	0
105.	Jan Prajatantrik Party	18	0
106	Communist Party of Nepal (MLM) Samyawadi	3	0
107	Rashtriya Ekta Party	16	0
108	Rashtriya Madhes Bahujan Samajwadi Party	11	0
109	Shanti Party Nepal	21	0
110	Nepal Madhesi Janta Dal (Socialist)	2	0
111.	Nepal Ama Party	35	0
112	League Nepal Shanti Ekta Party	18	0
113.	Sanghiya Sadbhawana Party	93	0
114	Shramik Janta Party Nepal	1	0
115	Rashtriya Madesh Ekta Party Nepal	13	0
116.	Sanyukta Janmorcha	6	0
117	Hindu Prajatantrik Party Nepal	11	0
118	Sangiya Limbuwan Rajya Parishad	25	0
119.	Nepal Prajatantrik Progatishil Party	1	0
120.	Terai Pahad Himal Samaj Party	4	0
121.	Garib Janta Ko Kranti Party	1	0
	Total	6126	240

Table No II
Party wise Election Results under PR system 2013

S.No.	Political Parties	Total Votes	Seats Obtained
1.	Communist Party Nepal (UML)	2239609	84
2.	United Communist Party of Nepal (M)	1439726	54
3.	Rashtriya Prajatantra Party Nepal	1439726	24
4.	Nepali Congress	2418370	91
5.	Communist Party of Nepal (ML)	130300	5
6.	Terai Madhes Loktantrik Party	181140	7
7.	Sadhvabana Party	133271	5
8.	Rashtriya Prajantra Party	260234	10
9.	Madhesi Janadhikar Forum Nepal-Democratic	27987	10
10.	Sanghiya Loktantrik Rashtriya Manch (Tharuhat)	21128	1
11.	Nepal Pariwar Dal	51823	2
12.	Rashtriya Janmukti Party	63834	2
13.	Samajwadi Janta Party	21624	1
14.	Madhesh Janadhikar Forum Nepal	214319	8
15.	Rashtriya Janamorcha	92387	3
16.	Communist Party of Nepal (United)	91997	3
17.	Nepal Janta Dal	33203	1
18.	Nepal Workers Peasanta Party	66778	3
19.	Nepal Democratic Socialist Party	10359	0
20.	Churebhawar Rashtriya Ekta Party Nepal	7975	0
21.	Janta Dal United	5396	0
22.	Nab Nepal Nirman Party	8119	0
23.	Dalit Janjati party	48802	2
24.	Terai Madhes Sadhbawana Party Nepal	62746	2
25.	Madhes Janadhikar Forum (Democratic)	33982	1
26.	Nepal: Rashtriya Party	28011	1
27.	Sanghiya Sadbhawana Party	25215	1
28.	Nepal Nagrik Party	4861	0
29.	Jan Prajatantrik Party	8645	0
30.	Rashtriya Madhes Samajwadi	79508	3

	Party		
31.	Khambuwan Rashtriya Morcha Nepal	30686	1
32.	Rashtriya Swabhimani Party Nepal	11270	0
33.	Jan Unity Cooperative Party Nepal	4066	0
34.	Khas Samawashi Rashtriya Party	15225	0
35.	Nepal Rashtriya Vikas Party	3373	0
36.	Akhand Nepal Party	36883	0
37.	Communist Party of Nepal	18140	0
38.	Liberal Democratic Party	3721	0
39.	Madhes Terai Forum	11286	0
40.	Nepal Nyaik Dal	2379	0
41.	Janta Party Nepal	3595	0
42.	Churebhawar Loktantrik Party	5085	0
43.	Sanyukta Rashtrawadi Morcha Nepal	5225	0
44.	Rashtriya Madhes Bahujan Samajwadi Party	5301	0
45.	Magol National Organization	8215	0
46.	Nepal Gauravshali Party	3388	0
47.	Tharuhat Terai party Nepal	62526	2
48.	Rashtriya Nagarik Party	4668	0
49.	Rashtriya Shiwsena Party	5371	0
50.	Akand Sudupachim Party Nepal	12334	0
51.	Sanghiya Gantantrik Samajwadi Party Nepal	18661	0
52.	Rashtriya Yathathwadi party Nepal	5504	0
53.	Sanghiya Samajwadi party Nepal	121275	5
54.	Terai Madhes Pahad Himal Ekta Party	12466	0
55.	Jantantrik Terai Madhes Mukti Tiger	4370	0
56.	Limbuwan Mukti Morcha	3745	0
57.	Shanti Party Nepal	6032	0
58.	Janjagaran Party Nepal	27397	1
59.	Loktantrik Janta Party Nepal	1729	0
60.	Nepal Samaweshi Party	3552	0
61.	Sanghiya Samaweshi Samajbadi Party Nepal	5978	0
62.	Socialist Republican Party	3360	0

63.	Pichadawarg Nishad Dalit Janjati Party	8332	0
64	Janmorcha Nepal	3181	0
65	Nepal Jansamawesh Ekta Party	3674	0
66	Rashtriya Janta Dal Nepal	6097	0
67.	Vishwa Satyawadi Party	666	0
68.	Hariyali Nepal Party	1927	0
69.	Madhes Samta party Nepal	23001	1
70.	Garib Ekta Samaj Party Nepal	5859	0
71.	Limbuwan Mukti Morcha Nepal	2844	0
72.	Matrabhumi Nepal Dal	3099	0
73.	Nepal Ganetantrik Ekta Party	7178	0
74	Nepal Janta Party	15650	0
75	Rashtriya Madhes Ekta Party Nepal	2031	0
76.	Nepal Rashtriya Yatayat Vikas Dal	2952	0
77	Desh Bhakta Paryawaraniya Samajik (Depsa) Morcha	3293	0
78.	Rashtriya Jan Vikas Party	3102	0
79	Madhesi Janadhikar Forum Madhes	5814	0
80	Sanyukta Janmorcha	2225	0
81	Nepal Sadbhawana Party (Gajendrawadi)	5824	0
82.	Nepal Ama party	5491	0
83	Nepal Janta Party	996	0
84	Sanghiya Limbuwan Rajya Parishad	7063	0
85	Nepal Rashtriya Seva Dal	3127	0
86	Sahkari Party Nepal	6141	0
87	Nepal Yuva Kishan Party	16204	0
88	Shramik Janta Party Nepal	2034	0
89	League Nepal Shanti Ekta Party	1813	0
90	Nepal Janbhawana Party	2539	0
91	Nepal Samajwadi Party (Lohiyawadi)	2753	0
92	Janta Dal Nepal	10645	0
93	Nepal Madhesi Janta Dal (Samajwadi)	1902	0
94	Om Sena Nepal	2011	0
95	Bahujan Samaj Party Nepal	4522	0
96	Terai Pahad Himal Samaj Party	1697	0
97	Shiv Sena Nepal	8416	0

98	Yuva Shakti Nepal Party	1820	0
99	Rashtrawadi Ekta Party	1905	0
100	Tamangseiling Rashtriya Jan Ekta Party	1308	0
101	Rashtriya Mukti Andolan Nepal	5216	0
102	Lok Dal	10953	0
103	Rashtrawadi Janta Party	2505	0
104	Nepal Labour Party	4837	0
105	Naya Nepal Rashtriya Party	5140	0
106	Sanghiya Vikaswadi party Nepal	2652	0
107	Churebhawar Rashtriya Party	4650	0
108	Nepal Communist Party (MLM) Samyawadi	7757	0
109	Rashtriya Loktrantra Yuva Party	1191	0
110	Nepal Shanti Kshetra Parishad	7757	0
111	Janta Dal Loktantrik Party	10018	0
112	Loktantrik Party Nepal	3107	0
113	Deshbhakta Samaj	3866	0
114	Naya Sanghiyata Jandharana party	3007	0
115	Hindu Prajatantrik Party Nepal	4215	0
116	Rashtriya Ekta Party	3364	0
117	Nepal Shramjivi Dal	1891	0
118	United Green Organization	3229	0
119	Rashtriya Churebhawar party	3484	0
120	Communist Party of Nepal (UML-Samajwadi)	3661	0
121	Nepal Sadbhawana Party	15578	0
122	Nepal Sadbhawana Party (United)	4578	0
	Total	9563862	335

Table No III
District wise Winning Parties 2013

S.N.	District	No. of Constituencies	NC	CPN(UML)	UCPN(M)	RPP	MJM(N)	MJD (D)	SP
1	Taplejung	2		2	-				
2	Panchthar	2	1	1	-				
3.	Illam	3	1	2	-				
4.	Jhapa	7	3	4	-				
5.	Sankhuwasabha	2	2	-	-				
6.	Teharhum	1	-	1	-				
7.	Bhojpur	2	-	2	-	1			
8.	Dhankuta	2		1		1			
9.	Morang	9	1						
10	Sunsari	6		3					
11	Solukhumbu	1	1						
12	Khotang	2		2					
13	Qkhalbunga	2	1	1					
14	Udaypur	2	1	1					
15	Saptari	6	2	1	3				
16	Sirha	6	4	1	1				
17	Dolkha	2		2	1				
18	Ramechhap	2	1		1				
19	Sindhuli	3	1	1	1				
20	Dhanusha	7	5	1	-				
21	Mahottari	6	2	2	1				
22	Sarlahi	6	2	1	1	1	1		
23.	Rasuwa	1		1					
24.	Dhading	3		3					
25.	Nauwakat	3	3						
26.	Kathmandu	10	7	3					
27.	Bhaktpur	2	1						
28.	Lalitpur	3	3						
29.	Kavrepalanchouk	4	2	2					
30.	Sindhupalechouk	3	1	4	1				
31.	Makwanpur	3		3					
32.	Rauthat	6	1	2	2		1		
33.	Bara	6	3	3					
34.	Parsa	5	2	3				1	
35.	Chitwan	5	2	2					
36.	Gorkha	3		3					
37.	Manang	1	1						
S.									
38.	Lanjudung	2	1	1					
39.	Kaski	4	2	2					
40.	Tanahu	3	2	1					
41.	Syangja	3	2	1					
42.	Gulmi	3	2	1					
43.	Palpa	3	1	2					

44	Argakhanchi	2		1	1				
45.	Nawalparasi	6	3	3					
46	Rupandehi	7	3	1	1		2		
47	Kapilbastau	5	1	1			1	1	1
48	Mustang	1	1						
49.	Myagdi	1	1						
50.	Baglung	3	3						
51.	Parbat	2	1	1					
52.	Rukum	2			2				
53.	Rolpa	2			2				
54	Pyuthan	2	2						
55.	Salyan	2	1	1					
56.	Dang	5	5						
57.	Dolpa	1			1				
58.	Mugu	1			1				
59.	Jumla	1	1						
60.	Kalikot	1			1				
61.	Hunla	1	1						
62.	Jajarkot	2	1		1				
63.	Dalekh	2		2					
64.	Surkhet	3	3						
65.	Banke	4	1	3					
66.	Bardia	4	1	1	2				
67.	Bajura	1		1					
68.	Acham	2		2					
69.	Bajhang	2	2						
70.	Doti	2	1	1					
71.	Kailai	6	2	1	1		2		
72.	Darchula	1		1					
73.	Baitadi	2	1	1					
74	Dadeldhura	1	1						
75.	Kanchanpur	4	4						

S.N.	District	TMSP-N	TMLP	NKMP	MJM-D	INDEPENDENTS
1	Taplejung					
2	Panchthar					
3.	Illam					
4.	Jhapa					
5.	Sankhuwasabha					
6.	Teharhum					
7.	Bhojpur					
8.	Dhankuta					
9.	Morang					
10	Sunsari					
11	Solukhumbu					
12	Khotang					
13	Qkhaldunga					
14	Udaypur					
15	Saptari					
16	Sirha					
17	Dolkha					
18	Ramechhap					
19	Sindhuli					
20	Dhanusha					
21	Mahottari					1
22	Sarlahi	1	1			
23.	Rasuwa					
24.	Dhading					
25.	Nauwakat					
26.	Kathmandu					
27.	Bhaktpur					
28.	Lalitpur					
29.	Kavrepalanchouk					
30.	Sindhupalechouk					
31.	Makwanpur					
32.	Rauthat					
33.	Bara					
34.	Parsa					
35.	Chitwan					
36.	Gorkha					
37.	Manang					
S.N.	District					
38.	Lanjung					
39.	Kaski					
40.	Tanahu					
41.	Syangja					
42.	Gulmi					
43.	Palpa					
44	Argakhanchi					
45.	Nawalparasi					
46	Rupandehi		2			
47	Kapilbastau		1			
	1					
48	Mustang					
49.	Myagdi					
50.	Baglung					

51.	Parbat	
52.	Rukum	
53.	Rolpa	
54.	Pyuthan	
55.	Salyan	
56.	Dang	
57.	Dolpa	
58.	Mugu	
59.	Jumla	
60.	Kalikot	
61.	Hunla	
62.	Jajarkot	
63.	Dalekh	
64.	Surkhet	
65.	Banke	
66.	Bardia	
67.	Bajura	
68.	Acham	
69.	Bajhang	
70.	Doti	
71.	Kailai	2
72.	Darchula	
73.	Baitadi	
74.	Dadeldhura	
75.	Kanchanpur	

Chapter-V

The Constituent Assembly 2013 Elections: An Assessment

The promulgation of a constitution under the auspices of a duly elected Constituent Assembly is the most ideal and widely accepted way of moving on the path to democracy and political stability as well as realizing the aspirations of the people and protecting and promoting their basic rights. The constitution promulgated by a representative body of the people of a country is expected to provide a legal framework for the realization of the popular needs and aspirations through democratic governance and in contemporary sense good governance. It has indeed been a practice in the case of most of the successful democracies of the world.

In the case of the South Asian countries, the framing of a constitution by an elected body has been a distant dream except in India, where strong bases of constitutionalism were laid down by the Constituent Assembly. But elsewhere in the region, a constitution has generally been viewed as a source of legitimacy to the political regimes. Therefore, in many cases as happened in Pakistan, Bangladesh, Nepal and Sri Lanka to some extent, ruling parties or the individual rulers have tried to adopt a new constitution or amend the earlier constitution drastically so as to suit their interests. Thus, constitutional instability in these countries has been a corollary to political and democratic instability.

Nepal has not been an exception to this situation prevailing elsewhere in South Asia. Nepal's first constitution framed by a Rana Prime Minister in 1948 was never promulgated. In 1951, the country promulgated an interim constitution framed by a constitution making committee. It was expected that this interim constitution will be replaced by a permanent constitution in a short time. But it took a long time and a new constitution could be promulgated only in 1958. This constitution was suspended with the royal coup by King Mahendra after abrogating the parliamentary democracy, and was replaced by the Panchayat Constitution in 1962. The Panchayat Constitution was in no case a democratic constitution. It only proved to be a source of supreme political authority of the monarchy under the cover of a democratic system.

The 1990 constitution though again framed by a committee constituted by the King for this purpose, was broad based in comparison to earlier constitutions.

But the political instability, popular unrest and insurgency led to its failure. The interim constitution of 2007, an outcome of the post 2006 polarization of political forces independent of the monarchic hangovers, for the first time proposed for a new constitution to be framed by a popularly elected Constituent Assembly. The demand for a Constituent Assembly was put forward by the Maoists during insurgency and it was later on accepted by the Seven Party Alliance. In fact, one may note that the communists of Nepal had raised the demand for framing a constitution by a duly elected Constituent Assembly as early as 1950. But it was never conceded by the government.

It is clear that the 2008 Constituent Assembly elections were held after intensive pressure from the Maoists. It is not clear why the democratic political parties had not whole heartedly supported the idea of the Constituent Assembly. Whether they were not certain about their victory in the CA? Whether they were not mentally prepared for the restructuring of the Nepali state as proposed by the Maoists or is it that they wanted to frame a new constitution as per past traditions? Whatever may be the reasons, the fact remains that the structure of the 2008 Constituent Assembly was somewhat complicated. In respect to the provisions of the interim constitution to take decisions about provisions of the new constitutions by two-third majority of the House, the structure of the CA was hardly conducive. The Maoists emerged as the largest party in the Constituent Assembly. But the unfortunate part was that none could gain a majority.

What took the Maoists to victory in 2008 through the process of multi-party democracy is a significant issue here. In a very little time of two years, the Maoists had moved from an underground insurgent group to the largest political party in the Constituent Assembly. The Maoists had performed much better than a political party like Nepali Congress that has been an organization of long standing in Nepalese politics. Almost similar was the case with the United Marxist Leninist party that was claiming to be the real proponent of the Communist ideology in Nepal. What contributed to the success of the Maoists in 2008? This is important here in order to understand their poor performance in 2013.

In 2006, the Maoists took a 'U' turn and decided to join mainstream politics. They began to support the constitutional-democratic path for the political transformation in Nepal as per their designs of restructuring the country. There were many who did not believe that such a fundamental change was taking

place in the Maoist strategy. Once the Maoists joined mainstream politics, they made all out efforts to realize their political goals. Despite the fact that only two years before they were indulging in guerrilla war, they succeeded in creating a positive image of their own. There were certain reasons behind it.

The Maoists were very clear about their political goals since the beginning. They were committed to the abolition of monarchy and declaring Nepal a federal republic; a new constitution for Nepal prepared by the Constituent Assembly and a secular state and inclusive democracy. In peace talks with the government earlier, they did not compromise over any of these demands. After joining the mainstream politics in 2006, they constantly pleaded for these goals and saw to it that the Seven Party Political Alliance agrees to work jointly for the realization of these objectives and that they become the common goals of the democratic forces. In contrast to the Maoists, even the political parties like Nepali Congress, UML, etc were not clear over these issues. Some of the leaders even gave contradictory statements over the future of monarchy, etc. So clear perception and attitude of the Maoists helped them. In fact, it is quite possible that the refusal to retain the Hindu character of the country, and perhaps a Constitutional Monarchy, were changes that the people at large were not ready for.

1. Initially the Communist Party of Nepal (Maoist) was not plagued with the kind of internal dissensions and factionalism that the other political parties have faced since the outset. There was internal democracy within the party in comparison to the other political parties. Some differences had cropped up within the party during 2004 but they were resolved. The Maoist party also has a strong ideological commitment, which the other political parties have lacked. This perception of the Maoist party prevailed almost till the 2008 election was held and as such they had a better public image.
2. The Maoists also had the benefit of having a strong organizational structure and dedicated cadres. It helped them in launching an organized election campaign. The mobilization capacity of the Maoists has been well recognized. Their electoral campaign was much organized and well targeted.
3. The Maoists did not ignore any section of the society and tried to take all the communities and regions with them. They particularly concentrated on the deprived sections of the society like lower caste people, tribal

communities of Terai, Dalits, ethnic groups, etc. It may be pointed out here that earlier most of the political parties had ignored these groups. Similarly women and youth became a significant part of the Maoist support base. The Maoists not only gave tickets to the leaders of these segments but also sought their active support.

4. One another advantage for the Maoists was that they worked in certain areas for years and years. A number of Maoist leaders carried underground activities in the mid-western region of Nepal and created their strong bases in this region. There are a number of districts in the mid-western and far western region where no other party except the Maoists could capture a single seat. It clearly indicated that the Maoists had groomed these areas. Rukum, Rolpa, Dolpa, Salyan, etc are the areas where the Maoists made a clean sweep. The other political parties did not have such an advantage.

Though the CPN Maoist formed the government after the election with support from other smaller parties, the consensus model that was taking shape during and after 2006, failed in the 2008 election. The Maoists as the largest party and main proponent of the idea of restructuring of the state found themselves in a complex situation due to the rise of issues of rehabilitation and management, ethnicity, identity, inclusive democracy and so on. But they tried to maintain their stand on all these issues. It was in the period after Prachanda resigned from the government that the party began to show an ambiguous attitude towards some of these issues. The party had to pay for it in due course.

II

The CPN-UML which had once claimed to be the biggest proponent of the communist movement in the country was now struggling for its identity. The party got opportunity to form coalition government twice but it could hardly make any efforts towards mobilizing the Constituent Assembly. The Nepali Congress which was shocked by its defeat in the election took a back seat and began to follow a cool attitude towards the issues of vital importance in the framing of the constitution. The regional political parties though much enthusiastic due to their better position in the CA, had a narrow outlook. They were concerned more about the identity and integrity of Terai in the upcoming structure of state in Nepal. The Terai based political parties were concerned

about the unity of the Terai region, while the Maoists plan of federal Nepal had bifurcated Terai. This added to the complexities in the Constituent Assembly.

It may again be pointed out here that the CPN-Maoist, once it came to power, was encircled by many of its own creations; the question of rehabilitation of the Maoist army, arms management, inclusive democracy, federal issues started becoming sources of tensions and conflicts. Moreover, the party also appeared to be deviating on many issues. The leadership clashes became prominent within the party. On the whole, the CPN-Maoist failed in carrying forward the goals that it had formulated. Once Prachanda resigned from the government, it led to governmental and political instability, leading to the ineffectiveness of the Constituent Assembly.

III

The 2013 Constituent Assembly apparently seems to be a replica of the 2008 CA, in the limited sense that it too returned a fractured mandate. An important issue is that the Maoists lost the 2013 election quite badly. In fact, as mentioned above, the party had undergone several changes in a short period. There were sharp internal factions and leadership conflicts. The delays in the resolution of the question of rehabilitation had become a bone of contention. There was dissatisfaction among cadres and that way it was losing a dedicated cadre. The party supremo, Prachanda, had become a source of criticism within the party for his changing approach and attitude, particularly by the hardliners within the party. These reasons may be categorized further specifically as following:

1. The call for boycott of elections by the thirty three party alliances, most of whom had been their close associates.
2. The party failed in persuading Mohan Baidya to withdraw the poll boycott call.
3. Leadership clash between two top ranking party leaders.
4. Role and attitude of Prachanda, which had appeared to be contradictory on many occasions.
5. The delays and contradictory approaches in the resolution of rehabilitation of Maoist combatants and arms management.
6. Failure in addressing the problems of human rights of those who were affected during the insurgency.
7. Prachanda's conflict with the army chief also carried a bad name for the party.

8. Too much emphasis on rehabilitation issue and ignoring atrocities faced by masses during insurgency.
9. Policy differences among party leaders on internal and external issues.

On the whole, it can be said that the UCPN-Maoist party failed in further consolidating its position.

The Nepali Congress was not much active in the erstwhile Constituent Assembly. The party had followed a rather non-cooperative attitude. The party did not have a strong leader after the demise of G.P. Koirala. The party had not taken a very clear stand on the issues of restructuring the state, particularly federalism. The party was more worried and concerned about its own future.

However, it has emerged as the largest party in the CA. whether the position of the Nepali Congress has got enhanced largely because of the disillusionment of the people with the UCPN-Maoists is a moot question. But the fact remains that the party too has failed in securing majority in the House. The reasons may be its role and attitude in the past, lack of clarity on important issues, internal differences and clashes, weak leadership and weak organizational base.

The CPN-UML also could not do any better. The people of Terai also lost hope on the regional parties. Actually in the Terai, a large number of splinter groups emerged in the post 2007 period. These have been basically dissenting groups of their parent party. They seem to be more interested in promoting their own political interests under the garb of promoting the cause of Madhesi people. Thus, voters at large lost their hopes on the Madhesi parties this time.

IV

On the whole, it is a fractured verdict and all the political parties find themselves in a complex situation. How the cause of constitution making will be taken further is difficult to assume at the movement.

The following are the controversial issues for the Constituent Assembly to resolve:-

1. Elections of President and Vice President. One may note here that the CPN –M has argued that a fresh election is a must. But the Supreme Court has recently resolved that a fresh election is not required.
2. Deciding upon the basis of federalism.

3. The question of Dalits and minorities, particularly in terms of reservation policy etc.
4. Formation of various committees of CA particularly the Drafting Committee.
5. Inclusive democracy.
6. Completion of rehabilitation and peace process.

The Constituent Assembly also has to address itself to the issues of land reforms, human rights, social transformation and economic development. In the context of the structure of the new Constituent Assembly, a strong cooperation between the three major political parties is the only way out. The CPN-M became suddenly very critical of the election process and declared that it would not accept the verdict as there were manipulations. Actually Prachanda might not have thought of such a defeat in the election.

The party wants its stranglehold in the important committees. It is quite likely that the party would adopt a policy of pressure and bargaining in the Constituent Assembly. The party has given clear indications in this regard. Therefore much would depend up on the cooperation between the Nepali Congress and the CPN-UML party. It is not an easy task for the two to enter into a coalition if the two do not rise above party politics. The constitution has to be framed in a year's time as stated by all the parties. Much would depend on the perception and role of the Nepali Congress in bringing different forces together. The Nepali Congress has been closely associated with the success and failures of democracy in the country since its birth. People have hopes from the party. The UCPN-Maoist failed in bringing various parties and groups together. Will the Nepali Congress succeed is a moot question? The success of CA-II will depend on two factors:

- 1- Strong cooperative attitude among the political parties.
- 2- National consensus on the main issues of the constitution.

The political transition in Nepal has reached a critical point. The delaying tactics, power politics and non cooperative postures of the political parties and leaders may prove to be disastrous for the country. Only time will tell as to what extent the political elite, the parties, the leaders and the civil society have learned from the immediate past.

Lastly, one would like to emphasize that political stability and democracy is critical to development and distributive justice. The foundation of a successful democracy is a well conceived constitution based on certain forward looking approaches. The Constituent Assembly-11 has a very critical task to perform. The future of democracy and stability in the country rests upon its timely engagement with the framing of the constitution.

Image Source: <http://www.southasianmedia.net>

Suggested Readings

1. Hengen Susan, : **The Rise of Ethnic Politics in Nepal, Democracy in the Margins**, Routledge, London, 2012.
2. Pakharel Bhoj Raj & Shrishti Rana : **Nepal Votes for Peace**, Foundation Books, Delhi, 2013.
3. Saurabh & Chaudhary : **Constitutional Evolution in Nepal**, Pentagon Press, New Delhi, 2012.
4. Poudel Bishnu P. & Jha Hari Bansh (eds.) : **The New Dynamics of Conflict in Nepal**, CNAS, Kathmandu, 2009.
5. Baral Lok Raj (ed.) : **Nepal: Facets of Maoist Insurgency**, ADRDIT, Delhi, 2006
6. Hathhethu Krishma : **State Building in Nepal**, Enabling State Programme, Kathmandu, 2009
7. Baral Lok Raj (ed.) : **Nepal: New Frontiers of Restructuring of State**, ADDOIT, New Delhi, 2008
8. Hachhellu Krishna : **Nepal in Transition: A Study on the State of Democracy**, International IDEA, Stockholm, 2008
9. NEMA, : **Constituent Assembly Election 2008: Observation Report**, Kathmandu, 2008.
10. Mathima Kalyan Bhakta, : **Madheshi Uprising, the Resurgence of Ethnicity**, Mandala Book Point, Kathmandu, 2009.
11. Maharajan Pancha N. : **Building Peace for Building Democracy**, CNAS, Kathmandu, 2013
12. Hattebakk Magus & Ringdal Charlotte : **The Economic and Social Basis for State-Restructuring in Nepal**, Himal Books, Kathmandu, 2013.
13. Pyakurel Uddhab P. : **Maoist Movement in Nepal: A Sociological Perspective**, ADROIT, New Delhi, 2007.
14. Upreti B.C. & Pyakurel Uddhab P. (eds) : **Contemporary Nepal**, Kalinga Publications, Delhi, 2012.

- 15 Upreti B.C., : **Maoist in Nepal: From Insurgency to Political Mainstream**, Kalpaz, New Delhi, 2008.
- 16 Upreti B.C. : **Nepal, Democracy at Cross Roads: Post 1990 Dynamics, Issues and Challenges**, Kanishka Publishers, New Delhi, 2007.
- 17 Upreti B.C. : **Nepal, Transition to Democratic Republican State**, Kalpaz, New Delhi, 2010.
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