



Constituent Assembly Obstruction Ends

Bhuwan KC/Tilak Pathak

Published date: November 4, 2014

After a written agreement among the main three parties, Nepali Congress, CPN (UML), and UCPN (M), the obstruction of legislature-parliament was removed. This created an environment to pass the budget and closed the gap between the parties for constitution-drafting process. However, there was no consensus among the political parties on the main issues. While there was no sign of any consensus, ruling coalition partners Congress and UML focused on preparing party-wise and common concepts on the main issues and the opposition parties started protests. Even though the Political Committee was active for concluding the remaining peace process, there was no expected outcome, which further impeded constitution-drafting process.

Parliament Runs Following Agreement

The legislature-parliament had been obstructed after the opposition had been demanding implementation of the past agreements. Due to the failure of various rounds of talks between the parties, even the budget had not been passed. As the dispute was continuing between the ruling coalition and the opposition parties, Prime Minister Sushil Koirala and UCPN (M) chairperson Pushpa Kamal Dahal held discussion on resuming the parliament. In the next meeting, there was a 5-point agreement among Congress, UML, and UCPN (M), including formation of a political committee. In the agreement, it was agreed that the committee would comprise of leaders from Congress, UML, UCPN (M), and Tarai-Madhes-centred parties and it would be chaired by UCPN (M) chairperson Dahal for the first two months; the committee also work for concluding the remaining issues of the peace process and developing mutual understanding among the political parties; the agreement also provided compensation of NRs two hundred thousand each to the families of killed in the armed conflict and people's movement as well those killed in the past year.¹ Some of the UML Constituent Assembly members had opposed the agreement. UML Constituent Assembly member had raised the question in the parliamentary meeting of the party as to why UCPN (M) again was given the benefit.² The parliament resumed after the agreement and budget session was held. The October 19 meeting of the legislature-parliament passed the budget for 2014/15.

Political Committee Becomes Active

UCPN (M) chairperson Dahal was encouraged after the Political Committee was formed with him as its coordinator, and he expressed his belief that the constitution-drafting process would pick up steam,³ and it became active. After it was tasked with completing the peace process and creating understanding among the parties for constitution-drafting, its coordinator Dahal increased his

¹ The agreement between Congress, CPN (UML), and UCPN (M) was signed on October 8, 2014

² *Sharp opposition in UML*. October 10, 2014. The Annapurna Post, p1.

³ *Constitution-drafting will pick up steam: Dahal*. Retrieved November 3, 2014 from <http://setopati.com/raajneeti/18522/>

meetings. He met UML chairperson KP Sharma Oli, senior Congress leader Sher Bahadur Deuba, general secretary Krishna Prasad Sitaula, and Madhesi Janadhikar Forum chairperson Upendra Yadav separately. Dahal claimed that he had increased his formal and informal meetings to seek consensus among the parties to promulgate the constitution by January 22.⁴ He also claimed that if there was agreement on federation, there would be agreement on other issues immediately. Prime Minister Sushil Koirala hesitated to attend the committee meetings. Prime minister had decided not to attend the meetings after criticism from within the party for attending a meeting led by an opposition party.⁵

As he had declared protest programmes and continuing talks for consensus, UML leader Pradeep Gyawali accused Prachanda of taking on double role and warned that unless he withdrew protest, he (Gyawali) would not be part of the mechanism.⁶ Chairperson of Rastriya Janamorchha Chitra Bahadur KC stated that a mechanism outside the constitutional provisions would only weaken the legislature-parliament and such a mechanism was neither necessary and nor appropriate.⁷

Failure at Consensus Again

After the deadline of Constitutional Political Dialogue and Consensus Committee was extended, the issues of the constitution were discussed. Congress and UML proposed their common concept with UCPN (M). On October 5, Congress, UML, and UCPN (M) discussed about state restructuring and form of government. The Dialogue Committee called for an all-party meeting. After no consensus among the political parties was reached in the meeting, Committee chairperson submitted its report to the Constituent Assembly.

Committee chairperson Bhattarai said in the Constituent Assembly, 'Means cannot be used in all issues and neither can be procedures/process. Democracy will be complete when the issues and means go together. Democracy is also a rule of majority. Issues should be decided without destroying the essence. Therefore, there should be sufficient agreement among the main stakeholders on the main issues'.⁸ Then the dispute arose among the parties on whether to move forward through consensus or follow procedures. UCPN (M) parliamentary party meeting concluded that constitution should be drafted based on consensus rather by following procedures. The meeting of UML parliamentary party on October 9 stressed on promulgating the constitution on January 22 even by following procedures if there was no consensus. Committee chairperson Bhattarai met Prime Minister Sushil Koirala and urged him to bring a proposal acceptable to all.

⁴ *Dahal increases his meetings for political consensus*. Retrieved November 2, 2014 from <http://setopati.com/raajneeti/18737/>

⁵ *Prime minister not to be a member of the committee*. Retrieved November 3, 2014 from <http://www.ekantipur.com/np/2071/6/26/full-story/396946.html>

⁶ *Unless Prachanda withdraws protests, we will not be part of the mechanism: UML*. Retrieved November 3, 2014 from <http://setopati.com/raajneeti/18649/>

⁷ *Janamorchha opposes formation of mechanism*. Retrieved November 3, 2014 from <http://setopati.com/raajneeti/18575/>

⁸ *Baburam said: Not the time to lose courage*. Retrieved November 3, 2014 from <http://www.newsvitta.com.np/बाबुरामले-भने-हिम्मत-हार/>

Also, after the discussion on the Committee report in the Constituent Assembly, its deadline was extended until October 16 to find consensus.

Then the Committee had a meeting, where there was consensus on election of the president and vice-president within one month of promulgation of the constitution. The political parties started on bilateral and trilateral dialogues. The main three parties reached a conclusion to follow the procedures if there was no consensus on major issues.⁹ After there appeared no consensus despite discussions, Committee chairperson Bhattarai asked the main parties to submit their views on the disputed issues. Commenting on the discussions of the parties, Congress leader Man Mohan Bhattarai stated that at this rate there would not only be a constitution by January 22 but even the draft would not be ready.¹⁰

Then Dialogue Committee chairperson Bhattarai held a meeting for decisive talks at Gokarna Resort on October 16 and 17. Though there was discussion on judicial system, federation, judiciary and other issues, there was no agreement. Then the parties prepared to ask for additional time to seek a consensus. The meeting on October 18 of Congress, UML, and UCPN (M) also discussed amending the Constituent Assembly timetable to promulgate the constitution on January 22. Dialogue Committee chairperson Bhattarai submitted its report to the Constituent Assembly on October 19. Bhattarai suggested amending the timetable for promulgating the constitution on January 22. The next meeting of the Constituent Assembly extended the Committee's deadline for the third and final time for seeking consensus until November 1. It also directed the Committee to submit its report with a questionnaire if there was no consensus.

Then the leaders started discussions again. They held discussions at the Gokarna Resort again. The two-day discussion remained limited to talks only. The residential talks became worthless after the parties stuck to their stances on state restructuring.¹¹ The issue of government also got priority in the decisive talks organized by the Dialogue Committee. The attempts to find a consensus on the disputed issues of the constitution were overshadowed after discussions focused on dividing the main five functions of government, the president, vice-president, prime minister, parliamentary speaker and deputy speaker.¹² Then Dialogue Committee chairperson Bhattarai met UML chairperson KP Sharma Oli and Prime Minister Sushil Koirala separately and urged them to remove the differences in the disputed issues of the constitution.

Dialogue Committee chairperson held discussions about judicial systems with judges and elections with the Election Commission. Judges suggested not establishing a constitutional court and the Election Commissioner suggested a mixed-member-proportional elections system. Then UML and UCPN (M) held discussions on state restructuring. In the meeting, UML proposed a four-state model that included mountains and the Tarai. The next meeting of UCPN (M) standing committee

⁹ *Three parties ready to follow procedures*. October 16, 2014. The Nagarik, p1.

¹⁰ At this rate, not only constitution on January 22, but even the draft won't be ready: Bhattarai. Retrieved November 1, 2014 from <http://setopati.com/raajneeti/18746/>

¹¹ *Meeting without meaning*. October 23, 2014. The Kantipur, p1.

¹² Pandey, Balram. October 28, 2014. *Decisive talks digresses*. The Nagarik, p1.

concluded that UML had backed out of federal system. Congress, UML, and UCPN (M) again held discussion on the disputed issues of the constitution. However, there was no agreement among the parties on the main issues. As the talks were going on about consensus and procedures, Dialogue Committee chairperson Bhattarai stated that consensus was needed to go even for the procedures.¹³ He also stated that complexity had arisen at the time of resolving the main issues of the constitution because some parties and leader had shown interest in ruling coalition.¹⁴

New Proposal from Congress and UML

At the time when no agreement was forthcoming despite repeated rounds of discussions among the parties, Congress and UML discussed preparing a common concept. This was in preparation for their talks with UCPN (M). In the meantime, there was a meeting of Congress parliamentary party. Congress also made public its concept on the disputed issues of the constitution, which proposed two federal models of Eastern, Eastern Tarai, Capital region, Western, Western Tarai, and Far-western states; or Sagarmatha, Janakari, Bagmati, Gandaki, Lumbini, Karnali, and Khaptad states. For form of government, it proposed executive prime minister with majority in the House of Representatives and constitutional president from Electoral College and federal parliament and state assemblies. For election system, it also proposed 175-member House of Representatives and maximum of 75-member National Assembly

In the judicial system, it proposed the Supreme Court as the court of archives, the Supreme Court as the interpreter of the constitution, and constitutional court for 10 years among others.¹⁵ It was the first time that Congress had clearly put forward its views on the disputed issues of the constitution. Then UML proposed a seven-state model based on identity and viability. A few days later, Congress and UML prepared a common concept note on the disputed issues of the constitution, which proposed Sagarmatha, Janakpur, Bagmati, Gandaki, Lumbini, Karnali, and Khaptad states.¹⁶ They had proposed seven-state model on the assumption that UCPN (M) would agree to it because Congress and UML believed that if UCPN (M) there would be more than seven states if UCPN (M) did not agree to less than 10 states.¹⁷ The Congress-UML proposal also called for executive prime minister elected from the house of representatives and constitutional president elected from an electoral college; completely proportional upper house and directly elected members in the lower house.¹⁸

Opposition towards Protests

Opposition parties became suspicious at the Congress-UML position to decide the disputed issues of the constitution through procedure if there is no consensus on them. Then the alliance of Federal

¹³ *Consensus even for procedures: Bhattarai*. Retrieved November 3, 2014 from <http://setopati.com/raajneeti/19360/>

¹⁴ *Focus on government rather than on constitution*. October 31, 2014. The Annapurna Post, p1.

¹⁵ *Nepali Congress's Views on Majors Issues of the Constitution*. October 11, 2014.

¹⁶ Adhikari, Balkrishna. October 31, 2014. *Congress-UML proposed seven states*. The Nagarik, p1.

¹⁷ Adhikari, Balkrishna. October 31, 2014. *Congress-UML proposed seven states*. The Nagarik, p1.

¹⁸ Adhikari, Balkrishna. October 31, 2014. *Congress-UML proposed seven states*. The Nagarik, p1.

Republican Front, Identity-based Federal Alliance, and Federal Democratic Alliance held their meeting. The meeting decided to hold street protest if the ruling parties went ahead with majority decision.¹⁹ The next day the alliance announced its protest programmes in a press conference, demanding federalism with identity and constitution with federalism.²⁰ The alliance announced protest programme at Maitighar on October 10; rally and public gathering in Itahari on October 13 and in Dang on October 15; and public gathering in Kathmandu on October 17. The ruling parties expressed their displeasure at this. UML leader Madhav Kumar Nepal accused the 22-party protests as suicidal and subversive.²¹

The 22-party alliance started its street protests for federal constitution with identity on October 10. The meeting of Republican Alliance decided to reject the seven-state model proposed by Congress and UML. The October 16 meeting of the 22 parties decided to stick to the 10-state model. The opposition 22 parties held a press conference and argued that the protests were justified because the ruling parties had turned towards procedures. They held a meeting on October 18 and decided to give continuity to the political pressure to stop the constitution being promulgated through procedure. After the opposition parties were organized, Congress and UML held a meeting and proceeded to bring a common concept on the disputed issues of the constitution. Then the 22-party alliance made public additional protest programmes. A meeting of UCPN (M) in the meantime stressed that any state restructuring should be based on the suggestions of the State Restructuring Commission.

Conclusion

Though Constituent Assembly chairperson Subash Chandra Nemwang, Constitutional Political Dialogue and Consensus Committee chairperson Baburam Bhattarai and others warned the continued parliamentary obstruction would have adverse effect on constitution-drafting, no one paid any heed. Similarly, despite claims that constitution-drafting being affected due to failure to form the political committee, there was no progress even after formation of the committee. The two extensions of the Constitutional Dialogue and Consensus Committee for finding a consensus also turned out to be meaningless. Despite claims of promulgating the constitution on January 22 in speeches and programmes, there was no real commitment. UCPN (M) stressed on constitution-drafting through consensus through the political committee and Dialogue Committee but at the same time started protest programmes demanding constitution with identity. Congress and UML stressed on procedure rather than seeking consensus. Despite claims of bringing the common concept for consensus among political parties, it created more distance and appeared as a bargaining chip with UCPN (M). In addition, issues of government formation crept into the discussion on constitution-drafting, which created a situation where it appeared that without an agreement on government formation, there would be no consensus on the main issues.

¹⁹ October 5, 3014. Kantipur TV.

²⁰ *Federalism with identity and constitution with federalism*. Retrieved November 3, 2014 from <http://enayapatrika.com/coverstory/10421.html>

²¹ *UCPN (M) and 22 parties protest suicidal and subversive: Nepal*. Retrieved November 2, 2014 from <http://setopati.com/raajneeti/18401/>

Major Developments

October 1

- UML vice-chairperson Bamdev Gautam informs that Congress and UML have agreed to six states.

October 2

- Prime Minister Sushil Koirala returns after participating in the 69th General Assembly of the United Nations. Expresses his belief that constitution-drafting would proceed based on consensus and unity.

October 3

- Prime Minister Sushil Koirala and UCPN (M) chairperson Pushpa Kamal Dahal discuss resuming the obstructed parliament and disputed issues of the constitution in a meeting.

October 4

- The meeting of parties to seek consensus on disputed issues of the constitution ends without any conclusion.

October 5

- Meeting of Congress, UML, and UCPN (M) at the office of the prime minister at Baluwatar. Dispute on form of government and state restructuring remains.
- Meeting of Congress and UML prepares to meet with UCPN (M) with a common concept on state restructuring and form of government.
- Meeting of Federal Republican Alliance of the main opposition parties, Identity-based Federal Alliance, and Federal Democratic National Alliance decides to hold street protests if the ruling parties move ahead with procedures.

October 6

- Opposition 22 parties announce protest programmes.
- Constitutional Political Dialogue and Consensus Committee calls an all-party meeting for constitution-drafting. Disagreement among the main parties.

October 7

- Meeting of Constitutional Political Dialogue and Consensus Committee seeking consensus on disputed issues of the constitution. Preparation to submit its report mentioning the points of disagreement to Constituent Assembly.
- Congress hosts a tea party. Congress and UML leaders stress on promulgating the constitution on January 22 even through following procedures. UCPN (M) leaders insist on constitution through consensus.

October 8

- Chairperson of Constitutional Political Dialogue and Consensus Committee Baburam Bhattarai submits its report to the Constituent Assembly. Chairperson Bhattarai stresses consensus on main issues.
- Congress, UML, and UCPN (M) agree on 5-point agreement including formation of a high-level political committee. Obstructed parliament resumes.
- Meeting of legislature-parliament extends the deadline of Constituent Assembly Election Study, Investigation and Suggestion Parliamentary Special Committee for the next three months

October 9

- Meeting of UCPN (M) parliamentary party concludes that constitution should be drafted based on consensus instead of procedure.
- Meeting of UML parliamentary party concludes that the constitution should be promulgated even by following procedures.
- Meeting between chairperson of Constitutional Political Dialogue and Consensus Committee Baburam Bhattarai and Prime Minister Sushil Koirala. Urges Prime Minister Koirala to bring a proposal that is acceptable to all.

October 10

- Meeting of the Special Hearing Committee of the legislature parliament. Members criticise the Constitutional Council for not following the principle of inclusiveness while appointing members to the National Human Rights Commission.
- Meeting of Constituent Assembly. The deadline of Constitutional Political Dialogue and Consensus Committee is extended until October 16 to find consensus on disputed issues of the constitution.
- 22 parties launch street protests demanding federal constitution with identity.

October 11

- Congress finalises its views on the disputed issues of the constitution. Proposes six or seven states under state restructuring.

October 12

- Meeting of legislature-parliament. Constituent Assembly members criticise the government for preparing to table a bill without putting up for discussion.
- UML proposes seven-state model of federalism with identity and capacity.

October 13

- Meeting of Constitutional Political Dialogue and Consensus committee. Parties agree to elect the president and vice-president within one month of promulgation of new constitution.
- Meeting of the Constitutional Council. The names of officials for National Human Rights Commission recommended without change.
- Meeting of the political committee. Tasked with completing the peace process and finding understanding among the parties for constitution-drafting.

October 14

- Congress, UML, UCPN (M), and Madhesi alliance hold separate talks on the issues of the constitution.
- Meeting of Constitutional Political Dialogue and Consensus committee. Resolves dispute about scientific land reform.
- Meeting Republican Alliance rejects the Congress-UML seven-state model.
- Meeting of Congress and Madhes-centred parties discusses form of government, federalism, and judicial system.
- UCPN (M) submits names of four candidates for Constituent Assembly on its list.

October 15

- Meeting of Congress, UML, and UCPN (M) agree to decide on the issues of the constitution through procedure if there is no consensus.
- UCPN (M) chairperson and coordinator of high-level political committee Pushpa Kamal Dahal meets leaders of UML and Congress separately. States if there is agreement on federalism, rest of the issues can be agreed upon immediately.
- Meeting of Constitutional Political Dialogue and Consensus Committee. Chairperson Baburam Bhattarai asks the leaders of political parties to submit their parties' views on the disputes issues of the constitution.
- Meeting of opposition 22 parties decides to stick to 10-state model of state restructuring.

October 16

- Constitutional Political Dialogue and Consensus Committee organizes a meeting of leaders of main parties at Gokarna Resort. Discussion on judicial system, federalism, form of government but no agreement.
- Opposition 22 parties hold press conference; justify their protests for the ruling parties' turn towards procedures.
- Meeting of the Council of Ministers. UCPN (M)-nominated four become Constituent Assembly members.
- Parties unable to reach an agreement on the main issues of the constitution.

October 17

- Meeting of main three parties. Preparation to ask for additional time to find consensus on main issues of the constitution.

October 18

- UML hosts tea programme. Leaders claim the constitution would promulgated before January 22 based on consensus.
- Meeting of Congress, UML, and UCPN (M) leaders discusses changing timetable to promulgate the constitution on January 22.
- Meeting of opposition 22 parties decides to continue political pressure to stop the majoritarian process to promulgate the constitution.

October 19

- Chairperson of Constitutional Political Dialogue and Consensus Committee Baburam Bhattarai submits its report to the Constituent Assembly. Suggests amending the timetable to promulgate the constitution within January 22.
- Meeting of legislature-parliament passes the budget for 2014/2015

October 20

- Congress and UML meeting discusses the issues raised by the 22 parties and common concepts on the disputed issues of the constitution.

October 21

- Meeting of Constituent Assembly. Extends the deadline of Constitutional Political Dialogue and Consensus Committee for the third time to find a consensus on the disputed issues of the constitution.
- Congress, UML, and UCPN (M) leaders meet at Gokarna Resort trying to find consensus on the disputed issues. No agreement.
- Opposition 22 parties announce additional protest programmes.

October 22

- Constitutional Political Dialogue and Consensus Committee organises a meeting of leaders from Congress, UML, and UCPN (M) at Gokarna Resort. Limited to talks only.

October 23

- Chairperson of Constitutional Political Dialogue and Consensus Committee Baburam Bhattarai meets UML chairpersons KP Sharma Oli.

October 25

- Chairperson of Constitutional Political Dialogue and Consensus Committee Baburam Bhattarai meets Prime Minister Sushil Koirala. Requests Prime Minister Koirala to remove differences in the disputed issues of the constitution.

October 26

- Meeting of UCPN (M) standing committee stresses that state restructuring should be based on the recommendation of the State Restructuring Commission.
- Meeting Constitutional Political Dialogue and Consensus Committee. Discussion on judicial system with the Chief Justice and judges. Justices recommend not setting up a constitutional court.
- Constitutional Political Dialogue and Consensus Committee discusses election system with commissioners from the Election Commission. The Commission suggest the election system should be mixed-member proportional system.
- UML and UCPN (M) leaders discuss disputed issues of the constitution. UML proposes four states spanning mountains and Tarai.

October 27

- Congress, UML, and UCPN (M) meet separately on disputed issues of the constitution.
- Opposition 22 parties host tea programme. Leaders ask not to doubt the constitution being promulgating within the fixed time.

October 28

- Meeting of Constitutional Political Dialogue and Consensus Committee. No consensus on the disputed issues of the constitution.
- UML and UCPN (M) hold talks on the disputed issues of the constitution. Discussion on state restructuring but no agreement.
- Meeting of UCPN (M) standing committee concludes UML of backing out on federalism.

October 30

- Congress and UML present common concept on the disputed issues of the constitution.