



Parties Unsuccessful in Promulgating the Constitution

Bhuwan KC/Tilak Pathak
Published date: January 23, 2015

In the end, the Constituent Assembly was unable to promulgate the constitution on the scheduled date. During the last Constituent Assembly elections, the main parties had committed to the people to promulgate the constitution within one year. To fulfil that commitment, the Constituent Assembly had prepared a one-year timetable to promulgate the constitution by January 22. However, there could not be consensus between the ruling coalition and the opposition, and the constitution could not be promulgated despite anxious waiting of national and international community. Neither was there any momentum on following the procedures as desired by the ruling coalition nor was there any agreement on the disputed issues of the constitution as demanded by the opposition.¹ Instead of forging consensus on the disputed issues and seeking new agreements to promulgate the constitution, the political parties attacked each other. The deepening rift between the ruling coalition and the opposition brought uncertainty to promulgating the constitution, and this led to protracted political transition in Nepal.

Security tightened

The Constituent Assembly meeting on the parties' committed date to promulgate the constitution, January 22, was called at 11 AM. Security was tighter than before. The Constituent Assembly members were in the process of entering the Constituent Assembly building to participate in the meeting. During that time, 10 packets of chilli powder was found in the Constituent Assembly building. According to the police, the chilli powder was found in the office of the vice-chairperson Onsari Gharti Magar.² Then security was tightened very severely. The Constituent Assembly members were not let in the hall on presentation of badge alone but needed identity cards as well. The Constituent Assembly members were not even allowed to take bags inside.³ Microphones from the opposition benches were also removed.

Then UCPN (M) chairperson Pushpa Kamal Dahal, leader Baburam Bhattarai, Madhesi Janadhikar Forum-Loktantrik chairperson Bijaya Kumar Gachhedar, and other leaders met Constituent Assembly chairperson Subash Chandra Nemwang and objected that the Constituent Assembly was being turned into a barrack. Fearing that in addition to the obstruction, the opposition parties could engage in other activities as well, security was tightened compared to before within and outside the Constituent Assembly. Four rings of security were stationed in front of the chairperson's seat.⁴ Additional 150 security personnel were inside the Constituent Assembly hall and another 600 were mobilised around Naya Baneshwor. Barbed wire fences were put in many places.⁵ To counter the possibility of any noisy demonstrations, a security cordon was also stationed at the exit for the Constituent Assembly members.

¹ Pandey, Balram. January 23, 2015. *Procedure in confusion*. The Nagarik Daily, p1.

² *Chilli powder in the Constituent Assembly*. January 23, 2015. The Kantipur Daily, p1.

³ Kantipur TV. January 22, 2015.

⁴ BC, Ganga. January 23, 2015. *Green light was continually on, slogans continued*. The Kantipur Daily, p3.

⁵ Kantipur TV. January 22, 2015.

The opposition in a hurry

Constituent Assembly chairperson Nemwang held several rounds of talks with both the ruling coalition and the opposition to remove the obstruction in the Constituent Assembly. However, he started to commence the meeting after there was no agreement. At 12:45, the bell rang for the commencement of the Constituent Assembly meeting. Immediately after the national anthem was over, the opposition started shouting slogans. As the opposition started its obstruction before formal beginning of the meeting, Nemwang was confused for a moment and informed that the meeting had begun after a while. As during the afternoon meeting, the opposition seemed to be in hurry in the evening meeting as well. They were in a hurry because they did not want to give Congress chief whip the opportunity to register the proposal to form the questionnaire committee. Because of the obstruction by the opposition right from the beginning, Shrestha could not reach the rostrum.

Briefing the international community

After it became apparent that the constitution could not be promulgated on time amidst failure to reach a consensus among the political parties, the government briefed the international community in Nepal on the reasons behind the failure to promulgate the constitution. Foreign minister Mahendra Bahadur Pandey and finance minister Ram Sharan Mahat briefed them at a 3-o'clock programme. They clarified that attempts would be made for consensus but if there was no consensus, the constitution would be promulgated through a two-third majority.⁶ Mahat told the international community, 'The kind of disorderly and aggressive behaviour is an affront to the Constituent Assembly. We hope that the political powers/parties will abandon such behaviour and be ready to resolve the issues in a peaceful constitutional process'. Foreign minister Pandey stated that though everyone had the right to express their views peacefully, no one could bring into disrepute the nationalism, dignity, independence, sovereignty of Nepal. The international community expressed fears that the country might slide into conflict again.⁷

Pointless attempts

At the moment when the constitution was not going to be promulgated and there was political polarisation, senior Congress leader Sher Bahadur Deuba and UML leader Madhav Nepal tried for last-ditch attempts at consensus. Forum-Loktantrik chairperson Bijaya Kumar Gachhedar also joined this group.⁸ While trying to find a consensus, Deuba and Nepal held discussions with UCPN (M) chairperson Dahal. Gachhedar held discussions with Deuba and Nepal. Then he brought out a new proposal for consensus. His proposal suggested sending the agreed issues of form of governance, election system, and judicial system to the Constitution-drafting Committee, and forming six to eight federal states. He had proposed finalisation of state delineation and delimitation within three weeks.⁹

Congress and UML appeared positive towards Gachhedar's proposal. The meeting of UCPN (M)-led alliance could not find a consensus on the proposal by Gachhedar. After UCPN (M) chairperson Pushpa Kamal Dahal did not agree to take the agreed issues further, the ruling coalition was not

⁶ Kantipur TV. January 22, 2015

⁷ Kantipur TV. January 22, 2015

⁸ Khanal, Durga and Adhikari, Sarojraj. *Thus fell through the middle path proposal*. The Kantipur Daily, p3.

⁹ Pandey, Balram. January 23, 2015. *Process in confusion*. The Nagarik Daily, p1.

willing to remain satisfied with a common commitment pledge alone.¹⁰ Then Gachhedar also held on to his position. Forum-Nepal chairperson Yadav commented that Gachhedar's proposal was not from the Forum but his personal.¹¹

Nemwang sad

As the opposition was shouting slogans, Constituent Assembly chairperson twice addressed the meeting. While addressing for the first time, Nemwang urged all the political parties to remove the political obstruction bearing in mind the past commitment to promulgate the constitution on January 22. 'Everybody is waiting for us to promulgate the constitution for the country. The people are asking questions, looking to us', Nemwang said in the first address, 'In this situation, what message are we sending to the people, what message is going out from this, I urge the parties at least to stand on the rostrum on this day and address the people about January 22'.

While Nemwang was soft in his address, but after there was no agreement among the political parties and obstruction of the Constituent Assembly continued, he was more aggressive in his second address. 'I feel that increasing bitterness and lack of goodwill and understanding among the parties has hurt the honour and dignity of the Constituent Assembly', said Nemwang, 'I am extremely sad and regret the failure to promulgate the constitution in one year despite the commitments'.

Slogans for five hours

The Constituent Assembly sat for two meetings. The first meeting lasted two hours and 5 minutes and the second meeting two hours and 59 minutes. Constituent Assembly chairperson Nemwang had called both meetings for consensus. Both meetings had the agenda for tabling the proposal on forming the questionnaire committee. He addressed the Constituent Assembly both times amidst the slogans. Even while the opposition was shouting slogans, ruling coalition was asking for time to address the Constituent Assembly. But he did not give them the time. After continuous shouting of slogans by the opposition, he announced the adjournment of the meeting at 11:45 PM for the next day. The meeting was adjourned.

Leaders in accusations and counter-accusations

After the Constituent Assembly meeting was adjourned amidst obstruction and without promulgating the constitution, leaders started accusations and counter-accusations. UML chairperson KP Sharma Oli commented that UCPN (M) had succeeded in its objective to not let the constitution be promulgated. 'They betrayed the expectation of the people that the constitution will be promulgated today. This is their big achievement', Oli expressed his sarcasm at UCPN (M). Also, UCPN (M) chairperson Dahal claimed a big victory by not letting the constitution be promulgated. 'They foolishly attempted to promulgate a regressive constitution; we did not let them succeed. In this sense, I can tell to the Nepali people that that the 19-party alliance did not step back from the commitments and objectives of the revolution, revolts, movements', UCPN (M) chairperson Dahal said, 'we did not let them draft a status-quoist and conservative constitution; we are proud of it.' Senior Congress leader Sher Bahadur Deuba said that voting would be followed if there was no agreement. 'We have two-thirds majority, but we have been waiting for consensus until today. Voting is automatically the way to go if there is no agreement. Where is a country that does not go

¹⁰ Khanal, Durga and Adhikari, Sarojraj. *Thus fell through the middle path proposal*. The Kantipur Daily, p3.

¹¹ *What do the leaders say?* January 23, 2015. The Kantipur Daily, p1.

to voting when attempts at consensus fail?', Deuba questioned. Leaders headed home blaming each other for failure to promulgate the constitution. No one tried to revive the working timetable designed to promulgate the constitution in one year.¹²

| Reactions of the Leaders | |
|---|---|
| <p>Constituent Assembly chairperson Nemwang</p> <ul style="list-style-type: none"> I am extremely sad and regret the failure to promulgate the constitution in one year despite the commitments. <p>UML chairperson Oli</p> <ul style="list-style-type: none"> UCPN (M) is intent on not letting there be consensus at the talks table and within and outside the Constituent Assembly. <p>Congress leader Deuba</p> <ul style="list-style-type: none"> There is no alternative to following the procedures as attempts at agreement have failed. <p>Congress vice-president Paudel</p> <ul style="list-style-type: none"> UCPN (M) slogan of not murdering the Constituent Assembly is puzzling. | <p>UCPN (M) chairperson Dahal</p> <ul style="list-style-type: none"> We are proud that we did not let a status-quoist and conservative constitution get drafted. <p>UCPN (M) leader Bhattarai</p> <ul style="list-style-type: none"> As we have been unable to promulgate the constitution, there is no alternative to moving forward by setting another date for promulgating the new constitution. <p>Forum chairperson Upendra Yadav</p> <ul style="list-style-type: none"> The situation of obstruction arose because UML leaders attempted to finish off federalism and inclusiveness. |

Protests of Pressure

After security was tightened around the Constituent Assembly, protestors trying to pressure for drafting of the constitution were confined to the area around Bijulibazar. It was especially those demanding federalism with identity that protested at Bijulibazar. UCPN (M)-led 30-party alliance, Nepali Federation of Indigenous Nationalities, Adivasi Janajati Rastriya Andolan, Nepal Rastriya Galaicha Majdur Sangh, Sherpa Pradesh Samyukta Sangharsha Samiti, Samyukta Mahila Sangharsha Samiti, Dalit Nagarik Samaj, and others had protested. In addition, Mohan Vaidya-led CPN (M) also participated in the protests. In other areas, movement of people was restricted and public transport was barred from Min Bhavan to Bijulibazar.

Conclusion

The political parties failed to fulfil their commitments by not promulgating the constitution as per the timetable. Instead of ushering in a new dimension in Nepal's political history by promulgating the constitution amidst celebration, they managed to disappoint the national and international community by indulging in accusations and counter-accusations. In addition, the government informed the international community behind the reasons for failure to promulgate the

¹² Dhungana, Chiranjivi and Saud, Narendra. January 23, 2015. *January 22 passed in disorder*. The Annapurna Post, p1.

constitution, but it did not inform the people in an accountable manner as it should have. The stance of the ruling coalition to follow the procedures on the disputed issues of the constitution to draft the constitution and the opposition objective of not letting the process move forward not only led to the continued impasse but also polarised the parties. This put an end to the aspirations of ending the protracted political transition and entering a new stage of economic development.

Major Political Developments

- **10:30 AM:** Reports of finding of chilli powder in the Constituent Assembly compound. Security tightened at the gate.
- **11 AM:** UCPN (M) chairperson Pushpa Kamal Dahal, leader Baburam Bhattarai, Madhesi Janadhikar Forum-Loktantrik chairperson Bijaya Kumar Gachhedar, and others meet Constituent Assembly chairperson Subash Chandra Nemwang. Express objection to the Constituent Assembly being turned into barracks.
- Congress and UML leaders hold meetings to discuss on how to present themselves in the Constituent Assembly.
- Constituent Assembly meeting called for **11 AM** could not start. Chairperson Nemwang holds continuous discussions with ruling coalition and opposition parties.
- **12:42 PM:** Constituent Assembly meeting starts. Immediately after the national anthem, 19 party Constituent Assembly members obstruct the meeting.
- **2:41 PM:** Chairperson Nemwang asks the Constituent Assembly members to take their seats while they are shouting slogans. After the slogans did not stop, Constituent Assembly meeting is adjourned for half an hour.
- **2:50 PM:** Informal talks between leaders of Congress, UML, UCPN (M), and Madhes-focused parties and Constituent Assembly chairperson.
- 30-party alliance including UCPN (M) and indigenous community hold protests at Bijulibazar.
- Foreign minister Mahendra Bahadur Pandey and finance minister Ram Sharan Mahat brief the international community on the reasons behind failure to draft the constitution.
- Forum-Loktantrik chairperson Bijaya Kumar Gachhedar presents a new proposal to forward the three issues agreed upon at the last minute to the Constitution-drafting Committee and six to eight state model of federalism.
- **8:46 PM:** Second meeting of Constituent Assembly starts. Opposition starts shouting slogans as soon as the chairperson enters the hall.
- **10 PM:** Ruling coalition Constituent Assembly members demand time to speak.
- **11:34 PM:** Chairperson asks the Constituent Assembly members to take their seats. Expresses his views amidst slogans.
- **11:45 PM:** Constituent Assembly meeting adjourned.

After two hours of continuous shouting of slogans by the UCPN (M)-led alliance in the Constituent Assembly, Constituent Assembly chairperson Subash Chandra Nemwang became emotional and said, 'I had not expected this today. The people are asking us questions. What kind of message is being sent to the people with this scene at the Constituent Assembly?' ¹³

UCPN (M) accused the ruling coalition of turning the Constituent Assembly into barracks. In a press release on Thursday, UCPN (M) accused the ruling coalition of following the style of the panchayat rulers by amassing thousands of police force in the Constituent Assembly. 'Looking at today's scene at the Constituent Assembly, this does not appear to be a sovereign democratic institution but

¹³ The Nagarik, Thursday, January 22, 2015. *Emotional Nemwang said, 'What must the people be commenting looking at us?'* <http://www.nagariknews.com/politics/parliament/story/31842.html>

rather a mechanism to enforce commands by the power of the bayonet', the press release states. It is also stated in the press release that in the name of security the honour of opposition female Constituent Assembly makers has been violated. It is further stated in the press release that when microphones in the Constituent Assembly have been removed, drinking water has been provided to the ruling coalition but not to the opposition, there is more security personnel inside the Constituent Assembly than the Constituent Assembly members, it is impossible to promulgate the constitution through a democratic exercise.¹⁴

The government convinced the diplomatic community in Nepal that the constitution would be drafted through consensus. Foreign minister Mahendra Bahadur Pandey and finance minister Ram Sharan Mahat had briefed the heads of diplomatic missions in Nepal on the latest developments in a programme organised to inform them. Stating that the government will promulgate the constitution through consensus, foreign minister Mahendra Bahadur Pandey said, 'It is the government's wish to promulgate the constitution through consensus. If there is no consensus, the constitution will either be promulgated by an overwhelming majority and if that cannot happen, by a two-thirds majority.'¹⁵

¹⁴ Koirala, Madan. Thursday, January 22, 2015. *Constituent Assembly being turned into barracks: UCPN (M)*. <http://www.nagariknews.com/politics/story/31851.html>

¹⁵ Koirala, Koshraj. Thursday, January 22, 2015. *Government assurance to the diplomatic community to promulgate the constitution through consensus*. <http://www.nagariknews.com/politics/international/story/31854.html>