

# Politics of Collision

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After the dissolution of the Constituent Assembly (CA) on May 27, the political parties were set on a collision course. Though they had announced new elections to the CA for November 22, 2012, it could not be held due to lack of consensus among the parties. Most of the time, they were focused on accusations and counter-accusations. The parties did not budge from their stances despite efforts at consensus. Instead, they started forming fronts against each other. Instead of political consensus, this pushed the country towards further polarisation

Though the President Ram Baran Yadav took lead in managing the political transition and encouraged consensus, power-centric politics of the parties became an obstacle. The parties not only ignored the President's encouragements and suggestions, they attempted to use the Office of the President for their own advantage. This created occasional rifts between the Office of the President and the Office of the Prime Minister. Despite accusing each other and refusing to accept the other's leadership, they have given continuity to meetings and discussions. When there was no consensus between the parties and the government announced another date for the elections in April 2013, the President called for consensus government. With differences on the government, the constitution, elections among others, the parties could not recommend a consensus prime minister, and the series of extending the deadline for new government formation at the request of the parties by the President began.

## **Accusations and Counter-accusations**

The announcement by the government of the new date for the elections to the CA further fuelled the discord between the parties. The ministers in the government from UML and Rastriya Prajatantra Party (RPP) resigned from the government accusing the UCPN(M) of not consulting the parties while announcing the date and of backing away from the five-point May 15 agreement. After the ministers from Nepali Congress withdrew from the government, the all-party government changed character, and the parties started accusing each other for being responsible for dissolution of the CA. Nepali Congress, UML, Madhesi Janadhikar Forum Nepal, Sharat Singh Bhandari of Forum Loktantrik, and co-chairperson of Rastriya Janashakti Party submitted a memorandum to the President, accusing the government of demonstrating totalitarian character.

The chairperson of UCPN (M) Pushpa Kamal Dahal stated the CA was dissolved because of UML and Nepali Congress, accusing them of being against identity-based federalism. Congress accused the UCPN(M) of picking issues on federalism, stating that the model of federalism proposed by UCPN(M) neglects both identity and capacity of the future states. Prime minister Baburam Bhattarai stated the CA was dissolved due to the contradiction between the progressives and the status-quoists. UML accused the UCPN (M) of being the main culprit behind the dissolution of the CA, terming the decision as not being sudden, forced, or unexpected. Nepali Congress also accused UCPN (M) of dissolving the CA

through a conspiracy, as a planned attempt to capture power, terming the move unconstitutional, regressive, and dictatorial. The meeting of opposition parties on June 7 stated that peace process, democracy, federalism and constitution-drafting were in peril at the same time and it was a historical responsibility to counter the UCPN (M) attempt at totalitarianism. Even the vice-chairperson of UCPN (M) Mohan Vaidya and general secretary Ram Bahadur Thapa accused their senior leaders of being mostly responsible for the dissolution of the CA, especially prime minister Baburam Bhattarai.

### **Polarisation of Parties**

On the issues of the constitution, UCPN (M) and UDMF were in one camp, while Congress and UML were close on the other side. The announcement of the election date by the government created rapid polarisation into government and opposition parties. Congress, UML, UDMF, RPP, and UDMF Loktantrik (Sharat Singh Bhandari) united in opposition immediately. The meeting of these parties and Rastriya Janamorchha and CPN (ML), Chure Bhawar Ekata Party on May 28 denounced the dissolution of the CA. The opposition parties became more active against the government move. There were 15 parties in a meeting two days after dissolution of the CA and they decided to launch a movement against the government and to form a national government. The meeting of 16 governing parties on the same day welcomed the government announcement to hold elections. The opposition parties claimed there was no environment to hold elections.

The now 19-party opposition coalition decided to launch protest from the streets and announced several protest programmes. Meanwhile, the ruling parties announced formation of Federal Democratic Coalition under the leadership of UCPN (M) chairperson Pushpa Kamal Dahal, which clarified that election was the first alternative for political way out. It also identified promulgation of the constitution through a revived CA and elections to the parliament as the second way out.

This further incensed the opposition parties, which stated that this was an attempt to obstruct the formation of national consensus government. In the meantime, UCPN(M) chairperson Pushpa Kamal Dahal criticised Nepali Congress president Sushil Koirala by openly taking his name, which riled Nepali Congress and it decided to intensify the protests against the government launched by 24 opposition parties. After the opposition parties announced protest movement, the ruling coalition on September 22 decided to start the election process. While the UCPN(M) was not ready to accept government under Congress to hold elections, chairperson Dahal said that if the CA were revived and previous agreements were respected, it was prepared to hand over government to Congress. Meanwhile, the protest movement against the government was weak and lacked direction.

The meeting of opposition parties on October 27 concluded that it was necessary for the government to exit from power before seeking any alternatives and decided not to let the government bring out the budget, and also announced further intensification of the protest movement. The President approved the budget ordinance which gave continuity to the policies and programmes of the previous government, which the opposition parties took as further need for protests. They warned prime

minister Baburam Bhattarai of forcing him to quit; however, there was no atmosphere for movement and people did not join them as expected as the parties were perceived to be more focused on power.

As the dispute among the parties was continuing, the President on November 23 called on the parties to recommend a prime minister for consensus government. The ruling coalition was infuriated by this move of the President; the opposition parties withdrew their protest programmes.

### **Difference over Authority**

Difference over authority rose immediately after dissolution of the CA. Prime minister Baburam Bhattarai in a press conference on the night of May 27, 2012, claimed the executive authority lay with him and the Council of Ministers as per the Interim Constitution, using which, he said he hold the next elections. He kept reiterating of having the executive authority after that.

UML did not accept the claim of the prime minister as it concluded that the UCPN (M)-led government had lost political legitimacy when it could have sought a way out by continuing with the representatives of the people. UML chairperson Khanal claimed that the announced election could not be held. Similarly, the meeting of the central committee of Nepal Congress that the government had no constitutional and political basis to remain in power and asked the prime minister to resign immediately. A meeting of the opposition coalition also concluded that prime minister Bhattarai had lost constitutional and moral legitimacy and that he is just a 'caretaker' and his announcement of election was against rule of law and constitutional process. UCPN (M) chairperson Dahal denied there was any constitutional crisis.

Opposition parties and representatives of different organisations had asked the President to remove prime minister Bhattarai through a memorandum which urged the President to protect and follow the Constitution as per article 36 (a) of the Constitution and take appropriate steps. The President stated that he would not go outside the Constitution.

As the dispute over jurisdiction was beginning, prime minister Bhattarai met the President, where the President suggested a national consensus government. Later, the Office of the President clarified that prime minister declared that prime minister Bhattarai had become a caretaker prime minister as per the clause 7 of the article 38 of the Interim Constitution, which states that the post of the prime minister automatically falls vacant in the absence of the CA and the parliament, and asked his government to continue as per clause 9 of the article 38 of the Interim Constitution until a new government is formed.

While the opposition parties stressed the need for the prime minister to pave the way out, a dispute was brewing between the Office of the President and the Office of the Prime Minister after the President did not approve the ordinance on election and asked for the date of the election and formation of national consensus government. The President had asked for the date for election after there was no consensus among the parties after repeated meetings. prime minister Bhattarai argued that the President had no authority to ask for the date for election.

After the President called for a national consensus government, the differences between the Office of the President and the Office of the Prime Minister reached a climax. UCPN (M) and the ruling coalition criticised the President's move, calling it unconstitutional. The ruling coalition also accused the President of trying to usurp executive authority. A meeting of the Council of Ministers called the President's move against the spirit of the constitution.

### **Own Alternatives**

Initially, UCPN (M) had concluded that new elections to the CA was the best alternative and the government had announced November 22 as the date for elections, which was welcomed by the coalition partners, and decided not to quit government without an agreement on government leadership. Opposition parties including Congress and UML also concluded that new elections to the CA was the best alternative, for which a national government and amendment of laws was felt to be necessary. However, the opposition parties accused UCPN (M) of dissolving the CA and the new elections as a ruse, and stressed on formation of national consensus government.

Vaidya faction of UCPN (M) demanded a round-table conference; later, this faction splintered from UCPN (M) and formed CPN (M). Some former CA members from Congress launched a signature campaign on June 3 to revive the former CA, which the prime minister termed it illogical. A few days later, UCPN (M) chairperson stated that while a new election was the best alternative, the CA could be revived instead. Senior Congress leader Sher Bahadur Deuba also insisted that the CA should be revived. The opposition parties, while claiming to be in favour of elections, insisted that the government could not set a date for elections. The opposition parties also saw the elections as UCPN (M) conspiracy to capture state power. On June 12, former CA members from UML including Prithvi Subba Gurung, Ram Chandra Jha and others also demanded revival of the CA.

Congress and UML focused on getting the prime minister to resign. However, the prime minister was in no mood to resign and instead threatened that if he resigned, it would be the repeat of *Magh 19* (when the then King Gyanendra took executive powers). Meanwhile, the Election Commission stated that in the absence of amendment in the regulations, there could be not be any elections. However, UCPN (M) was turning in favour of revival of the CA and its chairperson Dahal met CPN (M) chairperson Vaidya on July 8 and asked for his help in reviving the CA.

The meeting of UML standing committee on July 18 rejected revival of the CA and concluded that elections were the best option. After the meeting on July 22, the three parties UCPN (M), Nepali Congress, and UML stated that they were in favour of elections. UCPN (M) directed its cadres to help make the elections successful.

In the three-party meeting in Balkhu on July 25, UCPN (M) proposed two options of reviving the CA and promulgating the constitution and going for parliamentary election, and going for elections for the CA. Congress and UML insisted that they would not accept either options as long as UCPN (M) was in power. On July 30, the Election Commission clarified that there could be no elections in November.

A meeting of district presidents of Nepali Congress on July 31 concluded that proportional representative elections was the best option to resolve the disputed issues of the dissolved CA and issues like federalism and form of government. However, Deuba insisted on revival of the CA. The former CA members from UML suggested its leadership to keep the option of reviving the CA open. The newly formed Federal Democratic Coalition of 21 parties including UCPN (M) repeatedly stressed new elections.

The parties sat for dialogue after a long period of accusations and counter-accusations. Their meeting on August 29 gave primacy to revival of the CA. On August 30, UCPN (M), Congress, UML, and UDMF met the President, who asked them either to find a quick consensus for revival or to prepare atmosphere for elections. the meeting of Congress central committee concluded going for elections after a brief revival of the CA.

In the discussion among the parties, Congress and UML stressed on government formation. There was no agreement on federalism after the three parties took different stances on it. After there was no agreement, the parties started discussing elections again. A meeting of the ruling coalition on September 22 decided to start election campaign. The opposition parties accused the Bhattarai-led government as being an obstacle.

In the first week of October, UCPN (M) proposed promulgating a constitution with disputed issues. The meeting of UML standing committee instructed its former CA members not to demand CA revival as there was no possibility of it. In a meeting with the parties, the President asked the parties for a date for elections. the prime minister countered that the President has no authority to ask for such a date. In a meeting on October 27, UCPN (M) chairperson Dahal in a written proposal stress CA revival as the first priority and elections if there is no agreement on that. His proposal stated that Congress would get the government if there was CA revival or the present government would continue until the elections. congress and UML rejected the proposal.

Then the parties discussed holding elections in April, focusing on the date, number of members, amendment of the constitution, and formation of national consensus government. However, there was no agreement, and legal provisions regarding elections could not be amended. Then the government set November 22 as the date for new elections.

### **Dispute over Ordinances**

Laws are normally made by the parliament; however, after dissolution of the CA, there was no CA, and the only option to promulgate new laws is to issue an ordinance. Article 88 of the Interim Constitution has a provision for issuing such ordinances at the discretion of the President. Congress, UML and other opposition parties were active in blocking the ordinance on anti-money laundering. Despite opposition from the opposition, the government forwarded the ordinance on legal assistance and extradition and the President approved it.

After this, the government started preparing a full budget without consensus with the opposition parties, which threatened to counter it forcefully. The government backed in the face of stiff opposition and decided to bring out one-third budget, which the President approved, even without consensus from the parties. At around the same time, the government sent Ordinance 2069 to amend some laws and CA election ordinance 2069 to the President for approval. After three weeks, the President's office informed that since the Election Commission had notified that the elections could not be held in November, there was no relevance for the ordinance. The government expressed its displeasure and concluded as rejection of its ordinance and prepared to re-send the ordinance again.

After the President did not approve the ordinances, there has been discussion on it and it has created a rift between the President and the prime minister. The ruling coalition raised suspicions on the intentions of the President, while the opposition took it normally. Prime minister Bhattarai publicly criticised that the President as a ceremonial head has to approve the recommendations of the Council of Ministers. Despite the differences, the government had forwarded draft ordinances on Disappearance, Truth and Reconciliation; Education Service Ordinance; Civil Service Ordinance; and Nepal Health Service Ordinance, which have not been approved as of yet.

As the expiry of the one-third budget was nearing, and while the opposition was asking the government not to bring a full-fledged budget, the government in consultation with the President brought out a full budget with the understanding that no new programmes and policies would be introduced.

## **Conclusion**

The leaders of UCPN (M), Nepali Congress, UML, and UDMF are mainly responsible for the dissolution of the CA; especially fingers have been pointed at prime minister Baburam Bhattarai who leads the government. CA chairperson Subash Nemwang and the chairperson of the Constitutional Committee of the CA Nilamber Acharya are also not without blame. However, the parties focused on accusing each other. There was a need for consensus among the parties to address the developing political and constitutional crisis. However, as the ruling coalition was focused on extending its stay in government, the opposition was also in for power first and other conditions later. In the meantime, parties have proposed CA revival, new elections to the CA, and a round-table conference as alternatives to the present crisis; however, there was no political consensus, as there was more focus on the party and power than country and people. Despite attempts by the President and the parties, there is little to show for it.

(This is a summary translation. For more details, please download the Nepali version of this article at: [http://asd.org.np/download/monthly\\_updates/update\\_dec\\_1.pdf](http://asd.org.np/download/monthly_updates/update_dec_1.pdf)