

CA Sitting and Government-Formation Process Starts



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After the political parties had selected CA members under proportional representation and submitted their list to the Election Commission, a dispute arose on whether the chairperson of the Council of Ministers Khil Raj Regmi or the President Ram Baran Yadav should call the first sitting of the CA. After a long delay, the chairperson of the Council of Ministers called the meeting at the end. Though the major political parties tried to take ownership of the decisions taken by the first CA, the proposal did not get into the CA as there was no consensus among all the parties in the CA.

The parliamentary meeting after the CA meeting began the process of government formation. However, it was not certain on under whose leadership the government would be formed. The selection of proportional representation CA members led to internal conflicts and dissatisfaction in almost all the parties. The constitution-drafting process could not start immediately though the leaders had committed to the draft it within one year due to the delay in formation of the government and internal conflicts in the parties. Instead, the process lingered on because of the inter-party and intra-party disputes.

The chair of the Council of Ministers ahead

The Election Commission informed the President and the CA Secretariat after completing the counting of votes under direct elections and nomination of members under proportional representation. Despite the Interim Constitution provision of first sitting of the CA within 21 days of the Election Commission declaring the results, a dispute arose between the President Yadav and the chair of the Council of Ministers Regmi on who should call the first meeting. The President wanted to call for the first sitting of the CA. To that end, the President held meetings with the chair of the Council of Ministers Regmi and leaders of the parties represented in the CA. 'The President called the leaders and advised them after Regmi delayed proposing an ordinance to remove the technical difficulties in the Constitution.'

President Yadav claimed he should call the first meeting of the CA based on international practice, constitutional exercise, and established norms and values. Therefore, he had urged the chair of the Council of Ministers Regmi to 'propose an amendment to remove the difficulties in the Interim Constitution to let him as the head of the state to call the first sitting of the CA'. The President's proposal was supported by Nepali Congress and Rastriya Prajatantra Party. They stood in favour of the President calling the first meeting. UML was against it, insisting that the provisions in the Constitution should be followed. At the same time, UML was for concluding the issue of (electing a new) the president. 'Looking to international practices while calling the meeting but following the constitutional provisions for electing a new president and not to international practices were contradictory positions, according to the UML.'

The dispute in power distribution in calling the first sitting of the CA also saw the differing opinions of Congress and UML. UML initially did not want to recognise the President by calling the meeting of the CA and also wanted an agreement with Congress on power-sharing with election of the president. However, Congress was in favour of the President calling the meeting and was not prepared to discuss the election of the President for one year. The President became active to seek support in his favour after receiving support from Congress. But UML took exception to the move. UML Publicity Department chief Pradeep Gyawali said, 'One (the president) should not take interest in the issue of electing a new president as per the mandate'.

UCPN (M) insisted on electing a new president. 'It becomes politically, constitutionally, democratic procedurally and morally pertinent to hold a new election to the post of the president and the vice-president when there is a new CA,' UCPN (M) chairperson Dahal had written in his political report. As the dispute was continuing, the leaders of Congress, UML, and UCPN (M) held a meeting to find a solution. After failure to reach an agreement, they reached 'a conclusion to wait for the verdict of the court'.

The Interim Constitution states that the first meeting will be called by the prime minister. The chair of the Council of Ministers had claimed his right to call the first meeting based on the Article 69(1) of the Interim Constitution which states, 'The first meeting of the Constituent Assembly shall be held, as summoned by the Prime Minister, within twenty one days of the final results of the election of members of the Constituent Assembly has been made public by the Election Commission, and the subsequent meetings shall be held on such a date and place as prescribing by the person presided over the Constituent Assembly'.

The constitution needed to be amended for the president to call the first meeting of the CA. if the political parties had reached an agreement and requested the government to amend the constitution, the government would have been compelling to propose an amendment to the constitution. However, as there was no consensus among the political parties, the government insisted following the constitutional provisions.

In the meantime, a writ was filed in the Supreme Court claiming that chair of the Council of Ministers Regmi should call the first meeting of the CA. The writ filed by advocate Mukunda Adhikari stated, 'with Article 69 of the Interim Constitution still in effect, the petitioner seeks the mandamus order of the Court for the chair of the Council of Ministers, who is in the position of the prime minister, to call the first sitting of the CA'.

A single bench of Supreme Court Justice Prakash Wosti forwarded the writ to the special bench of the Court. But the chair of the Council of Ministers Regmi prepared to call the first meeting before verdict of the Court. He also consulted President Ram Baran Yadav on this issue. The President had asked him to follow the spirit of the Interim Constitution, constitutional provisions, past practices, and international norms in calling the first sitting of the CA. it was the wish of the President that if there was no constitutional provision for him to call the meeting, it should have been stated that the meeting was called as per the order of the President. However, disregarding this, the chair of the

Council of Ministers called for a sitting of the house on January 11 as per the constitutional provision. Ruling on the two writs on whether the President or the chair of the Council of Ministers should call the first sitting of the CA, then the Supreme Court dismissed the writs. This led to the resolution of the dispute on who should call the first sitting of the CA, and the preparations of the CA meetings began. The President Yadav administered an oath to Surya Bahadur Thapa as the eldest member of the CA. the next day, Thapa administered oath to other members. The first sitting of the CA took place on 22 January.

Though Congress and UML had stated taking ownership of the agreements from the first CA, it was not done in the first sitting. The second meeting was scheduled after a week. Congress, UML, UCPN (M) made a proposal in the meeting to take ownership of the works completed in the first CA. they formed a working group for it. However, the proposal to take ownership could not be tabled in the second meeting due to the opposition from RPP Nepal, Rastriya Janamorcha Nepal and other parties. 'Due to the fierce opposition from RPP Nepal, Rastriya Janamorcha and other smaller parties in separate issues, the three parties could not immediately put the proposal in the CA agenda.'

RPP Nepal insisted on following the new mandate of the new CA. it was opposed to the issues of federal democratic republic and secular state. Also, Rastriya Janamorcha had expressed its dissatisfaction with federal democratic republic state, which it had been opposed to in the past as well. There was already dispute among the parties on the election of the president and vice-president. The court's verdict on the writ filed was eagerly awaited. The Supreme Court dismissed the writ stating that the legislature-parliament should decide the tenure of the president and vice-president if any action was to be taken. The Court ruled that the issue of the writ was a political one and not within its jurisdiction and the parliament should decide the tenure of the president. Then the leaders of UML (M) moved the issue of election of the president and vice-president. UCPN (M) was in agreement on this. UML and UCPN (M) raised this issue at the CA meeting from their respective parties. UML gave primacy to the issue of changing the president in the meeting of the legislature-parliament as well. UML chairperson Jhalanath Khanal said that the issues of the president, vice-president, and government should be concluded from the parliament to finish constitution-drafting on time. After its standing committee meeting, UML secretary Bishnu Poudel said, 'it has been decided to take a firm stand on the issue of the election of the president and vice-president'.

Legislature-parliament and government formation

There was no clear picture on the government leadership and formation in the absence of a clear majority. However, Congress had strong claims to leading the government as the largest party after the CA elections. UML, UCPN (M) and other parties requested the Congress leadership to be active in formation of the government. Congress president Sushil Koirala attempted to form a government as well. He met UML senior leader Madhav Kumar Nepal in this process. Koirala claimed that national and international support was in his favour. At the same time, senior leaders Sher Bahadur Deuba and vice-president Ram Prasad Poudel claimed the post of the Congress parliamentary party

leader. While Deuba had claimed he had the capacity to move forward by coordinating with everyone, Poudel, having previously faced 17 run-offs for the post of prime minister asked that he be given the opportunity to face the present challenge. Deuba claimed that he should be the acting president if Koirala should become prime minister.

However, Koirala instead of giving away to others appeared more intent on taking the reins of the government. Therefore, he was not ready to give the acting party presidency to Deuba and nor the post of the prime minister to Poudel. Then partisanship was created in Nepali Congress. Deuba supporters held a separate meeting and Koirala faction became active in garnering supports in its favour. After the possibility of consensus became bleak, the Congress parliamentary committee formed a three-member election committee under spokesperson Dilendra Prasad Badu to select the leader of the parliamentary leader.

Poudel did not have the majority to be elected the parliamentary leader on his own. He either needed the support of president Koirala or senior leader Deuba. There was no possibility of his getting support from either side. Then he became the kingmaker in deciding electing either Koirala or Deuba to the parliamentary party. Before being the parliamentary leader, Poudel said that he would support Koirala's bid. There was an informal agreement between Koirala and Poudel under which it was agreed that among other that president Koirala would lead the government to draft the constitution for one year, Poudel would become the acting president, and after Koirala resigns from the post of the prime minister, either Deuba or Poudel would become the next prime minister based on mutual understanding.

This created support in favour of Koirala. In the election to choose parliamentary leader on January 26, Koirala got 105 votes and Deuba got 89. After his election, Koirala said that he would move ahead by uniting the party and focus on consensus government and drafting the constitution. Before the dispute in Congress had died down, similar dispute also arose in UML to select the parliamentary leader. Though the party had a tradition of the party chairperson leading the parliamentary party as well, this time standing committee member KP Sharma Oli sought the post. After there was no consensus on the parliamentary leader, it was decided to hold an election. Oli and chairperson Jhulanath Khanal had claimed the leadership of the parliamentary party.

UML and UCPN (M) had held discussions on forming the government and President Ram Baran Yadav had held meetings with Congress, UML, UCPN (M). The parties had shown commitment to unite for CA meetings, government formation, constitution-drafting. In the tea reception for the parties represented in the CA, President Yadav urged the political parties to keep in the mind the promises made to the people to draft a new constitution and hold local elections within one year. The government also made a proposal to the president to call the meeting of the legislature-parliament. On the CA had the sitting on January 26, the president urged the parties to form a national consensus government within one week.

After electing the parliamentary leader and immediately after the call from the President to form an all-party government, Congress sent a letter to UML asking for its help in forming the government.

Then it held an all-party meeting with the parties in the CA. in the meeting, UCPN (M), RPP Nepal, and Forum Nepal announced that they would remain in the opposition, and this took away any possibility of forming an all-party consensus government. Congress also could not take UML into confidence.

Nomination of proportional candidates and dispute in parties

Federal Socialist Party and Madhesi Janadikar Forum submitted their nominations for the proportional candidates to the Election Commission after the deadlines had passed. They had submitted their lists late because of internal dispute in their parties. The submission of the list seemed to have led to peace in the Federal Socialist Party but disputes rose further in Forum Ganatantrik, RPP Nepal, UCPN (M), Congress and other parties. As the disputes escalated, RPP expelled five central leaders from party accusing them of trying to split the party. Senior Forum Ganatantrik leader Rameshwor Ray Yadav, vice-presidents Mohammad Nasir Siddiqui, Govinda Chaudhary and others lodged a complaint at the Election Commission accusing the party of nominating moneyed ones instead of those the party officials and those who have contributed to the party.

Expressing dissatisfaction in nomination of proportional candidates within the UCPN (M), Baburam Bhattarai and Narayankaji Shrestha joined submitted a memorandum to the party chairperson Pushpa Kamal Dahal. Among their accusations were that the nominations had overstepped the standards of the central committee, 20 districts had gone without representation, ignoring the families of the martyrs and injured and disabled, selecting those without contribution in the movement and those who went against in the election and who are inactive and those with different opinions.

They gave an ultimatum to chairperson Dahal to correct the nomination list submitted to the Election Commission. After their threat of bad consequences without corrections in the list, the dispute within UCPN (M) reached its peak. The dispute grew more. Dahal faction accused Bhattarai of trying to split the party. But Bhattarai kept countering the accusations. Bhattarai stated that their dissent was for transformation of the party and not for splitting it. Bhattarai claimed that discussions on thought, political and organisations had been distorted in a concerted manner. Bhattarai became aggressive towards chairperson Dahal and said he should take the most responsibility for the election defeat based on his party seniority. He also proposed of becoming the parliamentary leader of his party to chairperson Dahal. Chairperson Dahal asserted that blaming others for the election defeat would promote opportunism.

Dahal faction insisted on resolving the dispute through the central committee. Then chairperson Dahal prepared his report and held discussions in the party headquarters and among former politburo members. Central committee meeting also discussed the report. Bhattarai demanded power sharing stating that following an individual thought and organisational leadership would invite dictatorship. In the meantime, Baburam Bhattarai announced that he would not take any posts until new constitution is drafted.

There was dispute in Congress also regarding the nominations for the proportional candidates. The leaders said that though standards drawn to select those helping the party and to argue for principle and policy were not followed. To resolve the dispute within Congress, seats were divided between Koirala and Deuba factions. Among the 91 proportional seats, Koirala faction received 55 and Deuba faction received 36 seats. They proposed names only from their own factions. "In the division, both factions nominated those loyal to their own factions, relatives, and from their constituencies and districts."

Conclusion

The struggle for supremacy between the head of the state and the head of the government created a new conflict in Nepali politics. Though the struggle between these two institutions appears to have been resolved for now, there are signs that this type of struggle will continue in future. And the troubles in forming a consensus government sent the message to the people that the parties cannot work even when given the opportunity. On top of that, the nominations for proportionate candidates created disputes within the parties. It was seen that the leaders could not internalise the fact that democracy cannot be institutionalised without strong parties and main agendas cannot be fulfilled. The failure to take ownership of the works of the first CA by the first sitting of the second CA as stated by the main political parties raised questions on constitution-drafting and political culture. The disputes in CA meeting, government formation, and constitution-drafting was an indication that Nepali politics is experiencing difficulty moving ahead with ease and with due procedure.

Major Political Developments

January 1:

- Federal Socialist Party Nepal submits five names including party chairperson Ashok Rai for CA membership to the Election Commission.
- Expressing dissatisfaction at nomination of proportional candidates to the CA, senior Maoist leaders Baburam Bhattarai and Narayankaji Shrestha submit a joint memorandum to party chairperson Pushpa Kamal Dahal.

January 2:

- The Supreme Court directs to revise and amend some provision of the Truth and Reconciliation Commission Bill (2013) that were deemed unconstitutional.
- Madhesi Janadhikar Forum Nepal submits the list nominations of the proportional candidates to the Election Commission.
- The Election Commission submits the final results of the CA election to the President Ram Baran Yadav.
- President Ram Baran Yadav consults the chairperson of Council of Ministers Khil Raj Regmi, Congress president Sushil Koirala, UML chairperson Jhalanath Khanal, UCPN (M) chairperson Pushpa Kamal Dahal separately regarding calling of the first sitting of the CA.

January 3:

- RRP Nepal expels five central committee members accusing them of trying to split the party.
- President Ram Baran Yadav intensifies political meetings on calling the first sitting of the CA. he meets Rastriya Janashakti Party chairperson Surya Bahadur Thapa, Madhesi Janadhikar Forum Loktantrik chairperson Bijaya Kumar Gachhedar, Tarai Madhes Loktantrik Party chairperson Mahantha Thakur in this process.
- The Constitutional Court refuses to halt the oath-taking and vote results of Nepali Congress CA member Bal Bahadur KC from Solukhumbu.

January 4:

- Meeting of the high-level political committee. Difference of opinion among the parties on who should call the first sitting of the CA. leaders decide to await the verdict of the Supreme Court.
- To discuss the call for first sitting of the CA, President Ram Baran Yadav meeting CPN (ML) general secretary CP Mainali, Rastriya Janamorcha leader Chitra Bahadur KC, CPN (Unified) chairperson Chandra Dev Joshi, Madhesi Janadhikar Forum Nepal chairperson Upendra Yadav, Tarai Madhes Sadbhawana Party chairperson Mahendra Ray Yadav among others.

January 5:

- The Supreme Court directs the government to make provisions to be able to cast negative vote in election.
- Congress president Sushil Koirala and senior UML leader Madhav Kumar Nepal holds discussions regarding government formation and first sitting of the CA.
- Top leaders of UML and UCPN (M) meet to discuss the first sitting of the CA, new election for the presidency, government formation, constitution-drafting among other issues.

January 6:

- President Ram Baran Yadav holds meeting with Federal Socialist Party chairperson Ashok Ra. The call for the first sitting of the CA among the agendas in the discussion.

January 7:

- UCPN (M) vice-chairperson Baburam Bhattarai accuses the party leadership of trying to divert the issues of democratic agendas he had raised by refusing the presence of a conspiracy.
- The writ filed against the chairperson of the Council of Ministers Khil Raj Regmi is postponed for the ninth time.
- President Ram Baran Yadav organises a tea reception for the parties represented in the CA. he urges the leaders to provide stability to the country by keeping to the spirit of the Interim Constitution.
- The Supreme Court justice Prakash Wosti sends the writ demanding the calling of the first sitting of the CA by the chairperson of the Council of Minister Khil Raj Regmi to the Special Bench.

January 8:

- Dalit Janajati Party chairperson Bishwendra Paswan files a writ at the Supreme Court demanding that individuals with special recognised identity be included in the 26 seats yet to be nominated to the CA but not those who had lost in the direct elections and members of political parties.
- The joint bench of the Supreme Court justices Sushil Karki and Prakash Wosti announces a verdict to jointly hear the two separate writs filed regarding whether the first sitting of the CA should be called by the prime minister or the president.

January 9:

- Congress president Sushil Koirala directs its CA members and central members to be ready to draft the constitution within one year as the responsibility lies with Congress now.
- President Ram Baran Yadav gives approval to the ordinance on oath-taking of the CA members.

January 11:

- President Ram Baran Yadav and chairperson of the Council of Ministers Khil Raj Regmi hold discussion on calling the first sitting of the CA.
- The president urges to keep in mind the spirit of the Interim Constitution and international norms while deciding on calling the meeting of the CA.
- The chairperson of the Council of Ministers Khil Raj Regmi calls the first sitting of the CA for January 22.
- Meeting of the UML standing committee decides to hold the ninth convention of the party in Kathmandu on April 22.

January 14:

- Meeting of the headquarters of UCPN (M). Baburam Bhattarai and Narayankaji Shrestha suggest amends to the political report prepared by chairperson Pushpa Kamal Dahal.
- The Supreme Court dismisses the two writs regarding who should call the first sitting of the CA citing their irrelevancy.

January 15:

- National Federation of the Disabled starts its second stage of protests demanding its representations through the 26 seats yet to be nominated to the CA.
- UCPN (M) chairperson Pushpa Kamal Dahal holds discussions with party headquarters and politburo members to seek consensus on his political report.

January 17:

- Meeting of the central committee of UCPN (M). Majority members urge end to factionalism.
- Separate meeting of senior Congress leader Sher Bahadur Deuba faction regarding selection of parliamentary leader in Budhanilkantha. Preparation to field their candidate if no suitable proposal for consensus from President Sushil Koirala.

January 18:

- Congress forms a three-member election committee under party spokesperson Dilendra Badu to select parliamentary party leader.

January 19:

- President Ram Baran Yadav meets top leaders of the parties represented in the CA. discussion on running of the first sitting of the CA, government formation, and constitution-drafting.
- Congress organises training programmes for newly elected CA members and directs them to play effective role in constitution-drafting.

- The government sends a proposal to the President to call the meeting of the legislature-parliament for January 26.

January 20:

- President Ram Baran Yadav administers oath the oldest CA member Surya Bahadur Thapa.
- The Constitutional Court issues an interim order to block UCPN (M) CA member from Saptari constituency 2 Ashok Kumar Mandal from the CA.
- RRP parliamentary party meeting decides to select Kamal Thapa as its leader.

January 21:

- The first sitting of the CA with urges to provide a way-out to the country by ending political deadlock as per the wishes of the people.
- The alliance of CPN (Maoist) and 33 political parties holds a protest in front the CA building demanding that the constitution be written based on consensus reached through a roundtable conference.
- Congress parliamentary leader election to be held on January 26.

January 22:

- The government requests Nanda Prasad and Ganga Maya Adhikari to end the fast-onto-death campaign demanding action against those involved in the murder of Krishna Prasad Adhikari.
- Congress constitution-drafting suggestion committee suggests taking ownership of decisions taken by the first CA to complete the constitution-drafting within one year.
- The Supreme Court dismisses the writ demanding the election of the president and the vice-president.

January 23:

- Complaints against the election reaches 23 in the Constitutional Court.

January 25:

- Congress President Sushil Koirala and senior leader Sher Bahadur Deuba file candidacy for election to the post of the parliamentary party leader. Vice-president Ram Chandra Poudel says that he will support Koirala after he is assured of being the acting president.

January 26:

- First meeting of the legislature-parliament starts. Chairperson of the Council of Ministers expresses satisfaction at the removal of constitutional obstacle through the election. Leaders of major parties express commitment to promulgate the constitution within one year.
- Congress president Sushil Koirala is elected its parliamentary leaders. Koirala gets 105 votes against 89 votes for senior leader Sher Bahadur Deuba.

January 27:

- Congress sends a letter asking for support in its government formation.

January 28:

- Meeting of the UML standing committee retains its demands for election of the president and vice-president and demands concrete proposal from Congress on government formation.
- Congress takes initiative to form a consensus government and consults the parties represented in the CA.
- UCPN (M) leaders stress on national convention to discuss the internal disputes, organisation problems, future strategies among others.

January 29:

- Second meeting of the CA. due to the failure to reach an agreement among the parties, efforts at including the taking of ownership of the first CA decisions in the agenda fails.
- UML standing committee meeting cannot sit because of the disputes regarding power sharing.
- The Supreme Courts issues a summons to the UCPN (M) proportional CA member Lalendra Kumar Yadav in the outstanding warrant against him issued by the Mahottari District Court.

January 30:

- Meeting of UML standing committee decides to hold central committee meeting on February 3 to discuss selection of parliamentary leader. Vice-chairperson Bamdev Gautam and secretary Bishnu Poudel are given the responsibility to hold talks with Congress on government formation and other issues.
- Meeting of CPN (Maoist) politburo urges UCPN (M) to come for unity by discarding the strategies agreed in the Hetauda convention.