

## Nepal's political parties: Problems of inclusion, legitimacy and split

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### Abstract:

*Starting with a short introduction into the historical development of political parties in Nepal, this presentation concentrates on the events after 1990. Since then, executive and legislative powers have been in the hands of the political parties. Nepali Congress and CPN-UML, the two leading parties of the 1990 system, failed to develop the young democracy into an inclusive system. This gave rise to the Maoist insurgency that pretended to fight for the rights of the excluded sections of society.*

*After the intermezzo of a royal putsch, Nepali politics faced a people's movement in 2006 that led to a new beginning with the intention of guaranteeing a durable peace and replacing the constitutional monarchy by a federal republican system. Despite successful elections to a constituent assembly in April 2008 and the abolition of monarchy one month later, the political parties have not been able to reach these two goals, yet. The crisis culminated once again on May 28, 2011, when the term of the constituent assembly had to be extended for a second time. The presentation tries to explain the numerous reasons that have been responsible for this development, reasons that predominantly depend on the failures of the leaders of the political parties.*

### Some basics

I will only very shortly mention some basics and terms as I use them in my presentation. We usually distinguish three different topographic regions in Nepal: Himal or the high Himalayas, Pahad, the hills, that rise up to more than 4.000m and Tarai, the flatlands along the Indian border in the South.

Pahad and Himal have been the traditional Lebensraum of the country, but today there may live about the same number of people in both the Tarai and the mountainous region (the newest census is just under way). Originally, the Tarai had been populated by a small number of indigenous ethnic groups. The immigration of population from neighbouring Indian areas had been forced by the Rana

rulers since the middle of the 19th century while Hindu castes and ethnic groups from the Pahad region immigrated in greater numbers only after 1950.

In the hills and mountains, we distinguish two great traditional population groups: Hindu castes (about 40% of the total population of the country) and ethnic groups (about 30%) who are now named Janajati by their leaders. The remaining 30% (indigenous ethnic groups, seen by themselves as part of the Janajati groups, as well as immigrated Hindu and Muslim castes, now identified as Madhesi) must be seen as the traditional population groups of the Tarai.

The problem today is that there are no longer any coherent settlement areas of special population groups. The reason is a constant migration that had been enforced with the unification process of the country some 250 years ago and that has become even stronger in recent decades.

The Shah rulers of the small principality of Gorkha in central Nepal have unified the country by military force after 1743 and the country got its current size after the Anglo-Gorkha war in 1816. The country came politically and economically under the control of the aristocratic Rana family (1846-1951). The downfall of the latter system saw the rise of Nepal's first political parties.

### Evolution of political parties up to 1990

The real history of Nepal's political parties began in the late 1940s in Indian exile. Some better-off families, especially Bahun families in Nepal's South Eastern Tarai districts, had sent their sons to schools and universities in India to provide them good education that was not allowed inside Nepal by the Rana rulers. Many of them had come into contact to the Indian independence movement for long and partly even had participated in it. Young Nepali political activists that were close to the Indian National Congress founded the Nepali National Congress (Akhil Bharatiya Nepali Rastriya Congress) in October 1946. The party faced an early split in January 1948 in a row over party leadership between Dilli Raman Regmi and B.P. Koirala, a reason that is typical for splits of Nepali parties till today.

The second Nepali party founded in Indian exile was the Nepali Prajatantrik Congress (Nepali Democratic Congress) that was dominated by dis-

satisfied members of the Rana family who also had gone into Indian exile. They were relatively wealthy, and when this party joined with the Nepali Rastriya Congress of B.P. Koirala in April 1950 to form the Nepali Congress (NC), the new party was able to establish a partisan army that some months later organized a war against the Rana troops and, thus, contributed to the downfall of the Rana system.

The third Party that was founded on Indian soil in September 1949 was the Nepal Communist Party (after 1990 usually named Communist Party of Nepal or CPN). Its early leaders were activists like Pushpa Lal Shrestha and Man Mohan Adhikari who before had been active in the CPI.

The Communist leaders like to emphasize that they had contributed to the downfall of the Rana system as well, but it is for sure that the NC at that time was far better organized, better equipped and also supported by the Indian government. As part of the Delhi compromise, i.e. the result of negotiations between Ranas and King Tribhuvan under coordination of Jawaharlal Nehru, the NC became part of an interim government of Ranas and NC politicians that was still headed by Rana Prime Minister Mohan Shamsher. Other important features of this compromise were the restoration of the royal powers of the Shah monarch and the agreement to hold general elections for a constituent assembly within two years.

The interim government broke off after only nine months and Rana rule finally became history. But the young NC politicians were too inexperienced to fill the gap. Besides, the party once again face power struggles, this time between B.P. Koirala, the accepted founder and ideologist of the party, and his half-brother M.P. Koirala. King Tribhuvan misused this rivalry, nominated M.P. several times as PM and, thus, finally split the NC when M.P. Koirala founded his Rastriya Prajatantrik Party (or National Democratic Party). The CPN weakened itself when it participated in an uprising in the early 1950s and was banned for about five years.

The weakness of the political parties opened the way for Tribhuvan and later his son Mahendra, who became king in 1955, to restore full royal powers more and more. But in 1958, Mahendra bowed down to mounting pressure and promised to hold parliamentary elections in early 1959. As a countermove, the NC renounced its demand for a constituent assembly, that had been promised in 1951, and allowed King Mahendra to introduce a constitution that was written by constitutional experts selected by Mahendra and that was promulgated only one week before the elections.

All these royal steps could not prevent that Nepal's first ever parliamentary elections were won by the NC with an overwhelming two thirds majority. The NC was the only party that was able to nominate its candidates countrywide. Besides, the party profited from the great number of independent

candidates and from the first past the post electoral system (FPTP); the NC got only 37% of the votes. The CPN was still weak and won only 4 seats.

As a result, B.P. Koirala became Nepal's first democratically elected PM in a state that defined itself as a monarchic system in the preamble of the constitution. Further, the constitution gave the king strong executive and legislative powers and, especially, it gave him the right to declare a state of emergency and to dissolve the parliament.

This exactly happened on 15th December 1960. With the help of his army, King Mahendra dissolved the parliament and arrested the whole cabinet as well as numerous other politicians. Some of the them remained in jail for more than ten years; PM B.P. Koirala was only released in 1968. All this happened without any trial. Mahendra abolished the young democratic system and replaced it by a pseudo-democratic system, the so-called Panchayat system. Under this system, political parties were banned. Only on the lowest level, that of villages and towns, the people could elect non-party candidates that were filtered by the system. The elections to all other levels of the system (district, zone, national Panchayat) were indirectly by the respectively lower level.

In the beginning, King Birendra, who followed his father on the throne in 1972, continued his father's system even with greater toughness. But after student riots in spring 1979 that were supported by the outlawed parties, Birendra conceded to hold a national referendum: The people had to decide if the country should return to multi-party democracy or uphold the Panchayat system with modernising reforms.

For one year, the parties were allowed to put their point of view openly, but they got absolutely no financial support from the state. What was more important for the later outcome of the referendum was the fact that all the political parties proved unable to cooperate even though they had a common goal, i.e. the abolition of the Panchayat system. The referendum took place on 2nd May 1980 without independent observers and the government claimed that about 55% of the people had voted in favour of a modernized Panchayat system, i.e. against multi-party democracy.

The outstanding features of the modernized systems were direct elections to the National Panchayat (Rastriya Panchayat), election of the PM by the National Panchayat, and the PM was responsible to the National Panchayat and, thus, could face a vote of no confidence. Parties were still outlawed, but communist parties managed to introduce of number of their politicians into parliament in 1986. One year later, the NC managed the same on the local level; e.g., the mayor of Kathmandu was a leading NC politician.

To give a short overview over the situation of the political parties in the late 1980s after about 30

years of Panchayat system: More or less all parties had survived in the underground. There had even been reports over their meetings in the media, though the latter always had to add the adjective "outlawed". The NC had survived more or less intact, though B.P. Koirala had died in 1982. The party was not able to elect a new president; Krishna Prasad Bhattarai was nominated acting president.

The CPN was not that lucky. The party had first split in 1962 following the partition of the world communism in pro Moscow and pro Beijing lines. Later both lines split time and again into several splinter parties. These later splits were to a greater part not caused by real ideological differences but more by power ambitions of communist leaders. In the late 1980s there existed about 15 different CPN in Nepal.

### **Political parties under the system of 1990**

The political movement that started on 18th February 1990 is today called Jana Andolan I (People's Movement I). It had the aim to end the Panchayat system and to restore multi-party democracy, and it fit into a number of movements that led to system changes then worldwide. But, of course, it also had local reasons. So, the Panchayat system had degenerated; an economic blockade imposed by India in early 1989 had further worsened the situation, especially in the Kathmandu valley and in the urban centres of the Tarai.

The movement became possible, because Nepali Congress and left parties for the first time were willing to cooperate. To reach this agreement, the left parties had to give up their demand for a republican state. Seven communist parties had joined for this movement under the name United Left Front (ULF). The other left parties supported it from outside. Other co-organizers were the then existing two human rights organizations, Forum for Protection of Human Rights (FOPHUR) and Human Rights Organization of Nepal (HURON).

When more and more people turned to the streets even in front of the royal palace, King Birendra lifted the ban on political parties and abolished the Panchayat system. On 19th April an interim government was installed under PM Krishna Prasad Bhattarai (NC) with ministers from ULF, NC and the two human rights organizations; besides, there were confidants of King Birendra.

The interim government managed to keep its fundamental promises: A new constitution was promulgated on 9th November 1990 and parliamentary elections took place on 12th May 1991. The new constitution had been heatedly discussed. The palace tried to hold as much power as possible and the NC pressed the ULF parties to compromises they did not really want. The main features of the new constitution were as follows:

- Sovereignty moved from the monarch into the hands of the people.

- The people were no longer subjects of the king.
- Nepal became recognized as a multi-ethnic and multi-lingual state.
- On pressure of the NC, the link of state and religion was upheld in the name of Hindu monarchy.
- There was a good catalogue of fundamental rights, though these partly stood in contradiction to the Hindu state.
- The king was only formally participated in executive and legislative.
- There was to be a bicameral parliament: The 205 MPs of the House of Representatives (Pratinidhi Sabha) had to be directly elected by the people for five years. The National Assembly (Rastriya Sabha) comprised 60 MPs (35 elected by the House of Representatives, three each from the five Development Regions, and 10 persons nominated by the king) for six years, while one third of them was to be exchanged every two years.
- There should be an independent judiciary.
- Political parties representing ethnic or regional interests were not allowed to take part in elections.
- The National Defence Council (PM, Minister of Defence, COAS) had to decide on the mobilization of the army, but the king remained the Supreme Commander of the Army.
- There were still a number of special rights of the king.

Some of the left parties became aware that they would have hardly any chance against the NC if they contested separately in the upcoming election. So, on 6th January 1991, the two biggest parties of the ULF, CPN (Marxist-Leninist) and CPN (Marxist) joined under the name CPN (Unified Marxist-Leninist) or, shortly, CPN-UML. Nevertheless, this party could not prevent the NC from winning the May 1991 parliamentary elections with an absolute majority.

There were several reasons for this NC success. On the one hand, the party had been able to convince the people that its election would be in continuation of the multi-party system that had been abolished by King Mahendra in December 1960. Other reasons were the dividedness of the left camp and the great number of independent candidates. Last but not least, the NC profited from the FPTP election system: With 37.2% of the votes, the party won 53.7% of the seats. Since the party president and interim PM Krishna Prasad Bhattarai had lost in his constituency against the young CPN-UML general secretary Madan Kumar

Bhandari, the office of PM fell into the hands of NC general secretary Girija Prasad Koirala.

Today, we know that the political system that has been introduced in 1990/91 has failed within less than one and a half decades. In the following, I will try to analyse the reasons that have led to this failure. They have to do with endless power games of the politicians, distrust between and even within the leading parties, the non-development of the democratic ideals, the exclusion and dissatisfaction of greater sections of society, a Maoist insurgency as the result of the unfinished political changes of 1990, and the putsch of a monarch who tried to misuse all this for his own interests.

I will begin with a view from inside. The 1990s saw three parliamentary elections (1991, 1994 and 1999) as well as two local elections (1992 and 1997). The NC proved unable to use his absolute majority in the Pratinidhi Sabha for successful politics. One of the main reasons was the internal dividedness of the party. This feature was not new for the NC. I already mentioned the conflict between Dilli Raman Regmi and B.P. Koirala in the late 1940s and the one between the Koirala half-brothers in the early 1950s that have led to party splits. Later, there was a conflict between B.P. Koirala and Suvarna Shamsheer J.B. Rana; possibly, King Mahendra's putsch prevented another split of the party. In the early 1990s, the NC had three outstanding leaders: the already mentioned Krishna Prasad Bhattarai and Girija Prasad Koirala as well as Ganesh Man Singh Shrestha, a close political fellow of B.P. Koirala since the foundation of the party. Ganesh Man had been accepted as the symbolic leader of Jana Andolan I but he rejected King Birendra's offer to become the interim PM and, instead, suggested Krishna Prasad Bhattarai.

Different from Bhattarai and Koirala, who, as most of Nepal's party leaders, were Bahun, Ganesh Man was an upper caste Newar. Soon after Girija took the PMship in 1991, there were growing tensions between Girija and Ganesh Man, because PM Koirala filled all post and positions with his own clientele. At a time of growing ethnic consciousness, Ganesh Man criticized Girija's politics of Bahunbad and demanded a greater role for Newar and other ethnic groups, who at about that time started to call themselves Janajati.

The conflict between the two leading NC politicians culminated in mid 1994 when a number of NC MPs refused their blessing to the budget presented by Koirala's government. An upset PM asked King Birendra to dissolve the parliament and to hold early elections. They took place in November 1994. This time, the NC not only lost its absolute majority but it even got less seats than the CPN-UML. One of the reasons was that the Ganesh Man camp refused to file candidates on the official NC list but instead sent rival candidates into the elections.

The CPN-UML had been the by far strongest opposition party in the 1991 parliament. But the party

soon proved unable to make constructive politics in parliament and instead turned to the streets. With its politics of strikes and bandhs (general strikes that are forced with great militancy) it started one of the worst traditions of modern Nepali politics, that, since then, has been misused by almost all parties, organisations, unions, etc. whose demands are disregarded by the state.

The CPN-UML's strong card was its charismatic leader Man Mohan Adhikari. As one of the last leaders from the founding times of the CPN, he had highest respect within his party and stayed away from the intra party fightings that were also present in the CPN-UML. As the PM candidate of his party, he had great responsibility that the CPN-UML won the highest number of seats in the 1994 elections, though it failed to win an absolute majority, and it also got less votes than the NC.

For the next almost five years, Nepal's party politicians proved that they were not able to form functioning coalition governments. It started with a minority government of the CPN-UML under PM Adhikari. The NC leaders expected that there would be new elections rather soon, but when the Adhikari government introduced some populist measures like a small pension for old people and 300.000 Rs. yearly for the local bodies to run their own development projects, the NC leaders feared that the CPN-UML could gain public support in potential elections because of these popular politics.

So, in September 1995, the NC proposed a motion of no confidence. It garnered a one-vote majority by forming a coalition with the Rastriya Prajatantra Party (National Democratic Party, NDP) and the Nepal Sadbhavana Party (NSP). New PM became Sher Bahadur Deuba, a second generation leader of the NC. To hold his fragile coalition government together, he formed a cabinet of up to 48 ministers, i.e. almost every second of the 103 MPs of the coalition parties got a position within the government. The two outstanding activities, respectively non-activities had to do with the formation of the Maoist movement. In autumn 1995, the Deuba government unsuccessfully tried to prevent this formation in the hills of mid Western Nepal by force. When the Maoists approached the government in January 1996 with a catalogue of 40 demands, Deuba totally disregarded them. In reaction, the Maoists started their so-called "people's war" (Jana Yuddha) on 13th February 1996.

Formal and informal splits within the two smaller coalition parties forced the Deuba government to resign in March 1997. Especially the old rivalry between the two NDP leaders Surya Bahadur Thapa, the most often PM of the Panchayat system, and Lokendra Bahadur Chand had broken out once again. The CPN-UML used this for its own interests and formed a new coalition government with Chand (NDP) as PM. This NDP/UML coalition was further joined by the NSP and the Samajwadi Janata Dal (Nepal Socialist People's Party).

Half a year later, the NC used the other wing of the NDP to form a government under PM Surya Bahadur Thapa (NDP). Both these governments must be called strange since the two big parties accepted PMs from the rival factions of the conservative NDP. Each of these governments did not last longer than six months.

The open split of the CPN-UML in early 1998 weakened the party enormously. Man Mohan Adhikari remained the undisputed leader of the CPN-UML, but the real power within the party lay in the hands of the general secretary. This position had been in the hands of the young and charismatic leader Madan Kumar Bhandari in the early 1990s. After he had died in a car accident, this position had gone to Madhav Kumar Nepal. At the party convent in early 1998, the left wing leader Bam Dev Gautam lost the elections for this position against Madhav Nepal. As a consequence, more than 40 MPs left the party together with Gautam and formed a new party under the name CPN-ML.

This weakening of the left side eased the way for Girija Prasad Koirala, the president of the NC, to form a minority government in April 1998, that was joined by the CPN-ML in August of the same year. But these two parties had little in common. The coalition broke off in December 1998. The parties admitted that they were not able to run coalition governments successfully. So, the government that was formed under PM Girija Prasad Koirala (NC) in December 1998 with the CPN-UML and the NSP had the only intention to prepare new parliamentary elections that took place in May 1999.

There were two reasons why the NC once again won these elections with an absolute majority of seats (111 out of 205). The most important reason was the split of the CPN-UML. The mother party won 71 seats, the CPN-ML none though it got more than half a million of votes. Together, the two parties got more votes than the NC and they would have won 114 seats if they had contested the elections in unity. This was the first time in Nepali history that the left parties got more votes than the NC and it fits into the trend, that the old NC is losing popular support from election to election while the left side is continuously growing in strength.

The second reason for the success of the NC had to do with Girija's cleverness. Before the elections, there had been a grave rift within the NC as well, with two rival factions led by Girija Prasad Koirala respectively Krishna Prasad Bhattarai and Sher Bahadur Deuba. So, Girija declared Krishna Prasad Bhattarai as the party's PM candidate without contacting any of his party colleagues. This brought the fightings within the party to an immediate standstill. But as soon as Bhattarai had taken the office of PM, Girija did everything to bring him down as soon as possible. The time was ripe for this in March 2000.

Despite of its absolute majority in parliament, the NC was unable to form stable governments. When

Girija had to hand over the office of PM to Sher Bahadur Deuba in July 2001 after the royal palace massacre, Nepal got the third new NC government within only two years.

Once again meant the PMship of Deuba the beginning of a dark chapter in Nepali history. Deuba started hopefully by entering into a peace dialogue with the Maoist insurgents. The problem was that he had absolutely no agenda while the Maoists claimed that they would talk about everything besides their three main demands: abolition of monarchy, formation of a federal republic and writing of a new constitution by an elected Constituent Assembly (CA).

When the dialogue failed, the Maoists fiercely attacked army barracks and state institutions. Deuba asked King Gyanendra to mobilize the army against the insurgents and the king did so. His predecessor, King Birendra had always rejected the idea to mobilize the army and even had sought a direct dialogue with the Maoists in his last days. Besides, the Deuba government declared a state of emergency that limited quite a number of fundamental rights. This state of emergency was confirmed by parliament in February 2002 and extended for another three months. But it became clear that the mobilization of the army and the state of emergency did not bring the country closer to a solution of the Maoists insurgency. On the contrary, the number of casualties had gone up enormously, and the people faced the atrocities of both, army and Maoists.

When Deuba tried to extend the state of emergency once again in late May 2002, he even failed to get the necessary support by his own party in parliament. In anger, he asked King Gyanendra to dissolve parliament and to extend the state of emergency by ordinance. New parliamentary elections were set for November 2002. Since local elections could also not take place in July 2002, Deuba dissolved the elected local bodies and replaced them by officials. The reason was that the previous local elections of 1997 had been won by the CPN-UML with an absolute majority, and Deuba wanted to prevent the CPN-UML to control the local level during the parliamentary elections. But Deuba's steps had a further consequence. There had been an open rivalry within the NC, at least since Deuba had replaced party chairman Koirala as PM. Deuba's steps against the party will caused an open split of the party and Deuba founded his own party under the name NC (Democratic).

In October 2002, it was clear that elections could not take place in time. So, after discussions with the other parties, Deuba asked the king to adjourn the elections. At this point, a short look at the corresponding constitutional rules is necessary. The dissolution of parliament was backed by article 53 (4) which demanded that in such cases new elections had to take place within six months. This meant in other words that the dissolution became invalid if the deadline could not be met, i.e. the ad-

journalment of the elections would have been against article 53 (4) of the constitution.

What King Gyanandra did, was even worse. He dismissed PM Deuba because of "incompetence" and installed a new government under Lokendra Bahadur Chand (NDP) whose closeness to the palace was well known. This royal step was nothing but a putsch. The constitution gave the king neither executive nor legislative nor judicial rights. A PM could only be dismissed by democratic means, e.g. by a vote of no confidence, nor did the king have any rights to nominate a new government. This was a step back to early Panchayat times when the king installed or dismissed governments at his own discretion. The only difference was that the political parties now still played a role in the royal game.

Surprisingly, Chand managed to start another peace dialogue with the Maoists in January 2003. Different from Deuba in 2001, Chand entered into an open dialogue with the Maoists and he was also willing to make concessions. So, in May the government and the Maoists agreed that the royal army and the Maoist PLA should not move farther away than 5 km from their barracks. The next day, the leadership of the royal army stated that it was absolutely unimportant for them what the PM agreed with the Maoists. This not only meant the end of the Chand government, who was replaced as PM by Surya Bahadur Thapa (NDP), but also an end of the second peace dialogue with the Maoists.

Different from Chand who had filled his government with a number of technocrats, Thapa was not able to form a full-fledged cabinet even after one year. All political parties stood in opposition to his government, and they commonly organized endless demonstrations on the streets. Finally, Surya Bahadur Thapa resigned in May 2004. The next month, King Gyanandra nominated a new government with Sher Bahadur Deuba (NC-D) as PM, the same Deuba whom he had dismissed hardly two years earlier because of "incompetence". The king even managed that the CPN-UML, which in the meantime had reunited with the CPN-ML, also joined this government. The effect was that the demonstrations on the streets calmed down, but the new government as well did not bring the country closer to peace and the restoration of democracy.

### **Jana Andolan II and the way to durable peace and political reconstruction**

In this situation, King Gyanandra concluded his coup d'état supported by the army. On 1st February 2005, he dismissed the Deuba government once again. This time, he took over the government himself, surrounded by a small number of royalists. Tulsi Giri and Kirti Nidhi Bista, the greatest hardliners of the Panchayat system, who never had joined political parties after 1990, became his deputies within the cabinet. Gyanendra declared a state of emergency and suspended the most im-

portant fundamental rights. Day by day, thousands of politicians, rights activists, scholars, lawyers, journalists, students and other members of civil society were arrested.

This did not prevent all these groups to take to the streets and to resist this politics of suppression. But the public pressure was not only against the royal regime, it was also directed towards the different political parties and the Maoists. One can say that this pressure was the reason why the CPN-M declared a one-sided ceasefire in September 2005, even though it was not responded by the royal army. On 22nd November, the political parties including the CPN-M met in New Delhi, of course with the tacit connivance of the Indian government, and signed an agreement to end the royal putsch and to start a common process for peace and reconstruction. This was the real beginning of the current political process.

Planned mass meetings in Kathmandu on 6th April 2006 were transformed by the people into Jana Andolan II that ended on 24th April when Gyanandra ended his power seize and reinstated the parliament that had been elected in 1999. The parliament elected Girija Prasad Koirala (NC) as the new interim PM. Jana Andolan II had been even more impressive than the movement of 1990. Hundred thousands of people had peacefully taken to the streets day by day, not only in Kathmandu but almost everywhere in the country. They had demanded the end of royal power, a durable peace and the formation of an inclusive democratic state. Thus, the demands of Jana Andolan II became the mandate of the political parties to start a process for peace and reconstruction.

A few days after the end of the movement, the CPN-M entered into an informal peace agreement with the government. On 8th November 2006, it was replaced by a comprehensive peace agreement. Till today, it has been the basis of all steps that have been successfully concluded respectively that are still open. All parties, including the CPN-M, together wrote an interim constitution that was implemented by the reinstated parliament of 1999 on 15th January 2007. The same day, the old parliament dissolved itself and the new interim parliament convened for the first time.

All parties that had not supported the royal putsch were allowed to send MPs into this interim parliament according to their share of seats in the 1999 parliament. All MPs were nominated by the party leaders. With the exception of the CPN-M all parties decided to give preference to persons that had been elected in 1999. Only the CPN-M, that had not been part of the 1999 parliament and that was now allowed to nominate 73 MPs, respected the parliamentary decision to reserve at least 33% of the seats for women. They not only had 40% female MPs but they also nominated 80% of the MPs from disadvantaged sections of society. This step should work in their favour in the elections for a constituent assembly in 2008.

But the political parties, obviously once again forgot the adequate inclusion of the Madhesi population. So, the latter started huge demonstrations and riots only one day after the inauguration of the interim constitution that continued for more than one year. The Janajati groups as well felt unrepresented.

In April, the CPN-M also joined the interim government, but the politics of cooperation that had found its peak in the comprehensive peace agreement of November 2006 slowly fizzled out and gave room to growing distrust between the parties and often also between the leaders of the same party. Elections for a CA had originally been planned for June 2007. They had to be delayed twice, first to November 2007 and then to April 2008. The second delay became necessary, after the CPN-M demanded to hold the elections exclusively on the basis of proportional lists. According to the interim constitution, half of the members of the CA had to be elected along the FPTP system. Finally the politicians agreed to raise the number of MPs in the CA to 601. 240 were to be elected as FPTP candidates, 335 on the basis of proportional representation (PR) lists and further 26 members had to be nominated by the government.

The election for the CA took place on 10th April 2008. 53 parties took part; only three of them were able to nominate candidates in all the 240 constituencies: CPN-M, NC and CPN-UML. Two new parties had been founded by Madhesi shortly before the elections: Madhesi Janadhikar Manch Nepal (MJMN) or Madhesi People's Rights Forum Nepal (MPRF) and the Tarai Madhes Loktantrik Party (TMLP, Tarai Madhes Democratic Party). These two parties only filed candidates in constituencies with high Madhesi numbers.

The elections along the FPTP system came as a shock for the big old parties and their leaders. Most of the party leaders had filed their candidacy under this system. FPTP candidates were not allowed to be included in the PR lists. This meant that all those leaders who lost in their constituencies were automatically excluded from the CA. Nevertheless it was surprising that the CPN-M won exactly 50% of the FPTP seats. The NC was reduced to mere 37 seats, the CPN-UML to 33 seats. Several reasons may have played a role for this result. The NC had been the party that had highest responsibility for the failure of the 1990 system because, with the exception of two short periods, it had always been the biggest party in government. Besides, had the NC not been able to adapt internal democratic structures and to become an inclusive party. The CPN-M, on the other side, may have caused a lot of hardship for the Nepali people, but it was the only party that stood up for the disadvantaged and excluded masses; and this party had already proved that it meant this well when it nominated its MPs for the interim parliament or when it nominated its FPTP candidates for the CA elections. The loss of the CPN-UML may be

seen as a consequence of the great success of the CPN-M; people who had voted for the CPN-UML in earlier elections now moved to the CPN-M.

The defeat of the old parties was softened a bit by the PR results. Here, the CPN-M won only a little bit less than 30% of the votes, followed by the NC (21%) and the CPN-UML (20%). After some changes caused, e.g., by unifications (e.g. the CPN-M was renamed Unified CPN-M (UCPN-M) after it was joined by some smaller left parties) or the death of MPs, the current composition of the CA is as on this chart:

### **Main issues of constitution writing and controversy**

**Republic:** The change from monarchy to republic had been one of the three main demands of the CPN-M. It had also been mentioned in the statute of the CPN-UML as one of the party goals. During Jana Andolan II had the call for a republic been one of the main slogans of the demonstrators. The interim constitution had laid down that the CA should abolish the monarchy during its first session. This happened on 28th May 2008. There were only four votes against the abolition of monarchy. They came from the four delegates of the NDP-Nepal of Kamal Thapa that had split off from the NDP after the end of the royal putsch. A number of other partly militant monarchist or Hindu fundamentalist parties or organizations had been established as well, but they were not part of the CA. They, especially, used the weak security situation in the Tarai region for their politics.

Ex-King Gyanendra refused to go into exile. Time and again, he used public appearances, especially in connection with visits to Hindu temples and festivals, to improve his public status. In 2010, he even started to talk about a future role of monarchy considering the more and more failing party politicians. Similar statements of politicians, most of all from the NC and the conservative wing of the CPN-UML caused a feeling of unease.

A president, Ram Baran Yadav (NC), has been elected by the CA in July 2008 to replace the monarch as representative head of state. It also had a symbolic meaning that the politicians chose a Madhesi for this office.

**Inclusion:** About 85% of the population have historically been excluded from politics and public affairs because of ethnicity, gender and regional aspects: ethnic groups (Janajati), Dalits, Madhesi and women in general. Thanks to the PR system, these groups now have got a more or less adequate share in the CA. But, so far this has meant little. Ten thematic committees have been formed within the CA that have already presented their suggestions for the new constitution. But the members of the CA so far have not been allowed to discuss these suggestions.

Nevertheless, the latter have been heatedly debated by the leaders of the political parties. The

problem is that the leadership of all the parties is everything else but inclusive. Most of the party leaders are male Bahuns. Many of them, most of all those from the NC and the CPN-UML, have been rejected by the people in the CA elections. This means, they are lacking legitimacy. This has not prevented them from even becoming PM or other ministers. Most of the ministers of the Madhav Kumar Nepal cabinet of 2009/10, for example, had been rejected by the voters.

**Federalism:** It has been laid down in the interim constitution that future Nepal shall be a federal republic. Federalism has been part of the manifestos of most of the parties in 2008. But it seems, the party leaders only started to think about federalism in December 2009 when the Committee on State Restructuring and Distribution of State Power presented its draft. The current suggestion of the CA committee is a mixture of 14 provinces on the basis of ethnicity, language or region.

The demand for restructuring the Nepali state on the basis of ethnicity has been forwarded in the early 1990s by the Nepal Federation of Indigenous Nationalities (NEFIN, Nepal Adhivasi Janajati Mahasangh), an umbrella organization of the Janajati groups. Later, the Maoists made this idea their own what provided them a great sympathy from ethnic circles. The Janajati groups believe that this is the only way to escape the century old domination by Caste Hill Hindu Elite Male (CHHEM), as my colleague Mahendra Lawoti likes to call them.

A problem is that today there are no areas in Nepal that are populated by a single ethnic group. Constant migration, that has been forced by the unification process some 200 years ago, has transformed Nepal into an ethnic patchwork rug. So, there are fears, that the currently prevailing system of exclusion in favour of CHHEM may be transferred to the new federal provinces, then in favour of the dominating groups there after whom the states will be named.

Such fears are predominantly cited by conservative politicians from NC and CPN-UML. The NC, for example, suggests a division of the country into six federal provinces that very much remind of the currently existing five development regions. It's obvious that the current system of exclusion in favour of CHHEM will be transferred unchanged to the provinces under this system.

**Rehabilitation and integration of the PLA:** The rehabilitation and integration of the former Maoist fighters of the PLA is part of the comprehensive peace agreement of November 2006. It should have been concluded by the interim government of Girija Prasad Koirala in early 2007, but it's still vehemently discussed. It has not been mentioned in the agreement, where and how these fighters have to be integrated, but it is also not mentioned that only a part of them shall be integrated as de-

manded by conservative politicians. The army leadership has resisted any kind of integration right from the beginning. Conservative politicians of NC and CPN-UML later demanded to amend the corresponding passage of the peace agreement. But also the formation of new militant suborganizations by the Maoists, like the Young Communist league (YCL) hindered the integration process. Currently, there is a compromise in the air that foresees the integration of about 5.000 fighters into the army and a golden handshake for the rest, though this idea is once again opposed by conservative politicians and by the radical wing of the UCPN-M around Mohan Vaidya.

### **Perspectives**

The peace and reconstruction process stagnated ever since the elections to the CA in April 2008. The parties of the 1990 system, especially NC and CPN-UML, never understood and accepted the democratic processes that led to their defeat and that made the victory of the CPN-M possible.

All parties saw the elections more as an instrument that would bring them to power. It took four months before a first coalition government was formed with Pushpa Kamal Dahal (CPN-M) as PM. The NC remained as veto power in the opposition and boycotted the work of the CA. In May 2009, Dahal resigned, a coalition government of 22 parties with Madhav Kumar Nepal (CPN-UML) as PM was formed, and the UCPN-M played the same role in opposition as the NC had done before. Effective work of the CA was prevented by all means.

The different committees had presented their suggestions for the new constitution but there was no chance for the CA to discuss them. So, on 28th May 2010, the term of the CA was extended in the very last minute for another year. One precondition was the resignation of the Nepal government. It took nine months before a new government was formed with Jhala Nath Khanal as PM in March 2011. This time, the NC returned to the opposition.

The new government never really worked, since it not only faced opposition from the NC but also from the conservative wing of the CPN-UML. For the whole year of extension, the CA had exactly eight meetings that altogether lasted for 95 minutes. The term of the CA was once again extended for another three months, this time under the precondition that the Khanal government resigned.

Currently, there is some movement in the process of both PLA integration and constitution drafting. The latter will definitely not be finished within three months, but a first draft could be possible if all parties cooperate. The position of the great veto players (NC, conservative wing of the CPN-UML and radical wing of the UCPN-M) is very difficult to assess.

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