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Nepal in 2014: Continued failure of party leaders

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After the elections to a second Constituent Assembly (CA-II) on November 19, 2013, hopes were high that this time a new constitution would actually be written. While the victorious party of the first CA election, the UCPN-M, suffered a landslide defeat this time, Nepali Congress (NC) and CPN-UML, i. e. the two parties that had been mainly responsible for the failure of the political system of 1990, celebrated their resurrection. Together, they have a slim two-thirds majority of seats in CA-II, a fact that they owe to the mixed electoral system, more precisely to their outstanding success in the election of 240 representatives elected under the direct election system (First Past the Post. FPTP). But they have been elected by only 49 per cent of the voters.

Executive

Despite the usual power struggles, both parties finally managed to form a coalition government. Although NC chairman Sushil Koirala was elected Prime Minister on 10 February, 2014, with the voices of the UML MPs, it took another 15 days before ten ministers from the ranks of the UML joined the Cabinet. The reason for the delay was the non-compliance of the original commitments of the NC to the slightly smaller coalition partner. Two ministerial posts went to small parties; four ministries are still not occupied.

As always, the government is not exempted from power struggles both within the two major parties in government as well as between them. Krishna Prasad Sharma Oli, who in July just prevailed as new chairman of CPN-UML has repeatedly hinted that he is expecting a transfer of government leadership into his hands, at the latest after the new constitution is adopted.

Finance Minister Ram Sharan Mahat had announced an early discussion of his draft budget in summer, but this failed due to the boycott of the opposition parties. Just as in previous years, the household funds intended for development projects are retrieved late or incomplete even under the current government.

Local elections had originally been promised before mid-2014. In reality, however, both government and opposition parties showed little interest in such elections. The last local elections took place in 1997. The then elected committees was dissolved in mid-2002.

Constituent Assembly

In the elections for CA-II, 240 delegates had been elected directly and another 335 via so-called proportional representation (PR) lists. The PE system was to ensure that all social groups were included in the CA fairly to represent the interests of their respective groups in the discussion on the new constitution. The parties may be bound by Article 63 of the Interim Constitution to participate all sectors of society appropriately while selecting candidates for the elections, but they have respected this constitutional ruling substantially less than four and a half years earlier.¹

The result is that CA-II has a much stronger preponderance of male Tagadharis (Brahmin, Chhetri, high caste Newar) than CA-I. The proportion of women compared to 2008 fell sharply, just as that of Janajatis (ethnic groups), Madheshis (Indian population of the Tarai) and Dalits.

New elections were necessary in four electoral districts, because the winning candidates had been successful in two different constituencies. In these elections of June 22, 2014 the NC won three seats and the CPN-UML one. Originally both parties had each won two of these mandates.

According to the Interim Constitution, an additional 26 delegates had to be nominated by the incumbent government. They should have been selected from not yet or inappropriately represented social groups or from among outstanding members of civil society. Only then should the CA have held its first meeting and should have elected a Prime Minister and CA chairperson.

This constitutional provision was ignored by the politicians in many ways: First, CA-II became operational without the additional 26 delegates and elected a new government. It was not until

the end of August 2014, when it already became obvious that the new constitution threatened to fail at the same points of contention as CA-I in 2012, that the two major parties in government named 17 additional delegates from their own ranks. Nepotism and the inclusion of family members of the party leaders played a major role in this selection. The excluded groups in society were once again left out in the rain.

In the following weeks, the politicians missed one self-imposed deadline date for the promulgation of the new constitution after the other. Main points of contention were the same as in 2012: the design of the federal structure, the question of the state system (parliamentarian or presidential), the electoral system and the judiciary. It became clear that the contrary attitude of the major parties had changed little since then. This was not surprising since they had discussed these aspects neither among themselves nor within their own parties. The difference was only that the balance of power in the CA had changed. In 2012, the minority of NC and CPN-UML prevented the implementation of the ideas of the UCPN-M, and in 2014, the latter tried to do the same with the suggestions of the ruling parties.

The Political Dialogue and Consensus Committee (PDCC) led by Baburam Bhattarai (UCPN-M) had the special task to eliminate differences between the parties with respect to the drafting of the new constitution. In autumn 2014, it became apparent that January 22, 2015, as self-imposed deadline for the adoption of a new constitution would not be met. The reasons can be reduced to a simple denominator: Nepal's party leaders are unable to achieve consensus. For them, consensus means that the other side has to take the own ideas unconditionally.

After Bhattarai's last attempt to bring about a consensus failed, the two governing parties have presented their own proposal for the new constitution for majority voting in the CA. According to the interim constitution, such vote must be held separately on every article and in each case requires a two-thirds majority.

Opposition

Given the numerical superiority of the two major parties in government, the opposition parties show largely frustrated and tend to boycott of the CA and to demonstrations in the streets. The latter is done in part with the participation of the non-parliamentary opposition. The radical wing of the Maoists led by Mohan Baidya that had split off from the UCPN-M in mid-2012 was subjected to a further split when Netra Bikram Chand formed a new party under the name CPN (Maoist) on November 24, 2014.

But also the right political spectrum shows efforts that are contrary to the rules laid down in the Interim Constitution. Here, the main activist is the RPP-Nepal of Kamal Thapa, the fourth largest party in CA-II with 24 MPs. This party does not want a federal state but a return to Hindu state and monarchy. Towards the end of 2014, it received support not only from its old mother party RPP, which had actually turned away from such principles in 2006, but also from the conservative wing of the NC.

Foreign politics

Despite the executive and legislative problems, 2014 has been a very successful year with regards to foreign policy. The state visit of the newly elected Indian Prime Minister Narendra Modi in early August was the highlight of last year. There may have been some critical and negative murmuring on the eve of this visit that referred to Modi's closeness to Hindu nationalist thinking and the not always positive cooperation of the Indian government in the past. But the Indian Prime Minister quickly dispelled such fears with his friendly and populist appearance.

Modi came to Nepal with many financial pledges and gifts. Here one should highlight a loan commitment of one billion dollars. The funds are to be used for commonly agreed road and hydro projects. A Power Trade Agreement (PTA) and a Project Development Agreement (PDA) could not be signed immediately. This was partly due to political and diplomatic shortcomings of the Nepalese government, but it had also to do with the traditional mind-set of Indian

bureaucrats. A PTA was finally signed on September 4. It aims to attract international investment in the energy sector, promote the development of the power system and provide a basis for bilateral electricity trading.

The End of November was the marked by SAARC summit of heads of government in Kathmandu that initiated Modi's second visit to Nepal. His plan to combine this trip with a sort of pilgrimage to significant cultural places (Janakpur, Lumbini, Muktinath) failed because of Nepalese reservations. Not only left-wing political parties raised concerns that Modi wanted to hold a public speech in Janakpur.

China also shows an increasing interest in closer cooperation with Nepal. For years, some form of competition between India and China in Nepal can be observed. Whenever official visitors from one of these countries come to Nepal, you can be sure that a delegation from the other country will arrive soon as well. For 2015, a visit by Chinese President Xi Jinping is already under discussion.

Chinese investment in Nepal has increased enormously in recent years. The focus is in particular on the construction or upgrading of roads, dry ports, power plants and airports. The extension of the Tibet Railway, which in 2014 was already extended to Shigatse, up to Kathmandu has now officially been envisaged.

European policy in Nepal in the past few months resembles a balancing act. Nepal's politicians have no problem accepting European aid funds in support of peace and constitutional process. But at the slightest reminder of human rights and democratic principles, politicians and media immediately speak of attempted interference and distort the statements of European ambassadors. The most glaring incident occurred in mid-December 2014 when the British Ambassador Andrew Sparkes called for the freedom of religious choice as a fundamental right within the new constitution. This was reinterpreted as an endorsement of Christian proselytization.

At the end of January 2015, EU Ambassador Rensje Teerink and Danish Ambassador Kirsten Geelan were criticized because they had met CK Raut, who was arrested on several occasions for verbally demanding an independent state in the Tarai. Human rights organizations therefore regard him as a political prisoner.

Corruption

Corruption remains widespread, though the Commission for the Investigation of Abuse of Authority (CIAA) has increasingly revealed larger corruption scandals in 2014. CIAA itself speaks of a success rate of 80 per cent of its investigations. Its work is supported by widespread media coverage. But the CIAA is also accused for not investigating into highest political circles. Political interference occurs. Thus, several parliamentary committees accused the CIAA of exceeding its competence, when it in early November 2014 stopped numerous hydropower projects because the contractors did not comply with the agreements.

Human rights

In general, there is little improvement concerning respect for human rights. A reappraisal of the crimes from the time of the uprising (1996-2006) has failed due to the resistance of all major parties. A law for the creation of a Truth and Reconciliation Commission (TRC) and a Commission of Enquiry on Disappearances (CED) was adopted in 2014, but these commissions have yet to be occupied. National and international human rights organizations complain about a violation of international law by the TRC Act, because it focuses on reconciliation together with impunity for the perpetrators and their advocates, rather than bringing about justice for the victims of crime.

The victims and their families hardly find hearing. On September 22, Nanda Prasad Adhikari paid with his life for his month-long hunger strike aimed at securing justice for his son, who was murdered in 2004 by Maoists. Till today his body lies at the mortuary of Bir Hospital because his family refuses to accept it.

There are close links between politics and crimes. Shielding of perpetrators by highest political circles is not uncommon. When the long-sought criminal Dinesh Adhikari aka 'Chari' was shot by the police in early August, there was an outcry from the government party CPN-UML, which claimed it as targeted murder by the police. Later it turned out that Chari was a local leader of the UML and a close confidant of party chairman Krishna Prasad Sharma Oli.

Women are particularly affected by human rights violations. Hardly a day passes, on which the media do not report of several cases of rape or murder of women. Domestic violence against women is rampant and elusive, because the women shy away from reporting. Here, as well, the principle of reconciliation has precedence over justice, often mediated by the police, to which the women have turned for help. The unequal legal position of women, inherited ideas that are partly influenced by superstition, and denied political inclusion despite various changes in legislation are the main reasons for their continued discrimination.

Natural catastrophes

Nepal was affected by various natural disasters in 2014. In mid-April, 16 Nepalese climbers died on Mount Everest in an avalanche. In October, 40 trekking tourists and guides lost their lives when the Annapurna region was affected by heavy snow and rain. Even more serious was the impact of the monsoon. Alone 150 Nepalese died on August 2, when a landslide at the Sunkoshi slopes tore away an entire village and dammed the river for weeks. The major transit route to China along the river was interrupted for some time. Subsequently, massive rains and floods hit the west of the country. Around 250 people were killed and about as many went missing. Nearly 9,000 homes were destroyed, another 22,000 damaged. Although there have been major donation collections for the victims, help only arrived sparsely and delayed. Many of the victims are still waiting for public assistance.

Conclusion

Nepal has failed again in 2014 to write a new constitution, because the leaders of the major parties are not able to reach a consensus. Due to their on-going power struggles they have long since lost sight of creating an inclusive and democratic federal state which they had agreed on in 2006. It seems unlikely that this generation of leaders will ever reach its self-imposed goal.