

Nepal at the polls

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*Ahead of Nepal's elections, Dr **Mara Malagodi** argues that the second Constituent Assembly is likely to be more fragmented, but not necessarily better positioned to deliver constitutional reform.*

Nepal is gearing up to the elections of its second Constituent Assembly (CA). The polls are now scheduled to be held on Tuesday 19 November after having been postponed twice, in November 2012 and June 2013. In 2006, Nepal emerged from a 10-year-long armed insurgency launched by the Communist Party of Nepal (Maoist) in which over 17,000 lives were lost and over 1,500 Nepalis were disappeared. The success of the now faltering seven-year-long peace process entirely hinges on the country's multiplying political groups finding a viable agreement, both inside and outside the CA, upon [the drafting of the new constitution](#)—the seventh in Nepal's history.

Two issues will be crucial for the resolution of Nepal's conflict through constitution-drafting by the elected body. First, in the short term, it is to be hoped that the boycott of the elections by a number of smaller parties led by the Maoist splinter party will not significantly disrupt the polls, breed violent opposition to the democratic process, and delegitimise the electoral outcome. Second, in the long term, the members of the second CA will be confronted with the exact same challenges that caused the first CA to collapse, namely the extent of state-restructuring to accommodate the demands for inclusion of the many marginalised groups.

The latter issue is particularly pressing as the second CA is likely to be even more politically fragmented than the previous one.

Ultimately, it remains to be seen whether Nepal's current climate of overall frustration and disillusionment will succeed in inspiring the country's politicians to broker a durable and inclusive constitutional settlement through painstaking negotiations. Or will Nepal's politicians, amidst growing international pressures to conclude the peace process, adopt in haste a document that only reflects a fleeting political equilibrium incapable of addressing the underlying structural issues?

The first CA, elected in April 2008, featured 601 seats, a relative Maoist majority and over 30 parties represented in the Assembly. Notwithstanding four extensions of the term of the CA, agreement on a new constitution could not be found, especially with regard to the modalities of federal restructuring. Hence, the first CA was finally dissolved in May 2012 leaving Nepal with neither a legislature nor a constitution-drafting body in place for over year. At the same time, a Cabinet composed by political appointees, headed by the Chief Justice (only on temporary leave from his judicial post) and unburdened by any form of parliamentary accountability was placed at the country's executive helm. In the absence of a legislature and constitutional bodies, the number of Supreme Court justices selected through the proper constitutional procedure was reduced to five, while the remaining judicial posts have been filled in through presidential ordinances. Similarly, no local elections have taken place since 1997. Unsurprisingly, governance in Nepal during this long political stalemate and in anticipation of a permanent constitutional settlement – as opposed to the currently in force 2007 Interim Constitution – has been unable to tackle long-term goals and fulfil any of the promises of radical structural reforms brought by the peace process. This constellation of events has led to an overall disillusionment with the political process, which has seen six different Prime Ministers since the



2008 elections and an overall political instability.

Nepali voters this month will elect members to a unicameral assembly, which is deputed to function both as the country's legislature and constitution-drafting body. It will again feature 601 seats allocated through a mixed electoral system in the following way: 58 per cent of the total seats (335) will be allocated by proportional representation where the entire country will function as a single constituency and quotas are inbuilt to ensure the representation of women, dalits, janajati, regional groups, sexual minorities, and so on; 42 per cent of the total seats (240) will be allocated by first-past-the-post in 240 territorial constituencies; and 26 seats will be Cabinet-appointed.

Over 130 parties are contesting the elections, but only the major parties have registered candidates in all the first-past-the-post constituencies (see images for ballot samples: pink for proportional representation; blue for first-past-the-post). Reportedly, 11,003 candidates have filed their nominations under the proportional system and 6,352 under the first-past-the-post system. Nepal's Election Commission has approved 12,147,865 voters, less than half of Nepal's total population; it has established 10,013 election centres and 18,457 booths across the country. On 29 October, the Himalayan Times reported that 61 international and 1,250 national electoral observers have already been deployed.

In the first CA the four biggest parties – Maoist, Nepali Congress, UML, and the Madhesi Forum – controlled almost 75 per cent of the seats. It now seems reasonable to expect a further fragmentation in the composition of the second CA, with the rise of parties representing specific group interests and, in general, a growing 'protest vote' bred by overall dissatisfaction with both the slow pace of the peace process and the inertia of the political leadership. It can only be hoped that the prospect of the dire political, economic, and social consequences that would result from another CA failure should motivate Nepali politicians to deliver constitutional reform and a serious political enterprise.

About the Author

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