

# Constituent Assembly elections in Nepal

*Mahwish Hafeez*<sup>\*</sup>

## Introduction

The democratisation of politics in Nepal started with the first general elections in 1959, and experienced many ups and downs until the emergence of constitutional monarchy in 1990.<sup>1</sup>

The communists had always been at the forefront of the democratic struggle. The Communist party of Nepal (CPN) was formed in 1949 and went through the different phases of the international communist movement. It split; but reunited only to split again. The unification of CPN (ML) and CPN (Marxist) led to the creation of the CPN (UML-Unified Marxist Leninist) in 1991, while the split in the Samyukta Jana Morcha Nepal (SJMN) in late 1993 fathered the CPN (Maoist).

After its creation, the CPN (Maoist) headed for jungles, whereas the UML made its way to power in 1994. The CPN (UML) government failed to deliver the land reforms it had promised, and its cadre became disillusioned. This weak government was easily removed by the monarch in August 1995. As the UML was losing its electoral base in towns, the Maoists were gaining ground in the countryside. An armed struggle was launched in 1996, and soon the Maoists assumed the control of around 70 per cent of the countryside. The Maoist's radical ideas on land reforms and negation of the caste system are considered to be factors responsible for their support. They began running the districts under their control through "people's committees" and set up "people's courts".<sup>2</sup>

However, they have also been severely criticised for their human rights abuses. They were accused of deliberately targeting and killing civilians suspected of being informers. Most of the victims were believed to be the members of other political parties or people who opposed the Maoists in any way. The government also took strict measures, and the clash between the Maoists and the government resulted in the loss of around 13,000 lives.

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*Mahwish Hafeez is a Research Fellow at the Institute of Strategic Studies, Islamabad.*

Several attempts were made at peace talks between the government and the Maoists, but proved unsuccessful. The first peace talks began on August 30, 2001, only to break down on November 23. In 2002, King Gyanendra – who came to power in 2001 after a crown prince shot popular king Birendra and eight other members of

the royal family before turning the gun on himself – dismissed the cabinet and dissolved parliament, blaming the political parties and the government of failure to contain the insurgency.<sup>3</sup> A second ceasefire was announced on January 29, 2003. However, the resumed peace talks soon reached a deadlock over the Maoist demand for a constituent assembly. Consequently, the ceasefire ended on August 27.

The situation took a dramatic turn when, in April 2006, a mass democracy movement started in Nepal. The Maoists struck an alliance with the political parties that strengthened the pro-democracy movement. The uprising reached its climax on April 24, 2006 when King Gyanendra announced that he was ending his autocratic reign after 19 days of protests in the streets of Kathmandu and the rest of the country. At least 18 demonstrators had died in clashes with police during the “people’s movement”.

Parliament was restored, and Girija Prasad Koirala was appointed prime minister with the mandate to hold fresh election. On November 7, 2006, after months of intense negotiations, an agreement was signed to formally end the conflict. Maoist rebels renounced their decade-long armed insurgency and decided to join the government and lay down arms. They also agreed to place their arms and troops under UN observation.

It was announced that constituent assembly elections would be held in June 2007, but they were deferred after the election commission said that it could not conduct the polls in June in the absence of necessary legal framework and preparations. November 22, 2007 was instead announced as the fresh date for elections, but they were once again postponed after the Maoists insisted on their demands for the announcement of republic through interim parliament and proportional representative election system, with the Nepali congress opposing it.<sup>4</sup> An agreement was reached according to which it was decided that as regards to the Maoist first demand, its execution would be done by the assembly once it is elected, and a compromise deal was made on the second demand by adopting a mixed method.<sup>5</sup> April 10, 2008 was announced as the new date for constituent assembly elections.

### **Pre-Poll Scenario**

As the date for elections drew closer, the campaign started by different political parties gained momentum. The Nepali Congress (NC) manifesto stated the party would opt for a multi-party, “federal democratic republic”<sup>6</sup> instead of monarchy. It suggested delineation of federal units in consideration of geography, population, economic opportunities, relations between the federating units, language, ethnicity and culture.

The Maoists, in their manifesto, made a similar provincial delineation on the basis

of ethnicity and development resources. They proposed 11 autonomous provinces and two sub-provinces with the right to self determination. They also proposed a president to be elected through popular vote and a prime minister nominated by parliament.

The manifesto proposed party leader Prachanda as the first president of the republic of Nepal. The party also vowed to regulate the border with India and annul the Nepal-India friendship treaty of 1950.<sup>7</sup> The UML, led by Mr. Madhav Kumar Nepal, too, opted for a presidential republican system, but with a powerful prime minister.<sup>8</sup>

The pre-poll scenario in Nepal was full of violence and continuous violation of the code of election conduct. Cadres of different political parties kept busy in hijackings, kidnappings, physical assaults and tearing down each other's posters. Most of the violent activities were attributed to the Maoists and its youth wing the Young Communist League (YCL). Different political parties severely criticised YLC for their unruly behaviour. The Nepali Congress asked the Maoists to stop attacking leaders and cadres of other parties and terrorising people. The chairman of the party's poll publicity committee, Dr Prakash Sharan Mahat, also called on the Maoist leadership to train their cadre on democracy and human rights if they are to abide by their past commitments.<sup>9</sup>

CPN (Maoist) Chairman Prachand urged his cadre to exercise maximum restraint, and claimed that various forces were spreading negative publicity of the Maoists for minor mistakes. He urged his cadre, "don't retaliate even if the Nepali Congress and UML cadres slap on your face," and urged them to become "Gandhi"<sup>10</sup> till elections were over.

He also stated that the Nepali Congress and the UML were backed by India and the United States in the constituent assembly election. "If Nepali Congress and UML lose the election, it will not be entirely their loss ... it will be the loss of India and America."<sup>11</sup>

International election observer also expressed concern at the deteriorating security situation all over the country. At one stage it looked as if elections would once again be postponed due to the worsening law and order situation and the continuous violation of election code of conduct. The Asian Network for Free Elections (ANFREL), which had the largest number of international observers in Nepal followed by the Carter Center, Human Rights Watch, Amnesty International, International Crisis Group, European Union and Universal Human Rights Network, also expressed concern about election-related violence and intimidation by party cadres across the country.<sup>12</sup>

Similarly, the International Crisis Group (ICG) expressed concern that constituent

assembly elections would be marred by political violence. The Group pointed out that violence and intimidation had dogged the campaign as the main challenges in the days to come. The ICG held the Maoists responsible for most systematic attacks on other parties, but said they were also the biggest victims. It called upon all major parties to respect the outcome of the elections as their leaders would need to prepare for a broad unity government, and priority should be given to tackling the more sensitive issues.<sup>13</sup>

The chief of the United Nations Mission in Nepal (UNMIN), Ian Martin, identified the Maoists, UML and Nepali Congress as the major parties violating the code of conduct. He said that the larger parties were engaged in disrupting each other's election meetings and in violence. He strongly criticised the Maoists, saying that they had been barring other parties from campaigning by deploying the cadre of the Young Communist League (YCL).<sup>14</sup>

The United Nations also urged political parties to stop trying to intimidate voters. In its report, the United Nation said: "Dissemination of false and intimidating information, such as that voting will not be secret and voters will face reprisals, or threats that any result may lead to a return to war, should cease."<sup>15</sup>

Given the fragile security situation, it seemed difficult that voters would come out in large numbers to exercise their democratic right.

### **Post-Poll Scenario**

Despite all odds, the elections were finally held on April 10, 2008; and contrary to expectations and widespread predictions of violence, they were largely peaceful. The election commission placed voter turnout at 60 per cent.<sup>16</sup> According to the results announced by the election commission, the Maoists had won 120 seats under the first-past-the-post system and 100 under proportional representation making a total of 220 out of 601 seats. The NC won a total of 110 seats, whereas the CPN –UML got only 103.<sup>17</sup>

The Maoist victory stunned not only the national and international political experts and observers but also other political parties. It came as a shock to the Nepali Congress and the CPN (UML). Both the parties had maintained their supremacy as the two largest parties in Nepali political arena ever since the reestablishment of democracy in 1990. The general expectation was that the Maoists would be placed behind the country's two largest political parties, the Nepali Congress (NC) and the Communist Party of Nepal-United Marxis Leninist (CPN-UML). But, surprisingly, both these parties were left far behind.

According to some analysts, the Maoist victory was the result of a wellorganised campaign machinery. Threats and intimidation during the run-up to the election had

demoralised other competing party activists. Besides, people voted for the Maoists because they wanted to keep them from returning to violence.<sup>18</sup>

The Maoists' promise to bring about an economic revolution in a country where a large number of people migrate to other countries because of crushing poverty, also contributed to their victory. In this connection, both the NC and the UML were seen as failed establishment forces, whereas the Maoists had projected themselves as true agents of change. Promises such as land to the landless, shelter for all, jobs for every able Nepali, health services and education for all, and fair and impartial recruitment in state machinery, gave hope to the people.

The Maoists had filled their candidature with members of the deprived communities including the Dalits, janajatis and women, giving a clear message to the masses that only they could bring revolutionary changes in the country and only under their rule, all segments of society would have a chance to have their say.

Maoist campaign slogans like “Arulai heryaun patak patak, Maobadilai heraun espatak” (we have seen the others time after time, let's see the Maoist this time)<sup>19</sup> and “Naya Nepalko nimti naya bichar ra naya netritwa” (new thoughts and new leadership for a new Nepal)<sup>20</sup> attracted the attention of voters. Both the NC and the UML had failed to bring any new faces among their candidates. They nominated the same old people who were tainted by corruption scandals.

The Maoists skilfully enhanced their popularity in areas which had been the strongholds of other political parties during past elections. General Secretary of the CPN-UML Madhav Kumar Nepal was so shocked by losing to an unknown Jhaku Prasad Subedi of Rolpa that he tendered his resignation. As for the NC, out of 11 close relatives of Prime Minister Koirala, including his daughter Sujata, lost to either the Maoists or the Madhesi Forum.<sup>21</sup>

The victory of the Maoists signifies a number of things. It shows that the people are tired of seeing old faces and want a change in the system of governance. Some analysts are of the opinion that it shows that people do not want to see their country slide back into the days of bloodshed; and the party which waged the “people's war” for 10 years has been given legitimacy to rule the country.

Since the beginning of the people's war, the Maoists have continued to garner the support of the poor and the downtrodden, marginalised communities. They have given them the hope of a new Nepal by restructuring the old feudal system of governance. The Maoists, who took part in a national election after 17 years, have been given a mandate to work for stability, peace, corruption-free bureaucracy, freedom of expression, free trade, free press and education.

## International Reaction

Since the Maoist are also fighting and are in control of rural areas in many Indian states, the Maoist victory in Nepal has shocked India. Although the Indian Maoists have developed a rift with the Communist Party of Nepal (Maoist) led by Pushpa Kamal Dahal alias Prachanda because they believe that Prachanda's decision to join mainstream politics was a betrayal of their cause, the Indian government may fear that factions of the Nepal Communist Party (Maoist) may still help their Indian counterparts.

A statement was issued by the India's communist rebels that they would not lay down their arms despite the success of their counterparts in the political mainstream of Nepal. "We believe in capturing power through armed struggle," a member of the rebel's central committee said.<sup>22</sup> The rebels who call themselves the Communist Party of India (Maoist) say that they are inspired by the late Chinese communist revolutionary leader, Mao Zedong. They have been fighting in several Indian states for decades, demanding land and jobs for agricultural labourers and the poor.<sup>23</sup> The communist movement in Andhra Pradesh, Chhatisgarh, Orissa and Bihar has become so serious that the Indian Prime Minister,<sup>24</sup> Manmohan Singh, described it as the most serious security problem for the country.

Although the Indian government has formally congratulated the people of Nepal and expressed its respect for the peoples verdict, India's main opposition party, Bharatiya Janata Party (BJP), which is expected to make big gains in next year's elections, expressed disappointment about recent changes in Nepal. It indicated that the Maoists' gaining power in Nepal was fraught with dangerous consequences for India, and dubbed the turning of a Hindu country into a secular republic a "negative"<sup>25</sup> step. The party insisted that the Maoists had got only about a third of the popular vote, and that too through intimidation. The statement was termed by a senior Maoist leader as "anti-Nepalese".<sup>26</sup>

A Hindu organisation in India, the Vishwa Hindu Parishad (VHP), also did not miss the chance, and termed the resolution by the Constituent Assembly declaring the end of monarchy as "unconstitutional".<sup>27</sup> It also demanded that the Indian government should speak out against the move in its own interest. VHP President Ashok Singhal claimed that there was no need for adopting the secular character when over 92 per cent of the Nepali population was Hindu.

Chances are high that the new Maoist government may want to scrap or review the agreements between the two countries which are seen as mere recognition of Nepal's subservience and give the Indian government the legal basis for intervening in the country. Nepal and India share a very special relationship and are the only two countries in the South Asian region with open borders.

It is also believed that the vote for the Maoists was indeed a vote against India for its excessive involvement in Nepal's affairs. The 1950 Peace and Friendship Treaty between the two countries fosters this relationship. In the past, the Maoists have often raised questions on this special relationship and, therefore, the Indian government would now have to change its policy towards Nepal and would have to make some difficult choices.<sup>28</sup>

The United States of America, which has listed the Maoists as a terrorist organisation since October 31, 2003,<sup>29</sup> welcomed the polls, but it would have to go a long way in establishing a working relationship with the new government in Nepal. Former US President Jimmy Carter has advised the Bush Administration to recognise the political changes in Nepal and remove the Maoists from its list of terrorists. The United States, being the most powerful democracy in the world and so-called promoter of democratic values internationally, should realise that no matter how hard it may be to accept, the outcome of the free and fair elections is final.

Another issue of concern for both India and the United States of America would be the Maoist government's possible leaning towards China. The Maoists have so far not indicated any such intention, but the possibility cannot be ruled out.<sup>30</sup>

Other countries like the UK<sup>31</sup>, Pakistan<sup>32</sup>, and Israel also congratulated the people of Nepal at the successful constituent assembly elections. The United Nations Secretary General, Ban Ki-moon, too, congratulated Nepali people on the peaceful elections.<sup>33</sup>

## **Challenges**

After much wrangling and uncertainty, Maoist Chairman, Pushpa Kamal Dahal, was finally elected as the first Prime Minister of the Democratic Republic of Nepal on August 15. He was supported by 20 parties in the constituent assembly, and managed to bag 464 votes in his favour when the proposal to elect him as prime minister was put before the Constituent Assembly members. On the other hand, his opponent, Nepali Congress (NC) candidate Sher Bahadur Deuba, managed to bag only 113 votes in his favour.<sup>34</sup>

Most of the people voted for the Maoists because they thought they would deliver what others before them failed to. It would not be easy for the Maoists to fulfil these high expectations as ground realities are quite to the contrary. After assuming power, the Maoists will now have to face a number of challenges. However, their first priority was to abolish the monarchy. The Maoists and the other mainstream political parties had agreed that Nepal would become a republic after the April polls.

Soon after the April 10 election results were announced, hectic efforts were made to convince the king to voluntarily make a “graceful exit”.<sup>35</sup> On April 16, senior Maoist official Prabahkher said: “The Monarchy is finished. There should be no doubt about that, it’s just a matter of procedure.” That was despite the argument made by certain politicians that Nepal should retain some kind of monarch as a symbol of neutrality of the country which is sandwiched between China and India.<sup>36</sup> There were also rumours that king was considering taking refuge in India which were later denied by palace sources.

The Maoists urged the king to vacate the palace and abdicate in a dignified manner. The Maoist chairman also made it clear that monarchy would not be kept in any form, and appealed to the king to accept the people’s verdict gracefully rather than face a humiliating exit. He said that even after the monarchy’s departure, the king would be allowed to stay in business and other activities. In fact, he could also participate in politics if he so wished in future.<sup>37</sup> The king, knowing that there was no room left for monarchy in the country after the historic first meeting of the Constituent Assembly which endorsed a proposal to amend the interim constitution implementing the declaration of Nepal as a federal democratic republic<sup>38</sup>, decided to step down and said that he accepted the assembly decision.<sup>39</sup>

Although the people of Nepal have put their faith in the Maoists to rule the country, the party’s cadre have not yet given up their unruly behaviour. In order to win support and to improve their image both at the national and international levels, the Maoists would have to take strict action against their cadre who are involved in unlawful activities, and they would have to abandon the culture of violence to which they are attuned to ever since they started their armed struggle.

To quote just one example, incidents like the pelting of stones, allegedly by the Maoists, at Finance Minister Dr Ram Sharan Mahat (Senior NC leader) while he was returning to Kathmandu after a victory rally, would not serve anyone’s purpose.<sup>40</sup> Transforming the party of guerrillas into a party of responsible politicians is a challenge for the leadership. Showing highhandedness would only create complications.

The planned integration of the Maoist youth organisation, the Young Communist League, which is responsible for many incidents of intimidation and extortion, into the national army is another difficult task. Although the army has made it clear that it has no problem in working under a legitimate government, it would not be easy for the politically indoctrinated former rebel fighters to be a part of the national army which has traditionally been loyal to the monarchy.<sup>41</sup> After fighting against each other for many years, it would naturally be difficult for the two sides to work together.



The Maoist would have to work with the other political parties as they cannot write a new constitution which is according to the wishes of the all segments of society without the help of the other political parties. Some political parties have also expressed concern that if they cooperate with the Maoists, they would only be sidelined for many years to come. Such concerns may also become the basis for non-cooperation on the part of these political parties which would ultimately affect the process of drafting the new constitution.

The Maoists would have to reassure the public and other political parties about their commitment to peaceful and multi-party politics. They would have to take into account the aspirations of the people who have not voted for them, and make sure that their voice does not go unheard.

They would also have to reassure the international community that despite their strong believe in communism, there would be no compromise on democratic ideals. They would have to ensure the freedom of expression and improve human rights situation in the country.

Apart from these challenges, the former rebels would have to ensure peace and stability in the country. They would have to commit themselves to the freedom of press and assembly, and to stand by the principles of accountability and justice. Guarantee of personal security and freedom of citizens must also be ensured. They would also have to return the property they confiscated during the insurgency.

People have put their faith in the Maoists in the hope that they would get them out of poverty in which they have been stuck for centuries. They want better roads and communication and health facilities, hospitals, schools and better job opportunities. Although the Maoists want a radical socio-economic transformation, the fact that they have just won a simple majority would mean that they would have to compromise on a lot of things. Their plans for sweeping changes like land reform combined with the use of capitalism as a tool to bring about their vision of a republican Nepal, would be difficult to achieve.

## **Conclusion**

The armed struggle of the Maoists has shown that at times a violent movement is the only way to bring a genuine change in the country's political system. The mainstream political parties could not remove the centuries-old Nepalese monarchy, and it was only the Maoist pressure that created the space for democracy in Nepal. The Nepalese were fed up with the political instability in the country, and they have shown that they are open to a change for the benefit of the country.

For the new government to work smoothly for a better future for the country, all the major political parties would have to accept the new power balance. The

international community, especially the countries in the immediate neighbourhood and the sole super power of the world United States of America, would also have to accept and respect the wishes of the Nepalese people which would require them not to stand in the way of the Maoists' heading the multi-party coalition and to enable them to write a new constitution for the country.

The people of Nepal have given an opportunity to the Maoists to translate their promises into action. They should remember that people do not want only a change in the government or leadership but a better quality of life. A political party cannot survive on the strength of having won an election if it does not work in the right direction to solve the country's problems. A political party indifferent to the basic needs of the people can fall as fast as its rise to the top.

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