

Constituent Assembly Purpose and Process

Yubaraj Sangroula

Constitution Making By Constituent Assembly: Presented By Yubaraj Sangroula

Purpose Or Objectives

To Adopt Diversity as Core value

In the Past Constitution has been made by a group which was not inclusive. So Constitutions made by commissions without participation of people's representatives could not make 'Government System' inclusive. Large Number of people were 'excluded' from political process and system of government.

Constitution is a fundamental law of Country, so that it should make system of government inclusive of all. So all people must participate in it, so that every people will own it irrespective of religion, caste, ethnicity, sex, and geography

Nepal's unity is dependent on 'recognition of Nepal as a country of all people equally. So language, culture and identity of all groups must be recognized as national assets. Only this way, we can preserve the unity of people. Constitution therefore by recognizing diversity must promote unity. So constitution making process must give chance to every people to debate and express their opinions

Nationalism is promoted only by making Nepal as 'home of all people' irrespective of caste, ethnicity, sex, religion and geography. Only unity and stability will help economic and social development. For economic and social development, promotion nationalism by building unity is necessary

Economic and social progress is pre-conditioned on nationalism.

To make the people sovereign

Power of the State rests on people, which is known as sovereignty. By making constitution through their representatives, people exercise the power of sovereignty

In the past, people had been ignored, and a group of people made constitution to 'protect their special power'. Now through constituent assembly, people are defining 'structure of democracy and structure of government' in which political parties must work. Constituent assembly in this sense will devolve 'sovereignty from monarchy and political parties to people'.

To let the people decide the structure of the State.

By participation in constitution making, people will decide what kind of government they want to have. How many levels of government they want to have, and How to elect the representatives.

Recognition and protection of fundamental rights is one of the most important steps of controlling government from being tyrant. So people will decide what kind of rights they want to make 'fundamental rights'?

People must be able to directly rule them. The Self Governance is most basic foundation of democracy. So by making constitution through constituent assembly, people will be able to decide 'what kind of local governance' should be recognized by the State.

Eligible people vote for members of CA. Under the present Interim Constitution, person who has reached 18 years by end of Mangsir will be eligible to vote.

Process Of CA

CA is elected by direct votes of people.

205 members will be elected from 205 constituencies at present.

According to Article3) of the Interim Constitution, Total eligible voters will elect total number of 425 members.

204 members will be elected according to proportional election system

16 members will be nominated by the Cabinet according to the agreement. These people will be important persons in national life.

Tenure of Constituent Assembly shall be two years from the date of the first assembly.

But it can be extended for another six months due emergency situation in the country occurs.

Members in the CA can make bills for discussion.

Every member in the CA can propose bill and discussion takes place. This way, every people through his/her representative can make proposal for bills of Constitution.

People can participate in the discussion through submitting proposals, and inviting members for discussion. People can create pressure groups to make their issues recognized.

Participation of everybody is crucial in making of a constitution to be owned by all people

For Transformation Of Conflict And Making Nepal A Prosperous Country, CA Is Necessity

In Nepal, only a very few castes people are enjoying State's powers. Larger number of people are excluded and thus are not part of decision making. In state's all institutions, only certain caste's people are occupying posts. It was the major cause of conflict in the past. However, CA has been seen as instrument of making constitution by all and address the problem of exclusion 'by inclusive democracy'. CA is therefore necessary for building the 'structure of Inclusive Democracy' and root out the possibility of conflict in future.

Restructuring of the State demands recognition of diversity, and for diversity the powers of people to self-governance. Federalism, autonomous governance and local governance are concepts of self-governance. In autonomy, the provincial government can do all things what it is not given for. In other form of federal such as provincial government can do what power it has been given by the Constitution. Tibet is the autonomous concept and Bihar is the provincial concept.

Secularism is another element of restructuring. When all cultures, languages and religions are recognized, the concept of secularism is taken as an instrument to 'prevent one from encroaching other'. Without secularism, the restructuring is not possible. Restructuring is thus not complete elimination of practices like untouchability

Economic, social and cultural rights are means of making people able to participate in the governance and political process. Hence, the restructuring must adopt such rights as fundamental rights

CA will restructure the State's institutions and policies. In the past state's institutions are made to suit the interests of elites.

How Bills Are Decided In The CA

Passing bills the process of constitution making is completed. Each bill of the Constitution must be passed by voting after discussion.

Every bill must be adopted by consensus by an assembly in which at least two third majority of members are present

If consensus is not possible, the parties in the CA must make political efforts to come to the consensus. Such consensus must be made within 15 days from date it failed to reach in agreement in CA

Once the political consensus is made, there must be poll in the CA within seven days of such consensus.

If poll fails to be consensus in such a process, there should be an another poll in which two third majority will be final.

If member does not cast negative vote, it will be believed that he agreed on.

What is inclusive democracy? Inclusive democracy has two aspects. On the one hand, it calls for 'political system' in which all people have equal powers in 'decision making'. All people in the form of individual members and groups have right to be represented in the State's institutions. On the other hand, it calls for 'recognition of economic and social rights as fundamental rights'. As without economic, social and cultural rights, political rights are meaning less.

Federalism is also a concept of 'inclusive democracy'. The concept of federalism devolves the State's power vertically, and allows people to 'rule them governments in their own areas'. It breaks the monopoly of central power to rule. However, federalism is not a power to 'separate from the State'. many people understand 'right to self-determination is a power to rule as per the choice of 'provincial government'. Provincial government can rule only in accordance with the constitution. Thus CA decides as to what are the powers of provincial or autonomous government. Therefore, it is not necessary to be afraid of federalism, because we can decide what kind of federal state we want to have in CA by discussion and deliberation.

In inclusive democracy, no institution such as monarchy can have special powers. Whether we want to have monarchy or not can be decided by the CA. Since it is the highest body of people, it can decide in this matter.