

PARLIAMENT WATCH – NEPAL*

MAY 2011



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The month of May began with the new session of the Legislature-Parliament. The Tenth session commenced on Monday, 2 May 2011, and is still in session. As many as 13 meetings were convened;¹ the major highlights of these 13 meetings of the Tenth session are the following:

1. The *first* meeting of the Tenth session of the Legislature-Parliament commenced on 2 May 2011, at 16:20 hours, presided by the Speaker, Rt. Hon'ble Subas Chandra Nembang. As soon as the meeting started, members of different political parties, namely: Hon'ble Rukmini Chaudhary of the Federal Democratic National Front, Hon'ble Bishwendra Paswan of the Dalit Janajati Party, Hon'ble Buddha Ratna Manandhar of the Nepal National Party, and an Independent Member Hon'ble Sadrul Miya Haque requested time to speak but the Speaker denied their request and notified that the formal proceedings will start only after reading out the letter received from the President's Office that summoned the Tenth session of the parliament. These members, however, started chanting slogans, defying the ruling of the Speaker. Nevertheless, the Speaker did manage to read out the letter and welcomed the members of all political parties attending the first meeting of the Tenth session. Then the meeting was adjourned till 15:00 hours, Sunday, the 8 May 2011.
2. The *second* meeting² too commenced amidst chaos as chanting of slogans continued despite the repeated request of the Speaker, not to disrupt the proceedings, because an important Bill, the Bill Relating to Dalit Rights, was in the agenda of the meeting. The National Dalit Rights Commission Bill, 2066 B.S. basically intends to respect and promote human rights of Dalit community.³ Soon after the House session started, women lawmakers of different parties encircled the rostrum and chanted slogans, demanding 33 per cent representation of fair sex in the Cabinet.⁴ The Speaker somehow managed to "assuage them saying his attention has been drawn towards their demand and that he will convey the message to the authorities concerned, only to witness obstacle from four other lawmakers who continued their drive for guarantee of ethnic and minorities' rights in the new constitution."⁵ The lawmakers were: Bishwendra Paswan, Rukmini Chaudhary, Buddha Ratna Manandhar and Sadrul Miya Haque. The parliament was then appraised about the letter from the President's Office that notified the appointment of Rt. Hon'ble Khila Raj Regmi, as Chief Justice of Nepal, pursuant to Article 103 of the Interim Constitution of Nepal, 2007 as well as the changes that the Prime Minister, Rt. Hon'ble Jhala Nath Khanal,⁶ made in his Council of Ministers. The meeting was also

¹ The last meeting in May was convened on 28 May 2008. The meeting was then adjourned till the 3rd of following month.

² The meeting was convened on 08 May 2011, Sunday at 16:15 hours in the parliament.

³ For more details please refer to the separate section, "Human Rights Concern and the Governance Issues", below at the closing of the report.

⁴ Part 7 of the Interim Constitution of Nepal stipulates reservation of seats for women, among others. Nepali women's representation in the Legislature-Parliament dramatically increased to 32.8% through the Constituent Assembly (CA) Election held on 2008. In the CA election, 191 women leaders (33.2%) were elected out of 575 seats, and Cabinet nominated 6 women out of 26 seats, resulting to 197 women members (32.8%) in the parliament. As a result, Nepal stands on the 14th position globally to send the women leaders in the parliament. The reason behind the drastic change in the women's representation is due to the reservation of seats provided through the Interim Constitution of Nepal, 2007. (See basically, the "Women's Representation in the Parliament of Nepal", available at <http://en.wikipedia.org>, last accessed on 29 July 2011). And the women lawmakers in the parliament wanted same amount of representation in the Cabinet as well.

⁵ *House obstructed, put off till Wednesday*, published on 2011-05-08 at www.thehimalayantimes.com.

⁶ The Prime Minister is from the Communist Party of Nepal (United Marxist-Leninist) Party.

- notified about the arrest of Hon'ble Bishwa Nath Prasad Yadav⁷ and Hon'ble Gayatri Shah,⁸ and their indictment for misuse of the diplomatic passport, the accusation for which the Commission for the Abuse of Authority (CIAA) was investigating.⁹
3. The *third* meeting convened on 11 May 2011, at 15:50 hours, was notified about the certification of two different Acts, namely: the Tobacco Substance (Control and Regulation) Act 2068 B.S. and the Act Relating to Mediation 2068 B.S., which were certified by the President on 9 May 2011, pursuant to Article 87, of the Interim Constitution of Nepal 2007, whereas the "National Dalit Rights Commission Bill, 2066 B.S., proposed by the Minister for Local Development, Hon'ble Urmila Aryal¹⁰ vide the Speaker for section wise discussion, was unanimously accepted by the meeting.¹¹ Similarly, the *fourth* meeting convened on 15 May 2011, at 15:25 hours, witnessed tabling of three different Bills: the "Criminal Procedure Code, 2067 B.S.", the "Criminal Act (Determination and Implementation Of) Bill, 2067 B.S." and the "Bill Relating to Amending, Consolidating, Reintegrating and Repealing of Some Nepal Acts, 2067 B.S.", whereas the *fifth* meeting convened on 23 May 2011, at 17:05 hours, continued with speeches on contemporary issues by members of different political parties, followed by the submission of two different reports namely, the "Report of the Legislative Committee in relation to Prevention of Money Laundering (First Amendment) Bill, 2068 B.S." and the "Report of the Legislative Committee in relation to Ethnic Disparity and Untouchability (Crime and Punishment) Bill, 2068 B.S."—by the Chairperson of the Legislative Committee, Hon'ble Yashoda Gurung (Subedi).¹²
 4. The *sixth* meeting convened on 24 May 2011, at 15:20 hours, basically discussed two important Bills: the "Prevention of Money Laundering (First Amendment) Bill, 2068 B.S." and "Ethnic Disparity and Untouchability (Crime and Punishment) Bill, 2068 B.S.", whereas, the *seventh* meeting convened on 25 May 2011, at 15:45 hours, discussed on the "Management of Garbage Bill, 2066 B.S. annexed with the Report of the Legislative Committee", submitted by the Minister for Local Development, Hon'ble Urmila Aryal. The Untouchability Bill has criminalized certain actions of individuals, thereby, respecting the human rights of 'lower castes'.¹³
 5. The *eighth* meeting¹⁴ of the parliament began with uncertainty, as the deadline of the Constituent Assembly (CA) was ending the day after. Even though the Interim Constitution (Ninth Amendment) Bill 2068 B.S., aimed at extending the deadline of CA, was in the agenda, but it could not be discussed as the Chief Whip of the Nepali Congress, Hon'ble Laxman Prasad Ghimire, requested not to proceed with the Bill because political parleys were taking place, hence a political consensus would emerge

⁷ Mr. Yadav represented the Madhesi Janadhikar Forum.

⁸ Ms. Shah belongs to Nepali Janata Dal.

⁹ Article 77 of the Interim Constitution of Nepal, 2007 provides for the "Privileges" of the CA and its Members. The Sub-Article (5) of Article 77 proclaims that no member of the CA shall be arrested *during the session* of the CA (Emphasis added). The proviso supplied subsequently, however, states that nothing in this clause shall be deemed to prevent the arrest under any law of any member on a criminal charge. The only requirement is that if any member is so arrested, the official making such arrest shall have to immediately inform the Speaker.

¹⁰ Ms. Aryal represents the Communist Party of Nepal (United Marxist-Leninist).

¹¹ For more details on the National Dalit Rights Commission Bill, please refer to the separate section "Human Rights Concern and the Governance Issues" below at the closing of the report.

¹² Ms. Gurung (Subedi) belongs to the Unified Communist Party of Nepal (Maoist).

¹³ For more details on the Ethnic Disparity and Untouchability (Crime and Punishment) Bill, 2068 B.S., please refer to the separate section "Human Rights Concern and the Governance Issues" below at the closing of the report.

¹⁴ The meeting was convened on 26 May 2011, Thursday at 15:45 hours in the Parliament.

soon among the parties. The meeting was thus put off on the ground that hindrances of the opposition obstructed the conduct of daily business. The meeting, however, unanimously passed the "Management of Garbage Bill, 2068 B.S.". So far as the *ninth* meeting¹⁵ was concerned, it did not have any agenda in relation to the Bill, but concerns were expressed over the ongoing peace process, and the fate of the CA was also extensively discussed by members of different political parties.

6. The *tenth, eleventh, twelfth* and *thirteenth* meetings of the Legislature-Parliament commenced on 28 May 2011, as late as 23:15 hours. The only agenda, fixed on that particular day, was the "Interim Constitution (Ninth Amendment) Bill, 2068 B.S.". The Bill basically intended to extend the deadline of the CA. For that, Hon'ble Bhim Prasad Acharya,¹⁶ pursuant to the Constituent Assembly (Conduct of Business of Legislative-Parliament) Rules 2008, submitted a proposal for suspending Clause 67, of the same rules, which otherwise, requires 72 hours time for a Bill to get matured.¹⁷ The suspension motion thus presented was passed by the majority. The following consensus was reported to have been reached at, and presented before the meeting, that ultimately saved the CA:
 - A. Complete the basic tasks of the peace process within three months;
 - B. Prepare the first draft of the constitution by the CA within three months;
 - C. Implement effectively, the various past agreements, reached with the Madhesi Front, including the one to make the Nepal Army (NA) an inclusive institution;
 - D. Extend the CA term by three months; and
 - E. The resignation of the prime minister and pave the way for the formation of a consensus national unity government.

Human Rights and Governance Issues

Human rights and the governance issues raised during the reporting period are the following:

1. *The National Dalit Rights Commission Bill, 2066 B.S.:*

The Dalit Rights Commission Bill basically intends to respect and promote human rights of Dalit community. The basic purpose of the Bill is to establish a high-level Commission for maintaining social justice by empowering the Dalit community, so as to enable them to participating in public life, and thereby effectively accommodate them in the national mainstream.¹⁸

2. *Ethnic Disparity and Untouchability (Crime and Punishment) Bill, 2068 B.S.:*

The Untouchability Bill, introduced in the Parliament in the sixth meeting of the Tenth session, basically intends to define what constitutes ethnic disparity and untouchability, and more importantly criminalizes certain actions as a punishable offense. The basic

¹⁵ The ninth meeting was convened on 27 May 2011, Friday at 15:15 hours in the Parliament.

¹⁶ Mr. Acharya is the Chief Whip of the Communist Party of Nepal (United Marxist-Leninist).

¹⁷ Clause 67 (1) reads, "Any Member intending to move an amendment to a Bill shall give a notice to the Secretary General or Secretary with the amendment proposed by him/her within seventy-two hours of the completion of the general discussion on the Bill."

¹⁸ For more details on the Bill, please refer to the Monthly Report of April 2011.

purpose of the Bill is to respect, protect and promote right to equality and dignified life by abolishing all types of untouchability, restriction and exclusion so as to make the society equitable.¹⁹

The Bill, among others, prohibits, on the ground of any custom, tradition, religion, culture, rituals, ethnicity, descent, community or occupation, all persons from committing the following actions against anyone in the public and private places:²⁰

- a) Restrict access and prevent entry, or prohibit from the participation, or make any sort of restriction, control or prohibition through any other means; or,
- b) Expel, individually or in group, from the public places or in ceremony, do any type of disparity or social exclusion, or demonstrate any sort of derogatory action.

¹⁹ The Preamble of the Ethnic Disparity and Untouchability (Crime and Punishment) Bill, 2068 B.S.

²⁰ Section 4, *Ibid.*