

Next Door Nepal: The clash of institutions

As key actors untiringly claim that the upcoming election to seven provincial legislatures and the federal parliament will end Nepal's prolonged transition to a constitutional democracy and lead it to economic prosperity, fresh developments appear to be pushing it to the brink of disaster and a much greater constitutional crisis. On Thursday, the recently formed Left Alliance comprising the Communist Party of Nepal-Unified Marxist Leninist and the Nepal Communist Party-Maoist demonstrated its totalitarian character by warning the Supreme Court that it will not honour the verdict if it is against the alliance.

Six senior leaders - three each from the CPN-UML and Maoists including three former prime ministers, K.P. Oli, Jhalanath Khanal and Pushpa Kamal Dahal - asked the Election Commission not to heed a show cause notice the SC had issued a day earlier: The SC wanted to know the progress in printing ballot papers for the federal and provincial legislature in separate sheets of paper, as mandated. The EC, following an understanding with the ruling Nepali Congress and the Left Alliance, had begun to print the ballot-papers for central and provincial polls on the same sheet of paper. The court had issued a show cause notice after a former minister, Sarvendranath Shukla, moved a petition seeking separate ballot papers as it was "clearly mentioned in the law".

The EC has said it is impossible to print the ballot papers in different sheets on time for the polls scheduled on November 26 and December 7. The Left Alliance seems determined to defy the SC if it rules in favour of postponement. The alliance has also openly accused the ruling Nepali Congress Party and the SC of "conspiring" to defer elections to stall its ascent to office. "We have not spoken on the poll date. We simply said that it is mandatory to have ballot papers on independent sheets of papers," a senior functionary in the apex court said. He added that "not doing so will amount to the apex court abdicating its constitutional responsibility".

The emerging trend - the SC's show cause notice, an aggressive Opposition and a quiet government - may not offer a conducive climate for holding elections, the first under a controversial and an inadequate constitution that its proponents claim "is the best in the world". Over a period, the Supreme Court has been packed with judges who are linked to the three main political parties and activist groups. However, political equations have changed. Allies of the past are now becoming sworn enemies and electoral rivals.

The question is who will blink first. Elections may take place on schedule only if the SC withdraws its observation and acts more like a political manager, and not as an interpreter of the law. But a demoralised Supreme Court and a belligerent Opposition would defeat the stated objective of this election, which is the consolidation of democracy and the implementation of constitutional values.

Different power groups and stakeholders - internal and external - are watching how the situation will unfold. Former king Gyanendra Shah told mediapersons last week that he was ready to take over, obviously as monarch once again, if people so desired. He clarified that "he was not trying to be active", but made it obvious that as someone representing a dynasty that not only unified the country but also kept its independence intact all through without being ever a "colony", he can appeal to the people. His comment was followed by some rallies in different parts of the country and invoked a positive response on social media. But the discredited political leadership, except Oli, chose not to respond. Oli said: "If someone is keen to take leadership, there is still time to file the nomination." The jibe was clearly directed at the former king.

The government seems to have taken note of the public resentment at decisions like declaring Nepal a secular republic being undertaken by half a dozen leaders without involving the people. On October 16, President Bidhya Devi Bhandari gave her assent to a legislation that makes

"religious conversion" by force a cognisable offence inviting up to five years imprisonment. This law has been strongly opposed by some European countries and western rights groups who said that "secularism" without the right to conversion is a "farce". Coming on the eve of elections, the move is aimed at securing the politically organised Hindu votes. This substantial section believes that sacrificing Nepal's identity as the world's only Hindu kingdom was part of a larger external design. The Left Alliance, despite its commitment to "secularism", has maintained silence on the issue.

The tussle between competing political parties at the time of elections is routine and, perhaps, an essential feature of democracy. The test of the commitment of political parties to democracy, however, is whether they uphold democratic values. The Opposition's threat to the Supreme Court and the government's reluctance to defend the judiciary is a discomfiting development.

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