

A note on a Constitution Commission

1. A constitutional commission

Some countries established a constitution commission in addition to a constituent assembly when making a new constitution. The principal tasks of the commission have been:

- to promote knowledge of the constitution making process (including the role of the Constituent Assembly);
- to promote knowledge and discussion of the concept of a constitution, Nepal's constitutional history, constitutional issues facing Nepal and options regarding these issues;
- receiving the views and recommendations of the general public, political parties, professional organisations, organisations of women, dalits, indigenous people, madheses, the disabled, etc on constitutional reform;
- analysing these views and recommendations;
- preparing recommendations for a new constitution for comments by the people and for submission to the Constituent Assembly for consideration and adoption, after amendments if necessary.

2. The constitution commission would consist of about 15 members, appointed for their expertise in constitutional law, public affairs, political science, economics, and other relevant fields. The appointment procedure would ensure that the members at the same time 'represent' different regions and interest groups (but excluding political parties and religious communities). Members would be appointed by the Interim Parliament on the recommendation of the Interim Government.

3. The Commission would be independent. It would be voted sufficient funds to carry out its duties. It would be free to consult with local and foreign experts and would establish a small secretariat including researchers. It should work according to a deadline—say twelve months.

4. The Commission would set up an office in every district to facilitate the participation of the people in the constitution making process. The district office would be responsible for disseminating the educational and documentation produced by the Commission, arranging visits to the district by the Commission and other groups who want to encourage a dialogue on constitutional options, and provide a forum for people of the district to meet to debate constitutional issues. The district office would also facilitate the people of the district to convey their views and recommendations to the Commission. In this way district office would act as a two-way channel. The system of district offices would ensure an efficient, expeditious and simultaneous of information and ideas throughout the country and would encourage the participation of the people.

5. The Commission would also work with civil society organisations and encourage them to undertake discussions with the people in general as well as specialist groups throughout the country. It would help to co-ordinate the work of these organisations (e.g., in preparing educational and other materials). The Commission would also facilitate these organisations to prepare their submissions to the Commission and the Constituent Assembly.

6. There are several advantages in the use of a constituent assembly.

- (a) It would enable the constitution making process to be started almost immediately, without waiting for the resolution of difficult issues like monarchy/republic, federalism and unitary, weapons management, etc.
- (b) It would engage the people in discussions and consultations on the new constitution and would give them the assurance that a constituent assembly would be established and that they would have opportunities to participate in the process. It would also engage and use the talents of Nepali scholars and activists.
- (c) It would provide incentives (and assistance) for interest groups to start formulating their proposals for constitutional reform.
- (d) The Commission would prepare a report and recommendations on the new constitution. The recommendations would be prepared both on the basis of people's views and recommendations and the expertise of and research by the Commission. The report would also summarise the recommendations made to the Commission. Its inclusive membership would ensure that the interests of all groups and regions will be considered seriously, and harmonised in a fair and practical way. Its report would be written in simple language so that most literate Nepalis would be able to understand the recommendations.
- (e) A draft constitution would help the Constituent Assembly to start on its work quickly as most of the ground work would have been done. The Commission would organise a series of seminars for the members of the Constituent Assembly, before it starts its deliberations, to introduce them to its recommendations as well as the issues and recommendation presented by the people. This would ensure considerable saving of time.

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2006