
Factsheet on Electoral Provisions in Nepal's New Constitution



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What are the most significant changes in Nepal's electoral process as a result of the new constitution?

The Constitution of Nepal promulgated on September 20, 2015, and endorsed by 84 percent of the Constituent Assembly, transitions Nepal into a Federal Democratic Republic. Among the key impacts on the country's electoral process are:

1. The introduction of a federal system of governance, comprised of local, provincial and federal levels of governments. This translates into elections of representatives at the local, provincial and national levels.
2. The introduction of a bicameral Federal Legislature consisting of the National Assembly (upper house) with 56 members elected by an electoral college and three appointed by the President, and the House of Representatives (lower house) with 275 members directly elected by voters through a mixed parallel election system.
3. For the national level elections, a reduction in the number of electoral constituencies under the first-past-the-post (FPTP) electoral system to 165, and a reduction in the number of seats under the proportional representation (PR) system to 110 (from 240 and 335 seats respectively in recent elections). This results in a 60/40 split between FPTP and PR seats, compared to a 42/58 split in the previous elections.
4. Increased responsibility of the Election Commission of Nepal to conduct and supervise elections of:
 - President and Vice President;
 - Both houses of the Federal Parliament;
 - Provincial Legislatures; and
 - Local Legislatures (village and municipal elections).

How is the President elected?

The Election Commission of Nepal (ECN) conducts the presidential election through an electoral college, which consists of the members of the Federal Parliament (FP) and the members of the Provincial Assembly (PA). The votes cast by members of the FP and PA will be assigned different weights, which will be defined in the electoral law to be drafted by the ECN and endorsed by the Parliament. The person who receives the majority of votes is elected President for a five-year term. If no candidate receives a majority of votes, a second round of voting is held between the two candidates with the highest vote totals (Article 62). If none of the candidates receive more than 50 percent of the votes in the second round of voting, a third round will be conducted. The candidate then getting the highest number of votes will be elected as President. A person can be elected President for a maximum of two terms (Article 63-64). No timing of the next presidential and vice presidential elections has been set by the constitution.

How is the Vice President elected?

The Vice President is elected in the same manner as the President (Article 69). The constitution stipulates that the President and Vice President must represent different genders or communities (Article 70).

What is the Federal Parliament?

The Federal Parliament is the national level legislature, which consists of two houses: the House of Representatives (HoR) and the National Assembly (NA). The NA is the upper house, elected by an electoral college comprised of local and provincial representatives, and is envisioned as a permanent house (i.e. the NA will always have members as long as there are members in the Local and Provincial Assemblies to elect them). The HoR is the lower house, elected through a mixed election system as described below.

The Federal Parliament is responsible for regular legislation, with a relatively powerful upper house that can disagree on bills drafted by the lower house and a combined plenary session required to reach a decision (Article 111[9]).

How is the House of Representatives elected?

The House of Representatives (HoR) consists of 275 members elected for a five-year term through a mixed parallel electoral system. One hundred sixty-five members are elected through the first-past-the-post electoral system, with one member from each of the 165 electoral constituencies delimited based on geography and population. The remaining 110 members are elected through a proportional representation electoral system that considers the whole country as one single electoral constituency (Article 84[1]). All Nepali citizens 18 and older are eligible to vote in one constituency (Article 84[5]). No timing for the next HoR election has been set by the constitution.

What are the constitutional provisions for representation of women and other marginalized groups in the House of Representatives?

At least one-third of the total number of members to be elected from each political party to the House of Representatives (HoR) must be women. If the one-third requirement for women's representation is not met through the results of the first-past-the-post vote, the party must compensate the difference through the proportional representation list to meet the one-third requirement (Article 84[8]).

In addition to guarantees for women's representation, the electoral system further ensures the representation of various communities and races through the proportional representation system. When filing candidacy for the election to the HoR through the proportional representation system, political parties must submit a closed list that ensures inclusive representation of women, Dalits, Adibasi-Janajatis (indigenous/ethnic communities), Khas Aryas (Chhetri, Brahmin, Thakuri and Sannyasi/Dasnami communities), Madhesis, Tharus, Muslims, and geographically remote, underdeveloped ("backward")

regions. Parties must also balance candidates in terms of geography and province and consider representation of persons with disabilities among the candidates. The details of these requirements for representation of marginalized groups are to be defined in the electoral law (Article 84 [2-3]).

How is the Prime Minister elected and the Council of Ministers formed?

There are four scenarios by which the Prime Minister (PM) may be appointed following elections to the House of Representatives (HoR):

1. If any single party wins a majority in the HoR, the President appoints the party's parliamentary leader as the PM. In the case of a single party majority, no subsequent vote of confidence is required for the PM. Upon the recommendation of the PM, the President also forms the Council of Ministers to be chaired by the PM. The Council is appointed from among the members of the Federal Parliament respecting the principles of inclusion and consisting of not more than 25 members. The appointment of the PM must be completed within 35 days after the post falls vacant, or following the announcement of the final results of the HoR election.
2. If no single party has a clear majority in the HoR, the President appoints as PM the member of the HoR who can have the majority with the support of two or more political parties represented in the HoR. The constitution is not clear on specifically how this majority and appointment will be determined. A PM appointed under this process must obtain a vote of confidence within 30 days of being appointed.
3. If appointment of the PM is not possible under options one or two within 30 days of the final result of the HoR election, or if a PM appointed under option two fails to receive a vote of confidence, the President shall appoint the leader of the party with the highest number of members in the HoR as the PM. A PM appointed by this process must also receive a vote of confidence within 30 days of appointment.
4. If appointment of the PM is not possible under any the above processes, or the appointed PM fails to receive a vote of confidence within 30 days, the President may appoint a PM from any party, subject to a vote of confidence within 30 days.

If no PM is able to secure a vote of confidence under any of these provisions, the President shall dissolve the HoR and fix a date to conduct another election within six months (Article 76).

What is the composition of the National Assembly?

The National Assembly is composed of 59 members. Of these, 56 members – eight from each province – are elected by an electoral college comprised of members of the Provincial Assembly, the Chairpersons and Vice Chairpersons of Village Councils, and the Mayors and Deputy Mayors of Municipal Councils, with different weights to votes of each. Among the eight members from each province, at least three have to be women, one Dalit, and one member with a disability or from a minority group (see the table below based on the seven-province model contained in the constitution).

Member category	Number	Calculation	Total
Women	3	3 x 7	21
Dalit	1	1 x 7	7
Persons with disability or minority	1	1 x 7	7
Others	3	3 x 7	21
Total:	8	8 x 7	56

The remaining three members are to be nominated by the President on the recommendation of the Government of Nepal and must include at least one woman (Article 86).

What is the tenure of members of National Assembly?

The maximum tenure of the members of the National Assembly (NA) is six years, to be managed on a rotational basis whereby one-third of the members are replaced every two years. Therefore, in the first instance, a lottery system is adopted to decide the first third to retire in two years, the second third to retire in four years and the remaining third to retire in six years. The new/replacement members are elected/nominated through the same system as the outgoing member being replaced. The tenure begins on the day of the first meeting of the National Assembly. No one person can be a member of both the House of Representatives and NA at the same time (Article 86-87).

What is the composition of the Provincial Assembly?

Each province will have a unicameral legislature called the Provincial Assembly (PA), elected through a mixed parallel election system with 60 percent of PA seats allocated through a first-past-the-post (FPTP) system and 40 percent allocated through a proportional representation (PR) system (Articles 175-176).

At least one-third of the total number of members to be elected from each political party to the PA has to be women. The PR system also ensures representation of Dalits, Adibasi-Janajatis, Khas Aryas, Madhesis, Tharus, Muslims, geographically remote (“backward”) regions and minority communities on the basis of population. Political parties have to file their closed lists in accordance with the Federal law. People with disabilities should also be considered by political parties (Article 176).

The term of the PA shall be five years. Should the seat of any member fall vacant with more than six months of the term of the PA remaining, the seat must be filled by the same electoral system by which the earlier member had been elected (Article 177).

What is the Local Legislature?

The local legislative bodies consist of the Village Assembly and the Municipal Assembly (Article 221).

What is the Village Assembly and how is it elected?

A village is composed of wards, each of which has a Ward Committee comprised of a Ward Chair and four members (at least two women) elected from each ward through a first-past-the-post system. The current practice is to have nine wards per village, although this number could change based on the Ministry of Federal Affairs and Local Development's revision of local boundaries.

The Village Assembly is composed of the Village Council Chairperson, the Deputy (Vice Chairperson), the five Ward Committee members from each ward of the village, and two members elected to the Village Executive by the Village Assembly from the Dalit or minority community. The Village Assembly will include representation from at least two women from every Ward of the Village (Article 222).

Assuming the current practice of nine wards per village, the following table depicts the composition of the members of a VA¹:

Member category	# of units	Calc.	Total members
Village Council Chairperson	1	-	1
Village Council Vice Chairperson	1	-	1
Ward Chairs	1	1 x 9	9
Ward members	4	4 x 9	36
Dalit/minority	2	-	2
Total members:	-	-	49

What is the composition of a Village Executive and how is it elected?

The Village Executive consists of the Village Council Chairperson and Vice Chairperson, all Ward Chairs (nine, as per current practice) and six other members. The six other members must consist of four women and two members from the Dalit or minority community and are elected by the Village Assembly. The four women are elected from the pool of individuals already elected to the Village Assembly while the two Dalit or minority members can be elected from among any village residents who meet the candidacy requirements. This election must be held within 15 days of the final result of the election of the Village Assembly (Article 215).

The election of the Head and Deputy Head is held through secret ballot based on one person one vote according to the first-past-the-post electoral system by the voters of the concerned village area. The term of office is five years, with a maximum of two terms (Article 215).

¹ The constitution states that two of the five ward members (including Ward Chair) must be women.

What is the composition of the Municipal Assembly and how is it elected?

A municipality is composed of wards, each of which have a Ward Committee comprised of a Ward Chair and four members (at least two women) elected from each ward through the first-past-the-post system. At present, the number of wards per municipality varies from nine (new municipalities) to 32 (Kathmandu Metropolitan City).

The Municipal Assembly (MA) has a Mayor and Deputy Mayor, the five Ward Committee members from each ward of the municipality, and three members elected to the Municipal Executive by the Municipal Assembly from the Dalit or another minority community. At least two women must be represented in the MA from every Ward in the Municipality (Article 223).

Assuming there are 10 wards per municipality, the following table depicts the composition of MA members²:

Member category	# of units	Calc.	Total members
Mayor	1	-	1
Deputy Mayor	1	-	1
Ward chairs	1	1 x 10	10
Ward members	4	4 x 10	40
Dalit/minority	3	-	3
Total members:	-	-	55

What is the composition of the Municipal Executive and how is it elected?

The Municipal Executive consists of a Mayor and a Deputy Mayor, all Ward Chairpersons and eight other members. These eight members – five women and three Dalit or members of another minority community – are elected by the Municipal Assembly and similarly to the Village Assembly, the five women are elected from among the members of the Municipal Assembly while the three Dalit or other minority community members can be elected from among any members of the community that meet candidacy requirements. This election shall be held within 15 days of the announcement of the final Municipal Assembly results.

The election of the Mayor and Deputy Mayor shall be held through secret ballot based on one person one vote according to the first-past-the-post system by the voters of the concerned Municipal Council area. The term of office is five years, with a maximum of two terms (Article 216).

² The constitution states that two of the five ward members (including Ward Chair) must be women.

What is the composition of the District Assembly and the District Coordination Committee?

The District Assembly is comprised of the Chairperson and Vice Chairperson of every Village Executive, and the Mayor and Deputy Mayor of every Municipal Executive within that district. The first meeting of the District Assembly is held within 30 days of the announcement of the final results of the Village Assembly and Municipal Assembly elections (Article 220).

The District Assembly elects a District Coordination Committee with a maximum of nine members including a Head, a Deputy Head, at least three women and one person from the Dalit or another minority community.

How is the Election Commission appointed and what are its major duties under the new constitution?

The President, on the recommendation of the Constitutional Council, appoints the Chief Election Commissioner and four Election Commissioners for a six-year term (Article 245 [1-3]). Commissioners, including the Chief Commissioner, are not eligible for reappointment beyond this six-year term (Article 245[5]).

The Election Commission of Nepal (ECN) conducts, supervises, directs and controls the elections for the President, the Vice President, the Federal Parliament, Provincial Assemblies, local bodies and national referendums. The ECN is responsible for preparing the voters' list for the purpose of election (Article 246).

The ECN provides an annual report to the President who in turn presents it to the Federal Legislature through the Prime Minister (Article 294).

Will constituency boundaries be re-drawn for upcoming elections?

As per the provisions discussed above, there will be a reduction in the number of electoral constituencies under the first-past-the-post (FPTP) electoral system to 165 for House of Representative elections. There were 240 FPTP constituencies (and thus, 240 seats) in the 2008 and 2013 Constituent Assembly elections. The Constituency Delimitation Commission will be formed to redraw constituency boundaries based on geography and population, as stipulated in the constitution.

What are the provisions on constituency delimitation in the Constitution?

For the purpose of electing members to Federal Legislature and Provincial Assembly, the Government of Nepal may form a Constituency Delimitation Commission (CDC), with the following Chairperson and members in it: a retired Justice of the Supreme Court to be the Chairperson; a geographer/geologist as a

member; a sociologist or demographer as a member; an administrator or a legal expert as a member; and a special class gazetted officer of the Government of Nepal as member secretary.

The delimitation of constituencies must be based on population density, geographical conditions, administrative and transportation proximity, and the communal and cultural characteristics of the people living in such districts. The constituencies determined will be put to a review every 20 years. No challenge can be raised in any court of law regarding the constituencies determined or reviewed by CDC (Article 286).