

## **K P Oli Loses Trust Vote: Nepal in a Political Crisis**

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### **Summary**

*Nepal's Prime Minister K P Oli lost a confidence vote in the House of Representatives on 10 May 2021. Nepal has two options: provide the opportunity for another alliance or opt for snap polls. At present, no alliance enjoys a majority, and even if some parties come together and form a government, it is difficult to say if they will win the confidence of the House. The next parliamentary election is in 2022. Given the seriousness of the COVID-19 pandemic, it would be unwise to conduct elections at this point.*

### **Introduction**

The power tussle among the different factions of the Nepal Communist Party (NCP), lasting over a year, ended with Prime Minister K P Oli losing a vote of confidence in the House of Representatives on 10 May 2021. Out of the 232 lawmakers present on that day, 93 voted for Oli, 124 voted against him while 15 lawmakers stayed neutral. Oli needed 136 votes to win the confidence motion.<sup>1</sup> The Madhav Kumar Nepal and Jhala Nath Khanal faction of the Communist Party of Nepal (Unified Marxist-Leninist) abstained during the voting. Earlier, the Nepal-Khanal faction decided to submit its resignation. However, Oli sent two close aides, Bishnu Poudel and Subas Nembang, on 8 May 2021 to convince the faction to change its decision.<sup>2</sup> In the 32-member Janata Samajbadi Party, the Mahanta Thakur faction stayed neutral while Upendra Yadav's group voted against the trust motion.<sup>3</sup>

Since the restoration of democracy in 1990, no prime minister or parliament has completed its five-year term.<sup>4</sup> In the 1991 elections, in which the Nepali Congress emerged as the largest party, the government could not complete its term due to an intra-party rift. Then Prime Minister Girija Prasad Koirala dissolved the Parliament in 1994. Koirala's decision was challenged in the Supreme Court, which endorsed the prime minister's decision.<sup>5</sup> In 1995, then Prime Minister Manmohan Adhikari, who faced a no-confidence motion, dissolved the Parliament. Unlike in 1994, the Supreme Court rejected the government's move. The Court observed that there was a possibility to form an alternate government. In 2002, then Prime

<sup>1</sup> Tika R Pradhan, "Nepal Prime Minister Oli fails trust vote in Parliament", *The Kathmandu Post*, 10 May 2021, <https://kathmandupost.com/politics/2021/05/10/nepal-prime-minister-oli-fails-trust-vote-in-parliament>. Accessed on 11 May 2021.

<sup>2</sup> Tika R Pradhan, "Oli dangles a carrot as Nepal-Khanal faction wavers", *The Kathmandu Post*, 10 May 2021, <https://kathmandupost.com/politics/2021/05/10/oli-dangles-a-carrot-as-nepal-khanal-faction-wavers>. Accessed on 10 May 2021.

<sup>3</sup> Tika R Pradhan, "Nepal Prime Minister Oli fails trust vote in Parliament", op. cit.

<sup>4</sup> Kamal Dev Bhattarai, "Explainer: What Nepal Prime Minister Oli Hopes to Achieve by Dissolving Parliament", *The Wire*, 21 December 2021, <https://thewire.in/south-asia/nepal-parliament-dissolved-kp-sharma-oli-prachanda-elections-tussle>. Accessed on 25 December 2021.

<sup>5</sup> Ibid.

Minister Sher Bahadur Deuba dissolved the Parliament and announced dates for the next elections. However, elections could not be held due to the rise in the Maoist insurgency.<sup>6</sup> After the end of the monarchy in May 2008, Pushpa Kumar Dahal, popularly known as Prachanda, became prime minister and remained in office from 2008 to 2009. Madhav Kumar Nepal was in power between 2009 and 2011, Khanal was in office for a few months in 2011, Baburam Bhattarai was prime minister from 2011 to 2013, Khil Raj Regmi was in power between 2013 and 2014, Oli was prime minister in 2015 and 2016, and Prachanda returned to office in 2016 and remained there till 2017. After winning the November-December 2017 national elections, Oli returned as prime minister in February 2018 with support from two-thirds of the Parliament.<sup>7</sup>

## Political Tussle in Nepal

In an effort to provide political stability despite their ideological, political and personal differences, Oli and Prachanda agreed to merge the Communist Party of Nepal (Unified Marxist-Leninist) [UML] and Communist Party of Nepal (Maoist Centre) [CPN (Maoist Centre)] in 2018. Some points on which the two leaders agreed on were:

1. They will lead the unified party. Both the chairmen will enjoy equal power in the party.
2. There will be a nine-member secretariat. Oli and Prachanda will be the chairmen. Madhav Nepal and Khanal will be the senior leaders. Narayan Kaji Shrestha, Ishwor Pokharel, Ram Bahadur Thapa and Bishnu Poudel will be in the secretariat. Narayan Kaji will be the spokesperson and Bishnu Poudel the General Secretary.
3. There will be a 441-member Central Committee (241 members from the UML and 200 from the CPN [Maoist Centre]) and a 45-member Standing Committee (25 members from UML and 18 from the CPN [Maoist Centre]).<sup>8</sup>

Oli and Prachanda also agreed that they would lead the government for an equal period. However, Oli refused and instead agreed to grant the party's executive powers to Prachanda.<sup>9</sup> Under the new agreement, Prachanda was made executive chairman of the NCP. This arrangement could not last long because Oli continued to have a strong grip on the party as well. The two leaders then explored other agreements which did not work as well.<sup>10</sup> Later, when Prachanda realised Oli would not hand over power to him as promised, he formed a faction with Madhav Nepal, Bam Dev Gautam and Khanal.<sup>11</sup>

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<sup>6</sup> Ibid.

<sup>7</sup> "KP Oli wins vote of confidence, garners two-thirds majority in lower House of Nepal's Parliament", *Firstpost*, 11 March 2018, <https://www.firstpost.com/world/kp-oli-wins-vote-of-confidence-garners-two-thirds-majority-in-lower-house-of-nepals-parliament-4385657.html>. Accessed on 10 May 2021.

<sup>8</sup> "UML, Maoist unite to form NCP", *The Kathmandu Post*, 17 May 2018, <https://kathmandupost.com/valley/2018/05/17/uml-maoist-unite-official-announcement-shortly>. Accessed on 8 May 2021.

<sup>9</sup> Kamal Dev Bhattarai, op. cit.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

To further strengthen himself, Oli issued two ordinances in April 2020. The first was to amend the existing provision in the Political Parties Act of Nepal that requires 40 per cent support from both the party central committee and the parliamentary party to split. According to the proposed amendment, a split vote would require 40 per cent support from *either* the central committee *or* the parliamentary party.<sup>12</sup> The second ordinance was related to the Constitutional Council. It sought to allow the council to take decisions even in the absence of the opposition leader and even if the Speaker is from a different party. The council is headed by the prime minister and consists of the Chief Justice of the Supreme Court, the Speaker and Deputy Speaker of the House of Representatives, the chairman of the National Assembly and a prominent opposition party leader as members.<sup>13</sup> The minister for law and justice also attends the meeting when the appointment is related to the judiciary.<sup>14</sup> As the opposition within the party and the government mounted against both ordinances, Oli's government recommended to the President to withdraw them.<sup>15</sup>

To bring peace, even China's Ambassador to Nepal Hou Yanqi held meetings with senior leaders of the NCP.<sup>16</sup> However, Yanqi's meeting could not iron out differences among the communist leaders. On 30 June 2020, the NCP held a Standing Committee meeting to discuss the government's response to the COVID-19 crisis. During the meeting, the party's three top leaders, including Prachanda, asked Oli to resign from his position as prime minister and as the party's chairperson. More leaders joined later demanding the resignation of Oli from both positions.<sup>17</sup> Relations further worsened in November 2020 when Prachanda's faction came out with a 19-page political document<sup>18</sup> in which Prachanda accused the government of corruption in the purchase of medical supplies to fight COVID-19 in March 2020 and Oli turning a blind eye to the corruption charges against Gokul Prasad Baskota, former information minister and an Oli ally, over the purchase of a security printing press.<sup>19</sup> The Prachanda camp also accused Oli of making important appointments without taking the co-chair into confidence.<sup>20</sup>

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<sup>12</sup> Anil Giri and Tika R Pradhan, "Oli's sudden issuance of two ordinances raises concerns of a party split in the making", *The Kathmandu Post*, 20 April 2020, <https://kathmandupost.com/national/2020/04/20/oli-s-sudden-issual-of-two-ordinances-raises-concerns-of-a-party-split-in-the-making>. Accessed on 8 May 2021.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> "Govt to recommend withdrawal of ordinances on facing all-round criticism", *The Himalaya*, 24 April 2020, <https://thehimalayantimes.com/nepal/govt-to-withdraw-two-ordinances-on-facing-criticism-from-all-quarters>. Accessed on 18 March 2021.

<sup>16</sup> Dipesh Shahi, "Is China now micro-managing Nepal politics?", *Nepali Times*, 5 May 2020, <https://www.nepalitimes.com/latest/is-china-now-micro-managing-nepal-politics/>. Accessed on 27 April 2021.

<sup>17</sup> "Nepal Prime Minister KP Oli meets president, party chief as calls for his resignation grow", *Scroll.in*, 2 July 2020, <https://scroll.in/latest/966304/nepal-prime-minister-kp-oli-meets-president-party-chief-as-calls-for-his-resignation-grow>. Accessed on 8 July 2020.

<sup>18</sup> Tika R Pradhan, "At Secretariat meet, Dahal asks Oli to 'sacrifice' for saving party and republic", *The Kathmandu Post*, 14 November 2020, <https://kathmandupost.com/politics/2020/11/14/at-secretariat-meet-dahal-asks-oli-to-sacrifice-for-saving-party-and-republic>. Accessed on 19 January 2021.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

In his rebuttal,<sup>21</sup> Oli accused Prachanda of turning the disagreements into hostility, and pushing the communist movement towards crisis. Oli also took the credit for saving Prachanda's politics by agreeing to merge the CPN-UML with CPN (Maoist Centre) in 2018 despite Prachanda's action leading to his resignation in 2016 after losing the no-trust motion. In 2016, Prachanda registered for a no-confidence motion against Oli, calling his actions "self-centric".<sup>22</sup> In his 2020 document, Oli questioned Prachanda's party resorting to shenanigans for the sake of his daughter, Renu Dahal, who was contesting the post of Chitwan mayor during the 2017 local elections.<sup>23</sup> He touched upon the transitional justice process, the Baluwatar land grab scam and politicians' fancy lifestyles.<sup>24</sup>

A few days after the political documents were exchanged between Prachanda and Oli, the former managed to convene the Standing Committee on 6 December 2020 despite Oli's dissension. Oli skipped the meeting.<sup>25</sup> The next meeting of the Standing Committee of the NCP was scheduled for 20 December 2020. On the same day, on Oli's recommendation, Nepal's President Bidhya Devi Bhandari dissolved the Parliament. Defending Oli's decision, Surya Thapa, Oli's press adviser, said it was necessitated by "conspiracies" that had "restricted" his functioning.<sup>26</sup>

Several people protested peacefully on the streets against Oli's decision, and petitions were filed in the Supreme Court.<sup>27</sup> In its judgment in February 2021, the Supreme Court overturned Oli's decision to dissolve the House of Representatives and ordered the authorities to summon the next meeting of the Parliament within 13 days. The constitutional bench, led by Chief Justice Cholendra Shumsher Rana, found Oli's decision unconstitutional, as there was still a possibility of forming a new government.<sup>28</sup>

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<sup>21</sup> Tika R Pradhan, "Oli goes on the offensive as he responds to Dahal's allegations", *The Kathmandu Post*, 29 November 2020 <https://kathmandupost.com/politics/2020/11/29/oli-goes-on-the-offensive-as-he-responds-to-dahal-s-allegations>. Accessed on 19 April 2021. Also see Oli's document in Nepali at [https://drive.google.com/file/d/1TUXmKHur9WDSO8G0Y0JMUIDDK1wm\\_Tgf/view](https://drive.google.com/file/d/1TUXmKHur9WDSO8G0Y0JMUIDDK1wm_Tgf/view). Accessed on 10 May 2021.

<sup>22</sup> Binod Ghimre, "Dahal fires salvo at Oli as discussion on no-confidence motion starts", *The Kathmandu Post*, 23 July 2016, <https://kathmandupost.com/valley/2016/07/23/dahal-fires-salvo-at-oli-as-discussion-on-no-confidence-motion-starts>. Accessed on 10 May 2021.

<sup>23</sup> Tika R Pradhan, "Oli goes on the offensive as he responds to Dahal's allegations", op. cit.

<sup>24</sup> Ibid.

<sup>25</sup> Tika R Pradhan, "Factional gatherings signal cracks are further deepening in the ruling party", *The Kathmandu Post*, 12 December 2020. <https://kathmandupost.com/politics/2020/12/12/factional-gatherings-signal-cracks-are-further-deepening-in-the-ruling-party>. Accessed on 15 December 2020.

<sup>26</sup> Ankit Adhikari and Niha Masih, "Nepal's parliament dissolved amid power struggle in the ruling party", *The Washington Post*, 20 December 2020, [https://www.washingtonpost.com/world/asia\\_pacific/nepal-parliament-dissolve/2020/12/20/58da8308-42a3-11eb-b58b-1623f6267960\\_story.html](https://www.washingtonpost.com/world/asia_pacific/nepal-parliament-dissolve/2020/12/20/58da8308-42a3-11eb-b58b-1623f6267960_story.html). Accessed on 7 May 2021.

<sup>27</sup> "Thousands protest in Nepal against PM dissolving Parliament", *Aljazeera*, 29 December 2020, <https://www.aljazeera.com/news/2020/12/29/nepal-thousands-protest-against-pms-dissolution-of-parliament>. Accessed on 8 May 2021.

<sup>28</sup> "Supreme Court overturns Oli's House dissolution", *The Kathmandu Post*, 23 February 2021, <https://kathmandupost.com/national/2021/02/23/supreme-court-overturns-oli-s-house-dissolution>. Accessed on 8 March 2021. For full decision of the Supreme Court, See [https://drive.google.com/file/d/10henPKFHDUD4KFr3No8aof8\\_10wz994w/view](https://drive.google.com/file/d/10henPKFHDUD4KFr3No8aof8_10wz994w/view). Accessed on 8 March 2021.

In March 2021, in passing a verdict on a three-year-old case, the Supreme Court decided to award the name NCP to Rishiram Kattel. The Court quashed the Election Commission's earlier decision to award the NCP to Oli and Prachanda. It said that "[then] CPN-UML and then-CPN (Maoist Centre) would return to the pre-merger stage and if they were to merge, they should apply at the Election Commission as per the Political Parties Act."<sup>29</sup> In 2018, the registration of the NCP was challenged by Kattel, who claimed that his Nepal Communist Party owned the name. After the Election Commission quashed the petition, Kattel moved to the Supreme Court. Another Maoist offshoot led by Netra Bikram Chand is also named NCP but not registered with the country's Election Commission.<sup>30</sup>

Amidst these political developments, on 2 May 2021, Oli decided to seek a trust vote in the Parliament. On 4 May 2021, the CPN (Maoist Centre) Standing Committee decided to withdraw support from the Oli-led government. A day before the trust vote, Oli issued a strong statement that said that history will not forgive those making attempts to defeat the party.<sup>31</sup>

## Conclusion

Constitutionally, the President may invoke Article 76(2), which says, "In cases where no party has a clear majority in the House of Representatives...the President shall appoint as the Prime Minister a member of the House of Representatives who can command majority with the support of two or more parties representing to the House of Representatives."<sup>32</sup> Hence, anyone can stake a claim to form the next government. However, if the leader fails to win confidence within 30 days, a provision under Article 76(3) can be invoked by the President.<sup>33</sup> Article 76(3) states, "In cases where Prime Minister cannot be appointed under clause (2) no later than thirty days after the date of declaration of the final results of election to the House of Representatives or the Prime Minister so appointed fails to secure a vote of confidence...the President shall appoint as the Prime Minister the parliamentary party leader of the party which has the highest number of members in the House of Representatives".<sup>34</sup> Under Article 76(3), Oli can stake his claim again to form the government as he has support from the highest number of members from the House of Representatives. However, he has to prove his majority in the House of Representative within 30 days from the date of the appointment.

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<sup>29</sup> Tika R Pradhan, "Supreme Court awards Nepal Communist Party to Rishiram Kattel", *The Kathmandu Post*, 7 March 2021 <https://kathmandupost.com/national/2021/03/07/supreme-court-awards-nepal-communist-party-to-rishiram-kattel>. Accessed on 10 March 2021.

<sup>30</sup> "Ruling communist party gets its contested name", *The Kathmandu Post*, 27 October 2018, <https://kathmandupost.com/national/2018/10/27/ruling-communist-party-gets-its-contested-name>. Accessed on 9 May 2021.

<sup>31</sup> Oli's letter was posted on Twitter by his press advisor, Surya Thapa, <https://twitter.com/ThapajiSurya/status/1391367758537887744/photo/1>.

<sup>32</sup> Nepal Law Commission, "Constitution of Nepal", <https://www.lawcommission.gov.np/en/archives/category/documents/prevaling-law/constitution/constitution-of-nepal>. Accessed on 11 May 2021.

<sup>33</sup> Tika R Pradhan, "Nepal Prime Minister Oli fails trust vote in Parliament", *The Kathmandu Post*, 10 May 2021, <https://kathmandupost.com/politics/2021/05/10/nepal-prime-minister-oli-fails-trust-vote-in-parliament>.

<sup>34</sup> Nepal Law Commission, "Constitution of Nepal" op. cit.

A snap poll would be a relatively better option to meet the political challenge in Nepal. However, due to the severe COVID-19 situation in Nepal at the present time, it would be unwise for the country to go to the polls. So, as the country grapples with both the political and health crises, it is a 'wait-and-see' situation for the Nepalese.

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