

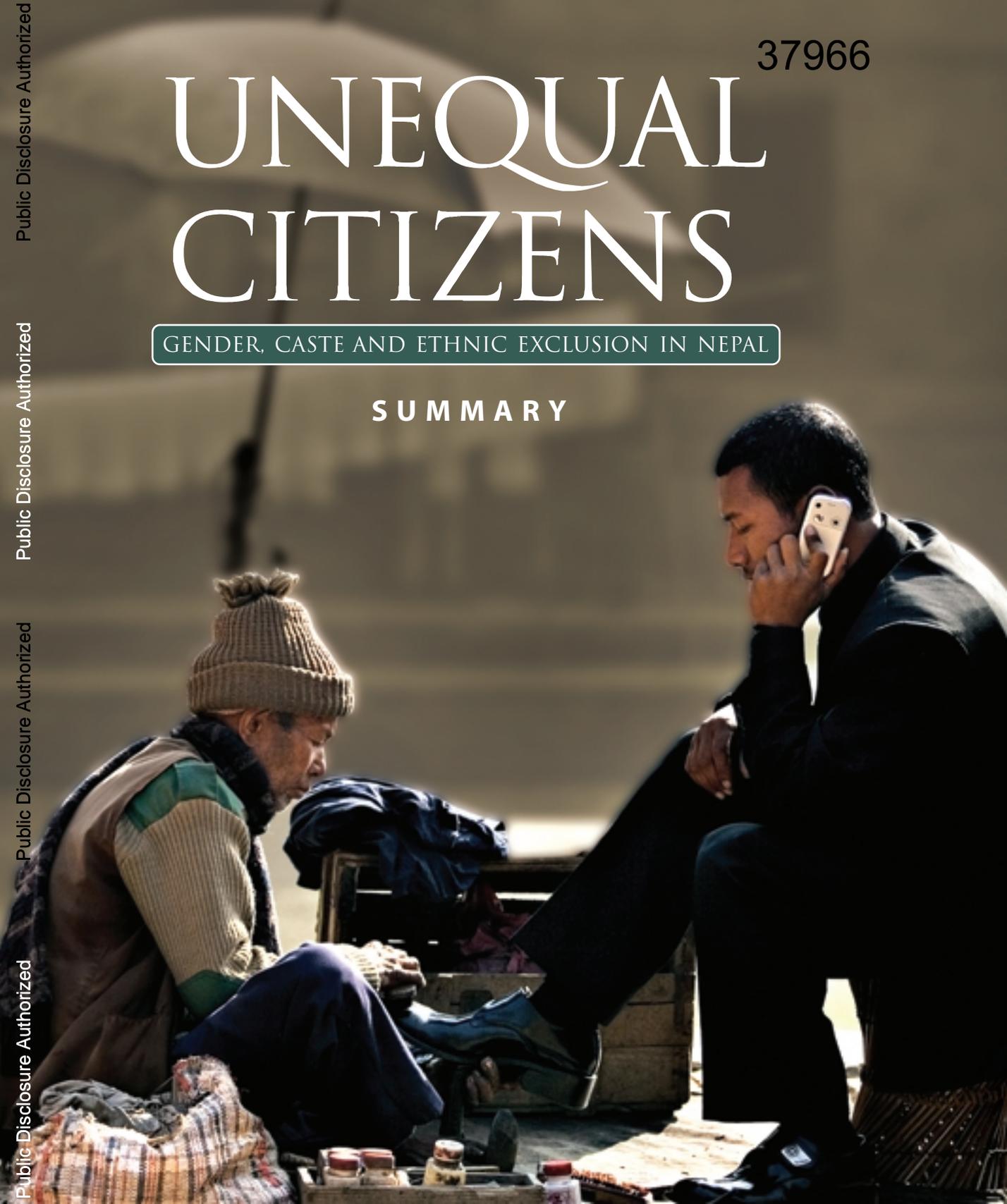
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UNEQUAL CITIZENS

GENDER, CASTE AND ETHNIC EXCLUSION IN NEPAL

SUMMARY

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A Kathmandu businessman gets his shoes shined by a *Sarki*. The *Sarkis* belong to the leatherworker subcaste of Nepal's Dalit or "low caste" community. Although caste distinctions and the age-old practices of "untouchability" are less rigid in urban areas, the deeply entrenched caste hierarchy still limits the life chances of the 13 percent of Nepal's population who belong to the Dalit caste group.

UNEQUAL CITIZENS

Gender, Caste and Ethnic Exclusion in Nepal

S U M M A R Y



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The Gender and Social Exclusion Assessment Team
dedicates this book
to our friend and colleague,

DR. KISHOR PRASAD GAJUREL

March 5, 1957 – April 14, 2006.

A great teacher, a true scholar and a Nepali citizen whose
research has helped us take this step towards the
shared goal of building an inclusive Nepal.



Contents

Foreword **viii**
Preface **ix**
Acronyms and abbreviations **xiii**
Executive summary **xv**

I. Background and framework 1

The GSEA study **4**
Social exclusion as a concept **4**
Historical and cultural context of exclusion in Nepal **5**
GSEA conceptual framework **8**

II. Poverty outcomes 15

Defining poverty **17**
Economic poverty **18**
Human development poverty **25**
Political poverty **30**
Local power relations and poverty **32**

III. Legal exclusion 39

IV. Public discourse and actions 45

Government policy and institutional framework **48**
Responses to gender discrimination **50**
Responses to caste discrimination **54**
Responses to ethnic discrimination **62**

V. Inclusive service delivery 67

Improving access to health **69**
Improving access to education **75**

VI. Inclusive governance 83

Local development groups and coalitions for influence from below **85**
Affirmative action **91**

VII. Summary and priorities for action 97

Key action points **102**

Selected bibliography 110

List of Figures

- FIGURE 1 Dimensions of exclusion in Nepal 5
- FIGURE 2 The Nepal caste pyramid 6
- FIGURE 3 The complementary roles of empowerment and social inclusion 9
- FIGURE 4 GSEA conceptual framework 9
- FIGURE 5 Sites of disempowerment and exclusion are different for the different excluded groups 13
- FIGURE 6 Percent composition of the population by caste/ethnicity 18
- FIGURE 7 Trend in the incidence of poverty by caste/ethnicity '95/96 and '03/'04 18
- FIGURE 8 Household income from remittances as percent of total household income among recipients 23
- FIGURE 9 Household and female ownership of house, land and livestock 24
- FIGURE 10 Sex ratio by caste/ethnicity 27
- FIGURE 11 Assistance during delivery among rural women 27
- FIGURE 12 Literacy rate of the population by age and sex 29
- FIGURE 13 Net primary and secondary enrolment rates for boys and girls in Nepal 1995-96 and 2003-04 29
- FIGURE 14 Percentage of school participation of age 6-10 year olds by gender, caste and ethnicity, 2003-04 29
- FIGURE 15 Women in local elected bodies 1997-2002 30
- FIGURE 16 Ethnic/caste and gender representation in parliament, 1959-1999 31
- FIGURE 17 Gender/ethnic composition of elected members (1999 parliamentary elections) 31
- FIGURE 18 Wealth ranking based on consumer items by caste/ethnicity 32
- FIGURE 19 Composite empowerment and inclusion index (CEI) by gender/ caste/ ethnicity 36
- FIGURE 20 Caste/ethnic differences in levels of female empowerment and inclusion 50
- FIGURE 21 Distribution of the Dalit population (in percentage) to total Dalit population in Nepal 57
- FIGURE 22 Determinants of health outcomes in rural Nepal 70
- FIGURE 23 Average age of females at marriage (in rural areas) by caste/ethnicity 73
- FIGURE 24 Correlation between mothers' education and the under-5 mortality rates of their children 73
- FIGURE 25 Immunisation status of children under five years by caste/ethnicity 73
- FIGURE 26 Total number of male and female teachers (2001) 79

List of Tables

TABLE 1	Caste/ ethnic groupings – simplified analysis	17
TABLE 2	Unstandardised regression coefficients per capita consumption (in NRs.)	21
TABLE 3	Disparities in health outcome indicators by caste/ethnic groups, 1996	26
TABLE 4	Infant and child mortality rates by sex, 1996-2001	26
TABLE 5	Educational attainment (percent) by caste/ethnicity	28
TABLE 6	Representation in government, 1999	60
TABLE 7	Janajati groups classified by NEFIN based on socio-economic status	63
TABLE 8	Indicative typology of group-based institutions	86

List of Boxes

BOX 1	An inclusive state	4
BOX 2	Barriers to citizenship	5
BOX 3	Social inclusion and equity	10
BOX 4	Caste and ethnic dimensions of poverty: A summary of NLSS II findings	20
BOX 5	The school as a site of social inclusion	28
BOX 6	Measuring empowerment and inclusion	33
BOX 7	Listening to rural people during the MESI study	35
BOX 8	Non-discrimination and equality	42
BOX 9	Discriminatory laws	42
BOX 10	Examples of discriminatory laws based on religion, caste and ethnicity	43
BOX 11	Examples of discriminatory laws based on sex	44
BOX 12	Different definitions of Dalit sub-castes	56
BOX 13	Key recommendations to improve the understanding of the Dalit sub-castes	59
BOX 14	Fishing for guaranteed livelihoods	89
BOX 15	Mindset needed for effective affirmative action	90
BOX 16	Alternative approaches to proportional representation	93

List of Maps

MAP 1	Ethnographic map of Nepal	19
MAP 2	Distribution of the Dalit population	55
MAP 3	Distribution of the Janajati population	61

Foreword

Social inclusion is one of the four pillars of the Nepal Poverty Reduction Strategy Paper (PRSP)/Tenth Plan. Exclusion remains an important hurdle that Nepal has to overcome in order to be able to attain the development objectives of both the PRSP and the Millennium Development Goals. All major development partners have now incorporated social inclusion as a core pillar in their assistance strategies, vindicating the long-term development vision of His Majesty's Government and the National Planning Commission (NPC).

The Nepal Gender and Social Exclusion Assessment (GSEA) brings together the main findings of a multi-year study on social exclusion and how it has affected development outcomes in Nepal. It examines gender, caste and ethnicity as three intertwined institutions or "rules of the game" that determine individual and group access to assets, capabilities and voice based on socially defined identity. The GSEA study, entitled *Unequal Citizens*, attempts to understand how these institutions affect the people and suggests ways to overcome the obstacles. I am confident that the GSEA will be very useful in translating Nepal's development vision into actions. Some of the answers lie in the interventions recommended by the report, which also provide a sound basis for development partners to continue supporting Nepal's ongoing efforts towards building a fair, equitable and inclusive society.

The study is the outcome of a collaborative effort by the Department for International Development (DFID) of the Government of the United Kingdom and the World Bank in close collaboration with the National Planning Commission. The NPC assisted the process by appointing an Advisory Group of key government and civil society stakeholders to provide guidance to the study team. In addition, DFID, the World Bank and the Danish government supported a wide range of background studies and consultations whose findings have been incorporated in the report. The research was undertaken by a team of Nepali and international scholars and development workers and adequately reflects the reality on the ground.

Finally, I congratulate all the GSEA team members and all the men and women of Nepal who took part in the multi-level consultations for producing what is a very comprehensive assessment of Nepali society. The NPC will continuously advocate for greater social inclusion and will continuously monitor progress as part of the implementation of the Poverty Reduction Strategy Paper, the Tenth Plan.

Singha Durbar
Kathmandu, Nepal
January 2006

Dr. Shankar Sharma
Vice Chairman
National Planning Commission

Preface

The partnership between DFID and the World Bank that made the Gender and Social Exclusion Assessment possible was first discussed on a very momentous day in 2001. I was actually at the DFID office in Palace Street, London talking about possible collaboration on social development issues in Nepal when the news of the September 11 bombings first came out. In the elevator on the way down after the meeting, some DFID staff told me that an airplane had flown into the World Trade Centre. Despite this inauspicious beginning, the partnership between our two institutions on social exclusion issues in Nepal has been a fruitful one that has grown stronger over the years.

In a Memorandum of Understanding that was signed in 2002 with the Bank, DFID agreed to support two thirds of my time as a World Bank staff person to work on a jointly agreed social development work programme around the issue of social exclusion. The GSEA was to be the major product of this partnership. I came out to Nepal to take up the assignment in October of that year – just as discussions on the draft PRSP were taking place. Those discussions were critical and led to a third key partner in the GSEA collaboration, the National Planning Commission. NPC itself decided to bring exclusion issues to the forefront of its analysis and to make social inclusion one of the four pillars of the PRSP. Dr. Shankar Sharma, as Vice Chair of the NPC, invited a group of distinguished scholars and activists working on gender, caste and ethnic issues to form an informal Advisory Group for the GSEA study. This group consisted of Professor Santa Bahadur Gurung, Director of the National Foundation for the Development of Indigenous Nationalities (NFDIN); Dr. Om Gurung, President of the Nepal Federation of Indigenous Nationalities (NEFIN); Dr. Pushpa Shrestha, Member, NPC; Durga Sob, President of the Feminist Dalit Organization (FEDO) and former Member-Secretary of the National Dalit Commission; Hira Bishwakarma, Dalit Empowerment and Inclusion Project (DEIP); Dr. Durga Pokhrel, former Chairperson of the Nepal Women's Commission and currently Minister for Women, Children and Social Welfare; Dr. Bina Pradhan and Dr. Meena Acharya.

From the beginning, the collaboration with DFID has been very substantive. Frances Winters was DFID's Social Development Advisor during the first few months of the work. She was succeeded by Dr. Rebecca Calder, who guided the GSEA team through the necessary bureaucratic processes on the DFID side and more importantly, infused her DFID colleagues with an

understanding and excitement about the social exclusion agenda – thereby helping to embed it as a central element in the DFID Country Assistance Plan. Since Rebecca Calder’s transfer to Pakistan in the fall of 2005, Jasmine Rajbhandary, DFID’s present Social Development Advisor, has taken on the responsibility for leading the follow-on work on social exclusion at DFID. The whole GSEA team also owes a special thanks to Mark Mallalieu, Head of Office, DFID Nepal for his strong support to the social inclusion agenda.

With additional support from DFID and also the Danish Government (on the health and education chapters), we put together a team to carry out the assessment. Members of the GSEA team and their contributions were as follows: 1) Mukta Lama Tamang, Dr. Pratyoush Onta and Dr. Seira Tamang on Janajati issues; 2) Dharma Swarnakar and Manjushree Thapa on Dalit Issues; 3) Seira Tamang and Manjushree Thapa on gender issues; 4) Sapana Malla and Sabin Shrestha on legal issues; 5) Dr. Meena Acharya, Chaitanya Subba, Harihar Regmi, Shankar Aryal and Dr. Kishor Gajurel on the statistical profile; 6) Kiran Bhatia, Dr. Mark Turin and Chhaya Jha on education and health; 7) Dr. Stephen Biggs, Dr. Sumitra Gurung and Dr. Don Messerschmidt on group-based approaches, which was worked upon further by Dr. Saubhagya Shah; 8) Dharma Swarnakar and Dr. Mallika Shakya for the budget analysis and 9) Dr. Aruna Rao and Dr. David Kelleher on affirmative action. I served as team leader and contributed the conceptual framework and the chapter on social-cultural and historical foundations of exclusion as well as chapters on macro and micro level poverty outcomes. Dr. Isabella Bassignana Khadka, Binod Bhattarai, Judith Amtzis, Zamila Bunglawala and Bela Malik served as editors, assisted by the core writing team of Lynn Bennett, Pratyoush Onta, Seira Tamang and Manjushree Thapa. Team support was provided by Krishna Thapa, Wangmu Sherpa, Sanjiv Shrestha and Tara Shrestha from the World Bank. Thanks also go to FEDO and to the UNICEF office in Kathmandu for sharing many of the photographs reproduced in this volume and to Dr. Harka Gurung for permission to reproduce three of his most recent ethnic and caste maps.

It was particularly fortunate that just before I came out to begin work in Nepal, I was granted funds by the Poverty Window of the Trust Fund for Environmentally and Socially Sustainable Development (TFESSD) to develop an instrument and carry out research to track changes in empowerment and social inclusion levels in the context of the Bank-assisted Rural Water Supply

and Sanitation (RWSS II) project. This research, entitled Measuring Empowerment and Social Inclusion (MESI), combined qualitative in-depth case studies with data from a survey administered to one man and one woman in 1000 households from 60 villages. Additional funding was received from the GENFUND and a second instalment from TFESSD. This support has enabled the GSEA team to supplement the macro-level analysis we carried out on the Census, Nepal National Living Standard Survey (NLSS) and Demographic and Health Survey (DHS) data sets with analysis of primary data reflecting the ground realities of exclusion in rural Nepal. Dr. Kishor Gajurel led the statistical analysis and Dr. Sondra Hausner and Kim Armstrong oversaw the qualitative research.

An important part of the GSEA study was the consultation process organized by the team to share the conceptual framework, and later the findings and preliminary conclusions, with key stakeholder groups. In addition to presentations along the way to DFID and the World Bank colleagues, we also informally shared our framework and findings with a range of other donors including ADB, CARE, GTZ, USAID, SDC and the Gender Donor Coordination Group. Most helpful to us, however, were the series of six consultation workshops, facilitated by Bikram Subba and Chhaya Jha, that were held with Dalit, Janajati and women's organizations and with key government policy makers during the winter and spring of 2005.

An important part of the GSEA has been its close connection with the country assistance strategies and the on-going sectoral and policy reform work of both DFID and the World Bank. Without the strong support from Ken-ichi Ohashi, World Bank Country Director for Nepal, and the whole Nepal Country Team, the critical link between social inclusion and Nepal's long term reform agenda could never have been so forcefully articulated.

UNEQUAL CITIZENS: Gender, Caste and Ethnic Exclusion in Nepal is now available. In addition to this summary, a 30 page executive summary has been published, and a shortened version of the full report is also being prepared. A Nepali version is also in the works. The entire GSEA report (which in its draft version is over 700 pages) will be placed on the Internet and key chapters will be published separately for those with a special interest on specific issues. But what we hope will be the most important aspect of the GSEA is not its publication as much as the on-going process of introspection and

debate on social exclusion in Nepal, which the GSEA has tried to capture and advance. Like all social transformation, this will be a long and contentious process that cannot be “projectised” and by its very nature, can only be directed and carried through by Nepali citizens. DFID and the World Bank are committed to continuing their support to this process at this critical juncture in Nepal’s history. Over the next several years, continued support for the social inclusion agenda will be provided in part by the Bank and by DFID/Nepal’s Social Exclusion Action Programme (SEAP), currently in the planning stage. We look forward to the continued leadership of the NPC as Nepal works through its historical legacy of exclusion and forges a polity in which the playing field is truly level for all its diverse citizens.

Kathmandu, Nepal
January 2006

Dr. Lynn Bennett
Lead Social Scientist
The World Bank, Nepal

Acronyms and abbreviations

BA	Bachelor of Arts
B/C	Brahman/Chhetri
BCN	Brahman, Chhetri, Newar
CBS	Central Bureau of Statistics
CDO	Chief District Officer
CEDAW	Convention on Eliminating all forms of Discrimination Against Women
CEI	Composite Empowerment and Inclusion Index
CPN (M)	Communist Party of Nepal (Maoist)
CPN-UML	Communist Party of Nepal (Unified Marxist Leninist)
CRC	Convention on the Rights of the Child
CWC	Central Working Committee
DDC	District Development Committee
DEIP	Dalit Empowerment and Improvement Plan
DFID	Department for International Development
DHS	Demographic and Health Survey
DNF	Dalit NGO Federation
DWO	Dalit Welfare Organization
EHCS	Essential Health Care Services
EMI	Empowerment Index
EOC	Emergency Obstetric Care
FECOFUN	Federation of Community Forest Users Nepal
FEDO	Feminist Dalit Organization
FRC	Fisheries Research Centre
GSEA	Gender and Social Exclusion Assessment
HMG/N	His Majesty's Government/Nepal
HOR	House of Representatives
HSS	Health Sector Strategy
ILO	International Labour Organization
IMR	Infant Mortality Rate
INGO	International Non Government Organization
IPM	Integrated Pest Management
JMC	Jagaran Media Centre
JUP	Jana Uttham Pratisthan
LHMC	Local Health Management Committees
LSGA	Local Self-Governance Act
MCH	Maternal and Child Health
MDG	Millennium Development Goal
MESI	Measuring Empowerment and Social Inclusion

MLD	Ministry of Local Development
MOES	Ministry of Education and Sports
MOF	Ministry of Finance
MOGA	Ministry of General Administration
MOH	Ministry of Health
MOU	Memorandum of Understanding
MR	Mortality Rate
MWCSW	Ministry of Women, Children and Social Welfare
NC	Nepali Congress
NCDN	National Committee for the Development of Nationalities
NDC	National Dalit Commission
NDHS	Nepal Demographic Health Survey
NEFA	Nepal Education for All
NEFIN	Nepal Federation of Indigenous Nationalities
NEFSCUN	National Federation of Savings and Credit Cooperative Unions, Ltd.
NFDIN	National Foundation for Development of Indigenous Nationalities
NGO	Non Government Organization
NHDR	Nepal Human Development Report
NHSP	Nepal Health Sector Programme
NLSS	Nepal Living Standard Survey
NNDSWO	Nepal National Depressed Social Welfare Organization
NPC	National Planning Commission
NWC	National Women's Commission
PCRW	Production Credit for Rural Women
PMAS	Poverty Monitoring Analysis System
PR	Proportional Representation
PRSP	Poverty Reduction Strategy Paper
RPP	Rastriya Prajatantra Party
RWSS	Rural Water Supply and Sanitation
SEAP	Social Exclusion Action Programme
SII	Social Inclusion Index
SLC	School Leaving Certificate
SMC	School Management Committee
SPOSH	Society for Preservation of Shelters and Habitations in Nepal
SWAp	Sector-Wide Approach
SWC	Social Welfare Council
TFESSD	Trust Fund for Environmentally and Socially Sustainable Development
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
VCDP	Vulnerable Community Development Plan
VDC	Village Development Committee
WB	World Bank
WDO	Women Development Officer
WDS	Women Development Section



EXECUTIVE SUMMARY

EXECUTIVE SUMMARY

Background and framework

The Gender and Social Exclusion Assessment (GSEA) examines old hierarchies that continue to structure access to political influence and economic opportunities. Democracy was established in Nepal in 1990. Even in the democratic polity, however, women, the formerly “untouchable” castes who now call themselves Dalits, the ethnic groups or Janajatis, the Muslims and the plains dwellers or Madhesis remain on the margins.

The GSEA has examined gender, caste and ethnicity as three interlocking institutions that determine individual and group access to assets, capabilities and voice based on socially-defined identity.

Inclusion is one of the four pillars of Nepal’s Poverty Reduction Strategy Paper (2003). However, attaining its inclusion goal will require fundamental shifts not only in the structure of governance and access to economic opportunity but also in the underlying hierarchical norms, values and behaviours that govern social interaction.

In Nepal political and economic power was consolidated by interlinking it with the Hindu caste system. The priestly Brahmins were at the top of the ritual order, with the Kshatriya (kings and warriors) just beneath them and in command of the political order; next came the Vaishya (merchants) and the Sudra (peasants and labourers). Beneath everyone were occupational groups, considered “impure”, and “untouchable” or *acchut*. In the Hills, in-migrating Hindus of Caucasoid stock made up the priests and warriors and the lowest “untouchable” groups. The middle rank was accorded to

The transformation from subjects to citizens remains incomplete.

indigenous groups, the Janajatis, generally of Mongoloid racial stock. Officially abolished in 1963, caste-based discrimination, while diluted, remains even today.

During the Panchayat period (1962-1990) – although directly ruled by a king – Nepalis for the first time began to think of themselves as citizens rather than subjects. The transformation from subjects to citizens remains incomplete.

Nepal's new Constitution (1990) established a more inclusive state. It describes Nepal as “multi-ethnic, multi-lingual and democratic” and declares that all citizens are “equal irrespective of religion, race, gender, caste, tribe or ideology”. However, it also retained some ambiguities – by declaring Nepal a Hindu Kingdom, denying women the right to pass their citizenship to their children and explicitly protecting “traditional practices”.

On February 1, 2005 the King suspended democracy and began direct rule. The parliamentary parties have continued to protest against the new order and demand the restoration of democracy. The suspension of democratic rule could delay the advancement of the rights of all Nepalis, especially the most excluded populations, mainly women, Dalits and Janajatis.

The GSEA framework

The GSEA analyses relationships between people and the institutions or “rules of the game” that shape the opportunity structure of their social, political and economic world. Empowerment and social inclusion are means to shift these relationships and the institutions that embody them towards greater equity. There are three domains of change where the state, civil society and donor organizations can intervene to ensure the following for the poor and excluded:

- access to livelihood assets and services;
- the ability to exercise voice, influence and agency; and
- a more equitable opportunity structure with “rules of the game” that allow all citizens to participate on the same terms in the life of the state and larger society as well as in their access to livelihood opportunities and political influence.

“Access to assets and services” and “voice, influence and agency” are part of the *empowerment* process. The other domain of change, the “rules of the game”, is where *social inclusion* does, or does not, take place. Empowerment and social inclusion play complementary roles in promoting equity of agency and sustainable prosperity for all.

Empowerment and social inclusion play complementary roles in promoting equity of agency and sustainable prosperity for all.

Poverty outcomes

The GSEA examines poverty outcomes using indicators of economic well being, human development levels, and voice and political influence.

Nepal began generating data on caste and ethnicity only in 1991. The 2001 census listed 103 social groups. Numerically no single group is predominant and the population can be broadly divided into Hindu caste groups, Janajatis and the religious minorities (mostly Muslim). In 2001, caste groups constituted 57.5 percent of the population, Janajatis 37.2 percent and the religious minorities 4.3 percent.

The Nepal Living Standards Survey, 2003/04 estimated that 31 percent of Nepalis were living below the poverty line. The Brahman/Chhetri group and the Newars have the fewest households in poverty and the Tarai Middle Castes also have low proportions under the poverty line. In contrast, almost half of all Dalits live in poverty, and poverty incidence among Hill Janajatis and Muslims is significantly higher than the national average. However, this data must be approached with some caution because Janajati poverty aggregates mask intra group differentials. The analysis also reveals that certain groups pay a “penalty” in terms of lower household per capita consumption because of their caste, ethnic or religious identity.

A gender dimension of poverty affects health and education outcomes and leads to greater economic insecurity for women. Political poverty is manifested in the main political parties’ failure to increase participation of women, Dalits and Janajatis in governance institutions. Dalits were almost totally absent from parliament during the entire multiparty period.

The GSEA carried out a separate study to measure and analyse the relative empowerment and social inclusion levels of a sample of one man and one woman from 1000 households in 60 villages. Members of the Brahman/Chhetri/Newar (BCN) groups scored the highest on both empowerment and social inclusion and the Dalits were at the bottom. Janajatis were intermediate between the two groups – closer to the BCN group in some measures of livelihood empowerment but closer to Dalits with respect to other measures. In all groups men scored higher than women, but BCN and Middle Caste and Janajati women all scored higher than Dalit men. Statistical analysis revealed the following:

- Caste and gender together account for a third of the variation in empowerment and inclusion levels.
- Caste is a more powerful predictor of empowerment/inclusion than gender.
- Membership in local groups was associated with higher empowerment and inclusion.

Certain groups pay a “penalty” in terms of lower household per capita consumption because of their caste, ethnic or religious identity.

Legal exclusion

The lack of laws is not the main issue in Nepal. The Constitution and the Civil Rights Act of 1955 prohibit discrimination on the grounds of “religion, race, sex, caste, tribe, ideological conviction or any of these”. The laws also prohibit untouchability, denial of access to any public place or depriving citizens of the use of public utilities. Enforcement is lax, however. Discriminatory provisions also exist, such as the declaration of Nepal as a Hindu kingdom and of Nepali as the only official language – and the protection of “traditional practices”, which has been used to bar Dalits from temples and to permit continued caste discrimination.

The law denies women equal inheritance rights and the right to pass citizenship to their children. Existing laws are inadequate to deal with sexual offences and Nepal has no law to deal with sexual harassment.

Public discourse and actions

This section examines how the “rules of the game” have influenced Nepal’s excluded groups in terms of government policies and institutional structures. Until April 1990, Nepal’s movements for women, Dalit and Janajati rights remained subsumed within the larger struggle for democracy.

The women’s movement has succeeded in placing questions of gender equality and justice on the national agenda, and the Dalit movement has begun to challenge Nepal’s caste society. The Janajati movement, once described by many Brahmans and Chhetris as a “divisive” phenomenon, has now succeeded in bringing fundamental issues of fair ethnic representation to the fore. Exclusion and hierarchy within excluded groups is also being questioned.

The three major social movements remain independent of each other, despite their many common demands. Because little dialogue has taken place between them, the demands of some groups contradict those of others. This has given the state space to delay fulfilment, and in turn has resulted in the growth of radical or revolutionary offshoots.

The three major social movements remain independent of each other, despite their many common demands.

Government policy and institutional framework

Nepal’s Eighth Plan (1992-1997), the first formulated by a democratic government, introduced poverty alleviation as one of its three objectives. It was also the first public document to address the caste/ethnic issue, albeit indirectly and incompletely.

The Ninth Plan (1997-2002) addressed Dalits and Janajatis by name – for the first time – and had a separate chapter subsection dealing with Adivasi

Janajatis in development. The government began allotting some public funds to programmes for Janajatis.

Planned efforts to improve the situation of women began in the Sixth Plan (1981-1985) but the approach was welfare driven. The Eighth Plan raised the issue of women's representation in decision-making and acknowledged the existence of gender-based discrimination – but failed to define either term.

The Tenth Plan (2002-2007), the PRSP, recognises that lack of voice, political representation and empowerment are as important dimensions of poverty as are the economic and human development dimensions, and proposes “affirmative action” to level the playing field. However, it too fails to present a realistic strategy and concrete mechanisms to mainstream inclusion.

Responses to gender discrimination

Before 1990 women's issues were cast in the framework of development and welfare – not rights.

Nepal's Constitution does not permit discrimination on the basis of sex and advocates special legal provisions to protect and advance the interests of women. The Local Self Governance Act (LSGA), 1999 introduced mandatory representation of women in local government. However, similar interventions are lacking at higher levels.

Nepal has ratified the Convention on Elimination of all forms of Discrimination Against Women (CEDAW). The CEDAW requires Nepal to change about 85 laws and 137 legal provisions that are discriminatory, a task which remains to be done.

The Ministry of Women, Children and Social Welfare (MWCSW) lacks adequate financial and human resources to carry out its numerous responsibilities effectively. It has also largely failed to consider the priorities and needs of women from traditionally excluded castes and ethnic groups.

Nepal set up the National Women's Commission (NWC) in 2002. However, it lacked a legal basis and its mandate remained unclear. Its members retired in March 2004 and replacements had not been appointed by February 2006. Brahman and Chhetri women – appointed mainly on the basis of their political affiliation – dominated the NWC membership.

Despite various efforts, the kind of structural change implied by the term “gender mainstreaming” has not occurred. Tension also exists between technocratic “fixes” and those advocating longer-term socio-political change. The latter is more likely to occur, as a process of democratic trial and error – often led by ordinary people – tends to be “messier” and less amenable to donor timetables and budget cycles.

Nepal needs to change about 85 laws and 137 legal provisions that are discriminatory, a task which remains to be done.

Representation of women in political parties is low, especially at the higher echelons of power. Non-representation remains a major obstacle to the mainstreaming of policies and programmes that focus on women and other excluded groups.

Responses to caste discrimination

Dalits remain at the very bottom of Nepal's caste hierarchy. Even now, the government and many development/aid organizations use euphemisms such as "occupational castes," "backward classes," "marginalised," and "disadvantaged groups," instead of referring to them as Dalits. The hesitation to use the term Dalit deflects attention from the everyday reality of caste-based discrimination in Nepal.

Over 200 forms of caste-based discrimination have been identified in Nepal. Discrimination is more entrenched in the country's less-developed areas, especially in the Mid- and Far-western regions, but caste continues to influence inter-personal behaviours throughout the country.

No consensus has been reached on exactly which communities fall into the category of Dalit or on the actual population size. According to the 2001 Census, Dalits comprised 13 percent of the population but the figure is contested. The Dalits can broadly be categorised as either Hill Dalits (who make up 61 percent of the Dalit population) or Tarai Dalits. Ironically, among themselves the Dalits have traditionally practiced Hindu type stratification. Unlike many Janajatis, the Dalits have no geographical centre or "traditional homeland" where they are numerically predominant.

Nepal established the National Dalit Commission (NDC) in March 2002 with an all-Dalit membership. Its members were chosen based on party affiliations; its functions were not legally mandated and funding was inadequate. The NDC did draft a bill for itself but it had not yet become law by early 2006.

Dalit representation in the executive bodies of political parties remains very low. The only Dalit member of the House of Representatives was elected in 1991.

The Dalits have essentially been left to fend for themselves. With a few exceptions, Nepal's non-Dalit actors have left it to Dalit leaders, activists and organizations to "fight their own battle," which has not helped the Dalit movement.

Responses to ethnic discrimination

The demands of Nepal's Adivasi Janajati movement centre mainly on issues of governance and political representation. One is the need for constitutional reform to remove discriminatory provisions. Another is for equitable repre-

The Tenth Plan (2002-2007), the PRSP, recognises that lack of voice, political representation and empowerment are as important dimensions of poverty as are economic and human development dimensions, and proposes "affirmative action" to level the playing field.

sentation. The Janajatis also seek greater equality in linguistic rights, and guaranteed access to common properties/resources.

Nepal originally prepared a schedule listing 61 Janajati groups, which was later reduced to 59 in the law. Various complexities are involved in compiling a definitive list. Among the groups in the current list 18 are from Mountain regions, 24 from the Hills, 7 from the Inner Tarai and 10 from the Tarai. The 2001 Census enumerated only 43 of 59 Janajati groups and reported a population of 8.27 million or 37 percent of Nepal's population. Members of 16 "missing" groups were apparently not counted.

Many disparities are found among the different Janajati groups. The Nepal Federation of Indigenous Nationalities (NEFIN) reports that 10 of the 59 Janajati groups are "endangered", 12 "highly marginalised", 20 "marginalised", 15 "disadvantaged" and two "advanced" or better off. The GSEA recommends a fresh classification to identify disadvantaged Janajati groups based on poverty incidence, education levels and key health indicators to serve as a basis for eligibility to special state initiatives, including reservations and scholarships for those most disadvantaged.

Nepal's Constitution explicitly uses the term Janajatis and acknowledges both their presence and their relative social and economic deprivation. The use of Nepali as the only official language is discriminatory, however. Constitutional reform is both an overarching demand related to many other issues, and an affirmation that the Janajatis want a wholly reformed contract with the state. The movement wants Nepal to be declared a secular state, and all Janajati languages recognised for use in state affairs alongside Nepali.

Equitable representation through different methods including "restructuring the Nepali state" by changing the electoral system and affirmative action measures are other key demands, as is access to common property resources once communally owned by certain Janajati groups.

Overcoming the legacy of past inequality involves more than allotting some reserved seats in elected, administrative government, or in university admissions.

Inclusive service delivery

Improving access to health

Nepal has started to put a greater emphasis on preventing diseases that afflict the poor and has begun reaching out to those with the greatest health burden. However, the effort to reorient policy and health services along a rights-based approach remains ad-hoc and immature.

Many interrelated factors – cultural, religious and social beliefs and norms (especially those that reflect the entrenched gender, caste and ethnic hierarchies) as well as economic, institutional and location-related specific-

ties – lie behind these differential health outcomes. Because of their reproductive role and their low social status, outcomes for women are the worst.

Many determinants of health outcomes operate indirectly by reducing certain people's access to healthcare and influencing the kind of care they receive. Institutional and political factors are important and are a major focus for policy intervention. These include government budgetary allocation and policy attention to rural healthcare and the diseases of the poor and women.

Although many professionals in the government health care service are dedicated to caring for the poor and disadvantaged, others have little motivation to serve those who are beneath them in the socio-economic hierarchy. Generally, most healthcare facilities, including trained personnel, are concentrated in urban areas. Men mostly staff the higher service positions – a major obstacle to proper healthcare for women.

Women's health outcomes are directly affected by their subordinate status vis-à-vis the men and the senior women in the family. The preference for male children varies from group to group and is reflected in poorer female performance on all indicators, especially education and health.

When healthcare usage and outcomes are better for women, they are better for children as well. Brahmans, Chhetris and Newars have the best health indicators for women and also the lowest infant mortality rates.

The government has acknowledged and tried to address the problem of gender discrimination as a barrier to healthcare. But very little attention has been given to how the legacy of caste and ethnicity – and particularly the practice of untouchability – affects the interface between health service providers and patients of both sexes. For Janajatis and members of linguistic minorities in the Tarai, language is also an inhibiting factor.

Some of the determinants of high morbidity and mortality among excluded groups require actions beyond the health system. Improved transportation and sanitation infrastructure, reduced income and consumption poverty and increased education levels are all associated with better health outcomes. Meeting the objectives of the current health sector reform programme will require patient development of detailed formal modalities and mechanisms to overcome the barriers to inclusion.

Improving access to education

The state assumed responsibility for the education system in the 1970s; previously locally run schools were turned over to a centralised educational administration. Public education expanded rapidly thereafter. Quality did not keep up with the expansion in numbers, however.

Instead of patronage, (the excluded) want rights – the same rights accorded to every citizen by law.

To help poor and socially excluded children access the kind of education that will open opportunities for them, simply getting them into Nepal's public schools as they currently operate will not be enough. The Nepal Education for All (NEFA) programme sets out three primary objectives: (i) ensuring access and equity in primary education, (ii) enhancing quality and relevance of primary education, (iii) improving efficiency and institutional capacity. For the first objective the government has specifically committed to provide equal access to educational resources for all excluded groups – girls, linguistic minorities, Dalits and Janajatis.

In an effort to reform the system and shift the incentives, in 2001 the parliament passed the Seventh Amendment of the Education Act, allowing management of local public schools to be handed over to School Management Committees (SMCs). The rules require at least one woman member but do not mandate Dalit or Janajati representation. Participation of both Dalits and women in the SMCs is low. Preventing elite capture and undue politicisation of SMCs is vital for their success, and is only possible through proper representation.

Schools with female teachers tend to attract more female students. For that reason the policy of having at least one female teacher per school in multi-teacher schools was established over a decade ago, and the NEFA requires at least two female teachers in such schools. However, neither policy has yet been fully implemented. Just as having a woman teacher tends to attract girl students, having Janajati or Dalit staff has a positive impact on those groups.

For most Janajati children Nepali is not their mother tongue so they are introduced to school and to a new language at the same time. Success in Nepali medium primary schools is also difficult for many people from the Tarai who speak Maithili, Bhojpuri or Hindi as their mother tongues.

Primary education is the foundation for ensuring educational parity among various groups, the first step towards effective social inclusion. The excluded groups are under represented in higher education – with Dalits being less than one percent of those with BA and above – and this is largely due to exclusion at the lower levels. Reforming education from below must be matched with affirmative action initiatives from above to support the higher education of members of excluded groups.

Brahmans, Chhetris and Newars have the best health indicators for women and also the lowest infant mortality rates.

Inclusive governance

Governance is at the core of the GSEA – focusing as it does on equal citizenship. It also proposes two promising approaches for realising the equal citizenship goal – group-based development and affirmative action.

Local development groups and coalitions

Some grassroots groups have begun to replicate themselves and have organized into larger federations. These higher-level associations give voice and added political representation to their constituents. Local level groups are an important mechanism through which bottom-up empowerment has been taking place in Nepal. This is especially important in the current situation where the elected local bodies that were to be the pillars of grassroots democracy and the institutional anchors for decentralisation have remained inoperative since July 2002. However, the roles and responsibilities of grassroots community groups vis-à-vis local elected government remain to be clarified.

Some GSEA findings relating to groups include the following:

- Nepal has about 400,000 local-level sponsored groups that are being monitored by development agencies.
- The idealised notion of “community” fails to recognise factional interests within communities: class, caste and gender-related conflicts can and do occur even within community forestry groups, which are said to be the most successful of the local groups. Stratification and elite capture occur in women’s groups as well.
- Although women are fairly well-represented as group members, they continue to play a less prominent role on the executive committees. Data on group membership and leadership disaggregated by caste and ethnicity is almost non-existent.
- Often homogenous groups – in terms of gender, caste and ethnicity – are best suited for serving the interests of disadvantaged groups. Studies show that “elite capture” is more likely to occur in mixed groups.

The quiet revolution underway in Nepal is the expansion of the impetus for group-based collective action from the village level to district, national (and sometimes international) arenas through the formation of federations and associations of grassroots groups. These actions can only succeed in an environment that promotes freedom to form associations to pursue collective goals as well as government support – not restrictions.

Affirmative action

Affirmative action seeks to correct historical disadvantages and unfair discrimination by enabling access to full opportunity and benefits to groups that have been excluded. Overcoming the legacy of past inequality involves more than allotting some reserved seats in elected, administrative government, or in university admissions, etc.

The idealised notion of “community” fails to recognise factional interests within communities: class, caste and gender-related conflicts can and do occur even within community forestry groups, which are said to be the most successful of the local groups.

Affirmative action as debated in Nepal relates not only to the civil service, but also to elected government and to the education, employment and health sectors. Affirmative action can also encompass changes in the electoral system in order to ensure proportional representation of different groups. This may be part of the answer in Nepal as well.

The government's views on affirmative action are unclear. While the need for some sort of affirmative action for excluded groups is not disputed, the modality has been the source of some contention – as has the issue of which groups should be included.

A major challenge to the affirmative action agenda is the low number of qualified candidates in certain groups such as the Dalits. An effective “road map” to affirmative action needs to address this dimension – perhaps through a special programme to develop a “pipeline” of qualified candidates.

Probably the most contentious sphere for affirmative action is in elected government, and this is an area where the political parties have failed. The power structures of the main political parties have never been representative in terms of the gender, caste or ethnicity of the diverse citizens they claim to represent.

Affirmative action as a lever for social inclusion is necessary but not sufficient to bring about significant and sustainable positive outcomes for socially excluded groups. In order to be truly effective and sustainable, affirmative action requires the broad social and political commitment to equality and human rights articulated by Nepal's Constitution, laws and policies. Ultimately, it requires changes in people's beliefs and values.

An effective “road map” to affirmative action needs to address this dimension – perhaps through a special programme to develop a “pipeline” of qualified candidates.

Conclusions

After centuries of thinking about themselves as subjects of feudal rulers, more and more Nepalis are beginning to see themselves as citizens of a democratic state. Although the pace of this fundamental change in self-perception is uneven among groups at different levels on the social hierarchy, it is now being embraced even by those traditionally at the lowest echelons – especially women, Dalits and Janajatis. This change in self-perception has also altered expectations: people do not want favours from the powerful. Instead of patronage, they want rights – the same rights accorded to every citizen by law. They want uniform “rules of the game” to apply to all social players across the board. Social inclusion and empowerment are the interrelated processes that can bring this about. The GSEA ends with a set of recommendations on the long overdue policy and actions for addressing the various dimensions of social exclusion in Nepal.



CHAPTER 1



BACKGROUND AND FRAMEWORK





BACKGROUND AND FRAMEWORK

The GSEA study

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Social exclusion as a concept

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Historical and cultural context of exclusion in Nepal

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GSEA conceptual framework

Democracy was established in Nepal in April 1990. It provided diverse groups space to express their opinions openly and to assert their identities and rights as citizens. However, the dominant order has remained largely confined to male Brahmans (Bahuns) and Kshatriyas (Thakuris and Chhetris) from the traditionally influential *Parbatiya* or Hill Hindu group, and the urban-based and generally well-educated Newars. The democratic transition failed to deliver on the promise of an inclusive polity mainly because, like most institutions in Nepal, the political parties continued to operate on the basis of deeply embedded and mutually reinforcing feudal, caste and patriarchal norms and networks – and were thus unable to represent and articulate the demands of all Nepalis. Those left at the margins were women; the “tribal” indigenous ethnic groups, the *Adivasi Janajatis* or “indigenous nationalities”; and the formerly “untouchable” castes now calling themselves Dalits (“oppressed”, “broken” or “crushed”). Muslims, who have high poverty levels, and the plains dwellers or *Madhesis*, who have substantial numbers but are largely excluded from political influence, are also on the margins.

The fact that even after the advent of multi-party democracy old hierarchies continued to structure access to political influence and economic opportunity led to the radicalisation of the demands of those who felt neglected by the new political order. The Communist Party of Nepal (Maoist),

Women, Janajatis and Dalits have not been elected in numbers that match their share of the population.



CPN (M), launched its “People’s War” in February 1996 and included the persisting caste, ethnic and gender-based disparities in its political agenda. The Maoists were quick to capitalise on the growing discontent and sense of injustice, and even though their controlled state model has little space for individual or group freedoms or effective social change, they have been able to provide important symbolic recognition to disaffected women, Dalits and Janajatis and to bring their demands into public debate.

The GSEA study

The Nepal Gender and Social Exclusion Assessment (GSEA) has been a collaborative effort of the UK’s Department for International Development (DFID) and the World Bank. It is based on a series of studies, including primary research, by a number of Nepali and international scholars and analysts that have been submitted for discussion and review by stakeholders at different levels. The GSEA report has examined gender, caste and ethnicity as three interlocking institutions that determine individual and group access to

BOX 1 | An inclusive state

In a socially inclusive state, the individual’s identity as a citizen supersedes all other identities (e.g. gender, caste, ethnicity, language or religion) as a basis for claims for state services and commitments on citizen’s rights (e.g. justice, social service provision, investment in public infrastructure, police protection) given in the constitution and the legal system.

assets, capabilities and voice based on socially-defined identity. It reports on how these institutions are changing and how state and civil society actors are responding to changes taking place in Nepal. It examines the linkages between exclusion and poverty and recommends strategies and actions to promote progress towards a more inclusive and equitable society. The GSEA was envisioned, researched and written between late 2002 and mid-2005.

Social exclusion as a concept

Social exclusion gained prominence in public discourse after inclusion was incorporated as one of four pillars of the 2003 Poverty Reduction Strategy Paper (PRSP), which is also Nepal’s Tenth Plan. As a result, there is now greater understanding that social exclusion is a structural problem and that solving it requires the state to move beyond welfare handouts to define and assure citizenship rights to all. In return, Nepal’s citizens need to shift from a mindset of dependency and patronage to one of individual and collective responsibility – the “price” for their rights. Balanced social and economic development can be attained only when rights and responsibilities complement each other. Therefore, attaining the PRSP’s inclusion goal will require fundamental shifts

FIGURE 1 Dimensions of exclusion in Nepal

Social Category Status	Gender	Caste	Ethnicity/Race	Language	Religion	Geo-political
Dominant	Men/Boys	Tagadhari: Brahman, Chhetri	Caucasoid	Nepali	Hindu	Parbatiya (Hill dweller)
Subordinate	Women/Girls	Dalit	Janajati/ Mongoloid	Other	Non-Hindu	Madhesi (Plains dweller)

not only in the structure of governance and access to economic opportunity but also in the underlying hierarchical norms, values and behaviours that govern social interaction. It is interesting to note that the seven party alliance is lobbying for a return not just to democracy, but to *inclusive* democracy – perhaps signalling a realisation that the first decade of multi-party democracy in Nepal came up short in that dimension.

Nepal's geography also contributes to exclusion. There are urban/rural differences in access to markets, services, information and political influence. Age and disability can also be serious barriers to inclusion, but they are not a specific focus of the report. Another exclusion is both geographic and historical – the distinction between the *Parbatiya* (hill dweller) and *Madhesi* (plains dweller). (See Figure 1.)

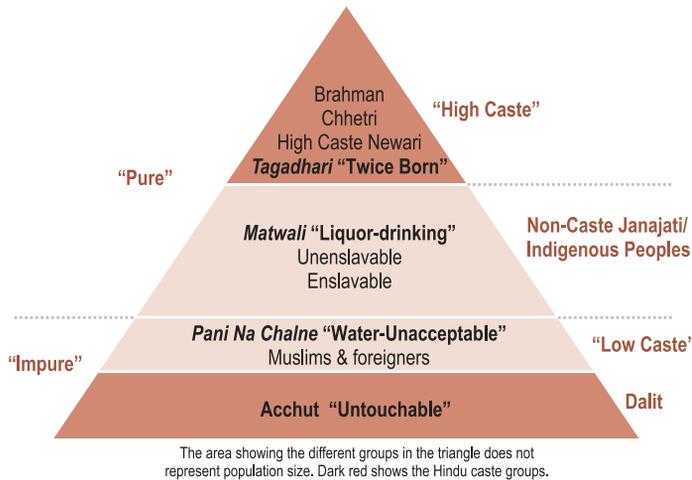
Historical and cultural context of exclusion in Nepal

The priestly Brahmins were at the top of the caste hierarchy with the Kshatriya (kings and warriors) just beneath them; next came the Vaishya (merchants) and

BOX 2 | Barriers to citizenship

At present, citizenship itself is problematic for many members of excluded groups, particularly for women who cannot pass citizenship rights on to their children and for many Dalits and Janajatis - especially those in the Tarai because of their high levels of landlessness. Although nothing in the legal code requires proof of land ownership as a basis for citizenship, officials continue to demand it. This requirement has excluded many landless Tarai Dalits and Janajatis from the basic rights and protection of citizenship. Included among these is the right to migrate for employment, which could, ironically, put them in a position to be able to buy land. Nepalis who are identified by their language, dress and customs as being "of Indian origin" face particular difficulty in government offices staffed predominantly with Nepali speakers of Hill origin. These people face many informal barriers to getting their citizenship papers - no matter how many generations their families may have lived in Nepal. Since the number of people born and residing in Nepal, but lacking citizenship papers is estimated to be around 3.4 million (Dhanapati Upadhyaya Commission, HMG/N, 1995) this is not an insignificant issue. The right to citizenship need not pose such a problem. In fact, the Interim Constitution of 1953 granted the right to citizenship to "every person who had been permanently residing within the territory of Nepal with their family". The 1990 Constitution greatly restricts this right.

FIGURE 2 | The Nepal caste pyramid



the Sudra (peasants and labourers). (See Figure 2.) Beneath everyone were occupational groups, considered “impure”, and “untouchable” or *acchut*. They now call themselves the Dalits. In the Hills the top two ranks (priest and warrior) and the lowest (“untouchable”) rank were filled by the in-migrating Hindus of Caucasoid stock who spoke an Indo-Aryan language on which modern Nepali is based. The middle rank was accorded to indigenous groups, generally of Mongoloid racial stock. These

groups - classified by the Hindus as *Matwali* or liquor drinkers - generally spoke Tibeto-Burman languages and followed Buddhism or various shamanist/animist religions. The *Matwalis* comprise the Adivasi Janajatis (indigenous nationalities). The *Muluki Ain* or Country Code (1854) brought all these diverse groups together under a single legal system, but accorded differential privileges and obligations to each caste and sub-caste. For many groups, therefore, the conquest by the rulers of Gorkha and their subsequent unification of Nepal was an “exclusionary inclusion”.

During the Shah-Rana era (1768-1951), Nepal had no alternative “institutions” or ideologies backed by any economic and political power equivalent to the feudal regime. Especially during the rule of the Rana oligarchy (1847-1951), the caste system and the patriarchal gender system of the dominant group were reinforced by the state. It was an era of consolidation of power and entrenchment of social inequity that can occur in the absence of competing world views.

During the Panchayat period (1962-1990), the state attempted to build a “modern” and “unified” nation. Although directly ruled by a king, Nepalis were for the first time beginning to think of themselves as citizens rather than subjects. Nepal abolished caste-based discrimination in 1963. However, the diversity of languages, gender, kinship systems and spiritual outlooks of Nepal’s many different social groups were framed as barriers to development that “had” to be merged to conform to a single common “modern” Nepali culture. Cultural “unity” was projected as essential to nation-building and the maintenance of independence.

The Constitution of 1990, drafted after the *Jana Andolan* or People's Democratic Movement against the Panchayat regime, established Nepal as a more inclusive state. It describes the country as “multi-ethnic, multi-lingual and democratic” and states that all citizens are “equal irrespective of religion, race, gender, caste, tribe or ideology”. The Constitution also gives all communities the right to preserve and promote their language, script and culture, to educate children in their mother tongue, and to practise their own religion. Nevertheless, it retains some contradictions and ambiguities – declaring Nepal a Hindu Kingdom, denying women the right to pass their citizenship to their children and explicitly protecting “traditional practices”. These have left room for the continuation of gender and caste-based discrimination.

The new Constitution allowed space for another major development – the growth of civil society organizations, especially those based on ethnic and caste identity. The post-1990 period witnessed the dismantling of the old projection of a “single Nepali culture” based on that of upper-caste Parbatiyas. Self-chosen terms like Dalit and Janajati emerged to replace terms like “tribal”, Matwali and “*sano jat*” (“small caste”) that had been used to describe ethnic and “low caste” groups. However, in many hierarchical institutions, especially the powerful informal networks, behavioural norms and expectations remained unchanged. Therefore the unitary, centralised and non-inclusive state structure is still largely unchallenged. The political parties failed to adequately integrate issues of exclusion into their action plans, and even aid agencies, focused on their political need to disburse aid, did not for the most part insist on fundamental changes in the rules of the game.

For women the home and family is a key site where norms, beliefs and behaviours have to be changed to enable them to exercise their agency.



On February 1, 2005, the King began direct rule, as chair of the Council of Ministers. Some new institutions reporting directly to the King have been created, controls have been placed on the media and civil society organizations and there is a widespread sense that constitutionally guaranteed freedoms are under threat. The parliamentary parties have continued to protest against direct rule and demand restoration of democracy. Nepal's efforts to change the lives of the poor and excluded remain caught up in uncertainty resulting from the unresolved political tussle between the King, political parties and the Maoists. The suspension of democratic government in February 2005 (for three years) by the King could delay the advancement of rights of all Nepalis, especially the most excluded populations: women, Dalits and Janajatis.

Women's daily wages in the nonskilled, nonagricultural sector are NRs. 54 compared to NRs. 104 for men.

GSEA conceptual framework

The GSEA analyses relationships between people, institutions and organiza-

tions. Institutions are defined as the "rules of the game". Organizations are groups of individuals, bound by a common purpose, involving a defined set of authority relations and dedicated to achieving objectives within particular "rules of the game". The interrelated processes of empowerment and social inclusion are means to shift these relationships and the institutions and organizations that embody them, towards greater equity and overall prosperity as shown in Figure 3.

At the core of this conceptual framework are three domains of change where the state, civil society and donor organizations can intervene to improve access to the following for the poor and excluded:

- livelihood assets and services;
- the ability to exercise voice, influence and agency; and
- a say in framing "the rules of the game" that mediate and regulate people's participation in the life of the state and larger society as well as their access to livelihood opportunities and political influence.



The first two domains of change (“access to assets and services” and “voice, influence and agency”) are part of the empowerment process. The last domain of change (“rules of the game”) is where social inclusion does, or does not, take place.

The definitions of empowerment and social inclusion used by the World Bank (2002) are as follows:

- Empowerment is the enhancement of assets and capabilities of diverse individuals and groups to function and to engage, influence and hold accountable the institutions that affect them.
- Social inclusion is the removal of institutional barriers and the enhancement of incentives to increase the access of diverse individuals and groups to development opportunities.

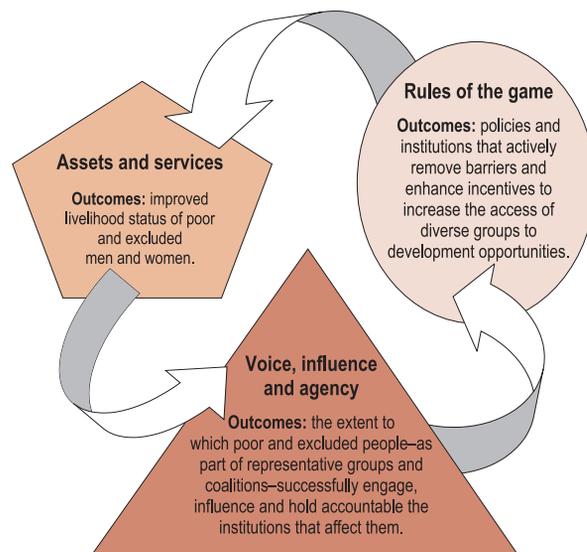
Empowerment is seen as occurring at the individual and group level and, to an important extent, has to do with changes in the internal self-perceptions of those who have been in some way negatively defined and excluded by the dominant society. Empowerment builds their sense of agency or their capacity to act on their own behalf, and helps them realise the power they gain from collective action. This domain of change is presented as a triangle in Figure 4. Empowerment also has to do with increasing their access to assets, services, and livelihood opportunities, as is represented by the pentagon in Figure 4.

Social inclusion seeks to bring about system-level institutional reform and policy change to remove inequities in the external environment. Social inclusion requires a shift from an institutional environment that gives some individuals and groups more opportunity to realise

FIGURE 3 | The complementary roles of empowerment and social inclusion



FIGURE 4 | GSEA conceptual framework



their agency than others to one where the political system and the rule of law support equal agency for all (Rao and Walton 2004). Social inclusion changes the opportunity structure within which individuals and groups seek to exercise their agency. It requires change in incentives and also improved capacity within state and community organizations to ensure that organizations can and will respond equitably to the legitimate demands of all individuals - regardless of their social identity. This process, as it leads to greater equality of agency, will bring about sustainable prosperity for all through improved access to the assets and capabilities required for achieving a secure livelihood and broad-based economic growth.

Empowerment and social inclusion play complementary roles in promoting equity of agency and sustainable prosperity for all. These two concepts are the basis of the GSEA.

More often than not, reforms that promote social inclusion are reluctantly conceded by entrenched power holders who are forced to do so by economic and political events they can no longer control. Occasionally reforms are also actively championed by change agents who are allies of the

poor and who may have come to power within the current ruling group or from the opposition. In other words, while the inclusion dimension of the social change process may be a response to pressure from below created through empowerment, it can also be instigated from positions of relative power within the existing institutional framework. (See Figure 3.)

The Conceptual Framework in Figure 4 is useful in linking the theory of social change underpinning the GSEA to the kinds of concrete policy choices and programme actions that government, donors and civil society actors can carry out to support that change. It is premised on the understanding

that change that does not happen in all three domains will have less impact and will be less sustainable than change that does occur in all three. For example, assets may be increased temporarily by providing food or cash for work, but unless poor people can claim their rights to education there will be no sustainable improvement in livelihoods, people will not be empowered and social exclusion will remain. Processes to increase assets and access to services; to increase voice, influence and agency; and to change the rules of

BOX 3 | Social inclusion and equity

".... equity is intrinsically important as a development goal in its own right... a broad sharing of economic and political opportunities is instrumental for economic growth and development. Broadening opportunities strongly supports the first pillar of the Bank's development strategy namely, improving the investment climate for everyone. The interdependence of the economic and political dimensions of development also reinforces the importance of the second strategic pillar, empowerment.... these two pillars are not independent from each other in supporting development but instead reinforce each other."

Paul Wolfowitz, President, The World Bank, from the Foreword to the 'World Development Report 2006'

the game are all interlocking, and the arrows in Figure 4 represent relatively unidirectional change. Meaningful and sustainable change in each domain is unlikely to happen without change in the other domains, and change in one domain generally follows from change in the others. The implications of this are the following.

In order for the discriminatory and exclusionary “rules of the game” that now exist to change in a way that will increase the access of diverse groups to development opportunities, the poor and excluded who constitute these groups must have greater voice and agency, either through their own representative organizations or as part of coalitions for change. Furthermore, they must be able to use this new-found voice and agency to influence existing institutions towards greater openness and equity. Rules do not change on their own; discriminatory and exclusionary rules are created and perpetuated because they benefit those who hold power. Those who hold power do not change these rules unless they are compelled to do so. Removing barriers and creating and enforcing incentives for change is usually a long and arduous process that can take years of advocacy and lobbying.

For poor and excluded people to gain greater access to assets and services, the rules of the game must change in their favour. The reason that

To a large extent the rules/norms/beliefs and behaviours laid down by the surrounding institutions define who the individual is, how individuals are valued by society and what they can or cannot do.





For poor and excluded people to gain greater access to assets and services, the rules of the game must change in their favour.

exclusion causes and perpetuates poverty is because exclusionary and discriminatory rules of the game deny certain groups of people access to those things that will help them rise out of poverty. The livelihood status of poor and excluded people can be improved in a sustainable manner only when the rules change to be more equitable and just.

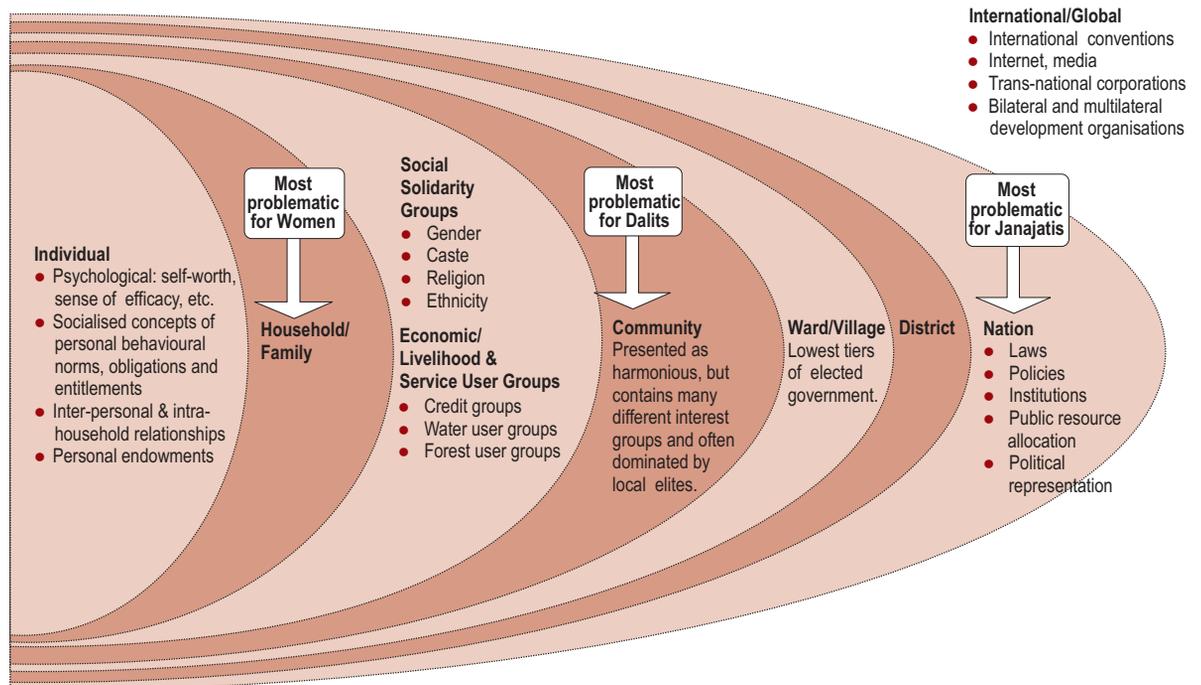
To meaningfully engage, influence and hold accountable the institutions that affect them, poor and excluded people must have the capabilities necessary to voice their rights, to form effective representative organizations, and to forge coalitions for change. Illiterate, ill, starving, isolated and poverty-stricken people cannot do this; they need assets and access to services and opportunities.

The inter-related processes of exclusion and disempowerment take place at various levels. One is within the individual and involves internalisation of a negative definition of his or her own identity. To a large extent the rules/norms/

beliefs and behaviours laid down by the surrounding institutions define who the individual is, how individuals are valued by society, and what they can or cannot do. In Nepal, since males from the dominant privileged caste group have primarily defined these institutions, it is not surprising that these institutions are very disempowering for an individual woman, Dalit, Janajati or member of a linguistic or religious minority.

Critical sites of disempowerment and social exclusion may vary for different categories of excluded people. (See Figure 5.) For example, for women, the home and family is a key site where norms, beliefs and behaviours have to be changed to enable them to exercise their agency. Community norms and formal laws must also be changed, but change in the domestic site is fundamental. In contrast, for Dalits, the local community is where caste-based discrimination is likely to be most strongly enforced and harshly experienced. A senior Dalit man is still dominant within his family despite the restrictions he faces in the community. However, a Dalit woman who is subordinate in both the gender and the caste domains encounters discrimination in the home as well as in the community. Community level discrimination against

FIGURE 5 | Sites of disempowerment and exclusion are different for the different excluded groups



the Janajatis is much more muted and has in most cases been effectively countered by the pride Janajatis take in their ethnic identity and in the cultural traditions of their own group. For Janajatis, the most problematic site in terms of empowerment and inclusion is at the level of the state - in terms of laws, policies, resource allocation and representation.





CHAPTER 2



POVERTY OUTCOMES



POVERTY OUTCOMES

Defining poverty

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Economic poverty

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Human development poverty

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Political poverty

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Local power relations and poverty

Defining poverty

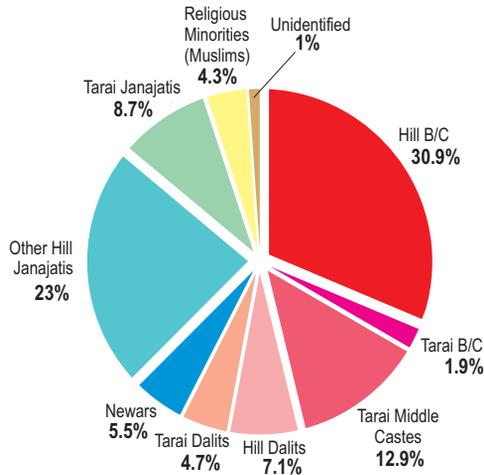
The GSEA examines poverty outcomes using indicators of economic well being, human development levels and voice and political influence. Data from national surveys were reanalysed and members of the team also carried out primary field research and analysis on empowerment and social inclusion levels of men and women and different social groups.

Poverty outcomes were examined by caste and ethnic group – when data were available, further analysis was done by sub-group. The National Living Standards Survey (NLSS), the major source of data on economic poverty outcomes, is collected at the household rather than the individual level; thus gender disaggregated analysis of this dimension is more limited. Nevertheless, the analysis has drawn on a number of indicators (e.g. asset ownership, labour force participation and wage rates) that are available separately for male and female.

Nepal began generating data on caste and ethnicity only in 1991 when 60 caste and Janajati groups were listed. The 2001 census listed 103 social groups, based on caste, ethnicity, religion and language and unidentified groups, some numbering less than 0.1 percent of the population. For ease of analysis the GSEA has organised the 103 groups into 10 major categories (Table 1). Numerically no single group is predominant. Broadly, the population can be divided between the Hindu caste groups and Janajatis, and a third group, the religious minorities (mostly Muslim). In 2001, caste groups constituted

TABLE 1 Caste/ethnic groupings – simplified for analysis

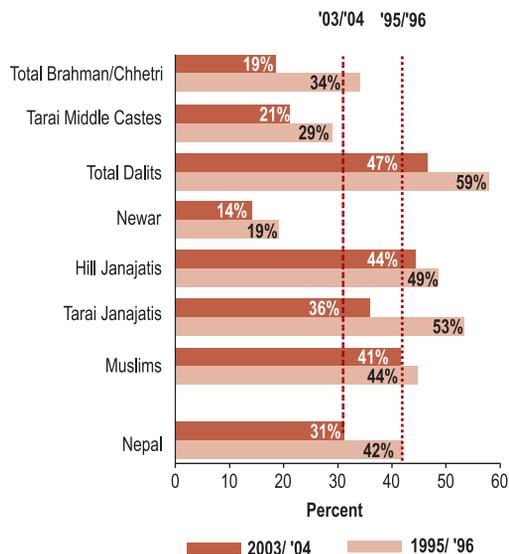
% Total population	GSEA / NLSS II (10 groups)	2001 Census (103 groups)
Hindu caste groups (57.5%)	1. BC (Hill)	Brahman, Chhetri, Thakuri, Sanyasi,
	2. BC (Tarai)	Kayashta, Rajput, Baniya, Marwadi, Jaine, Nurang, Bengali
	3. Tarai Middle Castes	Yadev, Teli, Kalwar, Sudi, Sonar, Lohar, Koiri, Kurmi, Kanu, Haluwai, Hajam/Thakur, Badhe, Rajbhar, Kewat Mallah, Numhar, Kahar, Lodha, Bing/Banda, Bhediyar, Mali, Kamar Dhunia
	4. Dalits (Hill)	Kami, Damai, Sarki, Gaine, Badi
	5. Dalits (Tarai)	Chamar, Musahar, Tatma, Bantar, Dhusadadh/Paswan, Khatway, Dom, Chidimar, Dhobi, Halkhor, Unidentified Dalit
Janajatis (37.2%)	6. Newar	All Newari Castes
	7. Janajatis (Hill)	Magar, Tamang, Rai, Gurung, Limbu, Sherpa, Bhote, Walung, Buansi, Hyolmo, Gharti/Bhujel, Kumal, Sunuwar, Baramu, Pahari, Adivasi Janajati, Yakkha, Shantal, Jirel, Darai, Dura, Majhi, Dunuwar, Thami, Lepcha, Chepang, Bote, Raji, Hayu, Raute, Kasunda
	8. Janajatis (Tarai)	Tharu, Dhanuk, Rajbanshi, Tajpuriya, Gangai, Dhimal, Meche, Kisan, Munda, Santhal/Satar/Dhangad/Jhangad, Koche, Pattarkatta/Kusbadiya
Muslims (4.3%)	9. Muslims	Muslim, Churoute
Others (1%)	10. Others	

FIGURE 6 Percent composition of the population by caste/ethnicity


Source: 2001 Census, CBS, Acharya 2004

57.5 percent of the population, Janajatis 37.2 percent and the religious minorities 4.3 percent. As shown in Figure 6, among the 10 major social groups, the Hill Brahmins and Chhetris (B/C) had the highest numbers (30.9% of the population), Hill Janajatis (including the Newars) 28.5 percent and the Tarai Middle Castes 12.9 percent.

The population density of Nepal varies widely. Approximately half of Nepal's population lives in the Mountain and Hill areas and half lives in the much smaller area of the Tarai plains. Nepal is still largely a rural country, with 86 percent of its population living in rural areas and the remaining 14 percent living mainly in Kathmandu and other emerging urban areas. The geographic areas where different ethnic groups are concentrated are shown in Map 1.

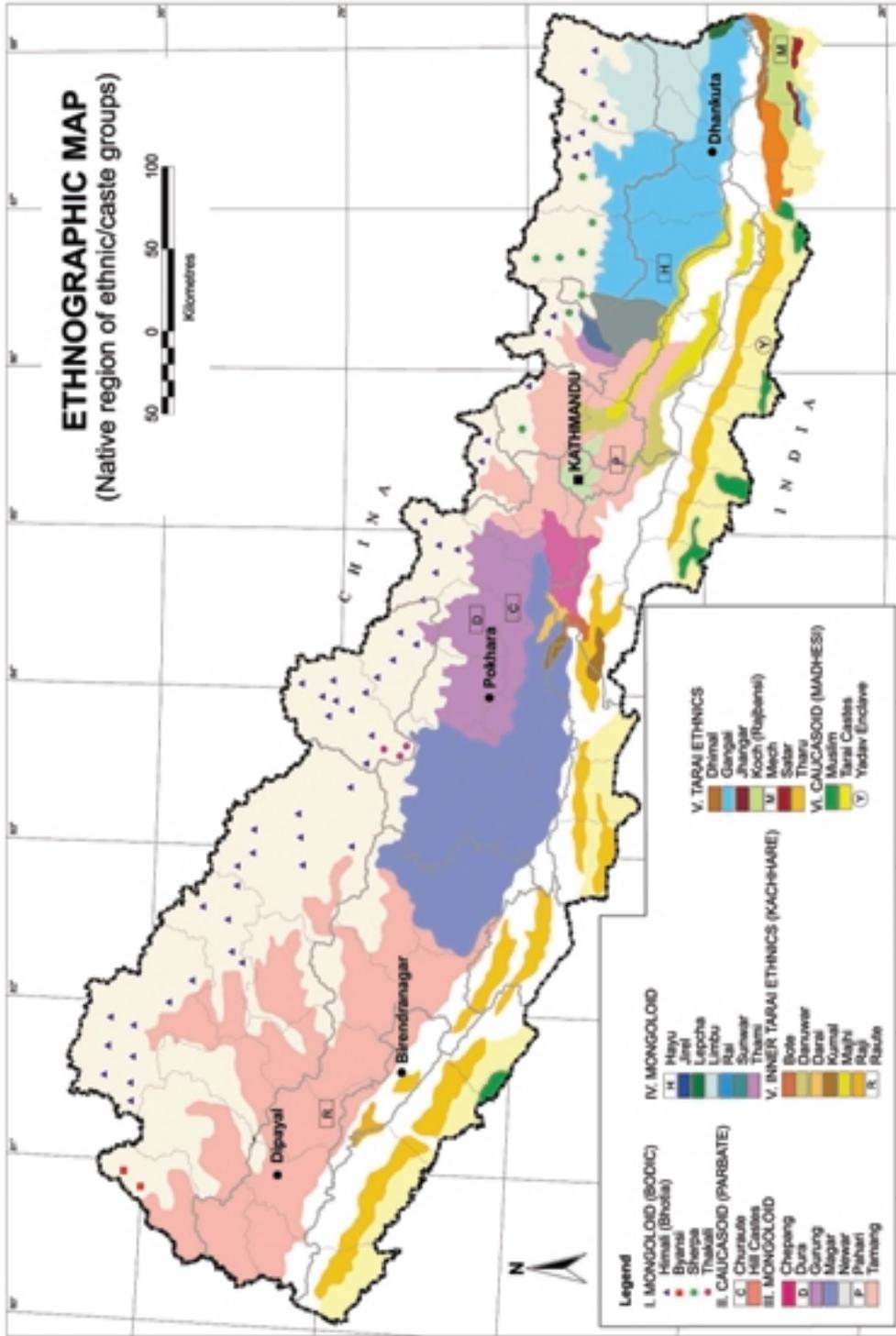
FIGURE 7 Trend in the incidence of poverty by caste/ethnicity '95/'96 and '03/'04


Source: NLSS I, II, 2004, Gajurel. The comparison of poverty incidence for Tarai Middle Castes and Tarai Janajatis between NLSS I and II should be treated with caution since for NLSS I the Tarai Middle Castes group were represented only by the Yadavs and the Tarai Janajatis only by the Tharus. (Figures have been rounded off.)

Economic poverty

Income and Consumption poverty The Nepal Living Standards Survey, 2003/4 (NLSS-II) estimated that 31 percent of Nepalis were living below the poverty line. This means they lived in households where per capita expenditure for food and non-food items was beneath that required to purchase the minimum caloric requirement and other "basic needs." This was a significant drop in poverty incidence from the NLSS I in 1995/6, which showed that 42 percent of the population were below the poverty line. Figure 7 shows that poverty incidence has fallen for all groups, but that the Brahman/Chhetri group and the Newars have the fewest households below the poverty line, and that the Tarai Middle Castes also have relatively low proportions in pov-

MAP 1 | Ethnographic map of Nepal



Source: Harka Gurung

BOX 4 | Caste and ethnic dimensions of poverty: A summary of NLSS II findings

The All Nepal Poverty Incidence in 2004 was 31% but was greater amongst selected groups:

- Hill Dalits: 48%
- Tarai Dalits: 46%
- Hill Janajatis: 44% - but there is wide variation between Hill Janajati groups
- Muslims: 41%

Poverty incidence dropped 11 points between 1996 and 2004 - from 42% to 31%; it declined across all regions, quintiles, rural/urban and caste and ethnic groups. However:

- For Brahman/Chhetri groups, it decreased most significantly, by 46%
- For Dalits, the decrease was close to the national average: 21%
- For Hill Janajatis, it decreased by about half of the national average: 10%, and
- For Muslims, it decreased least of all: 6%.

For certain groups, their share of the total population under the poverty line has increased in 2004 compared to 1996:

- Hill Janajatis from 19.7% of the poor to 27.8%
- Muslims from 5.7% to 8.7%

Caste/ethnicity are powerful predictors of per capita consumption.

Even after the confounding factors are controlled, the per capita consumption levels in Dalit, Janajati and Muslim households are still between 15 and 13 percent lower than in Brahman/Chhetri households. This difference in consumption levels can be called the "penalty" that certain groups pay because of their caste, ethnic or religious identity. For Dalit households this "penalty" translates into NRs. 4,853 less annual per capita consumption than that enjoyed by similar Brahman/Chhetri households.

erty. In contrast, almost half of all Dalits live below the poverty line, and poverty incidence among Hill Janajatis and Muslims is significantly higher than the national average. The data must be approached with some caution both because Janajati poverty aggregates mask intra group differentials and because the sample size for NLSS data was small when compared to Census data. For example, the Gurungs in the NLSS II sample have only 20 percent living in poverty compared to the Tamangs, whose proportion below the poverty line (61%) is almost double the national average. These differences, however, are less extreme when small area estimation statistical techniques are used to project the relatively small NLSS sample onto the Census data. Nevertheless, the results of this exercise show that Tamang poverty incidence (at 50%) is still considerably more than that for Gurungs (35%) (Parajuli, forthcoming).

Caste and ethnic "penalties" According to NLSS II, the average per capita consumption for Brahman/Chhetri households is NRs.19,105 whereas the per capita consumption for Dalit, Janajati and Muslim house-

holds is NRs. 10,207, NRs. 12,331, and NRs. 10,909 respectively. However, some assert that these welfare differentials may be due to factors other than the effect of caste/ethnicity *per se*. Proponents of this line of thinking point out that the lower standards of living and higher incidence of poverty of certain caste/ethnic groups may be due to large family size or a higher proportion of dependent children, or to the fact that they live in disadvantaged remote areas - rural Hill areas or the Far-Western region. Others in political and development circles have frequently suggested that the higher poverty levels among Dalits, Janajatis and Muslims result from their lower levels of resource endowment (including educational attainment) and consequent lack of access to more productive occupations compared to those groups who have been historically privileged.

To explore the strength of these various factors and answer the basic question of whether caste/ethnicity differentials in the standards of living still persist when these important confounders are taken into account, a multiple regression analysis was carried out. For the purpose of this exercise the dependent variable is the nominal per capita consumption at current prices,

TABLE 2 Unstandardised regression coefficients per capita consumption (in NRs.)

Variables	Regression Coefficients	
	Model I	Model II
Caste/Ethnicity (omitted group: B/C + other high caste groups)		
Tarai Middle Caste	-5911	-3724
Janajati	-6774	-4099
Newar	8056	2772
Dalit	-8898	-4853
Minorities	-8196	-4449
Female Household Head		4388
Household Size		-46
Proportion of Household Members (omitted group: adults)		
Proportion of Children up to 6 Yrs.		-20184
Proportion of Children 7 – 15 Yrs.		-13616
Occupation (omitted group: manual labour)		
Professional		2564
Technical		-36
Farm/forestry		1520
Education (omitted group: illiterate)		
Primary		2404
Above Primary		7618
Remittance		4873
Rural		-11348
Hill and Mountain		-1980
Midwest and Far West		-3179
Constant	19105	32231
Adjusted R ²	0.083	0.291

Source: Calculated by Gajurel

which has been considered as a better index of welfare measure than income in developing regions (Van de Walle and Gunewardena, 2001).

Table 2 compares two models. In Model I the Brahman/Chhetri group is the constant in the regression analysis, which includes only the caste/ethnic variables. The results show that the average per capita consumption for Dalit households is NRs. 8898 (or 46%) lower than that of Brahman/Chhetri households. Similarly, the per capita consumption in Janajati households is NRs. 6774 (or 35%) less and for Muslim households it is NRs. 8196 rupees (or 43%) less than the reference. In Model II, which takes into account the above background variables, household per capita consumption among Dalits, Janajatis and Muslims is still considerably lower than that of Brahman and Chhetri households. This unexplained gap in consumption levels can be seen as a “penalty” attached to social identity as a Dalit, Janajati or religious minority and it translates into NRs. 4853, NRs. 4099 and NRs. 4449 less respectively in per capita consumption.

Almost half of all Dalits fall below the poverty line and poverty among Hill Janajatis and Muslims is significantly higher than the national average.



Other poverty measures

In addition to the poverty incidence (what percentage of a given group are below the poverty line), analysts also consider consumption quintiles and calculate both the poverty gap (which measures the depth of poverty by calculating the amount needed to bring the consumption level of a particular group up to the poverty line) and the squared poverty gap (which measures the severity of poverty by giving more weight to the poorest of the poor). Nevertheless, when the

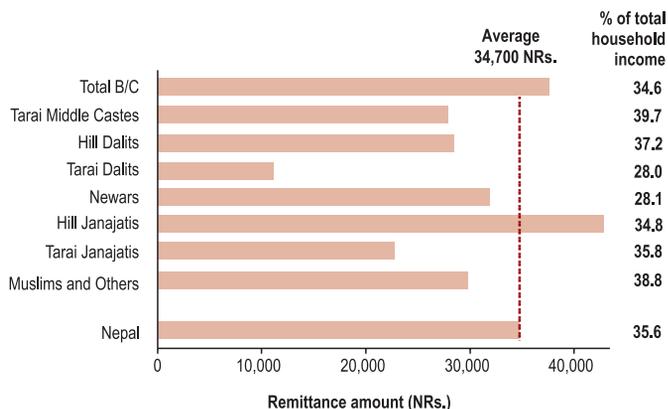
data are analysed by caste and ethnic group a common pattern emerges regardless of the indicator: Hill Janajatis, Dalits and Muslims always fare the worst; at the other end of the spectrum, the Newars and the B/C group always fare the best.

Remittances On average, in 2004/05 Nepal was receiving about one billion rupees in remittances every day. Between 1996 and 2004, the percentage of households receiving remittances rose from 23 to 32 percent and the average amount received increased from NRs. 625 to NRs. 2,100 per person per year. While in 1996 only 22 percent of the remittance income came from household members working outside Nepal in countries other than India, by 2004 remittances from countries other than India accounted for 53 percent of the remittance flow (CBS 2004).

The group with the largest share of migrant members who are working abroad in places other than India are the Hill Janajatis (29%), followed by the Muslims (24%), who are in high demand in the Middle East. For other groups the proportion of their total migrants in these high-wage countries ranges from 14 percent for the Tarai Janajatis and Tarai Dalits to 20 percent for the Newars.

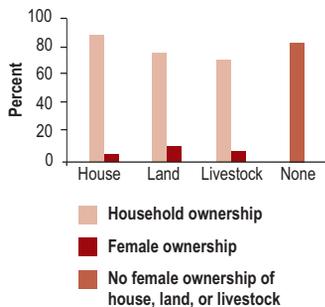
Remittances make up about one third of the annual household income for families who receive remittances. Not surprisingly, since they have the highest proportion migrating to the countries offering the best wages, the Hill Janajati group has the highest average remittance income - followed by the total B/C group and the Newars. But this is a very dynamic sector and new opportunities, which could shift this balance, open up almost daily. The Muslims, who on average have among the lowest average per capita incomes,

FIGURE 8 Household income from remittances and as percent of the total household income among recipients



Source: NLSS II, 2004, tabulated by Gajurel

FIGURE 9 Household and female ownership of house, land and livestock



Source: Census 2001, Acharya 2004

receive a slightly higher percent of their household incomes from remittances. (See Figure 8.) Women make up only 10.8 percent of the migrants sending funds back home, but they constitute 48.5 percent of the recipients (NLSS II, CBS, 2004).

Gender dimensions of poverty Household level data such as the NLSS are not very useful for documenting and understanding the gender dimensions of poverty. Average household per capita income and consumption data do not show the intra-household disparities in access and control over household resources and may mask significant gender-based differentials in consumption levels and certainly in economic security. As a

window into these disparities, it is useful to look at the data gathered in the 2001 Census on ownership of land, livestock and real estate by gender. In spite of the cultural differences between the caste Hindus and the Janajati groups (and even within each of these groups) in terms of the social norms governing gender relations, land is inherited universally in all communities from the father to the son. Women therefore face much greater economic insecurity than men since their access to what has traditionally been the primary means of production has always been indirect and dependent on their relation as daughter, wife or mother of a land owning male (Acharya and Bennett, 1981; Gurung, 1999).

Only about 11 percent of households reported any land in female legal ownership; six percent reported that women had “some” ownership of a house. (See Figure 9.) Surprisingly, only seven percent reported female ownership of livestock, even though for many groups livestock rearing is traditionally a female task, and in spite of the fact that many credit institutions and microfinance programmes have targeted women and made loans to them for this activity.

Overall, fewer than one percent of households reported female ownership of all three types of assets (house, land and livestock). While on the whole, 77 to 92 percent of households reported owning a house and between 42 to 80 percent reported owning some livestock, only a miniscule proportion of the women in these households had such tangible property in their names.

Traditional gender roles continue in force. If households can afford it, women are confined to non-market (unpaid) work in the care economy and family enterprises. When they do work for pay, women are largely confined to less productive jobs. The National Labour Force Survey (1998) shows that:

- 72 percent of women are working in agriculture versus 48 percent of men - and this overall pattern holds across all ethnic/caste groups.

- The proportion of men currently employed in the formal non-agricultural or “modern” occupational sector is much higher (21%) than that of women (6%).
- Women continue to be confined primarily to unpaid family labour. Nearly 60 percent of currently employed women fall in this category, compared to 21 percent of men.

Due in part to their lower education levels women also earn less than men. Women's daily wages in the agricultural sector are NRs. 47 per day compared to the average male wage rate of NRs. 63; women's daily wages in the nonskilled, nonagricultural sector are NRs. 54 compared to NRs.104 for men; and for skilled non-agricultural labour women get an average of NRs. 126 compared to NRs. 315 for men (World Bank 2005a).

Human development poverty

Health

Health outcomes are affected by many interrelated factors. These include cultural, religious and social beliefs and norms - especially those that reflect

Among rural women, Newars and Brahman/Chhetris have the highest access to trained assistance during delivery and Janajatis and Dalits have the least.



TABLE 3: Disparities in mortality rates and life expectancy by caste/ethnic groups, 1996

Caste / Ethnicity	Under 5 MR (per '000)	IMR (per '000)	Life Expectancy*
Brahman	69.0	52.5	61.4
Chhetri	109.1	77.8	58.4
Yadav/Ahir	142.0	98.5	54.2
Dalit	171.2	116.5	50.8
Newar	74.9	56.0	63.2
Tamang	141.2	98.0	54.2
Magar	135.9	94.7	54.9
Limbu	133.3	93.2	55.2
Rai	133.0	92.9	55.3
Gurung	126.3	88.6	56.1
Tharu	106.4	76.0	58.7
Muslim	158.3	108.6	52.2

Source: UNDP 2001: Nepal Human Development Report (NHDR)

* Disaggregated data by gender and caste is unavailable

the entrenched gender, caste and ethnic hierarchies - as well as economic, institutional and location-related specificities.

Caste and ethnic disparities Caste and ethnic disaggregated data presented in Table 3 highlights the glaring disparities in the health outcomes of different groups. The Brahman/Chhetri group as a whole and Newars have higher health indicators than other groups, and have the longest life expectancy. On average, Brahmans and Newars live 11 to 12 years longer than Dalits and Muslims (UNDP 2001). The Brahman/Chhetri group and Newars also have the lowest infant mortality rates - 52.5/77.8 and 56, respectively - compared to the national average of 79 per thousand. A Dalit child is twice as likely to die in its first year than either a Newar or a Brahman child. Under-five mortality is also much lower for Brahmans and Newars (69 and 75 respectively) than for Dalits (171), Muslims (158) or Tamangs (141). This is probably at least partly because women from the first two groups have the highest literacy

rates and a strong linkage is found between mother's education and child survival (NDHS 2001).

Gender disparities Until the 2001 Census reported for the first time that female life expectancy in Nepal was slightly higher than male life expectancy (60.7 years for women, 60.1 years for men), Nepal

was one of few countries in the world where a woman's life expectancy was lower than that of a man. Another indicator of female vulnerability in Nepal is the persistence of higher infant and under-five mortality rates for girls than boys. (See Table 4.)

TABLE 4: Infant and child mortality rates by sex, 1996-2001

	IMR (per '000)	Under 5 MR (per '000)
1996, total	83.7	135.5
Male	78.5	118.3
Female	101.9	142.8
2001, total	75.2	104.8
Male	64.4	91.2
Female	79.2	112.4

Source: UNDP 2004: Nepal Human Development Report (NHDR)

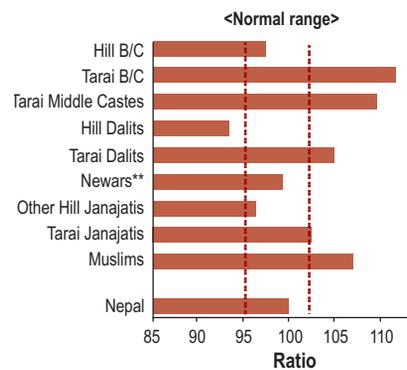
The sex ratio is an important indicator of the relative balance of policy attention given to male and female welfare and the socio-cultural gender values that underpin it. Figure 10 shows the sex ratio by caste/ethnicity; note that for Tarai based groups this ratio is high whereas for the Hill Dalits it is low. The “missing women” in the conservative Tarai belt is indicative of marked gender discrimination.

There are significant variations in access to healthcare between women from different caste and ethnic groups. Data from the 2001 NDHS show that access to and use of a range of health and family planning services for rural women is lowest among Dalit and Tarai Middle Caste women. Knowledge levels of Dalit women are also very low compared to Newars, Brahman/Chhetris and Hill Janajatis. Contraceptive use among married rural women is lowest for Dalits (28%) and Muslims (15%), while Newars and Tarai Janajatis have the highest contraceptive use. There is still significant unmet contraceptive need, most notably among Muslims (45%), but also among many other groups. The national average stands at 30 percent.

Muslim women and the Tarai Middle Caste groups (both practicing female seclusion) have the lowest awareness of HIV/AIDS prevention. Knowledge levels of Dalit women are also very low compared to Newars, Brahman/Chhetris and Hill Janajatis. Tharu women, despite high contraceptive use, have the lowest HIV/AIDS awareness levels among the Janajatis.

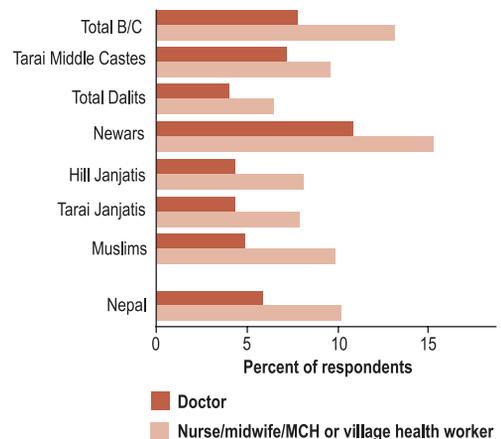
The use of professional help for deliveries is also low - over six of ten births are unassisted (World Bank 2005a). Almost 95 percent of Nepal's Emergency Obstetric Care (EOC) needs remain unmet. The combined effect of these factors is at least 12 daily deaths from pregnancy related complications (MoH/DFID 2004). Among rural women, Newars and Brahman/Chhetris have the highest access to trained assistance during child delivery (Figure 11), and Janajatis and Dalits have the least. The same trend is seen for antenatal care. Maternal mortality also includes deaths caused by unsafe abortions. According to the Ministry of Health (2002) at least 20 percent of maternal deaths are caused by unsafe abortions. The demand

FIGURE 10 Sex ratio* by caste/ethnicity (* males per 100 females)



Source: Census 2001, Acharya 2004 (** includes Thakalis, who comprise approximately 0.1% of the population)

FIGURE 11 Assistance during delivery among rural women



Source: DHS 2001, Gajurel

TABLE 5 Educational attainment (percent) by caste/ethnicity

	Never Attended	Grades 1-4	Grades 5-10	SLC and Above
Hill B/C	31.6	24.6	33.7	10.1
Tarai B/C	26.6	25.6	29.6	18.2
Tarai Middle Castes	56.8	22.0	17.4	3.8
Hill Dalits	43.3	31.9	23.1	1.7
Tarai Dalits	76.4	14.9	7.5	1.2
Newars	28.5	20.8	27.6	23.0
Hill Janajatis	44.6	27.2	25.2	3.0
Tarai Janajatis	47.2	24.1	24.2	4.5
Muslims	62.4	24.9	11.0	1.7
Nepal	44.0	24.7	24.6	6.7

Source: NLSS II, tabulated by Gajurel.

for safe abortion rose after abortion was legalised by the 11th amendment of the Muluki Ain in 2002.

The Total Fertility Rate for uneducated women is 4.8 whereas for women with some secondary education it is 2.3 (NDHS 2001). The under-five mortality rate for children of uneducated mothers in Nepal is 121 per 1,000 births: this is 64 percent higher than that for children of mothers with some primary education and nearly double that of children whose mothers have some secondary education (NDHS 2001). The risk of death among children of uneducated mothers is eight times higher than the risk for children of mothers with SLC and above education. (See Figure 24, on page 73.) Similarly, the prevalence of underweight children is 78 percent higher, and the prevalence of stunting is 62 percent higher among children whose mothers do not have secondary education when compared with those whose mothers do (World Bank 2005a). Further analysis by the World Bank found that even when controlling for income and other confounding variables, Dalit, Tarai Middle Caste and Muslim children had a significantly higher prevalence of both stunting and underweight (World Bank 2005a).

BOX 5 | The school as a site of social inclusion

One Kumal girl reported that the two Dalit children in her class were treated just like other children. "We all eat and play together." When asked whether their parents minded, she said, "They do, but we don't tell them!"

Bennett, Gajurel et al., 2006

Education

Education is the key to building a more inclusive Nepal since it offers people an outlet from traditional systems of economic dependency and opens opportunities for better jobs. The increased awareness that comes with more schooling also provides the foundation needed to build a critical awareness of how existing systems have used social differences to maintain

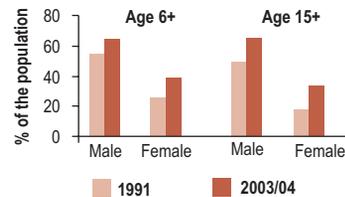
differential power and opportunity structures, and the confidence to question them.

Table 5 shows the great range in the percentage of different groups who have ever been to school. Fewer than 30 percent of Brahmans and Chhetris and fewer than 29 percent of Newars have not been to school, compared to 43 percent of the Hill Dalits, 76 percent of the Tarai Dalits, 62 percent of the Muslims and 45 percent of the Hill Janajatis. Dalits have the lowest completion rates for primary education, followed by Muslims. For SLC level education the completion rates are even lower for Dalits. While Dalits have increased their share in the graduate or higher education level, they still account for less than one percent of the graduate population (Census 2001, CBS).

Nepal has made rapid progress towards its MDGs of universal primary education and gender parity by 2015; however, there are persistent gender, caste and ethnic disparities. The overall literacy rates for the population age six years and above have improved significantly, from 23 percent in 1981 to 54 percent in 2001. Figure 12 and Figure 13 show that the same pattern is seen both for literacy and school enrolment. Literacy rates are improving for both males and females, faster for females so the gender gap is narrowing. It is noteworthy that over the past ten years the net enrolment for girls in the 6-10 age group rose by 44 percent (to 67%) and is quickly approaching the enrolment rate for boys (78%). Assuming that the gender gap continues to narrow at this rate, Nepal will achieve gender parity in enrolment by 2010.

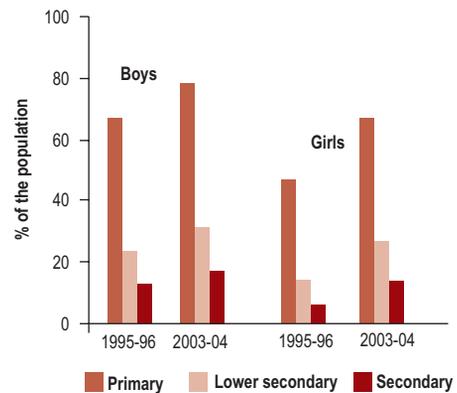
The national data mask stark intergroup differentials and Figure 14 also shows

FIGURE 12 Literacy rate of the population by age and sex



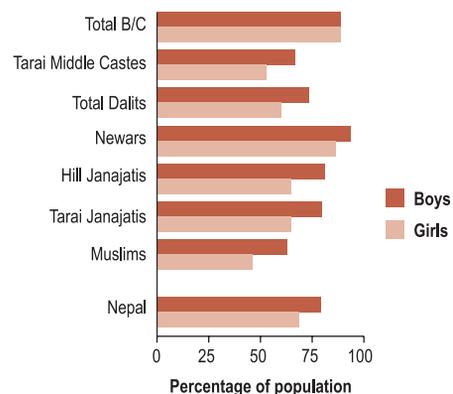
Source: CBS 1991, NLSS 2004

FIGURE 13 Net primary and secondary enrollment rates for boys and girls in Nepal 1995-96 and 2003-04



Source: NLSS I, II, Nepal Poverty Assessment 2005

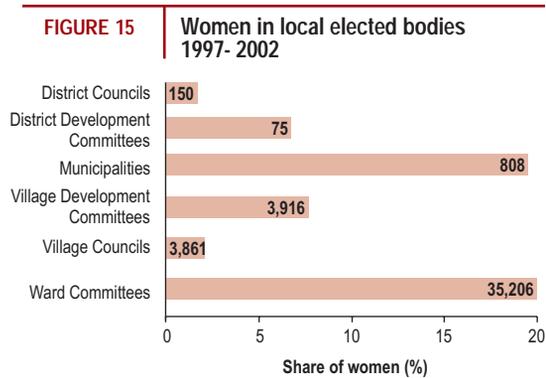
FIGURE 14 Percentage of school participation of age 6-10 year olds by gender, caste and ethnicity 2003-04



Source: NLSS II

that gender disparities are particularly high in the Tarai Middle Caste group, where 94 percent of the 6 -10 year old boys are in school compared to only 58 percent of the girls. It is also notable that participation is low for both boys and girls in the Muslim community (the percentage of Muslim girls going to school in the 11-15 age group remained stagnant at 23 percent between 1995/6 and 2003/4). Disparities are particularly strong among the Tarai and Hill Janajatis. Many of these groups, most notably the Chepang and Bote (with

literacy rates of 14% and 21% respectively), lag seriously behind the national average. Many Janajati groups are at a disadvantage because they live in remote areas and because Nepali is not their mother tongue. On the other hand, it is encouraging to note a sharp increase in the enrolment of Dalits, and that now the six to ten year olds are only a few points below the Brahman/Chhetri group. Among children in poor households, however, the percentage of 6-10 year olds and 11-15 year olds out of school climbs to 36 and 42 percent respectively (World Bank



Source: Election Commission 1991, 1994, 1999

2005a), and more than two-thirds of these are girls. These children are most at risk if Nepal does not achieve the education MDGs. They will almost certainly inherit and perpetuate a life at the margins of economic and political life.

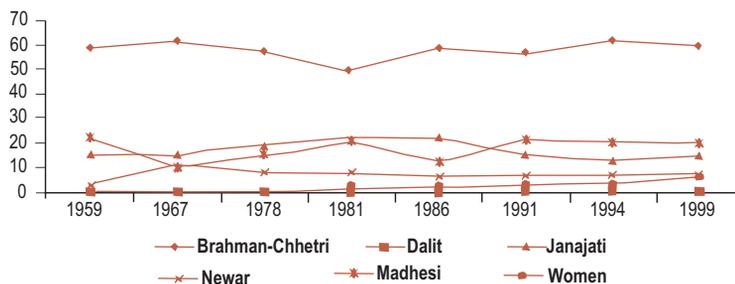
Political poverty

Women's participation in governance

Efforts to increase women's participation in elected government after 1990 have largely failed. Women have never gained more than six percent of the seats in the lower house and even in the upper house, where parties can place women if they desire or where women can even be appointed by the King, their proportion has mostly hovered at five percent. They account for only small percentages of the Central Executive Committee membership of the main political parties: 9.6 percent of the central committee of the Nepali Congress (NC), 7.3 percent of the central committee of the Rastriya Prajatantra Party (RPP) and 7.1 percent of the central committee of the Communist Party of Nepal (Unified Marxist-Leninist) (CPN-UML).

Figure 15 shows that in local government, where it is mandated that one of the five Ward Committee members and 20 percent of the Municipality

FIGURE 16 Ethnic/caste and gender representation in parliament, 1959-1999



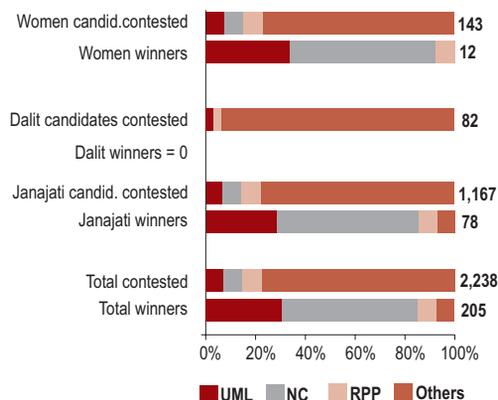
Source: Lawoti 2002

members be women, representation by women is good. However, in the more powerful VDC and DDC Committees, women’s representation after the 1997 local election was only around seven percent and in the District and Village Councils – where local policy and budget allocation decisions are made – women’s representation fell to around three percent. Women make up only about seven percent of the civil service and fewer than one percent of the officers at the First Class level and above. Their representation in the executive and judiciary is even lower.

Dalit, Janajati and Madhesi participation in governance

During the Panchayat period and the first 10 years of multiparty democracy Brahmans and Chhetris were able to maintain around 60 percent presence in the legislature, and Newars just below 10 percent. (See Figure 16.) Janajati and Madhesi presence is limited, and does not accord with their proportion in the population. Dalits, moreover, were almost entirely absent from parliament and only had one representative during the entire multiparty period. Given their dominance in the legislature, it is not surprising that men from the Brahman/Chhetri group also held the lion’s share of cabinet appointments. Their dominance in the civil service also increased from 70 to 90 percent between 1985 and 2002. The leadership of the civil service has been dominated by Hill Brahmans, Chhetris and Newars: all 19 of the Cabinet Secretaries since 1951 have been from this group. Similarly, out of the 21 people

FIGURE 17 Gender/ethnic composition of elected members (1999 parliamentary elections)



Source: HDR 2004, UNDP

appointed as Vice-chairpersons of the National Planning Commission during this period, there has been only one Janajati and all the rest have been either Brahmans, Chhetris or Newars of Hill origin (Yadav 2005).

Perhaps more telling is to consider who actually ran for public office. Figure 17 shows data from the election held in 1999. About 75 percent of candidates who contested were not affiliated with any of the three major parties. While the three main political parties (dominated by B/C males) may have chosen not to field many women, Janajati or Dalit candidates, these groups themselves expressed their need to exercise their democratic rights and felt empowered to do so. These candidates either ran as “independents” or as members of small, locally-based or special interest parties. Among women candidates this number is about 70 percent, among Janajati candidates it is over 80 percent and among Dalits, over 95 percent. Women and caste and ethnic minorities obviously want to be part of the democratic political process. While their success in the past elections was limited, as democracy takes root the experience gained during these early forays will be valuable.

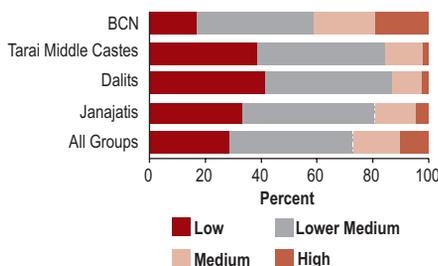
Applicants to civil service positions are also overwhelmingly (83%) Brahman/Chhetri. Candidates from this group are more than twice as likely to be chosen as Newars, nearly three times more likely than a Janajati candidate and over four times more likely than a Dalit candidate. The pattern extends to the judiciary where the B/C and Newar groups hold virtually all positions.

Local power relations and poverty

In addition to its analysis of the national level poverty data, the GSEA commissioned a separate in-depth study on Measuring Empowerment and Social Inclusion (MESI) (Bennett and Gajurel et al, 2006) to analyse the material, social and political status of the relatively privileged Brahman, Chhetri and Newar (BCN) groups and the Tarai Middle Castes compared to the Janajati groups and the Dalits in rural Nepal. Using both qualitative and quantitative data, the

study documents how the various types and levels of exclusion shown in Figure 5 play out in real life. (See Box 6.)

FIGURE 18 Wealth ranking based on consumer items by caste/ethnicity



Source: Bennett and Gajurel et al. 2006

Who are the poor?

Overall, the patterns on economic indicators that emerged from the MESI field data ground truth those reported in the national level data sets reviewed above. The Janajatis and the Tarai Middle Caste groups tied for second place on a composite wealth ranking score. The Brahman/Chhetri/

BOX 6 | Measuring empowerment and inclusion

The Measuring Empowerment and Social Inclusion (MESI) study attempted to understand the experiences of people living within the existing social institutions of caste, ethnicity and gender, and the effects of these institutions on their self-perceptions, day-to-day social interactions and their ability to exercise agency. It used both quantitative and qualitative techniques to try to understand, measure and analyse empowerment and social inclusion – what blocks it and what enhances it. In other words, it was an effort to explore what the rather abstract concepts of empowerment and social inclusion meant to people in real life. The MESI sample comprised of one man and one woman from 1,000 households in 60 villages. Twenty were villages where the Rural Water Supply and Sanitation (RWSS) interventions had been completed, 20 were where the RWSS was just beginning and 20 were control villages. These 60 villages were neither the most prosperous nor the poorest and therefore represented communities that were generally representative of the majority of the rural population. Research included a six-week qualitative study in four of the sample villages. The indicators used to measure levels of empowerment (EMI) and social inclusion (SII) are shown below.

The EMI and SII indices were combined to form the **Composite Empowerment and Inclusion Index (CEI)**.

Indicators used in the Empowerment Index (EMI)	Indicators used in the Social Inclusion Index (SII)
<p>1. Knowledge/awareness of rights and procedures Understanding of police procedures Understanding of court procedures Knowledge of the Country Code and rights of Dalits Knowledge of local services</p> <p>2. Participation in local development services Seeking local services Participation in programmes of child's school</p> <p>3. Confidence/comfort level in accessing services/exercising rights Approaching the police Approaching the courts Approaching children's school</p> <p>4. Social networks (economic and political) Connections for getting a job for oneself Ability to help others get a job Connections at ward level Connections to local service agencies Connections at VDC level Connections at DDC level</p> <p>5. Efforts to Influence Suggestions/complaints at ward level Suggestions/complaints at VDC level Suggestions/complaints at DDC level Advice to school officials</p>	<p>1. Self-perceived status of own caste/ethnic group Relative economic status/success of own group Relative contentment/comfort with social status of own group Respectful treatment Relative access to opportunity Cooperation from other groups Respect in the community</p> <p>2. Restricted access & public intimidation Whether the respondent is restricted from entry into certain public areas (like temples or peoples' homes) and/or prevented from using public facilities (like water taps). Whether the respondent faces verbal or physical intimidation/humiliation/violence in public spaces such as the village and/or in the nearest bazaar.</p> <p>3. Effectiveness of local political influence Result of complaints/suggestions they have made at ward/village/DDC level.</p> <p>4. Effectiveness in getting services and opportunities Invited by agencies to participate Promptness of service Consulted for opinion Access to training opportunities</p>

Newar households are well on the top (by more than 1.3 times) and the Dalits are at the bottom. The Janajatis are intermediate between the two groups and are closer to the BCN group in some measures of livelihood empowerment (such as land size), but closer to Dalits with respect to other measures (such as household consumption goods).

However, for policy making purposes it is also important to note a pattern that appeared in several of our wealth ranking measures. For example, Figure 18 shows the distribution between four different levels of consumption goods ownership for each group. The BCN group has the largest concentration in the top category while Dalits have the lowest. But the same figure shows that there is not a great deal of difference between the caste and ethnic groups when it comes to the proportion of each group who are in the “lower medium” or second poorest category. For all groups this “lower medium or middle poor” group is the largest cohort, containing over 45 percent of the whole population. The Janajatis had the highest proportion of their members in this group (about 48%), but the BCN group also had about 42

The lack of wage labour and other kinds of employment is a major concern for many Nepalis.



BOX 7 | Listening to rural people during the MESI study

On restrictions for Dalits to enter certain spaces: When asked if she had entered the homes of high caste people in her village, a Dalit woman in Tanahu district laughed, "Not once! I've watched functions of high-caste families from outside their windows."

On self-perception of own caste: A Dalit man commented, "Sometimes I hate my caste, because people hate us because of our caste. My caste is a barrier to progress. Once in Class Nine, my teacher asked, 'What do you have in your tiffin [lunchbox]. Is it the flesh of a dead animal?' I complained to my headmaster, but he too, harassed me."

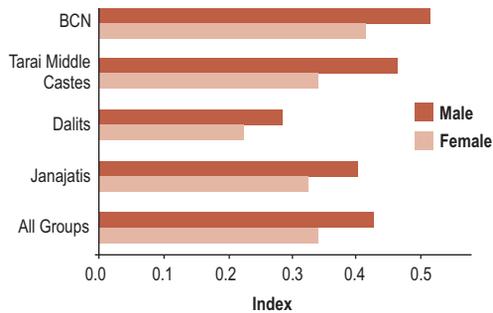
On the aspirations for the future: "To be listened to" commented a Dalit woman in the Dibya Nagar scheme, in Nawal Parasi, "we need more education or more money and power. If I ever had a chance to lead, I could not, as I am not educated and have never performed such duties. I think people would never listen to me due to my caste."

On changing attitudes towards Dalits: In Jamune one old Brahman woman stated that there was no discrimination between men and women in her village and no touchability or untouchability. "I am old, so I do not want to eat food touched by Dalits. But I have never restricted my son or his children from taking food from Dalits or going into their houses," she noted.

percent. These findings are similar to the national level data sets and caution once again against any easy equation between caste/ethnic identity and economic status. It is important to keep in mind the reality that there are many poor Brahmans and Chhetris in rural Nepal.

Our qualitative research confirmed the quantitative findings about the economic dominance of the BCN group. However, it also revealed some different perspectives on poverty and alerted us to the economic issues that people are most concerned about. None of the four communities where the qualitative research was conducted seem to experience severe seasonal shortages of food, although one community reported that food shortages were a regular occurrence before an irrigation project came to the area. With the possible exception of a few of the very poorest households, the concern of most people is not subsistence, but rather better opportunities to earn cash income. Despite the importance of land ownership for security and status (Box 7), many of our informants felt that agricultural work (on their own land) is inferior to wage work (agricultural or otherwise) because it is physically demanding and brings minimal rewards. This was a surprise since agricultural wage work carries little prestige and has usually been considered a last resort. Both men and women spoke about the lack of wage labour and other kinds of employment in their areas as a major concern for themselves and for their children.

For many Dalits and Janajatis, particularly lower status Janajatis, such as the Kumal - who formed a large proportion of one of our case study vil-

FIGURE 19 Composite empowerment and inclusion index (CEI) by gender/caste/ethnicity

Source: Bennett and Gajurel et al. 2006

the opportunity to attend training. Lack of income also prevented some from taking out loans because, in spite of the ubiquity of savings and credit groups, membership generally depends on being able to meet the group's agreed level of weekly cash contributions to the saving pool.

"Time" as an asset is seen as closely related with material well-being. "Time poverty" is a common problem, particularly for women, but also for men in asset-poor households. Women often complained that they could not participate in training opportunities or attend various meetings because of a shortage of time (usually a result of their many household responsibilities). Household wealth was found to be an important determinant for group membership (for both men and women). Respondents from wealthy households were over seven times more likely to belong to a group than those from poor households. In poor households, the struggle to bring in enough food and to earn enough income not only meant that household members were unable to become involved in community activities, but in many cases also that children were needed to assist in the daily chores and could not attend school.

Empowerment and inclusion results The criteria used by the MESI study for the Empowerment Index (EMI) to measure empowerment, and for the Social Inclusion Index (SII) to measure social inclusion, are shown in Box 6. The results of the Composite Empowerment and Social Inclusion Index (CEI), which combines the EMI and the SII, are shown in Figure 19. According to the findings of the MESI study:

- The ranking of social groups in the CEI broadly reflects the traditional caste hierarchy: The CEI levels of the Brahman/Chhetri/Newar group (46) were significantly higher than those for Janajatis (36), who in turn scored higher than Dalits (25).
- For separate indicators such as knowledge of rights and procedures, confidence/comfort level in accessing services and exercising rights, social

lages - lack of income earning opportunities was a serious issue. More and more poor people in Nepal perceive the lack of opportunities to earn cash income as the greatest constraint. This was cited as a reason for removing children from school and for not being able to send a family member overseas for employment. Lack of income prevented some from seeking health care and from benefiting from development interventions, including

networks, local political influence and efforts to influence, BCN scores were consistently around twice as high as those of Dalits.

- For the indicator on restrictions and intimidation in public space, the study found that 90 percent of BCN group never experienced any restriction or intimidation. Those from this group who had encountered spatial restrictions faced them only on a temporary basis during ritual pollution due to death in the family or (for women) menstruation or childbirth. For Dalits, ritual pollution and spatial restriction is not a temporary state, but a permanent part of their social identity. All Dalit respondents reported having experienced some degree of restriction on entering certain public spaces and public intimidation/harassment, and about 20 percent experienced high levels of restriction and intimidation/harassment.
- In all social groups, men consistently have higher CEI scores than women. Looking at just a few of the specific indicators we find:
 - Participation in local development services: men participate in/take advantage of local development services 1.6 times more often than women.
 - Efforts to influence: Men try to influence the institutions that are supposed to deliver services to them 2.7 times more than women do.

Inclusion alone can break the transfer of deprivation from generation to generation.



- Effective local political influence: Men are 4.8 times more able to actually influence their institutional environment than are women.
- When only female scores are examined, the caste hierarchy re-appears with Brahman/Chhetri and Newar women scoring much higher than Dalit or Janajati women. This is a surprising reversal from only 25 years ago when the opposite was found to be true (Acharya and Bennett 1981). Caste/ethnic identity plays a role, but education and membership in local groups can tip the balance and can affect the degree to which rural women have been empowered and included in community-level development activities.
 - Many poor Dalit and disadvantaged Janajati women have little time to spare for group activities that benefit other women.
 - Even when they are able to join various types of groups, their voices are often muted by the more confident and highly educated BCN women unless special efforts are made to ensure that they participate in the governance of the group.
- The relationship between caste and gender is complex. Women in all caste and ethnic groups score lower on both empowerment and inclusion than men in their own groups. However, Brahman women are significantly more empowered than Dalit men – and in terms of inclusion, women from all other groups score higher than Dalit men. Dalit women who experience both gender and caste discrimination have the lowest levels of empowerment and inclusion scores of any group. The mean CEI score for BCN men is more than double the mean CEI index for Dalit women.

The study also tried to determine the major factors influencing levels of empowerment and social inclusion and the regression results showed that:

- Caste/ethnic identity and gender together explained 33 percent of the variation in the CEI index.
- Caste/ethnic identity is a more powerful predictor of empowerment/inclusion than gender; it explained 26 percent of the variation in CEI scores while gender explained only 7 percent.
- Being a member of a local development group was associated with a five percent increase in CEI levels.
- Ten years of education was associated with a 19 percent increase in CEI levels.
- Contact with the local Women Development Office, holding office in a group and exposure to media were also significantly positively associated with higher CEI scores.



CHAPTER 3

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LEGAL EXCLUSION



LEGAL EXCLUSION

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The current international understanding of the human right to equal treatment does not allow discrimination based on gender, caste or ethnicity. Unfortunately, cultural practices and even some laws in Nepal still discriminate on the basis of sex, caste, ethnicity and religion. Other laws aimed at protecting people from discrimination have been weakly implemented. It is clear that even the best-designed legal provisions cannot on their own end the exclusion some citizens face because of their gender, caste or ethnicity. Deep-rooted values and discriminatory attitudes often lead to poor implementation of laws. The challenges, therefore, are not only amending laws but also changing the mindset of people, and formal and informal institutional mechanisms that perpetuate discrimination.

The Muluki Ain, the Country Code (1854), first formalised the caste system into law. Most of the penal provisions in the Country Code reflected the caste hierarchy, i.e. the lower the caste, the higher the degree of punishment for the same offence. The law also reproduced the patriarchal view of women as properly subordinate to men and economically dependent on them. A new provision prohibiting discrimination on the basis of caste and ethnicity was inserted in the 1963 Country Code but it came with ambiguity in the form of a provision protecting “traditional practices”. Moreover, Nepal has not yet signed the International Labour Organization (ILO) Convention No. 169, the international instrument that deals specifically with the rights of indigenous and tribal people.

The lack of laws is not the issue in Nepal. The Constitution and the Civil Rights Act of 1955 prohibit discrimination against any citizen on the grounds of “religion, race, sex, caste, tribe, ideological conviction or any of these”. The laws also prohibit untouchability, denial of access to any public place or depriving someone of the use of public utilities. But enforcement is lax. For example, even as recently as 2005, several Dalits in Saptari District were made to pay a heavy fine for entering certain temples – purportedly to cover the cost of “purifying” the areas they had “defiled”. Those who could not pay were forced to leave the district. Although this incident was reported by the national press, those who levied the fine were not prosecuted. In addition, and particularly as noted earlier with regard to obtaining citizenship papers (see Box 2), many ad hoc discriminatory administrative practices still prevail against certain communities – such as Madhesis, people who live in the flat Tarai belt adjacent to India and share

The law discriminates against women in the areas of citizenship, inheritance rights, education, employment, health, sexual offences, marriage and family relations, court proceedings and identity.



BOX 8 | **Non-discrimination and equality**

Existing legislation in Nepal has failed to distinguish between non-discrimination and equality. Non-discrimination prohibits discrimination, but may not be able to bring equality as a result. Gender neutral law promotes a “sameness” approach but does not take socially constructed gender gaps into consideration. In addition, the present legal framework has not been able to prohibit discrimination on the basis of origin or language.

many linguistic and cultural characteristics with them. Many laws enforcing outright discrimination also remain to be amended.

The law denies women equal inheritance rights. The 11th Amendment to the Country Code recognises daughters as joint-heirs (*ansiyars*) to family property and partly secures women’s right to ancestral property. However, daughters must return their share of the family property to

the family when they marry. In the case of intestate property, daughters fall below sons in the line of succession and married daughters fall even farther below.

Sexual exploitation is also not addressed properly. While the Constitution prohibits “traffic in human beings, slavery, and serfdom or forced labour”, the law on trafficking is neither comprehensive nor sensitive to human rights issues. Moreover, it exempts buyers from legal jurisdiction as the “purchase” of a human being is not considered an offence. In addition, the present laws are inadequate to deal with sexual offences. Several problems are found with the laws on rape, and Nepal has no law to deal with sexual harassment.

Discriminatory provisions based on caste, ethnicity and religion include the Constitutional declaration of Nepal as a Hindu kingdom, and of Nepali as the only official language. Box 10 below sets out some of the other laws that support continued discrimination on the basis of religion, caste and ethnicity.

Overall, the laws discriminate against women in the areas of citizenship, property, education, employment, health, sexual offences, marriage and family relations, court proceedings and identity. Nepali women are unable to confer citizenship on their children or husbands; and their identity as a mother

and/or wife is also not legally recognised for official purposes, since official forms require the name of the father. Box 11 lists some of the discriminatory legislation. Progress is being made, however. Some of this legislation is under challenge, and, as noted in the box, recent Supreme Court rulings have declared certain provisions unconstitutional.

BOX 9 | **Discriminatory laws**

While the CEDAW Committee recommended that Nepal change 85 laws and 137 legal provisions that discriminated against women, an analysis of Nepali laws, including the Constitution and Country Code, conducted for the GSEA found 32 provisions that discriminate on the basis of religion, caste and ethnicity, and 176 provisions in 83 pieces of legislation that discriminate against women (Malla and Shrestha 2005).

BOX 10 Examples of discriminatory laws based on religion, caste and ethnicity	
Provision	Discrimination against
Nepal is a multiethnic, multilingual, democratic, independent, indivisible, sovereign, Hindu and Constitutional Monarchical Kingdom. - Article 4 (1) of the Constitution of Kingdom of Nepal (1990)	Non-Hindus By declaring Nepal a Hindu Kingdom, the Constitution itself privileges Hinduism over religions, which account for at least 20% of the population.
...punishments shall not be more or less merely based on people's higher or lower status.... - Preamble of the Country Code (1963)	All but "High Caste" males The Country Code recognises people's higher or lower status, even though the intention is for equality in punishments.
The Nepali language in the Devnagari script is the language of the nation of Nepal. The Nepali language shall be the official language. - Article 6(1) of the Constitution of Kingdom of Nepal (1990)	Janajatis & linguistic minorities Ethnic languages are not recognised as "official languages of the nation".
Each community shall have the right to operate schools up to the primary level in its own mother tongue for imparting education to its children. - Article 18(2) of the Constitution of Kingdom of Nepal (1990) and Section 7(1) of Education Act (1972)	Janajatis & linguistic minorities The Constitution itself permits education in the mother tongue only up to the primary level. Moreover, it does not commit the state to fund such schools.
(No person) shall deliberately slaughter cows or bullocks, or instigate others to slaughter, or attempt to slaughter, or take cows and bullocks to foreign countries with the intention of slaughtering them, or take them to foreign countries and kill them. - No 1 of Chapter on Quadrupeds of the Country Code (1963)	Janajatis, Dalits Muslims and other religious minorities who do not perceive cow slaughter to be a crime Cow slaughter is an offence punishable by up to 12 years of imprisonment.
In case any person is found to be raising a weapon or doing anything else with an intention to slaughter cows or bullocks, he/she shall be prohibited from slaughtering them. In case he/she refuses and uses weapons against the person prohibiting him/her, the latter shall not be deemed to have committed an offence if he/she attacks the slaughterer and if he/she acts or strikes at (the would be slaughterer) and kills him/her... - No 4 of Chapter on Quadrupeds of the Country Code (1963)	Janajatis, Dalits, Muslims and other religious minorities who do not perceive cow slaughter to be a crime Killing a human being is justified for the protection of cows and bullocks.
Whoever takes cows, bulls, bullocks or calves of any category to a foreign territory from Nepal and slaughters them, or causes them to be slaughtered, he/she shall be liable to a punishment of imprisonment for 6 years. - No 10 of Chapter on Quadrupeds of the Country Code (1963)	Janajatis, Dalits, Muslims & other religious minorities who do not perceive cow slaughter to be a crime Extra-territorial jurisdiction is created for cow slaughter.
Kipat (common communal property) lands which lack official documents, are equivalent to Raikar, lands on which taxes can be levied. - No 1 of Chapter on Land Evictions of the Country Code (1963)	Janajatis This has led to the loss of ethnic based communal (Kipat) ownership as Raikar can be used, transferred, and disposed of by anyone.
Kipat land can be registered as tax levied land (Raikar) by means of deed. - Section 3(1) of the Land Reformation Act, (1964)	Janajatis Same as above as the restriction on selling such land is withdrawn.
Anyone who desires to enter an ancient historic, artistic or important religious place, whether owned by the government or by a private person, may do so if this does not disrupt a traditional custom that has been practiced for a long period. - Section 10 of the Ancient Monument Protection Act, (1956)	Dalits Dalits are excluded on the basis of this provision, as it states one may enter religious places only if long-standing custom is not disturbed.
No one shall disrupt social customs fraudulently or coercively or commit or cause any such act to be committed. Whoever commits, or causes another to commit such an act is liable to a punishment of imprisonment up to one year or a fine up to one thousand rupees. - No 10 of Chapter on Miscellaneous Provisions of the Country Code (1963)	Dalits Dalits are excluded from temples and other public places on the basis of this provision as it protects social customs that are being practiced.

BOX 11 | Examples of discriminatory laws based on sex

Name of the legislation	Discrimination
Article 9 (1) and 9(2) of the Constitution of the Kingdom of Nepal, 1990	Women cannot provide citizenship to their children.
Article 9 (5) of the Constitution of the Kingdom of Nepal, 1990	Women cannot provide citizenship to their spouse.
Annex/Schedule (2)&(4) of the Nepal Citizenship Rules, 1992	Citizenship certificate only states father's or husband's name.
Application forms of the Passport Rules (1970) THIS PROVISION WAS RECENTLY STRUCK DOWN	Women require their guardian's or husband's approval to obtain a passport.
No. 1A of the Country Code, 1963 - Partition	Married daughters are not considered as coparceners in the ancestral estates.
No. 16 of the Country Code, 1963 - Partition	Unmarried daughters must return their share of parental property upon marriage.
No.19 (1) of the Country Code, 1963 - Partition	Consent of married daughters is not required to dispose of more than half of the immovable family property.
No. 2 of the Country Code, 1963 - Women's Exclusive Property THIS PROVISION WAS RECENTLY STRUCK DOWN	Women require consent to dispose of more than half of the immovable family property.
No. 7 of the Country Code, 1963 - Women's Exclusive Property	Women are restricted from freely using their own share of inherited property.
No. 1 of the Country Code, 1963 - Intestate Property	Definition of <i>Hakwala</i> (owner) includes seven generations on the male side.
No. 2, 3, 6, 7, 9, 10, 12 of the Country Code, 1963 - Intestate Property	Married daughters fall behind in the line of succession of intestate property.
Section 26(1) of the Land Act, 1964	Tenancy right is transferable only to an unmarried daughter after she attains the age of 35 years.
Section 38 of the Insurance Act, 1992	Married daughters are excluded from the line of succession.
Section 15 (a) (1) of the Employees Provident Fund Act, 1962	Married daughters fall behind in the line of succession to receive/claim provident fund.
Section 23(1) of the Pension Act, 1986	Married daughters fall behind in the line of succession to receive/claim bank deposit.
No. 10 of the Country Code, 1963 - Rape	The rape of a married woman technically creates an end of the family relation, because the husband is considered as an ex-husband by law.
Section 10 of the Army Act, 1959	Women in the Army can serve only in non-combatant roles.
Section 12 of the Foreign Employment Act 1985	Permission of the guardian and the government is a prerequisite for women to go abroad for employment.
No.28, 28(a), 32 of the Country Code, 1963 - Homicide	Higher punishment is provided for a woman undertaking an abortion than for third parties whose actions cause an abortion.
No. 3 (1), 3(2), 3(3), 3(4) of the Country Code, 1963 - Paupers	Deprives mothers of care and guardianship of their children.
No. 1(1) of the Country Code, 1963 - Husband and Wife	Grounds for divorce are not the same for men and women.
2 & 2(a)Country Code, 1963 - Adoption	Women face additional restrictions in adopting a child.
No. 9 of the Country Code, 1963 - Marriage	The law appears to encourage bigamy as a second marriage is permitted under certain conditions without divorcing the first wife.
No. 3(1) of the Children's Act 1991	Father has priority over mother in naming a child.
Section 31 of the Revenue Tribunal Rules, 1974	Court dress is specified for male judges only.



CHAPTER 4



PUBLIC DISCOURSE AND ACTIONS

IV

PUBLIC DISCOURSE AND ACTIONS

Government policy and institutional framework

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Responses to gender discrimination

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Responses to caste discrimination

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Responses to ethnic discrimination

This section examines how the “rules of the game” have influenced the excluded groups in Nepal in terms of government policies and institutional structures for women, Dalits and Janajatis. Until April 1990, Nepal’s movements for women, Dalit and Janajati rights remained subsumed within the larger struggle for democracy. The People’s Movement that resulted in an end to absolute monarchy and direct rule under the Panchayat system marked the beginning of a new era in Nepal – that of citizens’ rights. Various social movements have emerged after April 1990 and collectively these movements have critiqued the three cornerstones of pre-1990 national identity – the monarchy, Nepali language and Hinduism. They have also continuously challenged the traditional exclusionary definition of what constitutes a “real Nepali”.

The women’s movement has succeeded in placing questions of gender equality and justice on the national agenda, and the Dalit movement has begun to challenge Nepal’s caste society. The Janajati movement, once described by many Brahmans and Chhetris as a “divisive” phenomenon, has now succeeded in bringing fundamental issues of fair ethnic representation to the fore. It has also challenged Nepal’s identity as a Hindu kingdom and placed on the national agenda issues related to rights of language (other than Nepali), culture (other than that of Hill Parbatias), and religion (other than Hinduism).

Post 1990 guarantees of political and civil liberties have significantly altered the consciousness of Nepalis who – even in rural areas – increasingly see themselves as sovereign rights holders. Nevertheless, many formal and informal institutions and policies remain stubbornly exclusionary in terms of gender, caste and ethnicity, and most demands of those excluded remain unmet. Therefore, the shift of Nepalis from being subjects of an absolute monarch to becoming sovereign citizens (regarding their political destinies) remains incomplete.

Exclusion and hierarchy within excluded groups is also coming under scrutiny. For example, Dalit activists are questioning the dominance of their own Biswakarma and Pariyar castes, and the Janajatis are examining the dominance of wealthier groups within their movements. Both groups also face issues of male dominance. Within the women’s rights movement, domination by the historically privileged Brahman/Chhetri/Newar groups is also being questioned. Another divisive element in each of these movements has been the alignment of different civil society groups with political parties. Conflicting party loyalties have sometimes blocked cooperation between different Dalit organizations or caused women’s organizations to refuse to work together on a common agenda.

These three major social movements remain independent of each other, despite their many common demands. Because little dialogue has taken place among these movements, the demands of some groups contradict those of others – giving the state space to delay fulfilment. The delay in the state's response has also resulted in the growth of radical or revolutionary offshoots that sometimes overshadow the mainstream reformist ideas. The radical strains are most notable amongst the CPN (M), even though smaller leftist organizations and even some mainstream parties espouse similar ideals.

Government policy and institutional framework

Nepal has completed almost half a century of planned development, which was instituted through a series of five-year plans. The Eighth Plan (1992-1997), the first formulated by a democratic government, introduced poverty alleviation as one of three objectives. It was also the first public document to address the caste/ethnic issue, albeit indirectly and incompletely. The plan disaggregated the “poor” and attempted to target particular ethnic and caste

Change will require a complex mixture of political and senior management commitments, the communication of that commitment, and pressure for results, as well as negotiation and dialogue.



groups under the somewhat vague and unspecified category of “disadvantaged groups”. However, its approach to these groups was uneven; for example, while it introduced primary school scholarships for Dalits, it did not have similar schemes for other excluded groups.

The Ninth Plan (1997-2002) addressed Dalits and Janajatis by name – for the first time – and had a separate section dealing with Adivasi Janajatis in development. It also began allotting a portion of Village Development Committee (VDC) and District Development Committee (DDC) grants for income-raising and skill development programmes for Janajatis and envisaged founding an autonomous Janajati Council at the district level. While DDC and VDC level commitments were not fully implemented, in 1997 the government did form a National Committee for the Development of Nationalities (NCDN) and the National Foundation for the Development of Indigenous Nationalities (NFDIN) Act was enacted in 2002.

Planned efforts to improve the situation of women began as early as the Sixth Plan (1981-1985) but the approach was welfare driven. The Eighth Plan raised the issue of increasing women’s representation in decision-making and also acknowledged the existence of “gender”-based “discrimination” – but did not define either term. The Ninth Plan again used the term gender but did not progress much beyond the women-in-development mindset in its formulation of the problem and, like earlier plans, lacked operational guidelines.

The Tenth Plan (2002-2007) is also Nepal’s Poverty Reduction Strategy Paper (PRSP), and is the most serious and comprehensive government statement about inclusion to date. It identifies social exclusion as one of the three main aspects of poverty and acknowledges that exclusion is the main reason for the deprivation suffered by women, certain caste and ethnic groups, and people living in remote areas. It recognises that lack of voice, political representation and empowerment are as important dimensions of poverty as are economic and human development dimensions. It also understands that exclusion is one of the factors behind the current conflict and supports this thesis by presenting a detailed caste, ethnicity and gender-disaggregated analysis showing Dalits at the bottom of almost all Human Development Indicators. The PRSP also proposes the need for “affirmative action” to level the playing field.

The PRSP, however, fails to present a realistic strategy and concrete mechanisms to mainstream inclusion. The Targeted Programmes it proposes are narrowly based and even though the government ranks programmes by priority for funding under the Medium Term Expenditure Framework, inclusion is not one of the criteria for prioritisation. The document does mention caste straightforwardly when it discusses strategies for Dalit inclusion, but

elsewhere it reverts to the term “deprived communities,” sending mixed signals about the commitment. The PRSP also lacks quantitative targets in important sectors such as education, health and Targeted Programmes.

Another major weakness of the PRSP is its ambiguity in assigning roles and accountability for implementing the proposed actions. Nevertheless, a positive first step in this direction on the part of the government has been to develop a Poverty Monitoring and Analysis System (PMAS) to support the implementation of the PRSP. PMAS requires monitoring at three levels: implementation, performance and outcome and has a number of outcome/intermediate indicators. More importantly, the PMAS requires the use of data disaggregated by caste and social groups for monitoring.

Overall, the identification of social exclusion as a development problem, and the accompanying commitment to social inclusion are significant steps. Nevertheless, the operational modality fails to address gender, caste and ethnicity directly as rights and tends to be driven by the welfare approach, which is not inclusive and is at best, partial.

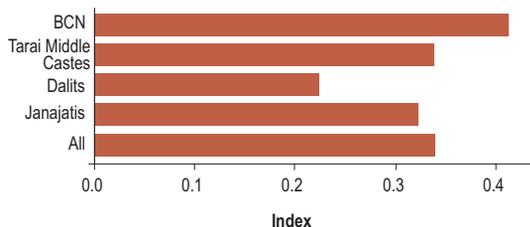
The GSEA study goes on to review public discourse and actions in relation to the three main social movements in some detail and to assess their achievements and shortcomings.

Responses to gender discrimination

Before 1990, women’s issues were cast in the framework of development and welfare – not rights. With some exceptions, this generally remains the norm. This approach is not empowering to women since it characterises them as uniformly “backward, illiterate and tradition-bound”. The assumption underlying this view is that a uniform “Hindu patriarchy” constrains all Nepali women in the same way and that a single policy towards women is therefore appropriate,

regardless of their class, caste, ethnicity, religion and age. In other words, the understanding of gender has ignored the important specificities of class, caste, ethnicity, age and other cross-cutting divides. The MESI Study, however, shows sharp differences in the empowerment and inclusion levels of women from different caste and ethnic groups. (See Figure 20.)

FIGURE 20 | Caste/ethnic differences in levels of female empowerment and inclusion



Source: Bennett and Gajurel 2006

In the eyes of the Nepali state, women have a much longer history as a recognised socially excluded group than do either Janajatis or Dalits. The earliest women's organizations were founded in the late 1940s. Some pre-Panchayat protests by women included the demand for the right to vote. Under the 1976 Class Organizations Act, the Panchayat rulers recognised women as a social group. More recently, women's organizations have been petitioning for conditions of economic equality by demanding equal property rights, quotas in education and jobs and greater voice in political parties and government. The development response to women's claim for equal rights, however, still hinges largely on the welfare model.

Nepal's Constitution does not permit discrimination on the basis of sex and advocates special legal provisions to protect and advance the interests of women. The Local Self Governance Act (LSGA), 1999 introduced mandatory representation of women in local elected government. However, at progressively higher levels of decision-making, where there has been no such intervention, the data show that women are vastly outnumbered. When elected local bodies were suspended in July 2002, the representation requirements of the LSGA were also suspended.

The development response to women's claim for equal rights still hinges largely on the welfare model.



In 1991 Nepal ratified the Convention on Elimination of all forms of Discrimination Against Women (CEDAW). Although the convention requires Nepal to change about 85 laws and 137 legal provisions that are discriminatory, this still remains to be done. Nor has the government signed the Optional Protocol to CEDAW, which would give Nepali women the right to challenge these discriminatory laws internationally.

The Ministry of Women and Social Welfare, established in 1995, was renamed the Ministry of Women, Children and Social Welfare (MWCSW) in 2000. The MWCSW lacks adequate financial and human resources to carry out its numerous responsibilities effectively, and has also largely failed to consider the priorities and needs of women from traditionally excluded castes and ethnic groups.

The Ministry of Local Development (MLD) was the first to incorporate gender issues in development programmes when it set up the Women's Development Section (WDS) in the early 1980s. Its major achievements to date include the institution of the Production Credit for Rural Women (PCRW) programme and other follow on group-based microfinance programmes for rural women, the promotion of reservations for women and the requirement that User Groups must have at least 30 percent women members. Women Development Officers (WDOs) – who were first hired under the PCRW programme in 1983 and who have always had a field-based focus on rural

Only seven percent of women own livestock, even though for many groups livestock rearing is traditionally a female task and in spite of the fact that many credit institutions and microfinance programmes have targeted women and made loans to them for this activity.



women – have now been shifted to MWCSW, which has no real presence in rural areas. This has to some degree sidelined the WDOs, who continue to head Women Development Offices in the districts but are no longer seen by MLD as part of its district development machinery. The WDOs are now being trained to serve as district Gender Focal Points mandated to integrate gender and children’s rights in the decentralised planning and review processes. The focal points will also be responsible for collecting disaggregated data and conducting gender audits of sectoral and district-level programmes. Although most of the WDOs have served more than 20 years, they have not yet been made permanent government employees.

Nepal set up the National Women’s Commission (NWC) in 2002. However, the commission lacked a legal basis and its mandate remained unclear. Its members retired in March 2004 and replacements had not been appointed by January 2006. Brahman and Chhetri women – appointed mainly on the basis of their political affiliation – dominated the NWC membership.

Generally, inclusion of women in development continues to fall into very specific gendered roles that often reinforce unequal access to resources and institutions, particularly for poor and socially excluded women. Despite a series of gender audits carried out by the Ministries of Agriculture, Education and Health over recent years with support from the UNDP’s Mainstreaming Gender Equity Programme, the kind of structural change implied by the term “gender mainstreaming” has not occurred. Tension also exists between technocratic “fixes” – often preferred by donors – and those advocating more long-term socio-political change. The latter is more likely to occur as a process of democratic trial and error, often led by ordinary people (including politicians), and tends to be “messier” and less amenable to donor timetables and budget cycles. There is also an apparent donor bias favouring “professional” NGOs – those whose leaders are familiar with the current development trends and able to converse in English – over smaller local NGOs or mass organizations such as the women’s wings of political parties, even though the latter could potentially be more effective at mobilising women and influencing policy change. As a result, programming has tended to remain narrowly focused, without the necessary policy foundations and without the appropriate linkages needed to achieve gender mainstreaming.

The representation of women in political parties continues to be low, especially at the higher echelons of power, and this non-representation remains a major obstacle to the mainstreaming of policies and programmes that focus on women and other excluded groups. Women’s organizations within the parties remain in a subordinate relationship within these typically male-dominated institutions.

Responses to caste discrimination

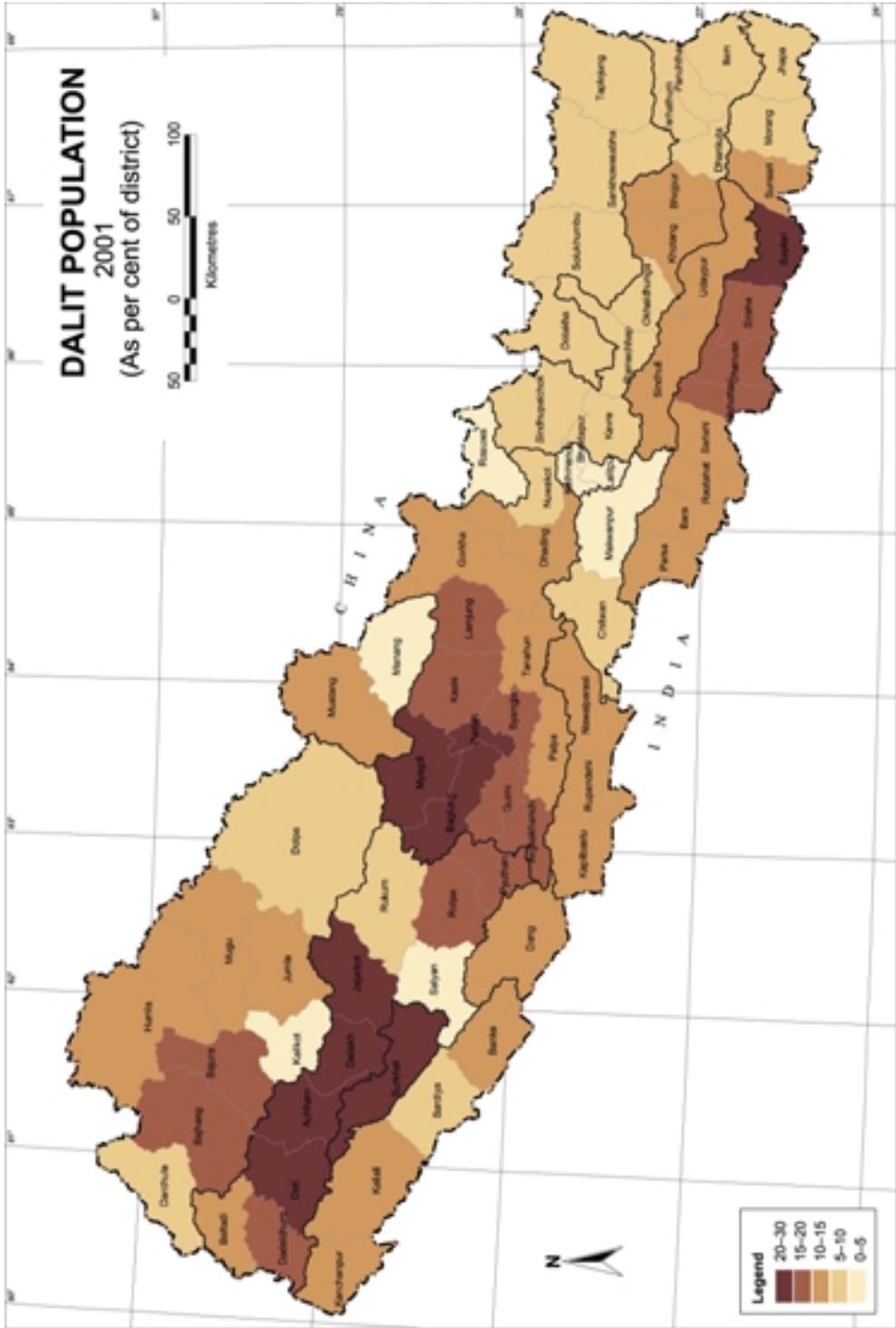
Dalits – as people at the very bottom of Nepal’s caste hierarchy – continue to be a source of discomfort to educated bureaucrats, who in their formal roles regard the caste system as outdated and inconsistent with the goal of developing Nepal into a “modern” state, but who informally are still very much products of their caste-conscious upbringings. Even now, the government and many development/aid organizations use euphemisms such as “occupational castes”, “oppressed castes”, “backward classes”, “depressed castes”, “deprived castes”, “marginalised”, and “disadvantaged groups”, instead of speaking of them as Dalits. The hesitation to use the term Dalit deflects attention from the everyday reality of caste-based discrimination that must be tackled head-on.

Over 200 forms of commonly practiced types of caste-based discrimination have been identified in Nepal (Bhattachan et al 2004). These include limiting the so-called lower castes to socially-sanctioned roles, forcing them to carry out demeaning caste-based tasks such as removing the carcasses of dead cattle, refusing to share water sources with them and behaviours intended to avoid any direct bodily contact – the literal practices of untouch-

Ad hoc discriminatory administrative practices still prevail against certain communities. Many laws enforcing outright discrimination also remain to be amended.



MAP 2 | Distribution of the Dalit population



Source: Harka Gurung

BOX 12 | Different definitions of Dalit sub-castes

Dalit castes defined by Ministry of Local Development, 1997	Dalit castes classified by Dahal et al, 2002	Dalit castes defined by the National Dalit Commission, 2003	Dalit caste classified by Jha, 2004
<ol style="list-style-type: none"> 1. Lohar 2. Sunar 3. Kami 4. Damai 5. Sarki 6. Badi 7. Gaine 8. Kasai 9. Kusule 10. Kuche 11. Chyame 12. Pode 13. Chamar 14. Dhobi 15. Paswan (Dusadh) 16. Tatma 17. Dom 18. Batar 19. Khatwe 20. Mushar 21. Santhal 22. Satar 23. Halkhor 	<p>Hill</p> <ol style="list-style-type: none"> 1. Kami 2. Damai 3. Sarki 4. Badi 5. Gaine <p>Tarai</p> <ol style="list-style-type: none"> 6. Tatma 7. Khatwe 8. Chamar 9. Dusadh 10. Musahar 11. Batar 12. Dhobi 13. Dom 14. Halkor <p>Newar</p> <ol style="list-style-type: none"> 15. Kusule 16. Khadki (Kasai) 17. Pode 18. Chyame/Chyamkhala 19. Halahulu 	<ol style="list-style-type: none"> 1. Biswakarma (Kami, Sunar, Lohar, Tatma, Chunara, Aod) 2. Darji (Damai, Pariyar, Hudke, Dholi) 3. Sarki (Mijar, Charmakar) 4. Badi 5. Gaine (Gandharva) 6. Kapali* 7. Khadki* 8. Deula* 9. Kuche* 10. Tatma 11. Dusadh (Paswan, Hajara) 12. Dhobi* (Rajak) 13. Dom 14. Batar 15. Khatwe 16. Musahar 17. Halkhor 18. Patharkatta 19. Chamar <p>* Castes that have asked not to be defined as Dalit.</p>	<p>Hill</p> <ol style="list-style-type: none"> 1. Gandharva (Gaine) 2. Pariyar (Damai, Darji, Suchikar, Nagarchi, Dholi, Huduke) 3. Badi 4. Biswakarma (Kami, Lohar, Sunar, Oda, Chunara, Parki, Tatma) 5. Sarki (Mijar, Charmakar, Bhool)Tarai <p>Tarai</p> <ol style="list-style-type: none"> 6. Kalar 7. Kakhaya 8. Kori 9. Khatik 10. Khatwe (Mandal, Khang) 11. Chamar (Ram, Mochi, Harijan, Rabidas) 12. Chidimar 13. Dom (Marik) 14. Tatma (Tanti, Das) 15. Dusadh (Paswan, Hajra) 16. Dhobi (Rajak) 17. Pattharkatta 18. Pasi 19. Bantar 20. Musahar 21. Mestar (Halkhor) 22. Sarbhang (Sarbariya) <p>Newar</p> <ol style="list-style-type: none"> 23. Chyame 24. Kasai 25. Kuche 26. Kusule 27. Pode

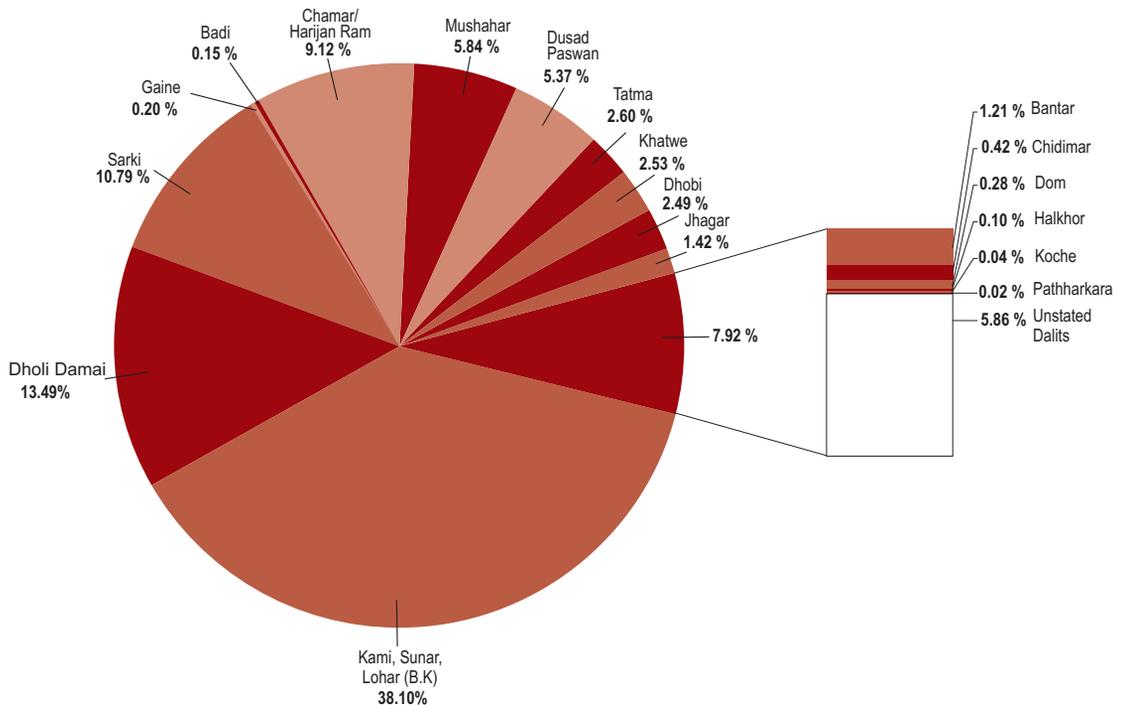
ability – which in most cases still go unpunished. Generally, discrimination is more entrenched in the less-developed regions of the country, especially in the Mid- and Far-western regions. However, caste rank continues to influence inter-personal behaviours throughout Nepal, with variations only in the degree and in the nuances. There are districts in the eastern Tarai where the privileged castes have even resorted to economic threats and physical violence to enforce traditional caste-based practices.

No consensus yet exists on which communities fall into the category of Dalit or on the actual size of their population. According to the 2001 Census Dalits comprised 13 percent of the population but the figure is contested. Box 12 shows how the different Dalit groups have recently been classified by different agencies and authors. While many commonalities are found

between these classifications, there are also significant differences. One demand of Dalits is to have an accurate, acceptable classification and a database on the Dalit sub-castes.

Nepal's Dalit population can broadly be categorised as either Hill Dalits (who make up 61% of the Dalit population), or Tarai Dalits (who make up the rest). The largest sub group is that of the metal workers, the Biswakarmas, including Kamis (blacksmiths) and Sunars (gold workers) and according to some classifications, the Lohar, Tatma and Chunara from the Tarai. Many smaller groups collectively comprise the Tarai Dalits. (See Figure 21.) One irony of the situation of Dalits is that they have traditionally practiced Hindu type stratification among themselves. The Dalit movement rejects this hierarchy and is working to remove the barriers between its constituent groups. Unlike many Janajatis, the Dalits have no geographical centre or "traditional homeland" where they are numerically predominant. Map 2 shows that the Hill Dalit group is mainly concentrated in the Mid-western and Western Development regions (containing over 50 percent of their population),

FIGURE 21 | Distribution of the Dalit population (in percentage) to total Dalit population in Nepal



whereas 85 percent of Tarai Dalits live in the Central and Eastern regions (Gurung et al. 2005).

One of the few pro-Dalit moves on the part of the government has been the ratification of several international conventions whose compliance is monitored by a group of human rights organizations and NGOs, including Dalit NGOs. However, the government does not appear to be taking the monitoring reports seriously.

Nepal established the National Dalit Commission (NDC) in March 2002 with an all-Dalit membership. Like the Women's Commission, its members were chosen based on party affiliations; similarly, its functions were not legally mandated and funding was inadequate. Despite the odds, the NDC was able to draft a bill for itself, which, however, had still not been enacted as law by early 2006. Dalit rights activists have not been notably successful in lobbying for either amending or repealing existing laws through public interest litigation. In spite of this, and perhaps in response to growing public awareness, there are occasional signs of progress. For example, in 2005 an NGO that had taken a case to court won an important judgement against the government policy of building separate water taps for Dalits.

Ram Krishna Dhakal, a well-known "upper" caste singer, drinking water offered by a tailor, an "untouchable" in the caste hierarchy. The photograph is part of the Feminist Dalit Organization's campaign against untouchability. The caption on the photograph read: "The only relation between two human beings is thirst and water".



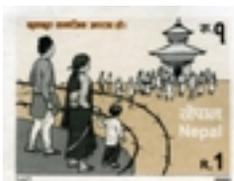
BOX 13 | Key recommendations to improve the understanding of the Dalit sub-castes

- A lingering hesitation to use the term "Dalit" or to name caste-based discrimination head-on and a preference for euphemisms only serves to confuse issues pertaining to Dalit rights. The term "Dalit" should be accepted universally.
- No national exercise has been conducted for scheduling all castes and Janajati groups to produce a universally accepted list of who is and who is not Dalit. Several ministries use their own lists, and international agencies and national NGOs remain confused about which castes qualify as "Dalit" and which do not. A consensus list that could be adopted by all government offices should be prepared in collaboration with the National Dalit Commission.
- Since no reliable, accurate database exists on the population and situation of Dalits, the government needs to support work aimed at gathering better caste-disaggregated data. This work can be part of the Central Bureau of Statistics' census and the NPC's Poverty Monitoring and Analysis System (PMAS). Disaggregated data is essential to the PMAS set up to monitor performance under the PRSP. Qualitative ethnographic data on the situation of different Dalit sub-castes such as the preliminary work done by the Dalit Empowerment and Improvement Plan (DEIP) on Tarai Dalits is also needed.

The scholarship scheme for Dalits, which began in 1996, is constrained by over-politicisation, procedural flaws and inadequate funding. Although the recently initiated Nepal Education For All (NEFA) primary education programme has set aside additional funds to provide scholarships for all Dalit children, the November 2005 Technical Review report documents that only 65 percent of Dalit students attending primary school in the sampled districts received scholarships. The report concludes that not only are government allocated funds simply insufficient to cover all Dalit students as promised, but the governance procedures in place for distributing these funds are not adequate (Bajracharya 2005).

Donors have supported Dalit rights but have not done enough. NGO/INGO critiques of donors include sporadic funding, non-interest in capacity enhancement, emphasis on political/social rights without sufficient attention to livelihood issues, and excessive reliance on "high" caste staff in the design and implementation of their interventions.

Two kinds of Dalit NGOs are found. The first are large national NGOs, including the Dalit Welfare Organization (DWO), the Feminist Dalit Organization (FEDO), Nepal National Depressed Social Welfare Organization (NNDSWO), Jana Utthan Pratisthan (JUP) and the Jagaran Media Centre (JMC). The second are the many small Dalit organizations working at the community level. All Dalit NGOs conduct advocacy/activist functions alongside traditional development activities. The Dalit NGO Federation (DNF), with a membership of over 200 Dalit NGOs, is emerging as a powerful converging point for the movement.



The stamp says, "Untouchability is a social crime."

Dalit representation in executive bodies of political parties remains very low. The only Dalit member of the House of Representatives was elected on a NC ticket in 1991. There has been no Dalit representation in parliament since 1994, and Dalit representation has remained low in both elected district and village-level offices. Much blame for this falls on the political parties, which failed to field Dalit candidates or ghettoised them in losing constituencies. With the exception of four Dalit members in the National Assembly, there was in 1999 not a single person from the Dalit castes in the executive, legislative or judicial branches of government (Neupane 2000).

The Nepali Congress appointed no Dalit minister between 1990-2002. Only after that did the NC (Democratic) appoint one Dalit as assistant minister. Following the takeover of February 2005, the King has included Dalits in the cabinet. Because Nepal's democracy has remained suspended, however, their presence in government has not been much different from that during the Panchayat period, when there were Dalit ministers. As noted earlier, the Brahmans, Chhetris and Newars have a monopoly over public service jobs and resources, and there is a near-total absence of Dalits in the public service. (See Table 6.) Moreover, very few Dalits are found either in the media or in other civil society organizations.

In conclusion, with a few exceptions, Nepal's non-Dalit actors have left it to Dalit leaders, activists and organizations to "fight their own battle". This has not helped the Dalit movement, which will succeed only when it can build coalitions with reform-minded non-Dalits to add voice to Dalit demands. Among the exceptions, a one-rupee postage stamp (shown above) issued by the government recently is a good beginning. In addition, the Lawyers National Campaign Against Untouchability (LANCAU Nepal) is a group of primarily non-Dalits who have been doing vigorous advocacy and public litigation against untouchability.

On the positive side, civil society in Nepal is experiencing an undeniable mass surge towards democratic values and practices and a growing

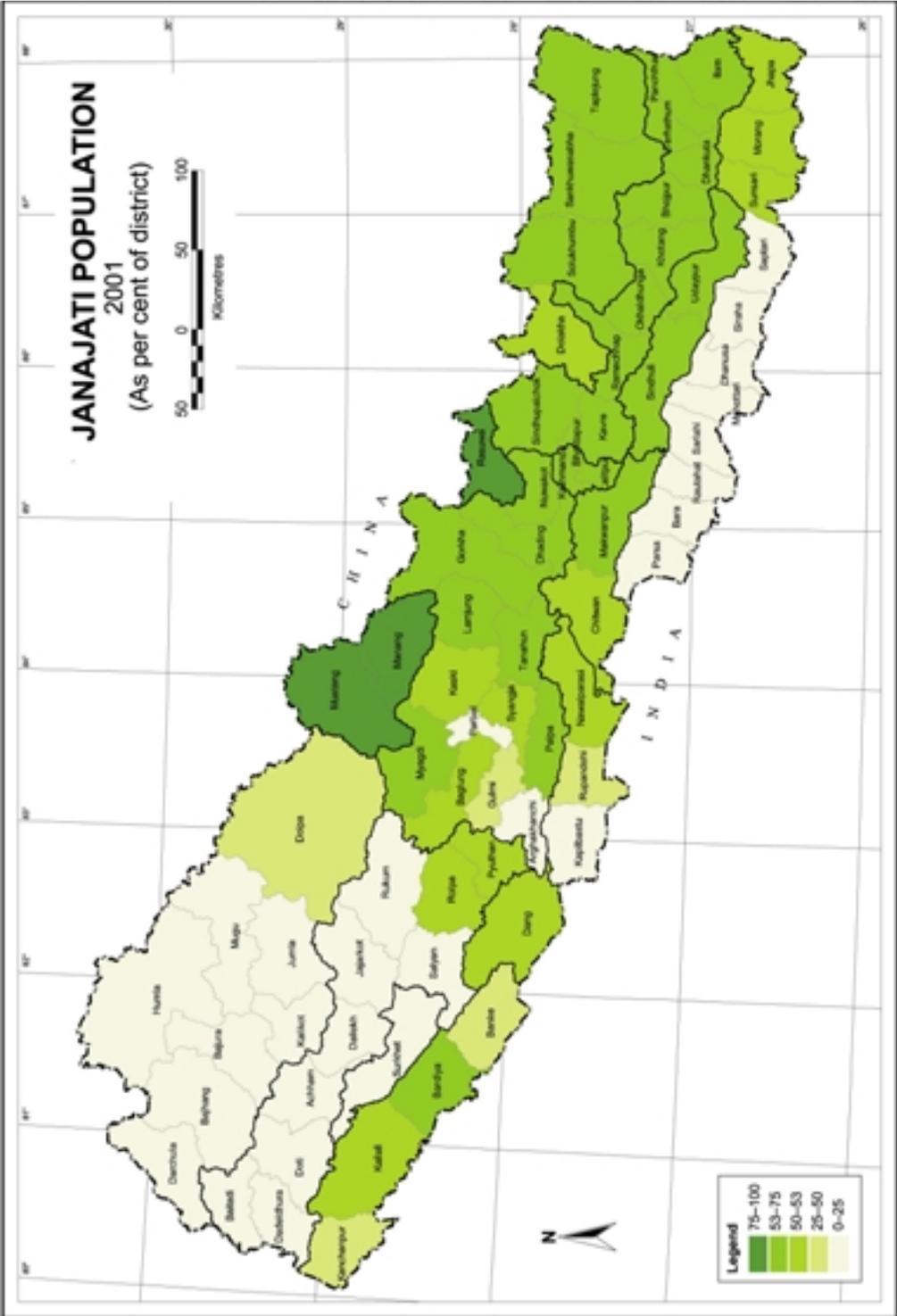
TABLE 6: Representation in government, 1999

	Brahman/Chhetri	Janajati	Madhesi	Dalit	Newar	Others
House of Representatives & National Assembly	159	36	46	4*	20	0
Cabinet	20	4	5	0	3	0
Public administration	190	3	9	0	43	0
Constitutional bodies	14	2	3	0	6	0
Court judges & officials	181	4	18	0	32	0
DDC/ municipality chairpersons	106	23	31	0	30	0

Source: Neupane 2000: 82-83

*National Assembly only

MAP 3 | Distribution of the Janajati population



Source: Harka Gurung

Even after democracy was established the Janajatis, religious minorities (mainly Muslims) and the Madhesi were left on the margins alongside the women and the Dalits.



momentum for social reform. The question most hotly debated *vis-à-vis* Dalit rights is not whether the Dalit castes should enjoy equal rights, but what the best means are to achieve this. The post-1990 shift in values creates unprecedented opportunities to push through measures and policies for Dalit rights.

Responses to ethnic discrimination

Most of the demands of Nepal's Adivasi Janajati (indigenous nationalities) movement centre around issues of governance and political representation. One such demand is the need for constitutional reform to remove discriminatory provisions. Another is for equitable representation, which can be achieved either by changing the electoral system or through reservations – or both. The Janajatis also seek greater equality in linguistic rights and guaranteed access to common properties/resources which they claim were in the past unlawfully expropriated by privileged caste groups.

The government originally prepared a schedule listing 61 Janajati groups, which was later reduced to 59 in the law. (See Table 7.) This number is still fluid however, and subject to change after negotiation. Various complexities are involved in compiling a definitive list. For example, the Rai community encompasses a number of different groups including the Lohrung, Kulung, Chemling, Tachhing and Bahing who speak distinct languages but over the

past two centuries have used the title “Rai” in presenting themselves to outsiders. These groups are now demanding recognition as separate ethnic groups in the government’s list.

Among the groups in the current official list 18 are from Mountain regions, 24 from the Hills, 7 from the Inner Tarai and 10 from the Tarai. Overall the concentration of Janajati groups is heaviest in the eastern part of the country and in the northern Hill and Mountain areas. (See Map 3.) The Census (2001) enumerated only 43 of 59 Janajati groups and reported a population of 8.27 million or 37 percent of Nepal’s population. After incorporating the 16 “missing” indigenous nationalities, their numbers might be as high as 40 percent of the entire population. Four Janajati groups have populations exceeding one million, six have numbers between 100,000 and one million, nine groups have populations of less than 100,000 and some have less than 1,000 people. Several other groups do not exceed 10,000.

As noted in the discussion on poverty, many disparities are found among the different Janajati groups. The Nepal Federation of Indigenous Nationalities (NEFIN) has highlighted this, defining 10 of the 59 Janajati groups as “endangered”, 12 as “highly marginalised”, 20 as “marginalised”, 15 as “disadvantaged” and two as “advantaged” or better off. Thus, the Janajati movement has recognised its own heterogeneity and expects different levels and

TABLE 7: Janajati groups classified by NEFIN based on socio-economic status

Region	Classification of indigenous nationalities				
	Endangered	Highly Marginalised	Marginalised	Disadvantaged	Advantaged
Mountain (18)		Shiyar Shingsawa (Lhomi) Thudam	Bhote Dolpo Larke Lhopa Mugali Topkegola Walung	Bara Gaule Byansi (Sauka) Chhairotan Marphali Thakali Sherpa Tangbe Tingaule Thakali	Thakali
Hill (24)	Bankariya Hayu Kusbadiya Kusunda Lepcha Surel	Baramu Thami (Thangmi) Chepang	Bhujel Dura Pahari Phree Sunuwar Tamang	Chhantyal Gurung (Tamu) Jirel Limbu (Yakthung) Magar Rai Yakkha Hyolmo	Newar
Inner Tarai (7)	Raji Raute	Bote Danuwar Majhi	Darai Kumal		
Tarai (10)	Kisan Meche (Bodo)	Dhanuk (Rajbansi) Jhangad Santhal (Satar)	Dhimal Gangai Rajbanshi (Koch) Tajpuriya Tharu		
Total	10	12	20	15	2

Source: NEFIN

forms of policy and affirmative action for its constituents. The GSEA report recommends a fresh classification to identify all Janajati groups based on poverty incidence, educational levels and key health indicators to serve as basis for eligibility to special state initiatives, including reservations and scholarships, for those most disadvantaged. As noted above, the use of periodically up-dated national statistics as the basis of affirmative action by the state would help ensure that 1) such special assistance does not become an identity-based “entitlement” (as seems to have happened in India), and that 2) only the groups revealed by recent Census, NLSS and DHS data as being most in need, receive such assistance.

Nepal’s Constitution (1990) explicitly uses the term Janajatis in Article 26 (10) acknowledging both their presence and their relative social and economic deprivation. The use of Nepali as the only official language to exclude languages spoken by Janajati groups and by other linguistic minorities like Maithili, Bhojpuri, etc., is discriminatory. However, modest efforts

have been made to use minority languages in newscasts on state-run radio. Also being piloted is a programme to train and use bilingual teachers in primary schools in areas with significant numbers of non-Nepali speakers. (For further discussion see section on education.)

Nepal began planning for the Janajatis only in the Ninth Plan (1997-2002). The Tenth Plan devotes an entire chapter to issues related to the indigenous nationalities. While this is a positive development, it is noteworthy that the plan does not have quantitative targets.

The GSEA estimates the presence of at least 150 Janajati organizations (but claims of numbers as high as 300 have also been made). It is significant that, unlike most Dalit and Women’s organizations, Janajati organizations have not relied on donor or government funding. They

The Janajati community itself has also been ambivalent about receiving donor aid – the opponents argue such support would mean an end to the independent spirit of the Janajati movement.



have generally been financed largely through personal donations and various types of fees, including membership. Some individuals have donated land and buildings to specific organizations and others have created trusts or endowments to fund their activities.

NEFIN, with 48 Janajati organizations (June 2005), is at the forefront of the Janajati movement. Initially it focused on religious freedom, linguistic equality and rights, and the promotion and preservation of culture. More recently it has also raised issues of governance, human rights, biological diversity, indigenous knowledge systems, conflict and peace building, constitutional reform, restructuring Nepal's political institutions including the electoral system, federalism, affirmative action and social inclusion.

Many donors have been unable to clearly differentiate between Dalits and Janajatis. Until ethno-politics was legalised in 1997, donors feared that the dominant caste groups could interpret their support to Janajati-oriented projects as assistance to those who wanted to "tear Nepal apart." The Janajati community itself has also been ambivalent about receiving donor aid – the opponents argue such support would mean an end to the independent spirit of the Janajati movement.

The major demands of the Janajati movement include:

- Constitutional reform. This is both an overarching demand related to many other issues, and an affirmation that the Janajatis want a wholly reformed contract with the state. The movement wants Nepal to be declared a secular state, and all Janajati languages recognised for use in state affairs alongside Nepali.
- State assistance in implementing the acknowledged right of every community to run schools in which primary-level classes are taught in the mother tongue of the students. They want the abolition of compulsory Sanskrit study. They also propose a three-language policy in education and administration: mother tongue, a second Nepali language (in most cases, Nepali itself) and an international language.
- Equitable representation through different measures including "restructuring the Nepali state" by changing the electoral system, and by affirmative action measures to increase the ethnic diversity of the civil service.
- Access to common property resources that were once communally owned as *kipat* land by certain Janajati groups. The movement demands Janajati rights to resources based on recognition of their "traditional right of ownership and usage" especially for forests and pastures. While return to *kipat* land ownership is probably neither logistically nor politically feasible, some recognition of the special rights of Janajati groups to use

forest areas and high pastures that were traditional sources of livelihood may be possible within the scope of existing community forestry regulations and decentralisation policies.

- Full self-determination. On this issue, the general consensus seems to be that the formation of “mini” ethnic states in areas where major Janajati groups are concentrated is neither politically nor economically realistic. (See Map 1 and Map 3.) Instead, there are demands to establish self-governing ethnic autonomous regions within the current unitary state or a newly organized federal polity. Census data analysed by Gurung et al. (2005) show that although some ethnic groups remain concentrated in certain regions of the country, Nepal’s diverse caste and ethnic groups have increasingly intermingled across the landscape – as they have done for thousands of years. Finding a governance structure and electoral system that permits greater self determination and political influence for Nepal’s diverse groups remains a challenge – but genuine implementation of decentralisation is likely to help.





CHAPTER 5



INCLUSIVE SERVICE DELIVERY



V

INCLUSIVE SERVICE DELIVERY

Improving access to health

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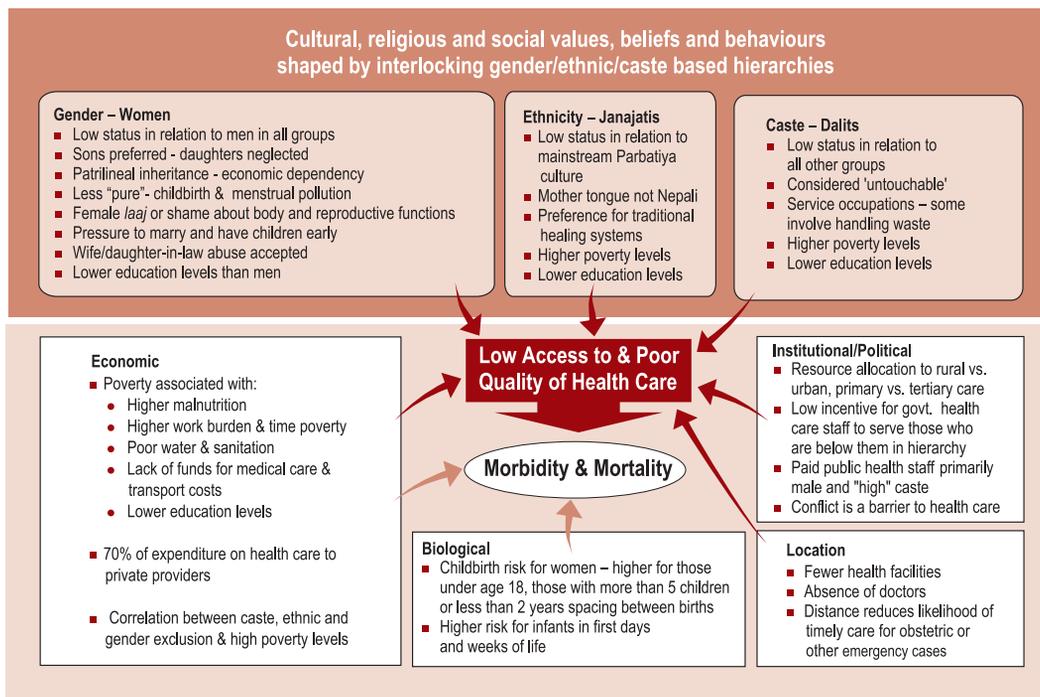
Improving access to education

Improving access to health

Nepal has started to put a greater emphasis on preventing diseases that afflict the poor and has begun reaching out to those with the greatest health burden. It has also started decentralising health care delivery by transferring funds and responsibility for managing health facilities (including sub-health posts and selected health posts and primary health care clinics) to locally constituted Local Health Management Committees (LHMCs) in 28 districts. The logic behind this devolution is that by making health care providers accountable to a local committee, the local residents will have more say in how public resources for health are used, and that consequently the quality of care will improve for the whole community (including the poorest, who are most dependent on public health services). Just how much voice poor and excluded groups will have in the decisions of these local committees, however, is not yet clear. With only 700 of the 3179 sub health posts turned over to date, it is too early to determine whether the decentralisation process is working.

The need to touch patients is central to the delivery of care, yet the socio-cultural obstacle of untouchability has not been discussed or addressed by Nepal's health care system.



FIGURE 22 | Determinants of health outcomes in rural Nepal


In addition, as a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1993) and the UN Convention on the Rights of the Child (CRC, 1989), Nepal implicitly recognises healthcare as a basic citizenship right, encompassing racial and gender equity and equality, sexual and reproductive rights and client-centred services. However, the effort to reorient policy and health services along the rights-based approach remains ad-hoc and immature. The Health Sector Reform Strategy (2004), the basis for the Nepal Health Sector Programme (NHSP), defines the new decentralised healthcare approach. The NHSP is also the framework for the on-going Sector Wide Approach (SWAp) in health.

Nepal's child mortality declined during the 1990s, putting it on track for achieving the MDG of reducing child mortality by two thirds by 2015. Infant mortality has also decreased: between 1996 and 2001, the death of children under age one dropped from 84 to 75 per 1,000 live births. Nevertheless this is still extremely high, as is Nepal's maternal mortality, and there are sharp disparities between different groups that are related not only to economic status, rural/urban residence and region but also to gender, caste and ethnic identity.

Determinants of health outcomes

There are many interrelated factors – cultural, religious and social beliefs and norms (especially those that reflect the entrenched gender, caste and ethnic hierarchies) as well as economic, institutional and location-related specificities – behind these differential health outcomes. (See Figure 22.)

Supply-side factors

Many determinants of health outcomes operate indirectly by reducing the person's access to healthcare and influencing the kind of care they get. (See Figure 22.) Here institutional/political factors are important and are a major focus for policy intervention. These factors include government budgetary allocation and policy attention to rural healthcare and the diseases of the poor and women.

Although many professionals in the government health care service are dedicated to caring for the poor and disadvantaged, too many others have little motivation to serve those who are beneath them in the socio-economic hierarchy. The idea that to be touched by a member of the Dalit caste puts one in a state of ritual pollution or religious impurity is still deeply embedded in people's thinking and integrated into the norms of social interaction in rural Nepal. A World Bank study found that caste discrimination by health service providers was a major barrier to health seeking behaviour among Dalit women (World Bank 2001). Similarly, the DFID supported Safer Motherhood Project found that disrespectful attitudes of service providers towards those beneath them in the caste hierarchy was a major reason that many women did not seek either pre or post natal care or emergency obstetric care (Clapham et al. 2005). As trained scientists, Nepali doctors may not be influenced by ideas of untouchability, but the same enlightened behaviour is not assured for all health service workers. The need to touch patients is central to the delivery of care, yet this potential socio-cultural obstacle has not been discussed or addressed by the health care system.

In addition to location-related service delivery problems, other supply side issues that influence public healthcare include the type of services offered, flexibility in timing for care provision, the public's perception of the quality of care and attitudes of providers. The number of both public and private health facilities has increased over the past decade but the services remain easily accessible only to the richest groups or those closest to urban centres. Generally, most healthcare facilities, including trained personnel, are concentrated in urban areas while rural facilities remain under-staffed and under-supplied.

Another aspect is that whereas women mostly staff the lower health service positions, men mostly staff the higher service positions and this remains a major obstacle to proper healthcare for women, who are often reluctant to be seen by a male physician. The government's recognition of the need for female service providers to reach women patients prompted the hiring of female Mother and Child Health Workers. To overcome the problem of frequent transfers of health staff, these women are purposefully recruited and trained locally and, unlike other government workers, they are expected to remain in their community. At the very bottom of the system are the unpaid Female Community Health Volunteers, roughly one for every ward in the country. These women have been extremely successful in carrying out the biannual vitamin A supplementation and de-worming programmes. With community based training, these female volunteers have also learned to diagnose and treat pneumonia as part of the government's programme on Integrated Management of Childhood Illnesses.

Ascertaining the degree to which the conflict in Nepal has compromised health service delivery is difficult. Anecdotal reports suggest that in some areas healthcare providers have been threatened and forced to abandon their posts – or they have used this as a justification for leaving remote and difficult postings.

Health service delivery is weak due to a lack of trained staff, inadequate supply of drugs and medicines and misallocation of resources.



Demand-side factors

Economic status affects access to and utilisation of health services. In the richest households, per capita expenditure on health is 10 times what it is in poor households (World Bank 2005a). Certain caste, ethnic and minority religious groups have higher poverty incidence; thus they are more likely to face economic constraints to seeking quality health care.

Factors related to gender, caste and ethnicity

Women's health outcomes are directly affected by their subordinate status *vis-à-vis* the men and the senior women in the family. Although the preference for male children varies from group to group, overall females tend to be less valued than males and this is reflected in poorer female performance on all indicators, especially education and health.

Health outcomes are the worst for women because of biology (specifically their reproductive roles). The biological risks associated with childbirth can be compounded by cultural practices including early marriage and child bearing, and food restrictions during pregnancy and during

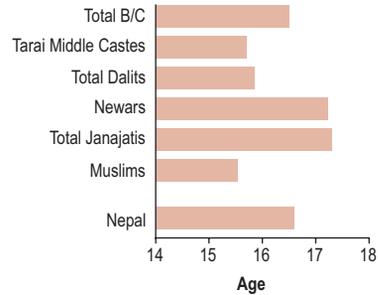
menstruation. In terms of age at marriage in rural areas, Newars and Janajatis tend to marry the latest and Muslims, Dalits and Tarai Middle Castes the earliest. (See Figure 23.) Girls aged 15 to 19 are twice as likely to die in childbirth as are women in their 20s. Childbirth is seen as a normal occurrence not ordinarily requiring medical attention, so pre- and postnatal care may be considered unnecessary in many families. Compounding all of this is the sense of *laaj* or “shame” about their own body and reproductive functions that make it difficult for women to communicate their symptoms – even within the family.

When healthcare usage and outcomes are better for women, they are better for children as well. Brahmans, Chhetris and Newars, who have the best health indicators for women, also have the lowest infant mortality rate (52.5 and 56 per thousand respectively) compared to a national average of 84 (CBS, NLSS I).

As well as differences in poverty incidence between these various groups, the higher average educational status of Brahman, Chhetri and Newar women is another contributing factor in their relatively better outcomes. In addition to strong linkages between education and reduced fertility, a similar relationship between mother’s education and child survival has also been documented. (See Figure 24.)

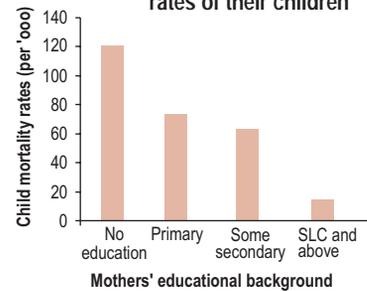
The government has acknowledged and tried to address the problem of gender discrimination as a barrier to health care. But very little attention has been given to how the legacy of caste and ethnicity – and particularly the practice of untouchability – affects the interface between health service providers and patients of both sexes. The under-five mortality rate among excluded groups such as the Gurung, Rai, Limbu, Magar and Tamang is about 133, and among Dalits it is 171, significantly higher than the national average of 105 (UNDP: NHDR 2001 and 2004, IIDS 2004). Figure 25 shows that immunisation campaigns in Nepal have been very successful and that fewer than 10 percent of Nepal’s children have not had any immunisation at all. The average gap between the percentage of boys and girls being immunised is also very small (2.4%).

FIGURE 23 Average age of females at marriage (in rural areas) by caste/ethnicity



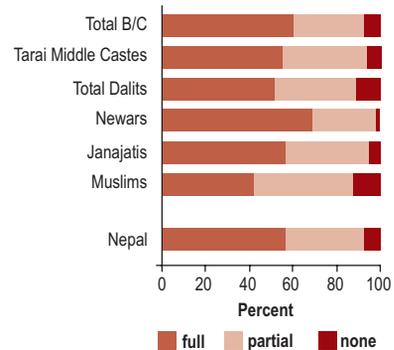
Source: DHS 2001, K. Gajurel

FIGURE 24 Correlation between mothers' education and the under-5 mortality rates of their children



Source: NDHS, 2001
Note: SLC = School Leaving Certificate

FIGURE 25 Immunisation status of children under five years by caste/ethnicity



Source: NLSS II

However, even these very successful campaigns have been less effective in reaching the Tarai Middle Castes, the Muslims and the Dalits.

For Janajatis and members of linguistic minorities in the Tarai, language is also a factor. For groups who do not speak Nepali as a mother tongue – and who may not speak it at all – the absence of health care providers able to converse in their own language makes it difficult to convey their symptoms or to understand instructions for treatment or medicines.

National responses to address social exclusion in health

Clearly some of the determinants of high morbidity and mortality among excluded groups depicted in Figure 22 require actions beyond the health system. Improved transportation and sanitation infrastructure, reduced income and consumption poverty, and increased education levels are all associated with improved health outcomes.

Nepal's PRSP/Tenth Plan accepts that health service delivery is weak due to a lack of trained staff, inadequate supply of drugs and medicines and misallocation of resources. The Health Sector Strategy (HSS) acknowledges the need to reorient the health delivery system towards the poor, but does

Less than 10 percent of Nepal's children have not had any immunisation at all. But even the very successful immunisation campaigns have been less effective in reaching the Tarai Middle Castes, the Muslims and the Dalits.



not discuss how this is to be done – and does not deal directly with the kind of trade offs that would have to be made between equity and efficiency if the most vulnerable are to be reached. Nor does it deal directly with the issue of social exclusion.

The way ahead

The Nepal Health Sector Programme (NHSP) based on the HSS is currently being supported by pooled donor funds through a Sector-Wide Approach (SWAp). The NHSP goal is to establish equitable access to quality healthcare for all. The formal policies and funding put in place by the NHSP are only the beginning. Without passionate attention to the details of implementation, these policies could easily be circumvented, leading to continued exclusion of women, Dalits and Janajatis.

Successful health sector reform will require patient development of detailed formal modalities and mechanisms to overcome the barriers to inclusion; it means recognising the supply-side constraints and putting incentives and disincentives in place to reinforce changes in the behaviour of service providers. This is where good monitoring and evaluation, and social accountability mechanisms are essential to develop greater accountability at all levels of the health care system.

Fortunately, numerous examples can be found in Nepal where this complex change process has been initiated and where improved service is already evident. Most of the interventions are relatively small-scale, however, bringing change only to a few villages or at most to clusters of districts where the projects are implemented. Some essential steps for improving healthcare include:

- Tapping the potential and enhancing the skills of local women health providers,
- Paying attention and ensuring inclusive governance and accountability in the LHMCs, and
- Developing procedures for community social audit of health care delivery and collecting institution-level data on service utilisation disaggregated by gender, caste and ethnicity.

Improving access to education

Reforming public education in Nepal

The state assumed responsibility for the education system in the 1970s and previously locally run schools were turned over to a centralised educational administration. Public education expanded rapidly thereafter, from 7,256

Social inclusion is used to describe the complementary approach that seeks to bring about system-level institutional reform and policy change to remove inequities.

primary schools catering to 102,704 students in 1970 to 23,746 primary schools serving 4,030,045 students in 2004 (Bhatta 2005). Quality, however, did not keep up with the expansion in numbers; average examination scores at grade three and grade five reached only about 51 and 50 percent respectively in 2001. A centralised bureaucracy trying to oversee this vast network of schools and increasing political interference in the hiring of teachers resulted in schools having only 17 percent of trained primary-level teachers, text books arriving late in the school year and teachers often not showing up in the classrooms. The involvement of teachers in party politics during the Panchayat period continued even after 1990 and the politicisation of teachers often affected



government moves to introduce more discipline and quality into the classrooms. In general, public school education has come to be perceived as poor in quality and parents who can place their children in private schools – where the pass rates for the all important SLC examinations are 85 percent as compared to 15 percent in public schools.

Major efforts aimed at making education inclusive

Main elements of the NEFA SWAp To help poor and socially excluded children receive the kind of education that will open opportunities for them, simply getting them into Nepal’s public schools as they are will not be enough. Efforts to improve their access must also be closely linked to overall efforts to improve the quality and accountability of Nepal’s education system.

The Nepal Education for All (NEFA) Core Document (2003) sets out a five-year plan with three primary objectives: (i) ensuring access and equity in primary education, (ii) enhancing quality and relevance of primary education, (iii) improving efficiency and institutional capacity. Donors have come together to support the NEFA as a SWAp rather than embarking on their own separate initiatives. Some have chosen to support this through project funding within the overall NEFA framework whereas others have chosen to pool their funding and channel it through the government’s education budget on the basis of progress on key indicators.

Through the NEFA, HMG/N has committed to provide equal access to educational resources for all communities in Nepali society, including girls and women, linguistic minorities, Dalits and Janajatis. The overall objective of the NEFA is to strengthen Nepal’s institutional capacity at national, district and school levels in order to deliver more efficient and better quality education. From the perspective of social justice, its objective is to foster a genuinely inclusive educational environment in Nepal. The articulation of this commitment came in the form of a Vulnerable Community Development Plan (VCDP) prepared by government. The main focus of the following discussion is on the elements of this plan.

Decentralisation In an effort to reform the system and shift the incentives, in 2001 parliament passed the Seventh Amendment of the Education Act – allowing management of local public schools to be handed over to School Management Committees (SMCs) composed of elected parents and guardians as well as the head teacher. The parents are the main stakeholders in the SMCs and the lawful managers, and also have the right to hire and fire teachers. The head teacher is supposed to present monthly expense statements as well as annual audits to the SMCs, and to prepare a social audit of how block grants are spent. However, these responsibilities are new and the

SMC members have not been trained for these roles. Only 38 percent of schools in a sample survey carried out for the Technical Review (Bajracharya 2005) completed the social audit – and only 16 percent actually made their reports available by public notice.

At present, the SMC requires only a single woman member on the committee. No requirement is made for SMCs to have representation of Dalits or Janajatis. The New Era Baseline Study on community-managed and government-managed schools (June 2005) found Dalits were represented in only one third of the SMCs, despite their considerable population size in the communities served by the schools. The Technical Review found Dalit participation in the SMCs very low, merely four percent of the sample. Female participation was even more alarming, despite the requirement of having one woman member on the SMC. In the sample schools women constituted only two percent of the SMC members. This suggests that greater attention needs to be paid to setting up mechanisms to ensure the creation of more representative parent bodies – broadly reflecting the caste, ethnic and gender profile of the communities they serve.

To help poor and socially excluded children receive the kind of education that will open opportunities for them, simply getting them into Nepal's public schools as they are will not be enough.

Efforts to increase their access must also be closely linked to overall efforts to improve the quality and accountability of Nepal's education system.



The involvement of local community groups

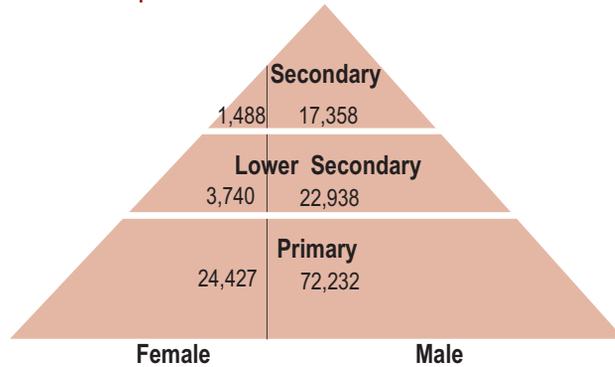
Under the VCDP the SMCs are supposed to sign agreements (MOUs) with community groups to jointly carry out social mapping to help trace out-of-school children and to carry out a social audit to ensure that scholarships go to those most in need. Preventing elite capture and undue politicisation of SMCs is vital for their success. Involvement of community groups is a critical mechanism to provide some checks and balances on the SMCs and to increase their accountability.

Block grant funding with incentives for inclusion The Community School Support Project began in 2003 and has already transferred 8,000 of the approximately 23,000 schools to community management with block grant financing. The project makes progressive block grants tied to performance in support of improved student educational outcomes and inclusion of girls and Dalit and Janajati students. From a basic block grant of NRs.10,000, the SMCs can receive as much as NRs. 50,000 per year if they meet all the performance requirements. This mechanism will create incentives for communities to reach out to children from socially excluded communities.

Increasing the diversity of teachers Schools with female teachers tend to attract more female students. For that reason the policy of having at least one female teacher per school in multi-teacher schools was established over a decade ago. However, the policy has still not been fully implemented. Currently only 25 percent of teachers are women, an increase of only four percent since 1996 – and these are heavily concentrated in urban areas. While the number of women teachers is insufficient at the primary level, their proportion declines even further at lower secondary and secondary school levels. (See Figure 26.) Not surprisingly, the districts with the lowest proportion of women primary school teachers in 2001 (e.g. Bajhang, Achham, and Baitadi) had very low female net enrolment rates.

The Technical Review (Bajracharya 2005) noted that just as having a woman teacher tends to attract girl students, having Janajati or Dalit staff members has a positive impact that manifests in greater enrolment of students from these social groups. Unfortunately, however, the review noted that as of now, the majority of teachers in the sample of 1,000 schools surveyed were

FIGURE 26 | Total number of male and female teachers (2001)



Source: School Level Educational Statistics of Nepal, MOES 2001

from the Brahman/Chhetri group; 23 percent were from Janajati groups and only two percent were Dalits.

Incorporating local languages and cultural diversity in the primary school curriculum: overcoming language-based exclusion Overall, 52 percent of Nepalis do not speak Nepali as their mother tongue and this puts non-Nepali speakers at a disadvantage in terms of access to education. For most Janajati children Nepali is not their mother tongue so they are introduced to school and to a new language at the same time. Success in Nepali medium primary schools is also difficult for many people from the Tarai who speak Maithili, Bhojpuri or Hindi as their mother tongues. The main causes of dropout among both these groups of children are: 1) the absence of a curriculum representative of Nepal's ethno-linguistic composition and 2) few teachers who can speak local languages to assist children to understand the lessons taught in Nepali.

Implementation of the constitutional provision for primary education in the mother tongue faces institutional inertia for two reasons: 1) the complex and emotive issues of mother tongue education when the government sees universal fluency in the Nepali language as an important source of social cohesion and 2) the very real financial and technical difficulties of providing such education in a nation with some 127 languages – though only a few have a literate tradition. Indeed, many rural indigenous people would prefer to have their children learn Nepali – along with English – since they see these skills as clearly related to future economic success. For increasingly vocal ethnic activists, however – and for many belonging to linguistic minorities or indigenous groups – the failure to implement the promise of mother-tongue education is part of what they see as a larger failure of the state to ensure equal access to public services, economic opportunity and political voice to all social groups.

Two key goals of education are: 1) to impart the basic skills and knowledge a child needs to be economically successful in life and 2) to give each child a sense of social identity. The state is taking on the responsibility of ensuring that non-Nepali speaking children achieve the first goal through developing and implementing a bilingual education module for schools with large numbers of non-Nepali speaking students. This module aims to facilitate language transition for non-Nepali speaking children by employing bilingual women teachers from the local community. To achieve the second goal of building social identity, communities themselves can take responsibility by collecting and documenting information on their own history and culture for use in the curriculum, since up to 20 percent of the overall curriculum is now permitted to be decided locally. A pilot project is being imple-

mented to develop the Bilingual Module. While the approach is still only being tested in a small number of schools, it will be important to carefully monitor this pilot and learn from it in order to eventually integrate this approach into the national education system wherever significant non-Nepali speaking populations reside.

Monitoring progress on social inclusion For the NEFA, measuring results in terms of enrolment, retention and completion rates is core to the design and funding mechanisms of the SWAp. The Vulnerable Community Development Plan also commits to track gender parity and the inclusion of Dalits and Janajati children.

The Flash Report which has now completed three rounds is a major vehicle for tracking inclusion. It is an impressive effort that asks every school in the country to report on a number of parameters and actually processes the data and makes the results available rapidly enough so that managers at all levels in the education system (including the SMCs) should be able to assess their situation and make course corrections.

However, the system is facing a number of challenges that need to be addressed if the data are to be meaningful. Getting consistent and accurate data from the field continues to be a challenge. For example, some 20 percent of schools did not respond on the first Flash Report and it is not clear, when schools do report, that they have clear and consistent definitions of the different social categories being tracked – especially for the Janajati group. As noted earlier, the broad Janajati category contains many groups (like the Newar and the Thakali and others) who have high human development indicators and it is important to distinguish between better off and disadvantaged Janajatis – especially when trying to track performance on social inclusion in education. The high participation of the more advantaged Janajati groups could easily mask poor outreach to disadvantaged groups. Also, the reporting formats in the Flash Report do not indicate how the reported numbers on children from different groups relate to the total number of children in the appropriate age cohort in the population of a particular district – information that is



Literacy rates are improving for both males and females, faster for females so the gender gap is narrowing. Nepal should achieve gender parity in enrolment by 2010.

important to give a sense of whether out-of-school children in a particular group are being reached.

Beyond primary education Primary education is the foundation for ensuring educational parity among various groups, which is also the first step towards effective social inclusion. The excluded groups in Nepal are virtually unrepresented in higher education, and this is largely due to exclusion at the lower levels. Reforming education from below must be matched with affirmative action initiatives from above to support higher education of members of excluded groups who have managed to overcome the odds. (See discussion of affirmative action.)





CHAPTER 6



INCLUSIVE GOVERNANCE



VI

INCLUSIVE GOVERNANCE

Local development groups and coalitions for influence from below

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Affirmative action

The issue of governance is at the core of this report – as suggested by its title, which focuses on equal citizenship. In this section the report presents two promising approaches for realising the goal: one – group-based development – that draws its strength from the grassroots but needs to be nurtured by the state, and another – affirmative action – where the state must take the lead.

Local development groups and coalitions for influence from below

Nepal has a long tradition of local civic organizations. Many of the traditional groups were organized on the basis of religion but their functions also encompassed secular management of common resources. Over the last 30-40 years, the customary groups have been supplemented by “sponsored groups” – most formed by state agencies, donors and NGOs for specific development objectives such as service delivery, livelihood improvement, infrastructure building, resource management, credit extension and empowerment. Table 8 gives an indicative typology of group-based institutions.

Some grassroots groups have begun to replicate themselves and have organized themselves into larger federations – some at the district level, some at the national level and a few that even articulate loosely with international advocacy groups. These higher-level associations give voice and added political representation to their constituents through lobbying for policy change, networking and publicity campaigns. In terms of the GSEA conceptual framework, local level groups are an important mechanism

Local groups such as the community forestry group shown below are becoming a powerful social force that can change the rules of the game. The placards shown below read, “Establish community forestry rules;” “Stop insurgents from destroying our community forests”.



through which bottom up *empowerment* – however partial and contested – has been taking place in Nepal. When such groups federate, some like FECOFUN, SPOSH, NEFSCUN and many others – have demonstrated the potential for influencing “the rules of the game” at the district and national level to make the overall opportunity structure in Nepal more inclusive.

A major challenge for the stalled decentralisation agenda, despite the provisions in the LSGA, is the clarification of roles and responsibilities – not only between the central line ministries and locally elected bodies, but also between the latter two and local civil society groups like the school management committees, forest user groups etc., many of which have been given significant control over state resources. Attention needs to be given to determining the comparative advantages of each of the three actors, coordinating their efforts and ensuring that there is adequate representation of excluded groups and their interests at all levels.

TABLE 8: Indicative typology of group-based institutions

Trusts	Associations/Networks*	Committees	Cooperatives*	Federations
<ul style="list-style-type: none"> ■ Farmer Managed Irrigation System Promotion Trust (FMIS) 	<ul style="list-style-type: none"> ■ District IPM Farmer Field School (FSS) Association ■ Association of IPM Trainers (TITAN) ■ Seed Sector Support Group Network ■ Himalayan Grassroots Women's Natural Resource Management Association (HIMAWANTI) ■ NTFP (Non-Timber Forest Products) Association ■ CDG (Community Development Groups) Network# 	<ul style="list-style-type: none"> ■ Chairman/ Manager Committee (in VDCs) ■ Phewa Tal Fishers' Enterprise Committee (of Pokhara) ■ School Management Committees (SMC) 	<ul style="list-style-type: none"> ■ Society of Women's Unity, Nepal (NMES) ■ Mushroom Cooperative (of Pokhara) ■ Production Credit for Rural Women (PCRW) Cooperatives (individual names vary) ■ Horticulture Cooperative (of Bardiya) ■ Credit Cooperative (national) ■ Milk Cooperative (national) ■ Savings and Credit Cooperative Society (SACCOS) ■ Small Farmers Cooperative, Ltd. (SFLC) ■ Kaski District Fish Growers Association (KDFGA) ■ Microfinance Association of Nepal (MAN) 	<ul style="list-style-type: none"> ■ Society for Preservation of Shelters and Habitations in Nepal (SPOSH) ■ Federation of Community Forest Users, Nepal (FECOFUN) ■ National Federation of Irrigation Water Users Association of Nepal (NFIWUAN) ■ Nepal Federation of Forest Resource User Groups (NEFUG) ■ National Federation of Savings and Credit Cooperative Unions, Ltd. (NEFSCUN) ■ Federation of Water and Sanitation Users in Nepal (FEDWASUN)
<p>* Some formal (registered) federations call themselves associations; while some associations and networks are informal (unregistered).</p> <p># CDGs are formed by the Department of Soil and Water Conservation. They are similar to the forestry user groups (FUGs) of the Department of Forests. The CDGs have formed a network to obtain information and to share activities.</p>				

(The lists in this table are illustrative and by no means complete; they serve as examples only.)



Nepal's Constitution incorporates decentralisation as one of the directive principles and policies of the state. Decentralised governance – the devolution of initiative, authority and resources to local bodies and organizations – has been conceived within an overarching state apparatus. The Maoist conflict, however, has reduced the effective reach of both elected governing bodies and administrative agencies in the countryside. The elected local bodies that were to be the pillars of grassroots democracy and the institutional anchors for decentralisation have remained inoperative since July 2002, after which several non-elected alternatives have been tried out with limited success. How development groups used to operating without coordination with or accountability to local authority will relate with the elected bodies when they are reinstated remains to be seen.

Another issue concerns the barriers that many groups face in obtaining legal registration as a federation or association at the district or national level. These organizations can register either as NGOs (with the CDO at the district level) or as cooperatives (under the Cooperative Law). Registration as an NGO has become more problematic recently due to current restric-

Groups remain an effective modality for empowering and facilitating greater inclusion for women and for producing longer-term positive development outcomes. The MESI study found that membership in a group was associated with an increase in empowerment levels.

tions imposed by the new NGO code. There are also certain persistent difficulties in the Cooperative Law, namely the outmoded restrictions prohibiting the formation of more than one of a particular type of cooperative per district. In some districts this restriction has allowed certain powerful groups to establish a monopoly and has kept grassroots based cooperatives from registering. Hesitation on the part of the government to register new cooperatives may also be due to the concern of financial regulators at the national level over the growing number of scandals involving urban savings and loan cooperatives, some of which have disappeared or gone bankrupt and absconded with members' savings. Recognising that the latter situation is quite rare in rural cooperatives, where membership participation is active, the government is considering the establishment of a new regulatory institution for second tier financial service providers (such as microfinance NGOs, the Grameen replicators and savings and credit cooperatives). Better regulatory supervision may remove the hesitation to register rural primary cooperatives. However, the issue of allowing only one of each type of cooperative to register in each district remains.

Some GSEA findings relating to groups include:

- A background study carried out by the GSEA attempted to roughly estimate the total number of local-level groups, based on statistics available and separate studies done by 17 agencies. Based on data on programmes in nine sectors, about 400,000 local groups are operating in Nepal (Biggs et al. 2004a; Biggs et al. 2004b).
- Hill areas are more likely to have group-based development activities than the Terai and Mountain regions.
- The idealised notion of "community" fails to recognise factional interests within communities: class, caste and gender-related conflicts can and do occur even within the community forestry groups, which are said to be the most successful of the local development groups.
- Groups remain an effective modality for empowering and facilitating greater inclusion for women and for producing longer-term positive development outcomes. As noted earlier, the MESI study found that membership in a group was associated with a five point increase in empowerment levels. However, disparities are found in terms of empowerment, with Brahman, Chhetri and Newar members of groups tending to benefit the most.
- Although women are fairly well-represented as group members, in mixed gender groups they continue to play a less prominent role on the executive committees. Data on group membership and leadership disaggregated by caste and ethnicity is almost non-existent.

BOX 14 | Fishing for guaranteed livelihoods

There are some examples of groups that have successfully developed sustainable livelihood activities in collaboration with government agencies. Two government agencies, the Directorate of Fisheries Development and the Fisheries Research Centre (FRC) working with local Fishers' Enterprise Committees in the Pokhara valley have helped improve fishing practices and protect the fishing rights of the *Jalari*, the occupational fisher caste.

The livelihood of the low-caste *Jalari* was threatened after the catch in the lakes of Phewa, Begnas and Rupa began to decline in the early 1970s. The FRC then stepped in to help the nomadic fisher-folk by introducing Subsistence Cage Aquaculture as a substitute to traditional fishing. By the mid-1980s the *Jalari* fishers in the Pokhara lakes had organized themselves loosely into groups that were formally structured only in the 1990s. A women's sub-group — Machhapuchare Mothers' Group — was also formed. This sub-group undertook anti-drinking and anti-gambling campaigns and other social activities within the community.

A few years ago the Kaski District Development Committee (DDC) was planning to call for bids for fishing rights in the Phewa Lake and a real possibility existed that other parties could have outbid the *Jalari* fishers. In collaboration with the FRC, the Phewa Tal Fishers' Enterprise Committee successfully lobbied the government to withdraw the tender. In return for cancelling the tender notice the Committee promised to pay the DDC a tax per fish harvested, and to maintain the lake environment by regular clean-ups and annual re-stocking of fingerlings. Collective action helped the *Jalaris* retain their exclusive rights and continue making a living from the lake.

All three big lakes in the Pokhara area now have Fishers' Enterprise Committees and these have federated to form a higher-level Kaski District Fish Growers Association, which has been registered at the Kaski District Administration Office. The Association has an advisory board with a representative from the District Agriculture Development Office and the FRC. The Association's constitution does not specify a fixed gender quota for the executive committee, but it currently has two elected women members.

- The opportunity cost of group membership and activities remains high for Dalits and other poor and excluded groups whose daily livelihood struggles leave very little time or energy for such activities. As noted earlier, the MESI study found that better off villagers were seven times more likely to belong to a group than poor villagers.
- Often homogenous groups – in terms of gender, caste and ethnicity – are best suited for serving the interests of disadvantaged groups. Clearly, “elite capture” is more likely in mixed groups. The full potential of local organizations to empower the poor and socially marginalised thus remains to be fully realised. Not enough attention has been given to the governance structure of groups, especially in terms of building in checks and mechanisms to prevent elite capture and to ensure wide representation.

BOX 15 | Mindset needed for effective affirmative action

Within the bureaucracy, affirmative action is a long, hard process that only begins once the policy and institutional frameworks are in place. Affirmative action is both a political and an organizational change problem. Political action imposing an affirmative action programme and a set of targets without an organizational change process will result in a policy, but little action. Organizational change without political involvement maintains the interests of privileged groups and uncouples affirmative action from the larger question of social exclusion.

The opposition to reservations within the bureaucracy is pervasive and high. Those who genuinely believe that reservations are good for the civil service are in a distinct minority and even they are more likely to support the greater inclusion of women in the bureaucracy than increased representation by either Janajatis or Dalits. For Janajati and Dalit groups, the concessions that are being hotly debated among those in power are irrelevant – far less than either what they expect or what they are demanding.

Change will require a complex mixture of political and senior management commitments, the communication of that commitment, and pressure for results, as well as negotiation and dialogue. It will require support for learning and capacity building – both on the part of the new entrants and on the part of those already in the system (who may need to be sensitised to the new realities).

It will also need to put into place human resources systems such as recruitment, testing, hiring, training, mentoring, and promotions and cultural change. The process of change is dynamic and iterative and needs continuous fine-tuning. Implementing affirmative action sets into motion various parts of the organization and as each part changes in response to events, the cycle is repeated and each is able to secure greater resources, information and legitimacy.

At the end of the day, affirmative action must benefit those who most need help. Paraphrasing Gandhi, we have to ask if the steps we are contemplating will restore to them control over their life and destiny.

Selected case studies show that the livelihood aspects of development can be addressed through group-based programmes when they are appropriately implemented. (See Box 14.) The income of disadvantaged populations can be raised by fostering savings-based microfinance organizations and through organizations that promote new employment and economic activities. However, implementing such activities is problematic because programmes that can offer the kind of comprehensive technical support needed are rare.

The quiet revolution underway in Nepal is the expansion of the impetus for group-based collective action from the village level to district, national (and sometimes international) arenas through group-based federations and associations. These movements seek new platforms and aim to influence policy at higher levels. Groups, therefore, have the potential to support member empowerment by forging and practicing new, more egalitarian rules of the game for social and economic interactions – and by putting pressure on the existing power structure to do the same.

Affirmative action

Affirmative action seeks to correct historical disadvantages and unfair discrimination by enabling access to full opportunity and benefits to groups that have been excluded. Overcoming the legacy of past inequality involves more than allotting some reserved seats in elected or administrative government, or in university admissions, etc. To be effective, affirmative action must be based on a holistic approach that addresses not only formal governance structures and electoral systems but also informal and entrenched behaviours, attitudes and networks of preference and patronage that are all part of the existing system.

Based on the assumption that people are the same and that they start from the same point, many well-intended government policies practice *formal* equality in their treatment of citizens. In contrast, governments that practice *substantive* equality recognise that treating everyone equally without recognising the legacy of historical discrimination ends up perpetuating inequality. So substantive equality approaches to affirmative action focus on remedying past discrimination. This is naturally contentious because it is essentially about shifting power relations and the space for even marginal change is highly contested.

Affirmative action does not necessarily overrule the “merit” principle – though this has often been an issue raised by those who resist change – as long as the basic qualifications needed for performing specific functions remain as essential criteria. However, those who define merit often represent a select and privileged minority rather than the broad citizenry. Contemporary approaches to affirmative action in both the private and public sectors are based on the management discovery that a diverse workforce is a better workforce. For

In order to be truly effective and sustainable, affirmative action requires a broader social and political commitment to equality and human rights, as articulated by the Constitution, laws and policies.



the private sector, this means that the firm will be better able to understand and respond to the needs of a diverse customer base. For the civil service it means that the bureaucracy will be more representative of, more responsive to, and hence seen as more legitimate by a diverse citizenry.

Affirmative action as currently debated in Nepal relates not only to the civil service, but also to elected government and to the education, employment and health sectors. In many countries affirmative action also encompasses changes in the electoral system in ways that ensure proportional representation of different groups. This may be part of the answer in Nepal as well. (See Box 16.)

The earlier discussion on human development and political poverty documented the disparities in the health and education levels of women, Janajatis and especially Dalits compared to other groups, as well as their low levels of representation in the nation's governance institutions. The government's current views on affirmative action are not clear, however. The need for some sort of affirmative action for these groups is not disputed but the modality has been the source of some contention – as well as the issue of which groups should be included.

In December 2004, a High Level Reservations Committee was established under the chairmanship of the then Finance Minister with the mandate to prepare a report with recommendations for affirmative action measures for women, Dalits and Janajatis. At that time MOGA was also preparing a “road map” for affirmative action in the civil service, and one formula for reservations circulating in the halls of the bureaucracy was 20 percent for women; 10 percent for Janajatis and five percent for Dalits or 35 percent overall. A change of government caused the High Level Reservation Committee to be disbanded before it could present its report and no follow up has taken place.

The government's hesitation to recommend specific quotas for reservations in the civil service stems from the concern that such

Affirmative action and education are helping to level the playing field and bring greater prosperity to all groups.



a move might undermine the civil service's reputation as a meritocracy. However, the second amendment of the Civil Service Act passed by the cabinet in July 2005, while it avoids setting specific percentages of reserved posts, does (for a period of five years) permit the government to "recruit candidates from among women, Dalits and Janajatis and disabled people by organizing separate open-competitive examinations for a stated number of positions." MOGA is currently developing the details of the affirmative action process to be followed for the next civil service recruitment in 2006 and is also putting in place a longer term affirmative action plan that goes beyond quotas to lay out a more comprehensive change in the management process that will not only increase the number of women, Dalits and Janajatis in the civil service, but will also lead to a greater diversity of skills and perspectives, with the ultimate goal of staffing a civil service that is better able to represent and respond to Nepal's diverse citizenry.

One of the biggest challenges of the affirmative action agenda is the low number of qualified candidates in certain groups such as the Dalits, who as noted earlier, make up less than one percent of those holding BA or higher degrees. An effective "road map" to affirmative action needs to address this dimension – perhaps through a special programme to develop a "pipeline"

BOX 16 | Alternative approaches to proportional representation

Lawoti (2005) has proposed two possible proportional representation (PR) systems geared to guarantee the representation of smaller parties – including those based on ethnic identities – in the House of Representatives (HOR), based on the popular votes they receive in elections. One system would be based on a simple PR system in which parties announce their national candidate lists and receive an appropriate number of seats in the HOR according to their share of the popular vote. Another system would be a mixed system in which half of the HOR is filled through the "first past the post" method and the remaining half through the PR method. Lawoti believes that either of these options would have given the smaller parties more seats in the HOR than they received after the 1999 national elections. For that reason alone, he argues that the PR electoral system is more inclusive and desirable for a multi-ethnic society like Nepal.

Political scientist Krishna Khanal (2004b) has offered another model for adopting the PR electoral system, one that would result in a legislature even more representative of the Nepali population in terms of ethnicity/caste than Lawoti's proposed models. Khanal argues that the electoral appeal of smaller parties, including the ethnically based ones, is weak. His model is thus geared more toward representing social-cultural-ethnic formations in proportion to their shares in the total population. He proposes a 14-constituency system based on Nepal's existing districts.

Both Khanal and Lawoti caution that the PR system is likely to result in a HOR where no political party will have a majority and hence the Nepali electorate will have to be prepared to face a culture of coalition governments. See Lawoti (2005) and Khanal (2004a; 2004b) for further details of the respective PR electoral models they advocate.



With a few exceptions (such as that shown above) men from the Brahman/Chhetri group have dominated cabinet appointments and their presence in the civil service has increased from 70 to 90 percent between 1985 and 2002.

of qualified candidates by offering scholarships for 10 plus 2 and university education to girls, Dalits and disadvantaged Janajati students with the top SLC scores in the public school system in each development region or, if possible, in each district.

Fostering genuine diversity in Nepal's civil service will require a complex mixture of political and senior management commitment, communication of that commitment, and pressure for results, as well as negotiation and dialogue. It will also require support for learning and capacity building of both new entrants and those already in the system.

Affirmative action in the education and health sectors has – at least formally – been built into the primary education SWAp and the Health Sector SWAp through the mechanisms mandated in the Vulnerable Community Development Plans (VCDP) for each of these national programmes. In addition, criteria for access to scholarships under a new Work Study Programme in higher education now consider gender, caste and ethnicity in addition to economic need for eligibility for the subsidy portion of the programme. This should help increase the pool of qualified women, Dalits and disadvantaged Janajatis.

Within the bureaucracy, affirmative action is a long, hard process which only begins once the policy and institutional frameworks are in place. Affirmative action is both a political and an organizational change problem. Political action imposing an affirmative action programme and a set of targets without an organizational change process will result in a policy but little action. Organizational change without political involvement maintains the interests of privileged groups and uncouples affirmative action from the larger question of social exclusion

Probably the most contentious sphere for affirmative action is in elected government. In the existing system, in addition to the mandatory inclusion of a certain proportion of women in various tiers of local government, the political parties are also required to put up women candidates for at least five percent of the constituencies they contest. As we saw in the section on “political poverty” however, none of these provisions seems to have brought much change in this male controlled arena. This is one area where the political parties have failed. The internal power structures of main political parties have never been very representative in terms of gender, caste or ethnicity of the diverse citizens they claim to represent. Women have made

up less than 10 percent of the central committee membership of the three main parties and, while the RPP includes about 25 percent Janajatis in its central leadership, the two major parties (the Nepali Congress and UML) had only ten and three percent respectively – even though Janajatis represent over a third of Nepal’s population. None of the parties has had a single Dalit on their Central Committees.

The lack of women and other excluded minorities in the leadership of the major political parties persists even though all the political party manifestos commit them to promoting gender, caste and ethnic equality. For years Nepal’s politicians have been able to say one thing and do something else with apparent impunity. A functioning democracy requires credible political parties. One urgent step the parties need to take to restore their credibility and regain their rightful place as the legitimate leaders of democratic Nepal is internal reform to bring greater transparency, accountability and inclusiveness to their own organizations. As long as the mindset of the party leaders and the internal power dynamics of their organizations continue to be structured on the basis of caste, ethnicity, gender and age – hierarchies left over from feudal times – the parties will lack the legitimacy they need to guide Nepal out of its current governance crisis. One of the major parties appears to have begun the process of internal reform by setting aside positions for women, Dalits, Janajatis and Madhesi candidates as well as for a candidate from the long neglected Karnali zone in its January 2006 elections to the Central Working Committee (CWC). If, when democracy is restored, these new CWC members are able to effectively speak out for the groups they represent, perhaps more attention will be paid to actually implementing some of the long-standing promises of social inclusion in the party manifestos.

The parties, however, have not been unique in their failure to match their words with action or to align their informal behaviour with formally espoused policies regarding caste, ethnic and gender discrimination. The point is, that like all policy reforms, affirmative action as a lever for social inclusion is necessary but not sufficient

Even though the BCN group ranks highest in all well-being indicators, it is so large that one must keep in mind that there are many poor Brahmans and Chhetris in rural Nepal.



to bring about significant and sustainable positive outcomes for socially excluded groups. In order to be truly effective and sustainable, affirmative action requires broad social and political commitment to equality and human rights, articulated by the Constitution, laws and policies. In other words, translating the formal commitments into reality will require a change in the internal values and behaviour of Nepali citizens.





CHAPTER 7



SUMMARY AND PRIORITIES FOR ACTION

VIII

SUMMARY AND PRIORITIES FOR ACTION

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Key action points

After centuries of thinking about themselves as subjects of feudal rulers, more and more Nepalis are now beginning to see themselves as citizens of a democratic state. Although the pace of this fundamental change in self-perception is uneven among groups at different levels on the social hierarchy, it is now being embraced even by those traditionally at the lowest echelons – especially women, Dalits and Janajatis. This change in self-perception has also altered expectations: people do not want to plead for favours from the powerful. Instead of patronage, they want rights – the same rights that are accorded every citizen by law. All segments of society want to be included and they want uniform “rules of the game” to apply to all social players across the board. Social inclusion and empowerment are the interrelated processes that can bring this about.

The GSEA study provides insights into the various dimensions of social exclusion in Nepal. Overall, the main findings of this study are:

- Democracy has ushered in numerous new organizations and has created the space needed for debate and freedom of expression. This in turn has led to the emergence of genuine social movements in response to exclusion and the obvious inconsistency between exclusion and democracy.
- Society has progressed from feudal *patronage* through a period of state-dispensed *welfare* to an era where *rights* are the legitimate basis of citizens’ demands and the state’s responses. The shift from subjects to citizens has progressed but remains incomplete.
- Labels for many diverse identities have changed. Groups that had been traditionally excluded are reasserting their identities or constructing new identities in an attempt to reflect a rediscovered pride in being part of their own group. The discourse is shifting from *sano jat* to Dalit, from tribal or *matwali* to Adivasi Janajati. Women are redefining themselves in the *Shakti* dimension to balance the previous docile Sita and Savitri images of the unquestioning, obedient and dependent wife.
- Mainstreaming: excluded groups are not content with piecemeal schemes that allocate small amounts of public funds exclusively for them as special interest groups. Instead, they want the structural barriers that

Exclusion is one of the factors behind the current conflict. Lack of voice, political representation and empowerment are as important dimensions of poverty as the economic and human development dimensions.



have kept some groups from gaining full access to mainstream programmes and services systematically diagnosed and removed. They want specific mechanisms (governance rules, incentive regimes and monitoring systems) in place to help overcome these barriers.

- There is widespread recognition that in order for democracy to function properly the political parties need internal reform. They need to lead by example – restructuring themselves along lines that are more democratic and inclusive. The women, Dalit and Janajati wings within political parties, with their deep grassroots links, have the potential to become influential allies in the move towards social inclusion but first these important constituencies need to have greater voice and influence within their own parties.
- The exclusions overlap. Gender, caste and ethnicity have cross-cutting dimensions; therefore inclusion efforts need to be advocated within the many different hierarchies, sectors and institutions that make up Nepali society.
- Many of the social transitions that are brought about by inclusion and affirmative action are initially painful and unsettling because they threaten the entrenched existing power structures – as well as some of the deeply held values and meaning systems through which individuals and groups define their very identity.
- Nepali citizens (in government and civil society) who are pushing for reforms in support of social inclusion have already begun the process of re-defining themselves in terms that emphasise the egalitarian elements in their own tradition and blending these elements with generally accepted democratic norms.
- There is a pattern of persistent gaps between promises made in periodic plans and policy statements and outcomes on the ground. This well known “implementation gap”, frequently cited as the reason for project or policy failure, is not just lack of “capacity”. It also reflects the fact that many in positions of power do not welcome change and continue to be able to call upon informal networks to thwart the intentions of officially sanctioned policy change. Elite resistance remains a continuous challenge, and the possibility of reversal of progress is a constant threat. Nevertheless, consensus is growing that in the long run full inclusion is crucial to broad-based poverty reduction and lasting peace.
- The absence of parliament since 2002 and the resulting legislation block has retarded the legal and policy changes needed to eliminate exclusion. Among these is implementation of the framework set out in the LSGA.

Decentralisation is central to the demand by many excluded groups for a greater voice in local governance. An effective decentralisation process can set off inclusion from the grassroots which, when matched by appropriate policy responses from the top, can create an environment where the basis for settling differences is through dialogue and negotiation rather than intimidation and violence. Decentralisation is thus an important foundation for lasting peace.

- Disaggregated data and analysis along the lines of gender and caste/ethnicity is essential to change. Only by consistently and accurately tracking exclusion can accountability and incentives for its elimination be created. Reliable data are especially important for inclusive budgeting – a key tool to eradicating exclusion.

Many recommendations have been made throughout this summary of the Gender and Social Exclusion Assessment. Some are implied; others are more directly stated; some are directed at HMG/N, while NGOs, academicians and other members of civil society or donors can implement others. Some can be acted on immediately to produce results quickly while others, that involve deep structural and cognitive changes, will have to be implemented over the long term and are aimed at producing fundamental societal changes. The following chart presents twelve points that, from our many consultations, the GSEA team considers to be the most important policy actions to be undertaken. It lists the action, the justification for that action, the lead (in upper case), and the supporting actors who need to take responsibility for implementation (in lower case).

KEY ACTION POINTS

	ACTION	BASIS FOR ACTION	RESPONSIBLE ACTORS *
1.	<p>Incorporate an inclusion lens into the government planning, budget allocation and monitoring process to ensure full access for women, Dalits and Janajatis in all core government services and development programmes. This approach to public expenditure would expand the concept of "gender budgeting/auditing" that has been increasingly adopted by HMG/N.</p> <p>Steps towards inclusive budgeting would entail:</p> <ul style="list-style-type: none"> ■ Conducting a systematic analysis of all mainstream programmes to identify barriers to access for women, Dalits and Janajatis; ■ Developing specific mechanisms and incentives to overcome the barriers; ■ Assigning clear accountability for achieving the inclusion objectives in all sectors; ■ Developing clear outcome indicators disaggregated by caste, ethnicity and gender; and ■ Tracking indicators in real time sectoral monitoring and evaluation systems linked to the PMAS to ensure effective corrective policy actions. 	<p>To date the government has only proposed piecemeal solutions to the problem of social inclusion in the form of "targeted programmes". Currently funds earmarked under the inclusion pillar of the PRSP amount to just over 6% of the budget. This is clearly inadequate to create a level playing field for excluded groups and to meet the PRSP inclusion goals. In order to be effective, inclusion needs to be adequately funded and fully embraced by all government programmes.</p> <p>Structural change towards social inclusion as envisaged by the PRSP is possible only with 1) increased, focused investment by both government and donors to assure inclusion across all core services and development programmes and 2) systematic monitoring of results.</p>	<ul style="list-style-type: none"> ■ GOVERNMENT ■ donors
2.	<p>Make organizational changes for effective implementation of the inclusion pillar:</p> <ul style="list-style-type: none"> ■ Establish a national inclusion task force in the National Planning Commission to coordinate and monitor inclusion initiatives by government ministries, with appropriate linkages to the central PRSP monitoring system. ■ This task force could lead a review of inclusion results in the 10th Plan and propose revisions for the 11th Plan. ■ Empower the Gender Focal Points in all line ministries by making them part of a sectoral social inclusion unit responsible for vetting all ministry programmes and policies from an inclusion perspective. A senior government official empowered to hire experts on gender, Dalit and Janajati issues should head this unit. 	<p>The government's efforts at inclusion have not been translated into coordinated action at the sectoral ministry level, where both formal and informal barriers still seem to be entrenched. Effective coordination of policies and actions under the inclusion pillar can greatly increase impact, reduce duplication and lead to greater impact at all levels.</p> <p>The concept of inclusive programming and budgeting recommended in (1) above necessitates that trained professionals in each major sectoral ministry examine the ministry's major policies and programmes for the impact that they are likely to have on excluded groups. Furthermore, to fully ensure inclusive programming, each ministry needs to recommend specific mechanisms to ensure that its sectoral policies are inclusive and that they deliver equal benefits to excluded groups.</p>	<ul style="list-style-type: none"> ■ GOVERNMENT ■ donors ■ civil society

* Actors depicted in upper case are to take the lead; actors depicted in lower case are to support.

	ACTION	BASIS FOR ACTION	RESPONSIBLE ACTORS
2. Contd.	<ul style="list-style-type: none"> ■ Build on the strength of the existing district-level Women Development Offices to establish District Gender and Social Inclusion Offices and link them with the sectoral ministries and representative national organizations - as well as with decentralised representatives of the National Women's Commission (NWC), the National Dalit Commission (NDC) and the National Foundation for the Development of Indigenous Nationalities (NFDIN) to ensure coordination. 	<p>Commitments to ensure that DDC and VDC budget allocations and programmes are responsive to women, Dalits and Janajatis through a "watchdog" committee have not been implemented. One possibility that has been suggested by many groups is to enlarge the mandate of the WDO to encompass all dimensions of social inclusion by adding staff whose responsibility it would be to ensure that Dalit and Janajati groups also benefit from local government spending. This office would have increased accountability to the various national commissions (such as NWC, NDC and NFDIN) and to the DDCs and VDCs. As more and more resources are devolved to the elected DDC and VDC governments they would be expected to allocate matching funds to the work of the District Gender and Social Inclusion Offices. Both the increased responsibility of this office and the devolution of funding would help lay the foundation for the realisation of the LSGA's commitment to social inclusion.</p>	
3.	<p>Improve the governance structure of the national commissions for women and Dalits:</p> <ul style="list-style-type: none"> ■ Re-establish the National Women's Commission and the National Dalit Commission through legislation. ■ Enable the commissions to function as semi-autonomous constitutional bodies, with authority to receive a regular budget directly from the MOF and support from donors. ■ Ensure that these commissions are aware of the changing situation on the ground for excluded groups by encouraging them to have a "listening relationship" with civil society organizations as well as with the proposed gender and social inclusion units at the district level (see recommendation 2 above). 	<p>The commissions set up under an executive order do not have the legal authority to function independently of government and political influence. Legal recognition and autonomy would enable them to function effectively and independently, using professional help where needed.</p>	<ul style="list-style-type: none"> ■ GOVERNMENT ■ donors ■ civil society

	ACTION	BASIS FOR ACTION	RESPONSIBLE ACTORS
4.	<p>Revive the stalled decentralisation process with safeguards and incentives to promote inclusion at all levels.</p>	<p>While decentralisation on its own does not guarantee social inclusion, it can provide more inclusive and accountable governance by delegating funds and decision-making authority closer to the local level, where ordinary people are more likely to be able to take part in and influence decisions – and monitor outcomes. In particular, it provides a possible governance framework within which diverse ethnic and language groups can have greater autonomy in certain key areas and still remain citizens of a unified Nepali nation. Nepal has the necessary framework for decentralisation in the LSGA, which even includes a number of provisions to ensure voice for women, Dalits and Janajatis (e.g. through the district "Watchdog Committees" and other provisions). But implementation on overall decentralisation – and on the provisions to promote inclusion – has been slow for lack of political commitment. Decentralisation has particularly suffered after July 2002, when the government allowed the terms of elected local governments to lapse.</p>	<ul style="list-style-type: none"> ■ GOVERNMENT ■ donors ■ civil society
5.	<p>Enact critical legal changes to ensure equal rights for all citizens – and equal access to citizenship:</p> <p>On Citizenship</p> <ul style="list-style-type: none"> ■ Reinstate the language of the Interim Constitution of 1953 that guarantees citizenship to "every person who had been permanently residing within the territory of Nepal with their family". Carry out a social audit of informal government practices and requirements for obtaining citizenship papers. <p>For women:</p> <ul style="list-style-type: none"> ■ Ensure equal citizenship rights to women and permit them to transmit citizenship to their children and their spouses. ■ Ensure equal rights to ancestral property for women and married daughters. ■ Repeal the provision that allows a man to enter a bigamous marriage under certain conditions. 	<p>The definition of who has the right to citizenship was greatly curtailed in the 1990 Constitution, and those most notably affected are the most excluded.</p> <p>Existing informal practices effectively deny citizenship to many segments of excluded society, especially to those who do not own land and to those whose language and social customs mark them as being historically "of Indian origin".</p> <p>An analysis of Nepali laws, including the Constitution and Country Code, conducted for the GSEA found:</p> <ul style="list-style-type: none"> ■ 83 pieces of legislation that discriminate against women and 	<ul style="list-style-type: none"> ■ GOVERNMENT ■ donors ■ civil society

	ACTION	BASIS FOR ACTION	RESPONSIBLE ACTORS
5. Contd.	<p>For Janajatis:</p> <ul style="list-style-type: none"> ■ Remove the word "Hindu" from Article 4 of the Constitution. ■ Amend Article 19 (1) to permit the right to religion. ■ Amend Article 6 (1) to permit alternate official languages in addition to Nepali. <p>For Dalits:</p> <ul style="list-style-type: none"> ■ Remove the ambiguity about the right to practice untouchability/caste-based discrimination as a social custom. ■ Ensure enforcement of punishment for caste-based discrimination in the public and private spheres. 	<ul style="list-style-type: none"> ■ 32 provisions that discriminate on the basis of religion, caste and ethnicity. <p>Allowing discrimination as a social custom reinforces the traditional institutions based on inequality. Increasing punishment for caste-based discrimination can serve as an effective deterrent, but long-term social change can come only through changes in values and practices.</p>	
6.	<p>Enhance Poverty Monitoring and Analysis System (PMAS) by standardising social categories and improving monitoring capacity of key sectoral ministries to track social inclusion:</p> <ul style="list-style-type: none"> ■ At the national level, a common classification of the main social groups has been used by the GSEA and the CBS for data collection and analysis in the NLSS II and other national surveys that contribute to the PMAS. There are six major social categories (BC, Tarai Middle Castes, Dalits, Newars, Janajatis and Muslims) but when separated by Hill and Tarai there are the following 10 categories: <ol style="list-style-type: none"> 1. Hill Brahman/Chhetris 2. Tarai Brahman/Chhetris 3. Tarai Middle Castes 4. Hill Dalits 5. Tarai Dalits 6. Newars 7. Hill Janajatis 8. Tarai Janajatis 9. Religious Minorities (Muslim) 10. Other 	<p>Previously, the large number of social groups (103) covered by the Census made meaningful analysis of outcomes by social groups difficult and limited the extent to which HMG/N could track progress in poverty reduction along social dimensions. In NLSS I (1995/6) more than 20 percent of the population belonging to smaller groups remained unaccounted for in the "other" category. The adoption by the Central Bureau of Statistics of the broad categories developed by the GSEA for NLSS II has overcome this limitation and paved the way for better PMAS tracking of progress on the social inclusion pillar of the PRSP through national Census and Survey data. The "other" category in the 2003/4 NLSS II now accounts for only about one percent of the population.</p>	<ul style="list-style-type: none"> ■ GOVERNMENT ■ donors ■ civil society

	ACTION	BASIS FOR ACTION	RESPONSIBLE ACTORS
6. Contd.	<ul style="list-style-type: none"> ■ At sectoral level the PMAS tracks performance using the Management Information Systems of the various sectoral ministries. Sectoral performance data also need to be disaggregated by gender, caste and ethnicity for all monitoring purposes – preferably using the 10 categories listed above. ■ When it is not possible to acquire such detailed data for sectoral monitoring, then the interested parties should be encouraged to at least adopt four main categories into which all caste/ethnic groups could be sorted – plus gender, since women are disadvantaged across all groups. The four categories would be: <ol style="list-style-type: none"> 1. Dalits 2. Disadvantaged Janajatis, including those Janajati groups who fall a set percentage (to be determined) below the national average on consumption poverty, health and education indicators based on the Census, NLSS and DHS. 3. Other excluded/disadvantaged groups, including Muslims and certain Tarai Middle Caste groups based on the data mentioned above. 4. Non-excluded groups such as Brahmans and Chhetris, Newars, Thakalis, Gurungs and those Tarai Middle Caste groups whose poverty indicators are a certain percentage (to be determined) above the national average. ■ Identify the disadvantaged: <ul style="list-style-type: none"> ● Ensure that this categorisation is done on a scientific basis and ask the NPC Poverty Monitoring Unit to lead it with support from CBS (and participation from NFDIN and other concerned groups). It would be based on statistical analysis of NLSS, DHS and Census data to identify the truly disadvantaged among the Janajati and other groups. 	<p>Despite the progress made for national datasets, the existing monitoring and information systems of the various sectoral ministries still do not permit the government to track progress on the social inclusion pillar. MOES Flash Reports have made a start at this, but are still not reliable. Disaggregated data are essential to learning about which policies and programmes work to improve inclusion and which do not. It is also an important element in HMG/N's move towards results-based budgeting and part of the budget release conditions for the pooled donor support to the government's health and education programmes.</p> <p>There are large differences even among Janajati and Tarai Middle Caste groups that could mean that the most disadvantaged might not be reached by supportive programming. To ensure transparency and accountability as well as effective targeting, the NPC's Poverty Monitoring Unit needs to lead an exercise where the NLSS and other national data sets can be used to accurately identify the truly disadvantaged on a scientific bases. This effort would need to involve representative women, Dalit and Janajati groups (such as the Women's Commission, the Dalit Commission, the Dalit NGO Federation, the National Foundation for Development of Indigenous Nationalities and the National Federation for Indigenous Nationalities) along with CBS.</p> <p>Effective annual monitoring of inclusion outcomes in each sector is a potentially powerful tool in support of affirmative action in the areas of health, education and other critical services.</p>	<ul style="list-style-type: none"> ■ GOVERNMENT ■ donors ■ civil society

	ACTION	BASIS FOR ACTION	RESPONSIBLE ACTORS
6. Contd.	<ul style="list-style-type: none"> ● Develop a system to periodically update the status of different groups as new data become available in order to help keep targeted programmes and affirmative action policies from becoming identity-based entitlements and to ensure that government resources go to those most in need. ■ Continue income-based tracking and targeting to ensure that the poor within the privileged caste/ethnic groups are not missed. ■ Include social accountability mechanisms in the sectoral monitoring processes to create incentives for inclusion. 		
7.	<p>Develop a holistic strategy for reservation and affirmative action:</p> <ul style="list-style-type: none"> ■ Appoint a broad-based task force to develop a road map for increasing diversity and representation of disadvantaged groups in politics, civil society and academia. ■ Build a pipeline of qualified women, Dalits and Janajatis by establishing a fast-track scholarship/internship programme for the most promising girls, Dalits and Janajatis completing school level education in the public system. This will help ensure that “meritocracy” is not compromised while reserving positions for women, Dalit and Janajatis candidates in the civil service. ■ Explore alternative electoral systems as part of the affirmative action policy to help ensure greater representation and voice for Nepal's diverse groups. 	<p>A more diverse civil service can improve service delivery based on better understanding of the needs and perspectives of diverse clients. Similarly, greater representation of excluded groups in elected government at all levels will increase the legitimacy and accountability of Nepali democracy.</p> <p>Nepali society and government now accept reservation/affirmative action as a means to level the playing field and increase diversity. However, modalities to achieve this objective have not been finalised, despite efforts to do so.</p> <p>It is important to ensure there is a “pipeline” of qualified candidates from under represented groups who can compete for reserved positions.</p> <p>Full implementation of decentralisation can also be an important mechanism for affirmative action.</p>	<ul style="list-style-type: none"> ■ GOVERNMENT ■ donors ■ civil society

	ACTION	BASIS FOR ACTION	RESPONSIBLE ACTORS
8.	<p>Make donor agencies and NGOs more inclusive:</p> <ul style="list-style-type: none"> ■ Both sets of actors should undertake inclusion audits and inclusion reviews of their organizations and portfolios to identify exclusion and make corrections. ■ Donors should require the NGOs they support to conduct similar audits and share findings with government. ■ Donor agencies should be encouraged to expand their “circle” of contacts and deepen their understanding of inclusion by seeking information from and interacting with diverse groups that ordinarily do not have access to donor ears. 	<p>Recent reports have shown that donors and NGOs have alarmingly poor inclusion levels of women, Dalits and Janajatis and that current donor programming still tends to be largely based on information from the traditional “elite” sources. Greater internal diversity could help deliver more effective programmes.</p>	<ul style="list-style-type: none"> ■ DONORS ■ CIVIL SOCIETY
9.	<p>Strengthen the power of local development groups:</p> <ul style="list-style-type: none"> ■ Establish governance rules for local development groups to help them better deliver inclusion and prevent elite capture by implementing effective governance rules, transparent monitoring and evaluation mechanisms. ■ Create a supportive environment for federations of local level groups: <ul style="list-style-type: none"> ● Review and amend existing cooperative laws to permit more than one of a given type of cooperative to be registered in a single district and to remove other regulations and procedural barriers to the registration and operation of cooperative federations. ● Encourage wide consultations, between the government and NGO and donor stakeholders, aimed at revising the new NGO code to make it less restrictive. 	<p>A level playing field within local development groups is necessary to ensure that members from disadvantaged backgrounds benefit equally from shared group activities and that group-based approaches live up to their potential for delivering inclusion, sustainability and empowerment for all.</p> <p>Many local groups that form federations to increase their economic efficiency and their political voice face bureaucratic delays and barriers when they seek to register either as a cooperative under the Cooperative Laws or as an NGO under the CDO or the SWC. One such barrier for cooperative federations is the outmoded rule that there can be only one of any particular type of cooperative (e.g. dairy, credit, multipurpose cooperative) per district. This is particularly counterproductive for women's groups whose members practice a variety of livelihoods and need the multipurpose designation to allow this. Another emerging barrier for any federated groups seeking to become an NGO is the restrictive new NGO code.</p>	<ul style="list-style-type: none"> ■ GOVERNMENT ■ CIVIL SOCIETY ■ DONORS

	ACTION	BASIS FOR ACTION	RESPONSIBLE ACTORS
10.	<p>Develop a knowledge base to inform policy debate on inclusion: Encourage civil society groups to consistently generate and share knowledge and understanding on diversity and related issues, by encouraging participation from members of traditionally excluded groups.</p>	<p>Practical proposals for inclusion that are economically and politically feasible require conceptual clarity, and collective thinking and debate at all levels. Thinking through policy choices and developing the mechanisms through which these policies will be implemented on the ground requires representative participation.</p>	<ul style="list-style-type: none"> ■ CIVIL SOCIETY ■ DONORS ■ government
11.	<p>Support strategic coalitions between women, Dalits and Janajatis: Build alliances for collective equal citizenship goals between the individual social movements.</p>	<p>The women, Dalit and Janajati movements are currently fractured and almost independent of each other, even though they often seek to attain similar citizenship goals. There is strength in numbers, and alliances can help them forcefully advocate and achieve their collective goals.</p>	<ul style="list-style-type: none"> ■ CIVIL SOCIETY
12.	<p>Encourage internal reform of the main political parties to make them more democratic and broadly representative: The parties need to be encouraged to adopt more democratic and transparent procedures and to be held accountable to implement the many inclusive promises made in their manifestos.</p>	<p>The success of democracy hinges largely on the extent to which the political parties, once in power, can articulate and respond to the demands of every segment of society. In Nepal's emerging democracy the parties have been less than successful in implementing democratic norms and procedures within the context of their own organizations. They have also delayed implementation of their own pledges to be inclusive to women, Janajatis and Dalits.</p>	<ul style="list-style-type: none"> ■ CIVIL SOCIETY ■ government ■ donors

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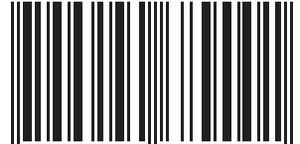
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