

4
CHAPTER

Political
inclusion and
human
development

4

Chapter

Political inclusion and human development

Revisiting political exclusion

The electoral system and
human development

Internal democracy of the
political parties

Participation of citizens
and their representatives

Unitary state structure and the
centralization of decision-making

Conclusion

4

Chapter

Political inclusion and human development

As the first chapter of this Report pointed out, the exclusion of women and various caste and ethnic groups in state organs spurred the 2006 Janandolan (people's movement). Ending exclusion through fair representation and participation in the political system can enlarge options and thus enhance human development. Given this premise, this chapter analyses how to open the political system fairly to all. In particular, the chapter deals with an assessment of the electoral system, the internal democracy of political parties, and decentralization—all of which have great influence on representation and participation in the process of democratization. Before delving into these topics, though, a brief review of political exclusion is in order.

Revisiting political exclusion

The Shah and Rana polities of Nepal were fundamentally oligarchic, based on a narrow band of castes within a single religion. These family reigns depended essentially on a depoliticised general population, the traditional army, and external support.

Until the fall of Shah Dynasty in May 2008, the Nepali state continued to rely on these bulwarks. The country's rulers persisted in thinking that the assimilation, not accommodation, of all excluded caste and ethnic groups into the broad Gorkhali culture would be the foundation of even the modern state. The conquest of the Kathmandu

valley by the king of Gorkha in 1768 laid the foundations of monoculturalism and the absorption of all other cultural and social groupings into this superficial political unity.

This approach to nation-state building lasted for 240 years. A unitary state structure became the means of maintaining Nepal's ethnic mosaic intact. The unifier, King Prithvi Narayan Shah, limited his army to a few caste and ethnic groups and instructed his successors to restrict recruitment to four communities: the Khas, Magar, Gurung and Thakuri. All others, collectively called *prajas*, were ineligible.¹ Thus, the Newar and Madhesi communities were excluded from army service.

Although the rule of the Rana dynasty came to an end after 104 years in 1950, the new regime suppressed democratic trends. The subsequent era of party politics (1951–60) failed to consolidate the democratic movement and thus paved the way for a royal coup that introduced the partyless Panchayat (village council) system in 1961.

The year-long unrest of 1979–80 culminated in the King's calling for a referendum, which appeared to reaffirm popular confidence in the partyless Panchayat system. The Hill communities called for recognition of their culture and the right to participate as equals in the nation-building task. They also demanded that Nepal be declared a secular state in which they and other non-Hindu religious groups

The Shah and Rana polities of Nepal were fundamentally oligarchic, based on a narrow band of castes within a single religion

The nature of the electoral system determines to a large extent how inclusively its population is represented in the political system and how meaningful this participation is for human development

could share power and resources on the basis of equality with the two dominant castes, the Brahman and the Chhetri, whose members occupied most elective posts from top to bottom—with few places for women. Yet even the 1990 constitution declared Nepal a “multi-ethnic, multi-lingual, democratic, independent, indivisible, sovereign, *Hindu* (emphasis added) and Constitutional Monarchical Kingdom”.

In 1990, the multiparty system came to power once again. The constitution of 1990 incorporated four basic unchangeable elements as guiding principles:

- ▶ the sovereignty of people,
- ▶ constitutional monarchy,
- ▶ a multiparty system, and
- ▶ respect for basic human rights.

In practice, however, all the main political parties including Nepali Congress and Communist Party of Nepal (UML) behind the constitution violated the spirit of popular sovereignty. Political action reverted to the Palace on 1 February 2005. The political parties looked upon the monarchy as the source of power.

Even after the restoration of multi-party system in 1990, Nepal’s bureaucratic structure had not fundamentally changed. However, since the 2006 *Janandolan* and the CPA, Nepal has undergone considerable political transformation. Box 4.1 sets out the major steps forward. Much remains to be done, especially in the social realm. But this Report deals primarily with the transformation of the state for fair representation of excluded groups as enunciated in the CPA. To this end, the chapter analyses Nepal’s electoral system and political parties; the chapter that follows deals with federal provisions for further accommodating the excluded groups and regions equitably.

The electoral system and human development

The nature of the electoral system of a country determines to a large extent how inclu-

sively its population is represented in the political system and how meaningful this participation is for human development. This Report focuses on three criteria to gauge the extent to which Nepal’s present electoral system gives its citizens a voice in decision-making and thus fosters their development:

- ▶ the inclusiveness of the national legislature² or the current Constituent Assembly;
- ▶ accountability of assembly members selected under the electoral system; and
- ▶ stability of the political system.

Inclusiveness of the Legislature

A backward glance towards exclusivity

The 1990 constitution of Nepal adopted the first-past-the-post (FPTP) or plurality electoral system. Despite its advantages over the proportional representation (PR) system and its use in some of the biggest democracies in the world—among these, India and the United States of America—the FPTP system does not meet the needs of a poor and pluralistic society like that of Nepal. Here, it has strengthened the hegemony of a small number of large parties at the expense of their smaller identity-oriented counterparts, various caste and ethnic groups and, far more generally, women.

First, FPTP does not permit small political parties to elect parliamentarians in proportion to the popular vote that they receive. In the case of excluded groups, the National People’s Liberation Party of indigenous nationalities, with 1.1 percent of the popular vote, and the Nepal Sadbhawana Party, with 3.3 percent, received zero and five seats respectively in the 1999 election. Under proportional representation, these two small parties would have obtained three and seven seats, respectively. By contrast, in the same year, the Nepali Congress Party received 36.1 percent of the popular vote, but won 55.1 percent of the parliamentary seats. This kind of artificial majority enables a large party to form a government without winning a majority at the polls.

Citizenship Act, 26 November 2006: removed some aspects of gender-based discrimination, e.g., permitting both father and mother to transmit citizenship to their children; further enabled Madhesi/Tarai people to obtain citizenship, among other progressive steps.

Ratification of Protocols of Convention on the Rights of the Child, 2007: concerned the protection of children in armed conflict and prohibited the sale of children and child prostitution.

Interim constitution 2007, 15 January 2007: pronounced Nepal a secular state; recognized the right of traditionally marginalized groups; provided the right to non-discrimination and the right not to be subjected to untouchability as fundamental rights.

Amendment Bill of Interim Constitution, 9 March 2007: amending Article 33 (D), the Bill has stated that *Madhesis*, *Dalits*, ethnic *Janajatis*, women, labourers, peasants, the disabled, backward classes and regions will be provided with a proportional representation in the state. Similarly, amending Article 138, the Bill said that the present centralized and unitary model of the state will be restructured so as to make it inclusive and democratic, with a federal system in place.

Election to Members of the Constituent Assembly Act 2007: adopted a mixed electoral system with both the FPTP and PR systems.

Right to Information Act, 18 July 2007: guaranteed access to official documents to any citizen, excluding only those papers related to the 'investigation, inquiry and prosecution' of crimes and those which jeopardize the "harmonious relationship between various castes or communities".

Agreement with Bonded labourers (Kamaiya), 25 July 2007: Government signed an agreement that sets out a timetable for the allocation of land and other support measures to ex-Kamaiyas.

Civil Service Bill, 3 August 2007: amended the Civil Service Act 1993. Among others it provided seat reservation to excluded people and backward regions, and trade union rights. The reservation/ quotas in the civil service are as follows: women (33%), Janajati (27%) Madhesi (22%), Dalits (9%), persons with disabilities (5%), and backward regions (4%).

Working Journalists Bill 2007, 6 August 2007: among other this has made provision of provident fund, minimum salary, treatment compensation, capacity building, and limiting media houses to keep only 15% journalists on contract. Ratification of ILO Convention on Abolition of Forced Labour, 16 August 2007.

Ratification of ILO Convention 169, 22 August 2007: this will ensure the rights of Janajati with regard to culture, land, natural resources, education, traditional justice, recruitment and employment conditions, vocational training, social security and health, as well as the development of a mechanism for consultation and participation in governance.

Ratification of ILO Convention 105, August 2007: It banned forced labour.

Provision of Quotas of Posts in the Nepal Police and Armed Police Force, October 2007: This reserved quotas for women and marginalized groups.

Memorandum of Understanding between Ministry of Peace and Reconstruction and the Badi Community, 16 October 2007: It made the provision of the right to take citizenship with the surname of their choice, an end to the forced use of derogatory surnames; and free schooling for children of the Badi community.

12th amendment to the Nepal Police Regulations, 8 November 2007: It amended that regulation to provide for recruiting 32% indigenous nationalities, 28 % Madhesi, 15% Dalits, 20% women and 5% from the "backward regions".

90-point government's programs and policies, 10 September 2008: the main priorities included constitution-making, the peace process, socio-economic transformation, role of private, public and cooperative sectors in economic progress and special plans for the Karnali region.

Ordinance on Social Inclusion, 2009: It makes the public service inclusive. The proposed ordinance reserves 45% of posts to women, Adivasi Janajati, Madhesi, Dalit, people with disabilities and residents of "backward regions", while filling vacant posts through free competition.

Source: OHCHR 2007A; and http://www.nepalresearch.com/crisis_solution/papers/fes_2007_nepal_december.pdf; and <http://library.fes.de/pdf-files/iez/50218toc.html>

Second, the FPTP system cannot hope to fairly represent a country that comprises as many as 103 castes and ethnic groups and 92 languages. The 1999 pattern of representation in legislature did not basically differ from that of the National Panchayat during the party-less era. Brahman/Chhetri and Newar domination con-

tinued after 1990 in the three parliamentary elections of 1991, 1994 and 1999, giving these three groups' representation disproportionate to their share in the total population³ at the expense of the excluded caste and ethnic groups. The latter thereby lagged behind in influencing policies conducive to their development.

The Interim Constitution 2007 made a provision for a mixed electoral system for the 2008 CA election.

Women fared even worse. According to the 1990 constitution, at least 5 percent of parliament members were supposed to be female. Yet in the general elections of 1991, of 1,345 candidates for the Lower House, only 79 women (5.9%) entered the fray, and only eight candidates could win in a House of 205 members. In the National Assembly of 60 members, three women were inducted by using both the methods of co-option or nomination and election. Thus, the representation of women was limited to 11 members (3.9 percent in the House of Representatives and 5 percent in the National Assembly). Similarly, in the 1999 parliament, there were altogether 21 women (12 in the lower house and 9 in the upper house), including the King's nominees of the second chamber. Only one woman member became a Minister—of the Ministry of Women and Social Welfare—in the inordinately large 32-member Council of Ministers.

Moreover, many of the women members of the parliament either came from high-caste families or were the close relatives of male leaders. So the competition was heavily biased against those who ran on their performance records, including long service in the political parties.⁴

The electoral system for the 2008 CA election

The Interim Constitution 2007 made a provision for a mixed electoral system for the

2008 CA election, in which the FPTP method was used to elect 240 members, while the other 335 came to office through PR method. Each voter received two ballots, one to vote in the FPTP competition for candidates in single member districts, the other for PR. This kind of combination, aimed at uniting the best of both systems, now exists in as many as 34 countries.

Nepal was divided into 240 geographic electoral constituencies for electing one member from each constituency under the FPTP system. People cast their vote to choose a candidate. Nine political parties won seats in the Constitutional Assembly under this system. Of these, the Unified CPN (Maoist) secured the largest number of seats—120 members (Box 4.2).

335 members were elected under the proportional representation system, assuming Nepal as a single electoral constituency. Each party submitted a closed list of candidates to the Election Commission before the election and voters cast vote for their party of choice rather than for individual candidates. Based on the number of the total votes received in the poll, the 335 seats were proportionally allocated to the 25 parties that had secured some votes then. Each party selected its representatives from the closed list it had submitted before. Although voters had no control on selecting a CA member, the parties

BOX 4.2 Results of CA Election, Nepal, 10 April 2008

The mixed electoral system, with a higher proportion of seats allocated to the PR system, did not provide an opportunity for any political party to secure a majority in the Constituent Assembly. Altogether, 9 parties represented the CA under the FPTP, whereas as many as 25 (now 24 with the merger of Janmorcha with Unified CPN (Maoist)) parties were seated under the PR system. The Unified CPN (Maoist), which had argued for the PR system, suffered a great deal from the mixed electoral system because it won 50% of the seat under the FPTP (120 seats out of 240), but only 100 under the PR system and 9 as nominees. Having obtained only 229 seats in a house of 601 members, it could not form

a majority government. The Nepali Congress Party secured 109 and the Communist Party of Nepal (UML) 104 seats. The other parties, such as Madhesi People's Rights Forum and Tarai Madhes Democratic Party, ranked fourth and fifth, securing 52 and 20 seats, respectively.

Therefore, while the PR system increased the range of representation, it did so at the cost of a coalition government, forcing the larger parties to build consensus and work together—the two Mool Mantra: *Sahamati and Sahakarya*—upon which the success of the peace process depends.

Source: <http://www.nepalelectionportal.org>

had to ensure the inclusive quota requirements presented for different caste and ethnic groups and backward region⁵ in Figure 4.1 while choosing their respective candidates. The quota was equally divided between males and females.

Composition of the current CA:

how inclusive is it?

The CA reflects a fair representation of the various broad caste and ethnic groups, as Figure 4.2 and Table 4.1 indicates, but it does not quite do justice to Nepal's Dalits. And although women hold one-third of the Assembly seats rather than the half that their proportion in the country's population merits on a purely statistical basis, this share is one of the world's highest.

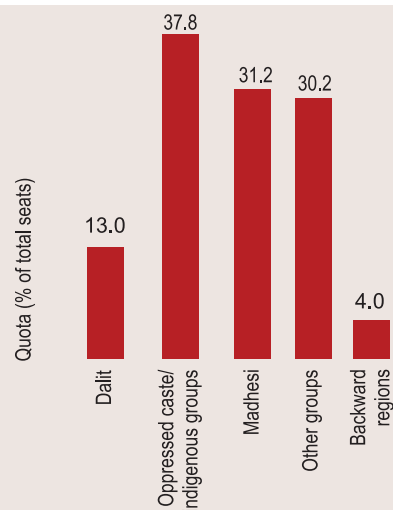
Although the FPTP system fairly represents geography, the PR system does not since its basis of representation is caste and ethnicity rather than a given geographic area. For example, four of the 75 districts—Okhaldhunga, Rasuwa, Parbat and Pyuthan of Nepal—did not receive even a single seat under the PR system, while all but Rasuwa were allocated two seats each under the FPTP system. This resulted from Kathmandu receiving a disproportionate number of seats under the PR system. On the whole, however, the mixed electoral system seems to have served the heterogeneity of Nepal's society and geography quite well.

Accountability and stability

How the mixed electoral system meets the criterion of accountability remains to be determined yet, as Nepal used this system for the first time in the 2008 CA election. An electoral system functions in principle as a key mechanism through which people can hold their representatives responsible for delivering on campaign promises. However, there is a clear difference in types of accountability between the FPTP and PR sys-

FIGURE 4.1

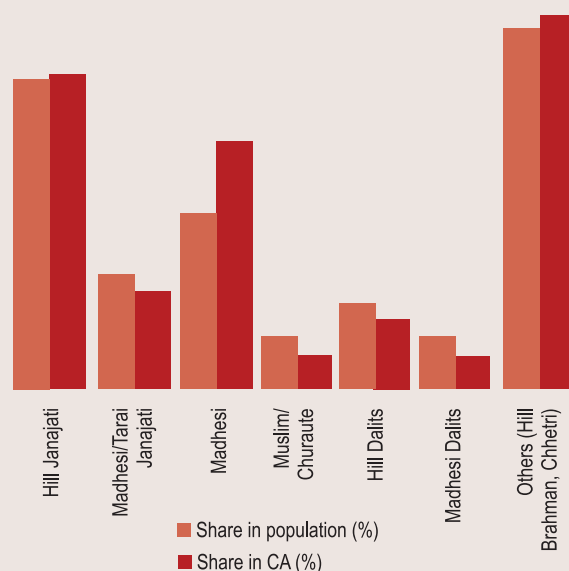
Quota for excluded caste and ethnic groups and region in the Constituent Assembly, Nepal, 2008



Source: <http://www.nepalelectionportal.org/EN/elections-in-nepal/electoral-system.php>

FIGURE 4.2

Social representation in Constituent Assembly, Nepal, 2008



Source: www.election.gov.np

tems. While the former tends to make legislature members answerable to their constituencies, the PR system generally promotes loyalty to their party leaders. Since party lists are closed in Nepal's current PR system, voters are limited to choosing among political parties rather than weighing the merits of individual candidates.

How the mixed electoral system meets the criterion of accountability remains to be determined yet

TABLE 4.1

Social Representation in the Constituent Assembly, Nepal, 2008

Population groups	FPTP result	PR result	Nomination	Total
Hill Dalits	6	30	-	36
Madhesi Dalits	1	12	0	13
Hill Janajati	66	89	9	164
Madhesi/Tarai Janajati	13	30	7	50
Madhesi	48	76	4	128
Muslim, Churaute	7	9	1	17
Others (Hill Brahman, Chhetri)	99	89	5	193
Total	240	335	26	601
Women	30	161	6	197

Source: www.election.gov.np

Stability points towards the desirability of a single-party majority government. But a PR or a mixed electoral system with larger proportion of seats allocated to PR, generally does not allow the larger party to form a majority government by itself. Because no party has secured a majority of seats in the current CA election in Nepal, it took more than four months to form a government after the CA election. Similar delays resulted in taking some other decisions later than foreseen, including the formation of the Special Committee for the reintegration of the army. Given the context of post-conflict reconstruction, which can last well beyond the drafting of the new constitution, a strong and stable government is a necessity. This argument also applies to the FPTP system, which generally provides an environment conducive to forming a majority government.

A mixed electoral system may well be necessary for Nepal for some time to come in view of the demand for inclusion and identity

A broad assessment

Because Nepal's present mixed electoral system gives different caste and ethnic groups better representation than its predecessors, it has offered an opportunity to even the marginalized groups and to the smaller parties to help define the destiny of the country. The FPTP system tends to foster accountability; the PR system ensures inclusion. In post-conflict societies, PR electoral systems are fairly common.⁶ The current mixed electoral system was designed so as to give excluded groups a greater voice in the legislature; this can make individual citizens feel more secure.⁷

However, concerns have been raised about some of the practicalities involved in implementing the PR system in Nepal—among these, the system of selecting the 335 candidates. The country's legal framework allows a small group of leaders within each political party to select “winners” from their respective candidate lists. This ensures that the party elites maintain a tight control over candidates.⁸

In addition, the “Other Group” quota presented in Figure 4.1 was originally meant to rectify the under-representation of certain caste and ethnic groups. But this quota has not been properly used. Had it been applied, the representation of Dalits would have risen.⁹

Despite some of the concerns raised above, a mixed electoral system may well be necessary for Nepal for some time to come in view of the demand for inclusion and identity. However, the types of electoral system and/or the proportion of the seats allocated to FPTP and PR components call for a decision.¹⁰ The choice must take into account the following major considerations:

- ▶ type of political system/governance structure - presidential or parliamentary;
- ▶ degree of social diversity of the assembly under the federal structure—the number of the constituents (states/ regions) and the basis of their categorization/delineation;
- ▶ level of the legislature: central or regional;
- ▶ number of chambers of the legislature: one or two;
- ▶ total number of members in each chamber; and
- ▶ sharing of power between the central and regional legislative bodies.

Given Nepal's high degree of ethnic and social diversity and the need for a legislature of manageable size, the electoral system at the regional level should not necessarily be uniform across the entire country. Consequently, a PR system could be used in highly

diverse regions and/or in the upper house. Otherwise, a FPTP or a mixed electoral system could be instituted.

At the centre, the ratio of seats allocated between the FPTP and PR systems can be decided in part according to how strong a centre Nepal needs to maintain political stability and to ensure the equitable development of the country's diverse regions and groups. Among others, the need for a strong centre implies a smaller proportion of seats under PR, which will open a greater opportunity for forming a majority government. However, even at the national level, the upper house of the legislature can be elected through a full PR system.

Whatever the type of the electoral system, the conduct of the election depends on an election management process that takes into account a number of factors, including the autonomy of the electoral commission, the neutrality of the electoral supervisors, the civic education of the electorate, the transparency of the election process, and how strictly the parties, candidates and voters obey the electoral code of conduct.¹¹ Therefore, the role of agencies involved in election is crucial.

Internal democracy of the political parties

In a democracy, political parties are vehicles for articulating the interests of differing groups of people. Hence, they foster the human development of all. Although they are hardly the only platforms for this purpose, they remain essential for recruiting leaders, structuring electoral choice, and organizing governance. However, if the party organizations do not represent the diversity of regions and cultural groups, and do not use democratic procedures in their own decision-making, equitable representation of different caste and ethnic groups in the legislature cannot exist even under the PR electoral system, let alone the mixed electoral system.

The proliferation of political parties can be viewed as a positive development, particularly for minority participation and representation in the CA. Because the 1962 constitution of Nepal banned political parties, only a few underground parties existed. After 1990, they multiplied almost exponentially, reaching 100 in the 1999 election—though the 2008 CA election featured only 74. This decrease may well have stemmed from the rule that a party could be registered only when it had at least 10,000 members.

However, the increasing proliferation of the parties also reflects a lack of internal democracy in those that were established; unable to accommodate the interests of all their members, they split into smaller entities or formed new political groups. Indeed, a lack of inclusiveness and democracy led to the major parties seeing their social base and credibility eroded.

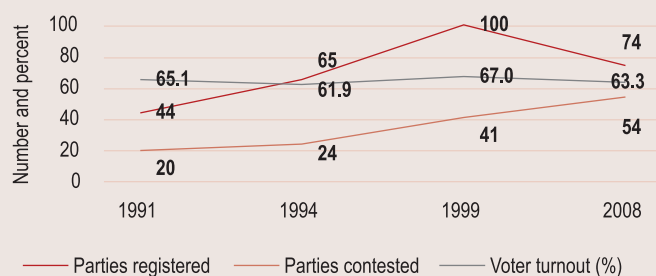
After the restoration of democracy, in the first election of 1991, the Nepali Congress Party won a majority of 110 seats out of 205 and formed the government. In the second election, in 1994, the Communist Party of Nepal (UML) secured a greater number and formed the government. However, they lost their popular base because of too much partisanship, the rise of bitter opposition among factions, an unstable coalition government, deficits in internal democracy, and unhealthy inter-party relations. This may well have resulted in decreasing voter turnout, despite some rise in the 1999 election, over that of 1991 (Figure 4.3).

One of the factors most frequently cited by Nepalis themselves for the country's weak political and economic performance is lack of statesmanship in the leaders; voters feel that party leaders work for their individual interests or for the sake of their party, even at critical moments for the nation as a whole. The success of the 2006 Janandolan, the subsequent peace process, and the Madhesi Andolan raised hopes

One of the factors most frequently cited by Nepalis themselves for the country's weak political and economic performance is lack of statesmanship in the leaders

FIGURE 4.3

Party registered and contested, and voter trend in four elections, Nepal



Source: <http://result.nepalelectionportal.org/report1.html>; Dahal (2007), *Electoral System and Election Management in Nepal* in http://www.nepaldemocracy.org/civic_education/election_management.htm; and <http://www.nepalresearch.com/politics/elections.htm>

that new leaders would emerge to carry the country forward and improve levels of human development across Nepal. Public expectations increased again after the Constitutional Assembly election; some put their faith in the Unified CPN (Maoist), others in the Madhesi parties to provide new leadership that would be accountable and effective. Yet many have been dismayed by the continued aggressive behaviour of the Unified CPN (Maoist) and its Young Communist League cadres, and question whether the party can really bring about a “New Nepal” while still relying on its old tactics. Others have expressed frustration with the Madhesi parties, claiming that they lost touch with the people following their election. Overall, many are disappointed with the willingness of all parties to make promises that they have subsequently proven unable to implement.

Currently, political parties in Nepal face the following challenges:

- ▶ A centralized political culture, centralized organizational structure and a reluctance to hold party conventions and elections at regular intervals to choose new leaders or the central committee members. The same small group therefore holds key positions in both the parties and the government for too long a time. Indeed, some parties have been led by a single person for several decades. All would probably profit from

adopting and strictly following rules that forbid a single person to hold the formal leadership position more than twice.

- ▶ Political parties are exclusive in their structures, in the ethnic/caste/gender make-up of their high commands and central committees, and in their choices of candidates. The composition of parties continues to remain narrow and the core leadership of the parties comes from high-caste groups. Patronage routes deny opportunities to other qualified members. A limited or full quota system in the proportion of membership from the different social groups could enhance the inclusiveness and the organizational structure of all the parties.
- ▶ Ad hoc policy decisions are the rule than the exception. These are frequently subjective judgments made by those at the top. The cadres suffer from a lack of clear direction and from ideological ambiguity, along with a general failure of their leaders to acknowledge the changed political landscape of Nepal after 2006. Far more internal homework remains to be done.
- ▶ Delivery on election manifestos is weak and has led to dwindling support. Reform might well begin with clarifying policy platforms, opening this process to the rank and file, and inviting rank-and-file participation in elaborating basic party ideas. A democratic polity calls for democratic political parties.
- ▶ Intra-party rivalries also contribute significantly to shortfalls in delivery. Most of these clashes stem from personal rather than ideological differences. This leads to the development of opportunistic alliances formed for short-term gains rather than the fulfillment of the agendas set during the crisis period.
- ▶ Inter-party relations are also unhealthy and have resulted in scuffles over trivial matters that have led to delays in drafting the constitution. The parties must work at developing a political culture in which

each gives public recognition to the others' good work. This will help develop healthy criticism.

- ▶ Despite legal obligations to publish their financial records regularly, no party does so—even though this could well lead to the state's providing some portion of the funding for the increasingly expensive election process.

There are several reasons for the deficiency of internal democracy within the political parties, including a paucity of resources, personal interest of party leaders, and inadequate oversight from civil society and government.¹²

Civil society has not played an active role consistently to make the party leadership accountable to the voters and strengthen democracy at the grassroots level. In the perception of many, this is because large number of active civil society members are affiliated with a party seeking election.

While the Election Commission has successfully conducted all the parliamentary and local elections, it has not been able to monitor and supervise effectively the activities of political parties because:

- ▶ The Commission is too centralized, entirely limited to the capital, and therefore cannot monitor and supervise or facilitate a healthy growth of the political parties at the local level. As Nepal enters a federal structure, strong branch offices are needed.
- ▶ It lacks sufficient authority. With its enhanced status, the Election Commission has to be given all the powers necessary to follow the international principles of human rights as set out by the Inter-Parliamentary Union in 1994.

Moreover, the Election Commission now performs all the electoral functions itself, including the appointment of election officers and other personnel, as well as arrangements for all logistics, including ballot boxes, ballot papers, and the updating of voter lists. All these activities

constrain it in the monitoring and improvement of the quality of elections. Provision should be made to outsource some of these functions, including logistical arrangements.

Participation of citizens and their representatives

As the first chapter of this Report demonstrated, fair representation and participation are necessary for human development. Participation is defined as the involvement of people in economic, social, cultural and political activities that affect their lives. Citizens can either participate directly or through their representatives or organizations. In the political processes, citizens participate through their legislative representatives or through politically oriented organizations established under a country's laws. However, representation alone cannot fulfill citizen interests unless their representatives participate effectively in the making of policies and laws that benefit the groups they represent, especially groups of the excluded.

People can engage in various ways, chiefly through union activities, public discussions, citizen initiatives, petition-signing, and participation in public protests. However, in Nepal, participation has largely taken the forms of union demonstrations and public protests. Generally trade unions, student unions, and other politically affiliated organizations and their community counterparts call for Bandha, the Nepali term for a strike. It takes various forms, including Bandha of markets or road/transport systems.

Bandha has become so common that it is now a norm of Nepali society. The United Nations Office for the Coordination of Humanitarian Affairs in Nepal recorded 755 major events in 2008 alone.¹³ Every day of February 2009 was marked by Bandha; indeed, the Bandha was called for by two to five organizations during a day of the month, excluding the single day of the 15th.¹⁴

Civil society has not played an active role consistently to make the party leadership accountable to the voters and strengthen democracy at the grassroots level

Despite their popularity, Bandha involve significant economic losses and thereby impact livelihoods, especially those of the poor and day labourers not only in terms of wages, but of higher prices for food, fuel, and other daily necessities. The Federation of Nepali Chambers of Commerce and Industries has estimated a loss of NRs 28.7 billion during a 20-day long Tarai Bandha in 2007.¹⁵

People's participation in Bandha and other protests is organized with little consideration of the population as a whole; very often, they damage the interests of the general public. They involve little public discussion and are sometimes violent. They originate not only among party-affiliated organizations and groups, but are also triggered among the parties themselves. A particularly obvious example was the continuous 59-day suspension of parliamentary work in 2008 by the Madhesi-based regional parties in their monopoly of the rostrum to voice their demands. This was followed by a 15-day rupture in April 2009. If such Bandha continue, it is unlikely that the constitution will be ready by the end of May 2010.

Two main reasons for the violent protests are: (i) lack of public confidence in constructive and peaceful means of change, and (ii) perceived delayed governmental response to public demands. Indeed, the government often takes no action unless a protest becomes violent. However, it should also be noted that public protests have become so frequent that the state cannot deal with all the stated demands without neglecting other vital governmental functions.

The Bandhas are generally politically motivated. Avoiding these protests lies in consensus among the political parties. Otherwise, this negative type of participation will not only wreak economic damage, but undermine public confidence in democracy. Public figures and the media should therefore raise awareness of the undesirable ef-

fects of Bandha, including its violation of the rights of others.

Unitary state structure and the centralization of decision-making

Nepal has had a highly centralized political system since its unification in 1768. Early unifiers of the country, such as Prithvi Narayan Shah and Bahadur Shah, felt that a unitary state-building structure could integrate the diverse caste and ethnic groups they had come to rule. Like most of their contemporaries worldwide, they regarded inequality as an integral part of the human condition. Vesting power in other state organs could well detract from the integration they sought and was therefore undesirable. A high concentration of power and resources in the capital simplified the management of the country, made quick decisions possible, and permitted an efficient use of public revenue—in theory at least.

In Nepal, though, these advantages of unitary structure became liabilities, especially during the partyless Panchayat era. They pervaded not only the government, but the few opportunities offered by the private sector and within civil society. In short, the heavy concentration of power and resources in Kathmandu has been itself both a symptom and a cause of exclusion. Small wonder then that the reform efforts that began in 1970s and 1980s involved the formation of different commissions on decentralization and the establishment of Panchayat institutions at the village and district levels, even though their power became limited by the establishment of a central Ministry of Panchayat and Local Development in 1984. But the restoration of democracy in 1990 brought with it further efforts to strengthen local bodies in the development process through the enactment of the Local Self-Governance Act of 1999.

The heavy concentration of power and resources in Kathmandu has been itself both a symptom and a cause of exclusion

Decentralization and human development

Decentralization can have both positive and negative effects on human development. Its benefits include:

- ▶ An increase in the participation of communities in decision-making;
- ▶ Bringing governance closer to people and thus enhancing accountability and access to services; and
- ▶ Efficient use of funds in accordance with the needs and priorities of communities at the local level.¹⁶

Full deconcentration, devolution and fiscal decentralization can broaden the canvas of recruitment within neighbourhoods, allowing women and men of various castes and ethnic groups to join different organizations and fulfil responsibilities they had once thought beyond their purview or abilities. If this kind of decentralization is supported by other policies, such as recruiting front-line service providers who know local languages, it can increase the interface between local people and government structures.

Of all Nepal's efforts in this direction, the most promising was the 1999 Local Self-Governance Act. It included the devolution of basic services, such as education, health, drinking water, agricultural extension, and rural infrastructures. It initiated and increased local grants, putting their management into the hands of local bodies. As of December 2008, 7,729 schools (around 30 percent of the total) were handed over to local School Management Committees; 69% of them were primary schools. In addition, the management of 1,435 health institutions was given over to local level committees.¹⁷

Evidence abounds on the increase in educational attainment and health improvement at the local level, implying an improvement in human development. In recent years, women's life expectancy has surpassed that of men. However, the progress achieved

differed markedly from one group to another as outlined in chapter two, in large measure because Nepal has never realized complete decentralization due to:

- ▶ A marked lack of political will to extend decentralization to its administrative and fiscal dimensions. The centre retained its monopoly on recruitment, revenue collection, and distribution;
- ▶ The appointment of regional administrators curtailed the powers of local authorities significantly;
- ▶ Some of the provisions of the 1999 Local Self-Governance Act contradicted existing laws and by-laws;
- ▶ Role delineations between the central government and local bodies were not made clear; this was complicated by poor coordination between different government agencies and inadequate fiscal transfers to local authorities;
- ▶ Low capacity of local bodies, including weak revenue-generating capacity at the local level;
- ▶ Lack of proper supervision, monitoring and auditing of local bodies; and
- ▶ Increased conflict and insecurity after the implementation of the decentralization act in 1999.

While some donors have supported the capacity-building of local bodies, including District Development Committees and Village Development Committees, such efforts need to be deepened and extended to other districts.¹⁸ However, in the absence of local bodies since 2002, efforts have become less meaningful in recent years.

The government has tried to redress a number of deficiencies in fiscal decentralization. Capital spending has gradually been increased since 1999 and a greater share of resources channelled through line ministries are now disbursed directly to districts. The Interim Constitution of 2007 has also made special provisions for devolution and decentralization; re-

Of all Nepal's efforts in decentralisation, the most promising was the 1999 Local Self-Governance Act

source allocations among regions have been made more just and discrepancies between local, regional and central authorities are being eliminated. The government and its development partners signed a letter of intent in 2008 for implementing a harmonized approach to strengthening the capacity of local bodies so as to speed up local development and improve service delivery with a focus on excluded groups. However, the government's decision to restructure the nation into a federal system has opened up again the issues related to the division of the country into state or regions; decisions about the structure of local government systems; fiscal decentralization; and the delineation of responsibilities among the different tiers of government.

Conclusion

This chapter has argued that political exclusion is an outcome of an exclusionary political system characterized by certain features of the plurality electoral system, the lack of internal democracy of political parties, and incomplete decentralization. As a result, governance structures have not been openly equitable. This inequity, coupled with the lack of an independent judiciary in recent years, and an increase in corruption, have limited the freedoms and options of the poor, women and other excluded Nepalis.

However, with the rise of citizens in 2006, inclusion has once again come to the forefront in the making of a new Nepal. This new Nepal demands equality, liberty and social justice in all spheres of life. That is why a new polity is emerging from the work of the CA. The transformation of the Unified CPN (Maoist) into a legitimate party of the system is also going to set a new example. How this party abides by the spirit of a multiparty polity with constitutional provi-

sions for the fulfillment of human rights as defined by United Nations bodies has yet to be determined.

Another trend in the emerging Nepal is the fading of traditional political ideology in contrast to the surge of regional and ethnic interests that had been managed by the mainline political parties until 2006. The success of any single party now depends on its support by regional and ethnic groups, particularly within the proportional representation system.

As of May 28, 2008, Nepal entered into a new phase of its historical development. The long-awaited formalization of a federal republican agenda by the first session of the newly elected CA ended the 240-year old monarchical system. The drafting of a new democratic constitution by the CA, along with the termination of the monarchy, is expected to put an end to many elements of the country's heritage. The dramatic events of recent years have furnished us with many lessons we have yet to digest and assimilate.

Never in the history of Nepal have citizens at large involved themselves in such transformations. Excluded groups are now claiming their due share of power and control over resources and representation in various organs of the state—so much so that the political parties that fail to make democracy inclusive face an eclipse of their earlier power by new popular forces. The composition of the new CA on the basis of the mixed electoral system has made it representative in form, if not yet in character, thus marking a major departure from past patterns of representation. A federal system based on national consensus is expected by many to ensure both inclusion and empowerment at all levels of the new polity. But making federalism practicable will require enormous study by all those involved in political activity, especially the members of the CA.

With the rise of citizens in 2006, inclusion has once again come to the forefront in the making of a new Nepal. This new Nepal demands equality, liberty and social justice in all spheres of life