



Nepal Human Development Report 2009

State Transformation and Human Development



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STATE TRANSFORMATION
AND HUMAN DEVELOPMENT



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Preface

Previous Nepal Human Development Reports and the reports of many other organizations have successively mapped underlying patterns of exclusion, disadvantage and vulnerability in Nepal. While the proportion of Nepalis living in extreme poverty has lowered over the last decade, these underlying patterns of inequity have not changed significantly.

If the Comprehensive Peace Agreement is any guide, these same patterns appear to have fueled the decade-long insurgency. The terms of the peace as spelled out in this historic document, are anchored in the principles of rights, access and equity. The country has launched itself on a process of profound transformation, where everything is up for negotiation - the structure of the state, the symbols of nationhood, the rights of the citizen - within a pre-agreed and hopefully peaceful framework. Reading the peace agreement and many of the successive agreements through a human development lens, one has the sense that these underlying patterns have now, finally, truly arrived at 'centre stage'. And that the key decisions ahead, will ultimately be measured by the extent to which they break these long-standing patterns.

Patterns entrenched over hundreds of years will not easily be broken however. Over the coming months and years, the Nepali people and their leaders face an array of decisions with long-term consequences. Not every

option guarantees a good 'human development outcome' and in the background will remain the peace process itself, which will need protection at all costs. Nepal will find its own formula for securing the peace and advancing this complex agenda.

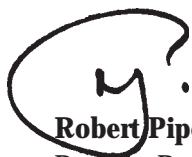
This year's Nepal Human Development Report, therefore, explores some of the decisions ahead with a view to better understanding their potential impact on Nepal's human development status.

As usual, this year's human development report also provides a wealth of data and information on the HDI and other related indices by 13 sub-regions of Nepal and by 11 caste and ethnic groups. The spatial and social canvas of the HDI continues to indicate pockets of prosperity alongside deep pockets of poverty and deprivation. The variation in the level of human development between caste and ethnic groups is larger than those of regions and sub-regions, implying the need for refocusing our attention and revisiting our targeting criteria to vulnerable caste and ethnic groups in a region.

We want to thank the lead author, Bishwa Nath Tiwari, the other core authors, successive UNDP and National Planning Commission staff and the array of local and international resource persons, steering committee and advisory board members, peer reviewers and the like, for their inputs since this process began in 2007.



Yuba Raj Khatiwada
Vice-Chair
National Planning Commission



Robert Piper
Resident Representative
UNDP

Acknowledgement

The journey towards the 2009 Report

The Nepal Human Development Report (HDR) is a nationally owned and led product, based on a nation-wide consultative process that involved guidance from a Steering Committee, technical support from an Advisory Committee, and comments and suggestions from a Reader Group. The Report was led by the National Planning Commission and UNDP Nepal. In accordance with the UNDP Corporate Policy on the National Human Development Reports (NHDRs), the findings and recommendations are those of the independent team of authors and experts, and do not necessarily reflect those of UNDP or the Government of Nepal.

The preparation of this Report also followed the six UNDP Corporate Principles on NHDRs. Of these, the first three concern the critical role of the process in NHDR preparation. They are: country ownership, participatory and inclusive preparation, and independence of analysis. This implies the need for involving different stakeholders from the project's beginning. These NHDR principles faithfully demanded intense consultation over a period of more than two years.

Following the principles of country ownership, and participatory and inclusive preparation called for several efforts, among these:

- ▶ identification of three themes for critical discussion, based on the review of earlier Nepal Human Development Reports, and consultation with policy-makers;
- ▶ holding a national level consultative workshop for further identifying and selecting theme;
- ▶ meeting with thematic groups to determine sub-themes of the selected theme and to prepare a draft theme outline;
- ▶ formation of a National Steering Committee to provide overall guidance and policy suggestions;
- ▶ formation of an advisory committee to offer technical inputs and insights in the preparation of the report;
- ▶ formation of a reader group to provide comments and inputs;
- ▶ preparation of five background papers on five sub-themes by five two-member inclusive teams of consultants;
- ▶ review of background papers by reader group and advisory committee and its sub-committees;
- ▶ revision of the theme and preparation of detailed outline and its sharing;
- ▶ presentation of the detailed outline following a consultative process and incorporating inputs from excluded groups;
- ▶ preparation of the first draft report;
- ▶ presentation of the draft report in the meetings of the Steering Committee, the Advisory Committee, and the Readers' Group;
- ▶ review of the report by the national peer reviewers and UNDP resource persons;
- ▶ refinement of the content, and subsequent revisions of the report;
- ▶ preparation of the second revised draft report;
- ▶ review of the report - by both national and international reviewers - and its refinement;
- ▶ editing of the report by independent editor;

- ▶ preparation of media kits;
- ▶ layout and design for creativity and flexibility in the report's presentation and launching; and
- ▶ translating the report into Nepali and disseminating the text widely.

The sharing and discussion of the background papers prepared by the end of 2007 revealed that the theme of the post-conflict recovery and reconstruction has lacked a conceptual framework with a human face. Having identified this shortcoming, the Study Team revised the theme as well as the outline of the Report based on the insights and inputs received from various consultations with the resource persons. The final agreed outcome was "State Transformation and Human Development".

During the participatory preparation of the Report, some of the key challenges that emerged include:

- ▶ dilution of the theme because of the need for incorporating the concerns of all stakeholders involved in the process;
- ▶ difficulty in finding experts from the excluded groups;
- ▶ formation of an inclusive team for both the Steering and Advisory Committees, among other consultative groups, a process that involved more time than initially anticipated.

Though the journey was long and arduous, the high subsequent demand for the Report by both the state and non-state actors has been deeply satisfactory. Behind these many requests lies the credibility that the Report commands, which itself stems from the broad involvement of the various stakeholders in its preparation. The Report is a product of a joint effort by many individuals and organizations. It is expected that the Report will contribute to generating debate in the process of preparing the new constitution, new policies, and planning for a just, peaceful and prosperous Nepal.

Further details of key events and milestones of this process are presented below.

Preparing the Report

National stakeholder workshop

The preparation of the Nepal HDR started with organizing a national level workshop on 24 January 2007. Support for Human Development Initiatives (SHDI) project of UNDP organized this workshop, which was chaired by Dr. Pushpa Raj Rajkarnikar, an honourable member of the National Planning Commission (NPC), to determine the Report's theme. To foster "brainstorming" and to facilitate the selection of the theme, Bishwa Nath Tiwari, Lead Author and Manager of the SHDI project, presented the group with three contemporary issues, viz, recovery and reconstruction; unemployment and migration; and post-conflict capacity-building as the basis of discussion and exploring the issues further. After an entire day's deliberation, the workshop identified "Recovery, Reconstruction and Rehabilitation" as a broad theme with a view to contributing to the government's preparation of its interim plan (2007/08–2009/10).

Many individuals participated in the consultation, including former members of the National Planning Commission, university professors and other academics, the leaders and representatives of different government and non-government organizations, as well as donors. Though space limitations preclude naming them all here, several merit special mention, notably Bishwambher Pyakuryal, Madan Kumar Dahal, Prithivi Raj Ligal, Shankar Sharma, Dilli Raj Khanal, Arzu Rana Deuba, Sapana Pradhan Malla, Om Gurung and Kush Kumar Joshi. UNDP would like to thank all who participated in this national stakeholder consultation and other theme-focused workshops for their contributions to choosing and clarifying the scope of the theme of this Nepal HDR.

Thematic workshops

Following the national stakeholder workshop, the SHDI organized other consultations with thematic groups so as to hone the selected theme, define sub-themes and prepare a detailed outline.

Formation of the 19-member National Steering Committee

The National Planning Commission formed a Steering Committee to provide overall guidance and critical inputs to the Nepal HDR. Under the leadership of the honourable NPC member Dr. Posh Raj Pandey, the Committee drew eight of its members from government organizations, two from UNDP and the SHDI project, and other nine from non-government organizations, including those devoted to women, Dalits, indigenous peoples' issues, and the private sector and academia. UNDP would like to express gratitude to Dr. Pandey and all the other members of the committee listed above for their inspiring direction and insights at different milestones of the Report's evolution. Some other individuals who attended steering committee meetings include Matthew Kahane, Pushpa Lal Shakya, Chij Kumar Shrestha, Shyam Nidhi Tiwari, Netra Timsina and Ranjit Kanaujiya, all of whom the UNDP wishes to thank for their contributions.

Formation of the 32-member Advisory Committee

The National Steering Committee formed an Advisory Committee, drawing on some of its own members. The overall responsibility of this Committee was to ensure objectivity and assure the quality of this Nepal HDR. The Committee and its sub-groups have provided technical inputs, comments and suggestions on the background papers, and the initial draft of the Report. UNDP would like to express heartfelt thanks to all these individuals.

Formation of UNDP Advisory/Reader Group

UNDP formed an in-house Reader Group to review progress and provide close regular guidance at the working level, including assistance to the Project Manager, in conceptualizing the theme, in the selection of appropriate consultants, in the review of draft reports and for participating in the essential brainstorming. UNDP thanks all the members of this group for undertaking these tasks during the preparation of this Nepal HDR.

Computation of the HDI and related indices and other statistics, as well as maps

Initially, a team consisting of Prakash Dev Pant, Arun Kumar Lal Das and Rudra Suwal computed the Human Development Index and the three related indices by rural-urban divide, Nepal's three ecological belts, the country's five development regions, and at most 15 sub-regions (a cross-section of five development regions and three ecological belts). Later, given the increased demand for such indices for various caste and ethnic groups, Prakash Dev Pant computed the HDI for 11 of them in view of data constraints. Bhola Nath Dhakal refined the maps depicting the human development and related indices.

Bishwa Nath Tiwari updated GEM values, and compiled, computed and analysed all the other statistics presented in the tables and charts/graphs of this report. Several of these statistics are put in the Annex to this Report. Rajendra Lal Dangol and the project staff including Mim Lama, Kamala Adhikari, and Krishna Dangol helped in the collection of information.

UNDP would like to thank the demographer, statistician and GIS experts, and the project staff involved in this task for their painstaking work.

Preparation of background papers and thematic papers

In accordance with the sub-themes and the initial outline developed on the theme of recovery and reconstruction, five teams, each with two members, prepared five background papers by the end of 2007. Afterwards, the group made clear that the Report did not aim at becoming a post-conflict planning document. Instead, the text had to diagnose the root causes of conflict and offer policy options. For this reason, the theme was changed to *Inclusive Peace-Building*

Later, with the revision of the theme to inclusive peace-building, six thematic papers/chapters were prepared on the following subjects: the causes of conflict, social exclusion, economic exclusion, political exclusion, rule of law and the making of the constitution, and reconciliation. Ameet Dhakal, Bal Gopal Baidya, Chhaya Jha, Jill Cottrell and Bishwa Nath Tiwari have prepared the thematic papers/chapters for the theme on the inclusive peace building.

Consultations were held with different groups including excluded groups (women, Dalits, Janajati, Madhesi and people with disabilities) in the process of preparing the background papers, thematic papers and their content. In this process, the role of all the participants including Aruna Thapa, Shanta Thapaliya, Lily Thapa, Ranju Thakur, Tirtha Biswokarma and Jay Nishant was crucial in shaping the tone of the papers. That was further enriched with the information offered by Dibya Gurung, Aruna Thapa, Keshab Dahal and Budhi Karki. UNDP appreciates for their contribution.

Bishwa Nath Tiwari compiled the papers, shared the report, and received comments that the theme is very broad. Subsequently, the theme has been honed to State Transformation and Human Development with the

insights received from the various reviews and consultations and insights of the resource persons. Hence, these thematic papers have not been directly incorporated into the Report as chapters of the State Transformation and Human Development; however, these papers nourished the Report's preparation.

Finally, drawing on the background and thematic papers, Yash Ghai wrote chapter five, Sarah Levit-Shore chapter three, Lok Raj Baral part of the chapter four, and Bishwa Nath Tiwari wrote all other chapters including the part of chapter four and the overview section of this report.

UNDP acknowledges the contribution of all the authors, background and thematic paper writers and more importantly reviewers, readers and resource persons.

Consolidating the Report and Validating the Findings

Consolidation of the Report

The lead author of the Report, who took part in every stage of its evolution, including the writing of individual chapters, wove the chapters together and prepared overview section, and conclusions and recommendations gathering insights from several workshops, and in consultation with the resource persons who guided the Report's refinement. In addition, Mr. Robert Piper, the United Nations Resident Coordinator, played an instrumental role in refining the message of the Report and furnishing insights that strengthened its unity. In the process of the consolidation and refinement, among other resource persons the role of Lazima Onta-Bhatta, Heather Bryant and Dev Raj Dahal was noteworthy in offering comments and insights on different versions of the report.

Validation workshops

The Project organized two sets of validation workshops because of the revision of the initial theme. It is gratifying to note that most of the members of the NPC, as well as members of the Steering Committee and the Advisory Committee attended a three-day residential workshop in Godavari in 2008 on the first draft of the Report. UNDP wishes to express its gratitude to all these individuals, as well as to the former Vice-Chair, Jagadish Chandra Pokharel, and other NPC members as follows: Pushpa Raj Rajkarnikar, Indira Shrestha, Chaitanya Subba, Deependra Bahadur Kshetry, Maheswor Man Shrestha, Bhim Neupane and Ramakant Gauro. Their comments and inputs helped refine the theme and improve the substance and presentation of the findings and policy options put forward by the Report. Although the Steering Committee chaired by NPC was dissolved before the second set of validation workshops, some key participants in the second set who made significant contributions in distilling the findings and their policy implications include Dev Raj Dahal, Bipin Adhikari, Krishna Bhattachan, Ananda Aditya, Sushil Pandey, Chuda B. Shrestha, Nainakala Thapa, Manoj K. Bachchan, Bhuwan K. C, Krishna P. Acharya, Durga Sob, Nima Lama and Bandita Sijapati. The Team extends warm thanks to all of them.

At the final stage of refinement, the report was shared with Guna Nidhi Sharma, Vice-Chair, Ram Mani Pokharel, member, and Janak Raj Joshi, Member Secretary, NPC; Karin Landgren, Representative of the Secretary-General, UNMIN; and Gellion Melsop, Representative, UNICEF Nepal. UNDP would like to thank them for their inputs and co-operation.

Refining and publishing the Report

National and international peer review

UNDP would like to express gratitude to the national and international peer reviewers who read through the complete draft of the

Report and offered helpful critiques and suggestions. Apart from those included as the peer reviewers, some other reviewers who offered critical inputs include Madhav Ghimire, Secretary and Shaligram Sharma, Under Secretary, Ministry of Peace and Reconstruction, and Bharat Pokharel, Associate Professor, Tribhuvan University.

The Team of the Authors also wishes to thank experts and colleagues from Human Development Report Office, UNDP, New York; and Human Development Report Unit, UNDP Regional Centre in Colombo, who volunteered to review the Report and provided extremely useful suggestions and other inputs that helped strengthen the document's conceptual foundation and policy value. In particular, the Team would like to thank Anuradha Rajivan and Tim Scott.

Editing and publication

The Team would like to record its appreciation to Shawna Tropp not only for the final editing of the Report, but also for her interest in the substance and views expressed by the 2009 edition. Like her editing of past Nepal HDRs, she has transformed the final text into a Report that flows consistently and smoothly from one chapter to another. Thanks are due to Ms. Sangita Khadka for supporting the preparation of the media kit. A final word of thank goes to Bhaikaji Rajbahak for the preliminary design, and to WordScape for the final design and layout of the Report.

Thanks are due to Deepak Shrestha, Programme Officer for supervision throughout the process, and to other Programme Officers including Nabina Shrestha and Anjani Bhattarai who attended one or the other events, and to several other support staff including Pushpa Tuladhar, who supported the process at different stages. Finally, the authors assume full responsibility for the opinions expressed in this Report, which reflect neither the views of UNDP nor the Government of Nepal.

Acronyms and abbreviations

AF	Advocacy Forum	NDHS	Nepal Demographic and Health Survey
CA	Constituent Assembly	NHDR	National Human Development Report
CAAFAG	Children Associated with Armed Forces and Armed Groups	NLSS	Nepal Living Standards Survey
CBS	Central Bureau of Statistics	NPC	National Planning Commission
CIDA	Canadian International Development Agency	NTG	Nepal Tamang Ghedung
CPA	Comprehensive Peace Accord	OCHA	Office for the Coordination of Humanitarian Affairs
CPN	Communist Party of Nepal	OHCHR	Office of the High Commissioner for Human Rights
DFID	Department for International Development	PLC	Para-legal Committee
FPIC	Free Prior and Informed Consent	PR	Proportional Representation
FPTP	First-Past-the-Post	RIPP	Regional Indigenous Peoples Programme
GDI	Gender-related Development Index	SAARC	South Asian Association for Regional Co-Operation
GEM	Gender Empowerment Measure	SHDI	Support for Human Development Initiatives project of UNDP
HDI	Human Development Index	SPA	Seven (Political) Party Alliance
HDR	Human Development Report	TRC	Truth and Reconciliation Commission
HPI	Human Poverty Index	UML	Unified Marxist-Leninist
ICTJ	International Centre for Transitional Justice	UN	United Nations
IDEA	Institute for Democracy and Electoral Assistance	UNDP	United Nations Development Programme
IDPs	Internally Displaced Persons	UNICEF	United Nations Children's Fund
INSEC	Informal Sector Service Centre	UNMIN	United Nations Mission in Nepal
LPC	Local Peace Committee	USA	United States of America
MOF	Ministry of Finance		
MOH	Ministry of Health		
MOHP	Ministry of Health and Population	NRs	<i>refer to Nepali rupees, unless otherwise specified</i>
MOPR	Ministry of Peace and Reconstruction	\$	<i>refers to US dollar, unless otherwise specified</i>

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Overview

Without peace, human development is not possible and without human development, peace is not sustainable. Both require inclusion and participation—which can evolve through the restructuring of the state and deepening of the democracy of a political system. This Report makes the case that inclusion and participation can restore sustainable peace and human development through state transformation.

Politics—or the exercise of power through participation—matters for human development because people everywhere want to be free to determine their own destiny, express their views, and participate in the decisions that shape their lives. These capabilities are just as important for human development—for expanding people’s choices—as being able to read or to enjoy good health. Democracy must widen and deepen if politics and political institutions are to promote human development and safeguard the freedom and dignity of all individuals.

Peace, together with prosperity and democracy, also constitute the core mandates of the 2006 April Janandolan (people’s movement). This is articulated firmly in the Comprehensive Peace Accord and the Interim Constitution 2007. The Comprehensive Peace Accord has at least four components:

- ▶ political and socioeconomic transformation;
- ▶ management of armies and arms;
- ▶ ceasefire provisions and measures for normalization; and

- ▶ protection of human rights and fundamental rights.

This Report focuses on the political transformation or restructuring of the state for inclusion and for human development while recognising that implementing all the other components is necessary for peace.

Here inclusion refers to the equitable political representation of the excluded segments of Nepal’s population, including women, various caste and ethnic groups, and those who live in underdeveloped regions. Participation implies the active engagement of representatives in voicing the views of their constituencies so that these opinions are heard and heeded.

The Report advances the view that because exclusion causes unequal human development—which, in turn, perpetuates exclusion—eliminating it through the equitable representation and participation of excluded groups and regions will improve the quality of human development. Consequently, the Report explores different options in changes to the state structure or political system to accommodate the interests of different groups of people. Nevertheless, the Report also recognises that equitable representation cannot alone resolve the problems of exclusion unless those who represent Nepal’s various constituencies can influence policy decisions through direct and active participation. Those now excluded are unlikely to partici-

Exclusion causes unequal human development—which, in turn, perpetuates exclusion

Today, Nepal stands at the crossroads of redefining both nation and state

pate as effectively as the advantaged groups because of their lower level of human development and endowment as chapter two presents, along with their marginalisation and socio-political repression. Inequalities in endowment not only create, but cause exclusion. Consequently, inequality and exclusion must end simultaneously in all its dimensions.

Rather than prescribing a particular form of political system, a specific federal structure or otherwise, this *Nepal Human Development Report 2009* examines some of the essential features of democracy and democratic structures that distribute power to many. These include a fair electoral system, democracy within political parties, a federal structure and a significant decentralization of power and resources to bring governance closer to the people and to expand their access to basic services.

While the Report focuses on state transformation and state-building, it also infers that nation-building and the viability of a strong nation-state is essential to lasting peace and sustained human development. To this end, the Report advances an agenda of ten key points for political inclusion, lasting peace and human development.

Exclusion and inequality—perennial evils for Nepal

As the first chapter of the Report shows, there are at least seven categories of exclusion and inequality in Nepal; their roots lie in the country's diverse geography, society and culture. This highly variegated diversity has not been well accommodated by a narrow definition of national identity based on the Hindu religion, a unitary state, and a hereditary monarchy dominated by ruling Hill elites until very recently. It is not surprising that this constellation of exclusions has been contested by Dalits (oppressed people), Janajatis includ-

ing Tharu (indigenous peoples), Madhesis (in general the inhabitants of plains) and women.

Today, Nepal stands at the crossroads of redefining both nation and state. As this Report points out, the country has been undergoing multiple transitions:

- ▶ from a monarchy to a republic;
- ▶ from authoritarianism to democracy and human rights;
- ▶ from a hegemonic to an inclusive and participatory system of governance;
- ▶ from a state wholly pervaded by one religion to secularism; and
- ▶ from a heavily centralized unitary system to one characterized by decentralization and autonomy at the regional and local levels.

For these reasons, Chapter 2 presents Nepal's current Human Development Index (HDI), and other related indices that show the existing patterns of unequal human development and the need for a socioeconomic "leap" for the country to reach the level of its neighbours in South Asia. The text examines the urban-rural divide, the differences among development and ecological regions, and the seven major caste and ethnic groups, as well as 11 such groups by their regional identification.

Although human development has improved at the aggregate level, the gap between advantaged areas or caste/ethnic groups and disadvantaged ones is either widening or remains constant. Thus, the Dalits, Muslims and Janajatis who have had lower levels of human development continue to suffer today. Moreover, the level of human development of women is still lower than that of men, and women still lack equitable access to opportunities and resources. Thus, continued exclusion and inequality has provided an environment for the mobilization of excluded groups against an exclusionary state. This Report therefore holds that development policy

must be framed and implemented by these groups themselves. Consequently, it emphasizes power-sharing through inclusion—through fair representation and effective participation of the excluded in the political system.

Digging deeper into three components of HDI—life expectancy, education, and income—reveals that improving the level of education for excluded groups could rapidly improve their capabilities and open new options and freedoms. Of the three HDI components, the contribution of life expectancy is highest, while that of education is expanding. This points to the need for increasing public allocations to education, which is generally pro-poor.

Getting the peace process right: today's foremost need

Achieving lasting peace is no small undertaking in a post-conflict society. It requires:

- ▶ dealing with a divided past,
- ▶ managing the high expectations of people in the present, and
- ▶ looking towards a shared future through a process of participatory constitution-making, among other activities for broadening and deepening democracy.

Without emphasizing wider participation, the government risks jeopardizing the peace process and thereby forestalling both socioeconomic and political transformation.

Dealing with the past involves providing justice to the victims and punishing the perpetrators of the conflict. Given Nepal's long history of impunity, Nepalis throughout the country are calling out for justice. Little progress on transitional justice has taken place since hostilities ceased. Of the several commissions set up under the CPA, the one that has evoked the greatest contention has been

the establishment of the Truth and Reconciliation Commission (TRC). Its delay stems largely from the late start of participatory processes in the formulation of the TRC bill.

The TRC provides an entry point to transitional justice. This justice can be retributive—based on criminal prosecution—or restorative—based on mediation. Restorative justice is increasingly used as a major instrument of reconciliation, since it gives greater weight to making restitution to the victim and the victimized community than to punishing the offender. Because victims are central to restorative justice, the process makes offenders directly accountable to the person or community they have victimized. The long tradition of “Kshama” (forgive and forget, rather than take revenge), inherent in Nepali culture, gives restorative justice considerable scope in consolidating the peace process.

Another prominent issue of dealing with the past remains the future of the qualified and disqualified members of the Maoist army. As Chapter three shows, key questions remain the return of land and other property, along with the reconstitution and reorganization of the armed forces. Discharged combatants should also play a key role in restorative justice efforts at the local and community levels; they must become part of community healing, reconciliation and rebirth.

The issue of the present is how to:

- ▶ manage popular expectations through restoring the rule of law; and
- ▶ increase access to public goods and services, including justice.

These have a direct bearing on human development, especially that of the poor and those otherwise excluded. As is so often the case worldwide, the poor and the excluded, who need critical services, including legal assistance, lack access to such help. Even in

Restorative justice makes offenders directly accountable to the person or community they have victimized

today's Nepal, there are individuals who lack identity either because of lack of citizenship or because of landlessness. They are therefore barred from benefiting from the law and policies, especially in seeking redress for the exploitation of the powerful. Corruption has also been a major factor in keeping these marginalised citizens from availing themselves of legal procedures. To enhance access to justice, indigenous practices in this area at the local level need to be examined, adapted to contemporary needs and laws, and publicly promoted.

In addition to restoring the rule of law, improving service delivery enhances human development in post-conflict situations, especially in terms of health care, education and local security. In this area, the most important factor is the reconstitution of local governance bodies. At this juncture, the establishment of Local Peace Committees provides an opportunity for undertaking peace-building initiatives at the community level. Such bodies tend to be more inclusive than those originating at higher levels of authority because they bring together government organizations, political parties and civil society bodies that bridge NGOs, private enterprises, and the victims themselves.

The elaboration of a new constitution for a shared future is critical. While its preparation by the 601 members of the Constituent Assembly provides legitimacy, a major challenge is the effective participation of all these members because their levels of endowment and empowerment differ immensely. Consequently, CA members should not be the only conduit for public input into the eventual law of the land.

There is no one model for a peace process, just as there is no single model of development. Thus far, the peace process has been characterized by a “one issue at a time” approach. This has slowed progress and limited decision-making authority in the hands

of an elite few. Practically speaking, it has also meant an almost exclusive focus on politics at the expense of development. Now there is a need for balancing the political and development agendas.

Power-sharing through reform of the political system

Declining voter turnout, weak internal democratic processes within the political parties, limited oversight of justice and security institutions, confusion over competencies and accountability, and a lack of clear delineation of roles and responsibilities between the centre and local levels are all key challenges of effective democratic governance in Nepal. The fourth chapter of the Report explains how representation and participation can be further enhanced by choices around the electoral systems, the internal organization of political parties, and decentralization.

The nature of the electoral system of a country determines to a large extent how inclusively 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 Constituent Assembly;
- ▶ the accountability of assembly members selected under the electoral system; and
- ▶ the stability of the political system.

The analysis of the electoral system in this Report identifies:

- ▶ how a first-past-the-post electoral system can create a spurious majority with low representation of excluded groups in the political system;
- ▶ how the recent adoption of the mixed electoral system, with a higher proportion of seats allocated through the Pro-

There is no one model for a peace process, just as there is no single model of development

portional Representation (PR) system in the election of a 601-member Constituent Assembly, resulted in an inclusive Assembly—but arguably at the cost of political instability; and

- ▶ how this resulted in a delay in forming a coalition government, which even when finally seated, lacked the broad consensus on controversial issues critical to the success of the peace process.

A careful review of the mixed electoral system against the backdrop of upcoming state restructuring is therefore necessary for determining the future electoral system of Nepal.

Again, an equitable representation of different caste and ethnic groups in the legislature cannot exist even under the PR electoral system 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. Unfortunately, the internal democracy of a party in Nepal, as reflected by the make-up of party organization and structure, tends to diminish with time. Moreover, the parties have been less transparent and democratic in their decision-making for some time; their senior leaders hold high positions for many years, thus limiting the options and development potential of other members. More importantly, their delivery on their election manifestos is at best, thin. Civil society has not played a consistently active role to make party leaders accountable to voters and thereby strengthen democracy at the grassroots level.

Nepal has had a highly centralized political system since its unification in 1768. The heavy concentration of power and resources in Kathmandu has been itself both a symptom and a cause of exclusion. The restoration of democracy in 1990 brought with it further efforts to strengthen local bodies in the development process. 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. However, Nepal has never realized complete decentralization; perhaps because of a lack of political will, decentralization has been somewhat limited to its administrative dimension rather than reaching towards its full political, social and fiscal potential. Governance was neither adequately open to citizens nor sufficiently close to them. Thus, the excluded continued to be excluded. They challenged the governance system. Their demands for a federal structure represent an effort literally to reform a self-perpetuating system which in their view, simply has not delivered.

Federalism has both merits and limits

State restructuring boils down to questions of federal structure given the third amendment to the Interim Constitution of Nepal 2007. Although the details of this structure are not spelled out in the Interim Constitution, the document clearly defines the objective of federalism as “[bringing] an end to discrimination based on class, caste, language, gender, culture, religion and region.”

A federation may be born of the formal association of previously independent entities (“aggregation”) or the restructuring of a unitary state (“disaggregation”). The former has generally been easier to set up, and is based on the consent of the separate units. It involves the establishment of only one new unit—the federal government (with a transfer of limited powers). In addition, the regions have already well-established systems of government and laws, identities, and boundaries, which more or less guarantee their viability.

By contrast, federalizing by “disaggregation” raises many more challenges, including the number of regions and their boundaries, the

A federation may be born of the formal association of previously independent entities (“aggregation”) or the restructuring of a unitary state (“disaggregation”)

Power must be further devolved so as to rest in the hands of the local authorities

levels of governance and the sharing of power among them, the dismantling of some of the state structures and the establishment of governments at different tiers, together with the elaboration of the authority and appropriate laws for each level.

There are two fundamental bases for designing federal structures: cultural (caste/ethnicity) and territorial. The experience of federal countries reveals that ethnic federations face greater social and political problems than the “territorial” ones. In a territorial federation, the rights and obligations of individuals are based on residence in the region; personal characteristics like language, religion or culture are largely irrelevant. By contrast, in an ethnic federation, the land itself has ethnic and cultural dimensions. It is perceived by a community as its “homeland”, vested with religious history or highly charged associations or, in a far more common way, is regarded as the physical space in which a particular community holds a traditional numerical majority.

Federalism in Nepal, if devised properly, can promote human development, among others, through:

- ▶ increasing the political representation and participation of even disadvantaged regions and groups at the centre;
- ▶ allowing citizens to influence governance institutions directly;
- ▶ enhancing the efficiency and accountability of regional governments, and improving service delivery; and
- ▶ giving them easier access to local officials who speak their language.

These merits can also be found in decentralized governance under a unitary structure. However, the extent and depth of benefits depends on the openness of the institutions and the degree of democracy in governance in general.

Federalism is not a panacea. Despite the promises of federalism, it is unlikely that it can deliver all that is expected of it. Because Dalits are scattered all over the country, they do not have a true constituency at the regional level. The situation of women and poor people is similar—they are everywhere. In case of the Janajatis, there are constituencies, but only at the district level. This requires that power be further devolved so as to rest in the hands of the local authorities. Consequently, it would be necessary to complement the powers of the regional authorities with additional resources; the central government would have to assume responsibility for providing these resources and, at least initially, administering their disbursement.

Federalism is likely to succeed where there are established traditions of democracy and the rule of law. Further, it benefits from:

- ▶ autonomy arrangements that have been negotiated in a democratic and participatory way;
- ▶ an independent dispute settlement mechanism;
- ▶ proper constitutional guarantees for the federal arrangements; and
- ▶ limits on the central power to intervene in regional government.

It must also be remembered that democratic structures are necessary for the exercise and protection of federalism. Democratic politics in a region both compel regional leaders to protect autonomy and empower them to do so. At the national level, they encourage the government to abide by the constitution and seek consensus with the regions. Generally, multi-ethnic federations have better prospects of success than those that are bi-ethnic.

A ten-point agenda

Successive Governments of Nepal have made attempts to address exclusion and in-

equality but none has successfully broken the vicious cycle. Making exclusion go away for all time requires not a sporadic effort, but a continuous and systemic change to society and to the whole gamut of state policies which could occur when those who were previously out come into the governance structure. Therefore, to end exclusion, first, the political system and state structure must undergo significant changes, and, second, such changes require peace to achieve genuine progress. Against the backdrop of state transformation outlined above, this Report puts forward a ten-point agenda for action.

1. Review and devise a mixed electoral system that is appropriate for Nepal

It is unlikely that a viable, modestly-sized parliament for the future Nepal can represent fairly all the 103 castes and ethnic groups of the country, even with the adoption of a complete PR system. But this need for wider representation is now difficult to ignore because popular demands for inclusion and identity remain at the forefront of the nation's political life. Therefore, a mixed electoral system may need to prevail for some time to come. Several possibilities remain for a compromise between the plurality and PR forms in a mixed system, depending on the caste and ethnic make-up and the governance structures of the regional divisions and the centre under a future federal structure. The proportion of seats allocated may have to be different between the centre and the region, and again, across the regions, depending on their cultural characteristics and their needs and demands for inclusion.

2. Democratize the political parties

Because reforming the mixed electoral system cannot alone ensure the inclusion and participation of all caste and ethnic groups and regions at the centre, the democratization of political parties is of the utmost necessity for political inclusion and systemic integration.

Indeed, if the parties are not democratic, true inclusion can emerge only with difficulty even with elections conducted under the full PR system. Among other factors, this requires making political parties inclusive in their make-up, and transparent and democratic in their decision-making.

3. Bring governance closer to the people

Despite the fact that 335 (58%) of the 575 elected CA seats have been allocated under a PR system to a number of excluded groups and regions, several caste and ethnic groups still do not have a single member to the CA. And given the need for a legislature of viable size in the future, it will be difficult to represent all the caste and ethnic groups in a unitary state structure. There is a strong case for wider and more equitable representation through a federal structure.

Chapter 5 draws attention to the merits and drawbacks of area-based federations, as well as those based on caste and ethnicity, along with the possible weakening of governance in Nepal's "dis-aggregation" from a unitary state into a federation of regions. Given the high diversity of Nepal's physiographic and social mosaic, there is a need for asymmetrical federal arrangements in which the regions of the federal state do not all have the same powers.

Country experiences reveal that, federalism is likely to succeed where there is an established tradition of democracy and rule of law. The pre-conditions for the success of the formation and functioning of federalism include willingness to form the federation, trust, a strong sense of a common political community and commitment to national unity, basic agreement on values, the rule of law, supremacy of the constitution, and judicial interpretation and enforcement. Of them trust and accommodation are the vitals—they can make the difference between total failure and disintegration of

Making exclusion go away for all time requires not a sporadic effort, but a continuous and systemic change to society and to the whole gamut of state policies

Nepali federalism must be flexible and home-grown, developed and decided by its own citizens with their effective representation and participation

the state or a viable and vibrant political, social and economic system.

Nepali federalism must be flexible and home-grown, developed and decided by its own citizens with their effective representation and participation. This needs to be buttressed by adequate provisions that bolster democratic principles, enforce rule of law and foster relations between diverse communities and regions.

4. Protect the interests of the poor and the excluded

Although federalism can help promote political and economic inclusion, strengthen the economy, increase public participation and promote human development, it will by no means solve all the problems of inclusion and social justice that this Report raises. The socioeconomic diversity of Nepal, along with its marked regional differences in resources, may call for a federalism that accords different degrees of autonomy and competence to different regions with regard to particular issues. This may still require a strong centre. Moreover, to promote human development, the federal system must be accompanied by a variety of constitutional devices anchored in social justice. These supplementary devices and mechanisms have to be primarily the responsibility of the central government—and they must be formulated as national policies, although their implementation will increasingly require consultation with regional governments.

The Interim Constitution 2007 requires considerable homework on the design and structure of a federal system that must, in addition to the other functions of a state, honour the United Nations declarations/conventions on: the rights of indigenous peoples (13 September 2007) including ILO Convention 169 (27

June 1989); the elimination of discrimination against women (18 December 1979); the elimination of all forms of racial discrimination 1965; and most importantly, the two seminal human rights covenants, respectively on civil and political rights, and on economic, social and cultural rights (19 December 1966).

5. Build a strong nation-state

Only a strong state can control power and devolve it; guarantee the rule of law; eliminate impunity; implement development policies effectively; mediate among diverse social groups; and create conditions for political stability, development and peace by undertaking the reconstruction of the country's economic and social fabric. The basis of the state or of the power structure is the nation. Therefore, a state can be strong when it has a strong nation, however diverse its peoples.

Cultural differences can trigger violent conflict when state policies are discriminatory. But there does not need to be a trade-off between diversity and unity, nor between peace and respect for diversity. Both can move together well if one respects the other's culture under multi-cultural policies of the state.

In its process of transformation, Nepal has recently discarded a number of unifying factors of the past—including the monarchy, a single official language and religion, a national anthem, and a national code of dress. Nonetheless, all its citizens have common rights and obligations that can eventually contribute to a sense of national identity and cohesion in tandem with the preservation of cultural diversity. Moreover, the making of the constitution offers the possibility of influencing the nation-building process towards establishing a set of common ideas, values and institutions that will serve vital elements of the burgeoning of a collective national identity.

6. Build a strong sense of citizenship and political community

Building a strong sense of citizenship requires the representation and participation of individuals who are committed to non-violence and who respect the views of others. As has often been the case in Nepal, many citizens are voicing their opinions through violent protests rather than existing institutions. This has affected service delivery and trampled the rights of many, most of whom are poor. There is need for a vibrant civil society that does not work as a clientele of a political establishment. Citizens should not merely claim rights and freedoms, but also fulfil their many obligations, among these:

- ▶ respecting the country's laws,
- ▶ recognizing the rights and freedom of others,
- ▶ eliminating discrimination, and
- ▶ observing justice in their daily activities.

Moreover, political parties have to form a political community rising above their members' personal interests and those of their parties. Such a sense of citizenship and the development of political community are necessary for the successful conclusion of the peace process and the making of the new constitution.

7. Provide 'citizenship rights' through a functioning state

In order to manage people's expectations, the Nepali state must perform all the functions of a sovereign state, including the provision of public goods and services. It must enforce the rule of law, which demands improving citizen access to justice, ensuring the independence of the judiciary, and giving the legislature its due power. The constitution must therefore make provisions for guaranteeing the integrity of the legislature—the body that in principle protects the fundamental rights of citizens at large and of excluded groups. However, providing citizenship rights requires a loyalty and trust from the citizens, who not merely claim rights and freedoms but also fulfill their many obligations.

Moreover, economic and social policies with a focus on excluded groups are necessary for addressing unequal human development, and attaining rapid human progress. Targeting basic services including education and health for women, Dalits and Janajatis together with change in other policies is necessary. This social empowerment needs to go hand in hand with economic empowerment through the provision of decent employment opportunities.

8. Ensure representation and the participation of different stakeholders in the peace process

Based on the lessons learned through the early steps of the formation of the Truth and Reconciliation Commission, it is recommended that the other mechanisms for transitional justice implied in the CPA, along with the institutions and policies framed for the transformation, be inclusive and participatory. It is also necessary to ensure the implementation of United Nations Resolution 1325 aiming at protecting and empowering women both during armed conflict and afterwards. Similarly, in designing integration and rehabilitation strategies, their intended beneficiaries, including both combatants and conflict victims, should participate.

9. Devise and implement a social reintegration plan and build the capacity of Local Peace Committees to foster reconciliation and support social reintegration

The successful social reintegration or rehabilitation of disqualified Maoist army personnel and internally displaced persons will be crucial. Past social reintegration efforts and the current situation point to the potential of four particular thrusts for building the capacity of the individuals involved:

- ▶ non-formal education;
- ▶ agriculture and livestock;
- ▶ vocational skill training; and
- ▶ micro-enterprise development.

There is need for a vibrant civil society that does not work as a clientele of a political establishment

Participatory constitution-making is a must if it is to foster nation building and be owned by every Nepali citizen

Such initiatives call for linkage with varied support organizations closely linked with the provision of financial services and markets. Sustainability also demands increasing employment opportunities, especially for jobless young people. This requires a sustained economic growth which is not only high but also inclusive and employment-intensive. There is thus a need for increased private investment in addition to public funding.

There is also a critical need for building capacity at the local level, including that of the Local Peace Committees, which are so far the sole organizations being created at the local level in post-conflict Nepal to support local development and promote peace-building. Assistance from both multilateral and bilateral donors will be needed for the capacity-building of the peace committees—in which the long experience of the United Nations system can be put to good use.

10. Ensure effective participation of CA members and citizens in the making of the constitution and forming a new collective identity

Finally, participatory constitution-making is a must if it is to foster nation building and be owned by every Nepali citizen. The 601 members of the Constitutional Assembly reflect far greater inclusion than past bodies with comparable mandates. But unless the members faithfully and fairly reflect the views of those who elected them, their decisions on state structure and forms of governance will not be sustainable. The making of the

constitution must thus go well beyond the ambit of the CA and its members and reach out to the Nepali population as a whole.

The process of constitution-making is almost as important as the content of the text. Although the process so far adopted seems sufficiently participatory, several challenges remain. Of these, the most important ones are how to further broaden and deepen participation in the days ahead, and, even more importantly, how to analyze and incorporate the views expressed by these hundreds and thousands of people during the participatory process.

Need for a new frontier—transformation of society

All the above agenda, including state restructuring and the making of the constitution, need an environment which is peaceful, with daily deference to the rule of law, and, most importantly, where there is a will for consensus and compromise among different actors. Without a politics of consensus and compromise, the peace process will be endangered. Similarly, unless society eliminates its exclusionary practices, state transformation can do little to help individuals feel free to develop and use their capabilities to the fullest extent possible. Thus, the ultimate need is both a democratic state and a democratic society. State transformation must advance hand in hand with the transformation of Nepali society—and requires investing in human development, a development that aspires to freedom for all people.

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CHAPTER

State
transformation
and human
development

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Chapter

State transformation and human development

An ambitious theme for ambitious times

Multiple transitions and high expectations

Human development, human security and state transformation

The sources and dimensions of exclusion

Exclusion—a recapitulation

Consequences of conflict on human development

The Nepali comprehensive peace accord—its content and follow-up

The post-CPA documents

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Chapter

State transformation and human development

An ambitious theme for ambitious times

With the election of the Constituent Assembly (CA) on 10 April 2008, Nepal entered into a new phase of discussion on the kind of polity it wants to become. Its constitutional future and related political decisions will significantly influence the human development prospects of Nepali citizens. To examine the effects of those decisions on human development, this Report aims to stimulate conversations from a human development viewpoint so as to give a broad spectrum of opinion to CA members, peace-building architects, policy-makers, and citizens at large during the next two years. The determination of the country's future political system and its ownership and legitimacy will derive in large measure from the level of citizen participation in its design and from how other vital elements of the Comprehensive Peace Accord (CPA) are carried out.

The size and comprehensiveness of the agenda for state transformation, together with the requisite peace-building measures, are both fundamental to the prospects for human development in Nepal. Consequently, this Nepal HDR focuses primarily on two areas:

- ▶ political transformation, including state restructuring, the electoral system, and the internal democracy of the political parties involved; and
- ▶ the nature of peace-making itself, through varied reconciliation and rein-

tegration measures that can enhance participatory constitution-making and state transformation.

While the first of these areas concerns political transformation, the second involves providing an enabling environment for state transformation. Both efforts look forward rather than back. The Report tries to outline ways in which to sustain the peace process and ultimately strengthen Nepal both as a state and as a richly diverse society.

With the CPA as a starting point, this Report attempts to explore the relationships between inclusion, peace and human development, and the role of state transformation as a means to these ends. It argues that if inclusion is to be sustained in future, it also requires the fair political representation and integration of various cultural groups and regions in nation building. The Report invites all Nepali stakeholders to engage in the debate on the structure of the state, the modes of democracy they want, and the ways in which they can reconcile their differences harmoniously.

Multiple transitions and high expectations

Nepal has so far produced three National Human Development Reports (NHDRs): the first, issued in 1998, reviewed the level and distribution of human capabilities and offered policy suggestions to improve them; that of 2001 concentrated on the relationships be-

Economic growth is a means towards human development rather than an end in itself

tween poverty reduction and governance; the last, published in 2004, examined the manifold links between popular empowerment and poverty reduction. With differing emphases, all three explored the issues essential to inclusive political and socio-economic transformation and clarified the reciprocal nature of both these areas in good governance. Together, these Nepal Human Development Reports (HDRs) argued that economic growth is a means towards human development rather than an end in itself. Subsequently, they advanced the idea that equitable human development calls for good governance and citizen empower-

ment, among other factors. These assertions became enshrined in the peace agreements that brought Nepal's long civil war to an end and culminated in the Comprehensive Peace Accord (Box 1.1)—the basis of this fourth Nepal HDR effort, which focuses on the theme of *state transformation and human development*.

Implicit in Nepali peace agreements, including the CPA and the Interim Constitution 2007, is the transformation of state and society to make human development more equitable. The CPA envisages an inclusive, democratic and progressive state restructur-

BOX 1.1 A chronology of key events leading to the current state of Nepali polity

1990	The multi-party system was revived and a new 1990 constitution of Nepal was prepared.	2007 Apr	Former Maoist rebels joined the interim government, thereby moving into the political mainstream.
1996 13 Feb	The Communist Party of Nepal (Maoist) launched the People's War.	2007 May	Election for a Constituent Assembly was postponed to November 2007 and again shifted to 10 April 2008.
2001 1 Jun	King Birendra, Queen Aishwarya and other close relatives were killed.	2007 Oct	United Nations Secretary-General Ban Ki-moon urged Nepal's parties to resolve their differences to save the peace process.
2001 Nov	A state of emergency was declared after more than 100 people were killed in four days of conflict.	2008 28 Feb	The Nepal Government and the United Democratic Madhesi Front signed an eight-point agreement, which brought to an end a 16-day long general strike in the Tarai.
2005 1 Feb	King Gyanendra dismissed Prime Minister Deuba and his government, declared a state of emergency, and assumed direct power, citing the need to defeat Maoist rebels.	2008 10 Apr	A Constituent Assembly election was held throughout the country.
2005 Nov	The Maoist rebels and seven political party alliance agreed on a programme aimed at restoring democracy.	2008 28 May	The first meeting of the Constituent Assembly was held; it formally abolished the monarchy and proclaimed Nepal a republic as stated in the Interim Constitution of 2007.
2006 24 Apr	King Gyanendra agreed to reinstate parliament following a 19-day Janandolan (people's movement or uprising) with violent strikes and protests against direct royal rule. GP Koirala was appointed Prime Minister.	2008 15 Aug	A Government under Maoist leadership was formed.
2006 21 Nov	The government and Maoists signed the Comprehensive Peace Accord, declaring a formal end to a 10-year rebel insurgency, and transforming the Nepali state.	2008 Dec	14 Committees, including 10 thematic, 3 process and 1 constitutional committee, were formed, and the drafting of a new constitution began.
2007 Jan	Maoist leaders were elected to parliament under the terms of the Interim Constitution of 2007. Violent ethnic protests demanding regional autonomy erupted in the southeast part of Nepal.	2009 Apr	All the committees collected information and views of people administering a questionnaire in their field visits.

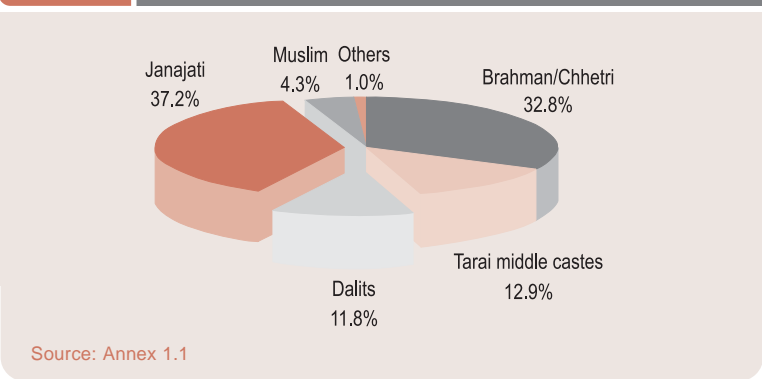
Source: Adapted from BBC News (http://news.bbc.co.uk/2/hi/south_asia/country_profiles/1166516.stm)

ing that eliminates the centralized and unitary character of the state in order to address the concerns of women, Dalits, indigenous nationalities, Madhesis, and more generally, the oppressed and the neglected under past regimes. This includes minorities and those who live in the “backward” regions. In short, the “New Nepal” aims at ending discrimination based on class, caste, language, gender, culture, religion and region.

This naturally leads us to consider how the distribution of power can unite the differing strengths of the country’s varied population groups, whether these Nepalis are characterized primarily as women, Dalits (oppressed people),¹ the Adivasi Janajati² (indigenous nationalities or peoples, often termed Janajatis), Madhesi³ (in general, the inhabitants of the country’s Plains, as opposed to its Hills) or people who live in areas remote from urban centres (Figure 1.1). A vast literature already exists on marginalisation of these groups. This Report concentrates instead on how each and all can increase their political participation with the support of new and revised state policies through state restructuring. In short, this Nepal HDR will focus on state transformation as one means of social transformation to end exclusion and discrimination.

Since the end of the Cold War, most conflicts are not contests between countries but rather internal disputes as disparities among their citizens have become increasingly evident. Nepal has proved to be no exception to this global trend. Its people have fought for equal representation and participation in their state and society on several occasions—as recently as the movements of 1990 and 2006. The popular mandate of the 2006 April movement and uprising—or “Janandolan”—called for peace, democracy and progress by ending discrimination through a restructuring of the state. Denying or postponing further the fulfilment of this demand for fair representation and eq-

FIGURE 1.1 The broad social mosaic of Nepal, 2001



uitable participation in power-sharing poses grave risks of a relapse into conflict.⁴

Second—and far more positively—with increased consciousness of developments beyond Nepal’s borders, its citizens began looking not only to increased income, education and health, but a greater stake in their government and society, notably a greater voice in determining state policies. More importantly, they want to live in the dignity and self-respect accorded by equal opportunities and treatment. As the UNDP Global 2004 HDR stated, democracy and equitable growth do not guarantee universal inclusion. But almost all people want the right to speak their own language, practice their religion of choice, and participate in shaping their culture. They want to choose to be who they are or wish to become. Conversely, while diversity does not inevitably lead to clashes, exclusion, humiliation and suppression often erupt into violence (Box 1.2).⁵

In today’s Nepal, citizen demands for inclusion, participation, and autonomy—even for self-determination—constitute a claim to more freedoms, more choices and more options than they have hitherto known. This is no more nor less than the fulfilment of their potential—which, in turn, enriches human development as a whole. For this, the country’s inhabitants look to a new Nepal—one that is just rather than exclusionary; peaceful rather than

In today’s Nepal, citizen demands for inclusion, participation, and autonomy constitute a claim to more freedoms, more choices and more options than they have hitherto known

BOX 1.2 Cultural liberty for human development

The Global 2004 HDR dealt with the theme of cultural liberty for human development, arguing that states must act to create multicultural policies to prevent discrimination on the grounds of religion, ethnicity, and language. The expansion of cultural freedoms, as opposed to their suppression, is the only sustainable option for promoting stability, democracy and human development within and across societies. The Report dispels the myths that have been used to deny the expansion of cultural freedoms in light of the knowledge that diversity is neither a threat to state unity, nor a source of inevitable clashes, nor an obstacle to development. Instead, cultural freedom lies at the core of human development—the ability of people to choose who they are. Having multiple individual and group identities does not necessarily weaken a citizen's sense of nationality. On the contrary, it can strengthen loyalty to the country as a whole.

Source: UNDP 2004.

violent; stable rather than erratic; and functional rather than failed state.⁶ Stability translates into a restoration of the rule of law and the provision of basic services and infrastructures that fulfil basic daily needs as these are now understood worldwide.

Ensuring the rights of poor and the excluded calls for changes in policies and laws and their proper enforcement

This Report argues that ensuring the rights of poor and the excluded calls for changes in policies and laws and their proper enforcement. This requires:

- ▶ that these people be represented in the legislature and participate in its framing of policies;
- ▶ that their voices be heard and heeded in the government, where these policies are executed; and
- ▶ that they have prompt, equitable access to the judicial system, where the laws are applied and interpreted.

Together, these reforms constitute the actual meaning of political inclusion, as the term is used in this Report. Inclusion demands equitable representation and effective participation. It entails civic knowledge, resources and institutions. Otherwise participation is only token.

Political inclusion requires state transformation. Changing the political power structure means establishing a system of broad and deep democracy that is open to citizens so that they can voice their views openly and without fear. Such a system must also offer opportunities for those who have been excluded to move to the forefront of development. These characteristics translate into a democratic polity, which mandates the inclusion of all citizens, and democratic governance institutions that are accessible to those they govern.⁷

The country's recent multiple transitions cannot be overlooked for they have significant impact on state transformation. Nepal has moved:

- ▶ from a monarchy into a republic that promises a wide spectrum of freedoms;
- ▶ from authoritarianism to a conception of democracy that rests on the realization of human potential as set out in the 1948 Universal Declaration of Human Rights;
- ▶ from hegemonic to participatory governance;
- ▶ from a system of national governance derived from one particular religion to the prevalence of a generally secular perspective; and
- ▶ from a heavily centralized unitary system to one of decentralization and autonomy at varied sub-national levels.

Most of the transitions outlined above involve the “national question”—the place of cultural groups, including ethnic communities, in the country and its state, together with equitable power-sharing among these differing populations. In short, Nepal is making a momentous transition from a hierarchical society, which determined one's place in relation to others, by gender, by caste and by ethnicity, to one that stresses human dignity and equality.

Human development, human security and state transformation

Two broad schools of thought have tended to dominate thinking about human progress. The growth school holds that economic growth is the engine of human development, i.e. that as societies become wealthier they make greater provision for basic social services like education and health which in turn builds human capital.

Unlike the growth school, the human development school holds that growth does not *automatically* trickle down; that increases in income do not automatically bring about improvements in human lives; and that people's progress, not income growth, constitutes the end of development. For these reasons, the advocates of human development concentrate on the policies that best utilize the income growth that a country attains. These policies need to be pro-poor, pro-women, pro-excluded and pro-environment. In particular, they need to build on the four pillars of human development:

- ▶ efficiency or productivity;
- ▶ equity;
- ▶ empowerment; and
- ▶ sustainability.

This means that efforts to expand the macroeconomic activities towards higher growth (productivity) must take place hand in hand with policies that:

- ▶ give all citizens access to opportunities (equity);
- ▶ enable people to make the choices they wish (empowerment); and
- ▶ do both without reducing the options of future generations (sustainability).⁸

Human development concerns not only widening people's choices, but providing an environment in which they can exercise their options freely and safely. Development therefore entails security—notably the human se-

curity approach introduced by the global Human Development Report of 1994 and later enlarged by *Human Development Report 2005*. Security, however, is only one dimension of safeguarding this exercise of choice (see Box 1.3).

Violent conflict obstructs choice and thereby limits human development in at least four ways:

- ▶ It curtails the possibility of living a long, healthy life by infecting, crippling and killing people;
- ▶ It restricts their options for obtaining knowledge and exercising their intelligence by substituting force for reason;
- ▶ It reduces their possibilities for attaining a decent life by destroying wealth of all kinds; and
- ▶ It shrinks their opportunities for collective decision-making because it inhibits and even prevents dialogue.

Inclusive growth and development cannot take place without the inclusion and encouragement of everyone who can potentially contribute to the nation and to society for their own development and for that of others. In short, development requires democ-

The human development school holds that growth does not automatically trickle down

BOX 1.3 What is human security?

The Commission on Human Security defines human security as the protection of "the vital core of all human lives in ways that enhance human freedoms and fulfillment." Human security means protecting fundamental freedoms. It means protecting people from critical threats and situations that menace their well-being. It means fostering processes that build on people's strengths and aspirations. It means creating political, social, environmental, economic, military and cultural systems that together give people the building blocks for survival, livelihoods, and dignity.

Human security is far more than the absence of violent conflict. It encompasses human rights, good governance and access to economic opportunity, education and health care. It is a concept that comprehensively addresses both "freedom from fear" and "freedom from want."

Source: Commission on Human Security 2003.

racy and the transformation of the state to foster two of democracy's prime determinants: *increased representation* and *enhanced participation*.

All people everywhere—in both economically advanced and low-income countries—need to exercise the full complement of their rights: civil, political, social, cultural and economic.⁹ This Report holds that civil and political rights can ensure the effective use of socioeconomic rights, and that socioeconomic rights enable people to use their civil and political rights effectively.¹⁰

The sources and dimensions of exclusion

Nepal's wide range of physical and social diversity, including its marked spatial variation in resources, has created and perpetuated the differences in the living conditions of its population. The country has 103 caste and ethnic groups (including two unidentified groups) speaking 92 languages.¹¹ Caste, ethnicity, language, and religion remain the major sources of cultural identity.

Even in 21st century Nepal, one can see at least the following seven sources of inequality and exclusion:

1. *unequal gender relations* that stem from traditional socio-cultural structures that define the formal and informal rules for women's participation in relation to opportunity, decision-making, access to resources, and control over them;
2. *caste differentials due to social stratification* by the hierarchies stipulated by the *Muluki Ain* (the national code of 1854) that characterized Dalits as "untouchable";
3. *caste and ethnicity differences resulting from the norms and socially defined practices of dominant caste groups* that define the degree and form of discriminatory practices towards disadvantaged Adivasi Janajatis;

4. *linguistic discrimination* arising from the domination of the Nepali language over the other native tongues and the consequent exclusion of non-Nepali speakers;
5. *religious differences*, which act similarly, favouring Hinduism above other faiths and belief systems;
6. *spatial exclusion* that derives from isolation in geographic areas remote from Kathmandu and other urban centres, or from state-biased policies that affect the disadvantaged regions; and
7. *geo-political discrimination*: an exclusion linked to location that also reflects socio-political differences, notably the distinction between the *Pahadi* (Hill dwellers) and the *Madhesi* (plain dwellers).

All these stratifications have been reinforced by government policies, especially the party-less political system (Panchayat) of 1960, which proclaimed Nepal a "Hindu Kingdom" and Nepali or Khas "the only official language." Simultaneously, it ignored Nepal's multi-religious, multinational, multicultural, and multilingual character and created a "Khas" linguistic and cultural chauvinism. The policy survived even after the restoration of democracy in 1990.

Thus, despite high social diversity, the state imposed a single Hindu religion and Nepali language upon all the country's distinct populations, opening the way to pervasive exclusion and discrimination. While spatial discrimination has played some role in the civil war, such as the origins of the Maoist conflict in the Mid-Western, the poorest development region (as demonstrated in chapter 2 of this Report), other types of discrimination and exclusion have loomed large, especially the following:

Gender-based discrimination and exclusion

Gender-based discrimination is rampant in Nepali society. It affects all women, what-

Civil and political rights can ensure the effective use of socioeconomic rights

ever is their economic status, caste, ethnicity, or regional affiliation. A patriarchal worldview is embedded not only in social and cultural practices, but also in Nepal's systems of governance and its legal framework, permeating all aspects of the lives of women and girls. Patriarchy also pervades the social spectrum so that Dalit women face multiple layers of exclusion.¹²

Women and girls lag behind men because of at least six factors:

1. disparities in education;
2. limitations on the rights of women to own and inherit property until the recent past;
3. poor health, especially in the realm of reproductive health;
4. low access to labour markets, employment and productive assets/resources;
5. gender-based violence; and
6. lack of fair representation in decision-making.

Nepali women have long raised their voices against these oppressions and have made remarkable strides in addressing policy barriers and improving participation. They have, for instance, secured the allocation of one-third of CA seats to women. They have also won women's right to provide citizenship to their children.

Caste-based discrimination

Caste-based discrimination became an organizing principle of the national code of 1854, the Muluki Ain, for consolidating Nepal's diverse peoples into a nation state. The code defined caste in terms of ritual "purity" and "pollution." Brahmans and Dalits occupied the top and bottom ranks of this hierarchy respectively, while the ethnic groups now known as Adivasi Janajatis occupied the middle ground—with, however, numerous distinctions among them as well.

This nationwide system governed all aspects of social life, including marriage and food

exchange. It also gave rise to a caste-geared body of law in which the punishment of what was considered criminal behaviour derived from an individual's caste rather than the act with which he or she was charged. Although caste-based discrimination became illegal in 1963, it continues to define interactions between social groups. It therefore spills over, too, into the ways in which the descendants of the so-called low-caste groups experience barriers to participation in Nepal's political system and thus access to government opportunities, resources, and services.

Of all the caste and ethnic groups, Dalits have fared worst because they still hold the lowest position in the caste hierarchy. They receive much the same treatment from indigenous groups as from the other Hindu castes. The belief that Dalits are "polluted" not only segregates them from members of other castes, but also prohibits them from touching non-Dalits and their possessions. Additionally, Dalits are denied entry into public places, such as temples and restaurants. A survey conducted in 2002 listed a total of 205 existing practices of caste-based discrimination.¹³

Such practices and their implication have undermined the health and education of Dalits, together with their interactions with members of other groups and their scope of activities in a broad range of social sectors. To take only one example, Dalit children do not eat their midday meals with other children in some remote schools. Happily, with the general rise of Nepali literacy and the awareness that the media has played a large role in creating, especially since 1990, these kinds of discrimination have begun decreasing, especially in urban areas and their vicinity. However, in the remote rural areas, especially those of the Mid- and Far-Western regions, as well as parts of the Tarai, these customary cruelties still exist. They also deprive the country of talent it needs for development.

Although caste-based discrimination became illegal in 1963, it continues to define interactions between social groups

Redefining the national identity of state to reflect Nepal's cultural diversity has been coupled with a desire for secularism

Ethnicity-based discrimination

The imposition of various subtleties of the Hindu caste system upon the ethnic fabric of Nepal has created negative effects for indigenous peoples or Janajatis and created the foundations for their exclusion. While Janajatis were placed initially on the middle rung of merchants, peasants and labourers in the caste hierarchy, they were subsequently sub-classified according to their consumption of alcohol—and as being enslavable or unenslavable.¹⁴ Because Brahmans and Chhetri neither drank alcohol nor were subject to slavery, they were considered to be superior to Janajatis. The designation of Nepali as the national language has been identified as yet another characteristic of high-caste Hindu domination because it marginalized indigenous and minority languages and thereby enabled the Nepali state to favour Hindu politics. Not surprisingly, current reform efforts embody a significant backlash against this tradition.

Janajati movements began as early as the 1950s and widened considerably after 1990, reinforced by organizations that have grown out of the two interrelated issues of political demands and cultural or identity politics. The political demands of Janajati include transformation of the state so that it becomes both more inclusive and representative of the country's population as a whole and more responsive to the needs of all citizens. The Janajati movement calls for a new constitution and a restructuring of the state through the establishment of a federal system that would enable ethnic autonomy and reserve positions for members of indigenous groups in the government and other state-sponsored institutions. Redefining the national identity of state to reflect Nepal's cultural diversity has been coupled with a desire for secularism that would also affect national dress, national holidays, the national anthem, and even the

calendar. The fall of the monarchy in 2006 opened the door to revivals of varied indigenous histories, languages and festivals.¹⁵

Madhesi-based discrimination

The Shah/Rana rulers of Nepal viewed the fertile Tarai lands as a source of revenue through tax and *birtas* or land grants for rewarding loyal subjects—largely Parbatiya courtiers, but also some local landlords. The Parbatiya-dominated bureaucracy showed little concern for the welfare of either the indigenous inhabitants of the Tarai including Tharu or the Maithili, Bhojpuri and Awadhi-speaking Hindu groups who periodically found themselves within the territory of the Kathmandu-based Parbatiya rulers during the shifting of borders at various times in the 18th and 19th centuries. For their part, these rulers paid little attention to the marginal position of their Tarai/Madhesi subjects.¹⁶ Indeed, the caste hierarchy defined by the Muluki Ain simply ignored some 25 middle-ranking Madhesi castes and Janajati groups from the Tarai area. Those missing included a number of “untouchable” occupational groups such as the Chamars, Mushahars and Tatma, who are today among the poorest people in Nepal.

Many individuals who belong to these groups are not even identified as citizens of the country and, until recently, have encountered problems in obtaining certificates of citizenship. The largely Parbatiya ruling group has tended to regard the Madhesi who speak Awadhi, Bhojpuri and Maithili as somehow “non”-Nepali or “less” Nepali on the grounds of the languages they use daily rather than the locations in which they live. This cultural/linguistic criterion of citizenship has denied many Madhesi their identity—creating difficulties in their attempts to register their land in their own name, however long they and their ancestors may

have occupied and worked the same lots of Tarai earth. They therefore remain officially landless. This discrimination was reinforced by the Citizenship Laws of the 1960s, based on the vague phrase “of Nepalese origin” contained in the Constitution of 1962.¹⁷

In addition, the Madhesis, Janajatis and other groups who are not fluent in Nepali face stiff competition in the examinations for entry into the national civil service. This linguistic barrier, like that of the Janajatis, narrows Madhesis’ study options as well as their futures in the decision-making bodies of the government and administration. In the larger scheme of things, this stunts Nepal’s development as a whole as well as that of the excluded and slighted groups.

Exclusion—a recapitulation

As stated earlier, exclusion and inequality in Nepal exist among regions and groups and within particular groups. Mountain region or the Mid-Western Development region remains always at the bottom of the human development ladder. Yet the hierarchical caste, ethnic and gender relations that structure the interactions of daily life at the family and community level among groups of Tarai-Madhes origin have always been more restrictive than those in the Hills. For example, the HDI level was highest for the Madhesi Brahmins, whereas it was lowest among the Madhesi Dalits of Tarai (0.625 vs. 0.383) in 2006. Huge disparities prevail even in this relatively homogeneous Tarai region that is now requesting autonomy. Moreover, within a single caste group, there is inequality across regions: the Hill Brahmins and Chhetris have a HDI of 0.612 and 0.514, which are less than that of their Madhesi counterparts. On the other hand, among the Tarai Janajati, HDI falls below

that of their counterparts in the Hill and Mountain regions (0.470 vs. 0.507).

Given these widespread differentials in all broad caste and ethnic groups, will a federal structure sought by the Madhesi or Janajati people ensure human development across the board without supplementary constitutional devices?

The reasons for both domination and exclusion differ widely among all the disadvantaged groups despite their political, economic, social and cultural parallels. For women, the chief obstacle to human development is patriarchal society; for Dalits, it is the hierarchal caste-based system; for the Janajati, it is identity, culture (religion and language) and resources; for Madhesi it is language and regional autonomy; while for the people of the Mid-West, it is a paucity of resources closely bound up with their deprivation of physical connectivity to better-developed areas. The vicious, self-reinforcing cycle of discrimination and inequality discussed earlier would seem best weakened—and eventually eliminated—by increasing equality of representation in state structures. This translates into state transformation.

Each of the groups suffering discrimination can also look to international law for models of transforming the state in accordance with its own needs and priorities. For women, for example, there is an enormous corpus of legal standards best summed up by the Convention on the Elimination of All Forms of Discrimination against Women of 1979 and its supplementary Protocol. Janajatis can invoke Articles 3 and 4 of United Nations Declaration on the Rights of Indigenous Peoples, adopted by General Assembly on 13 September 2007. Dalits may wish to re-examine International Convention on the

Will a federal structure sought by the Madhesi or Janajati people ensure human development across the board without supplementary constitutional devices?

Women and various caste and ethnic groups suffering discrimination can also look to international law for models of transforming the state in accordance with their own needs and priorities

Elimination of All Forms of Racial Discrimination 1965, and the two international Covenants on Human Rights of 1966, that on Civil and Political Rights and that on Economic, Social and Cultural Rights—or, perhaps more simply, the Universal Declaration of Human Rights of 1948, from which both Covenants stem (Box 1.4).¹⁸

Consequences of conflict on human development

We cannot forget that the ten years of armed conflict in which Nepal embroiled itself from 1996 on produced a culture of violence marked by massacres, torture, disappearances, displacements, and a general anticipation of terror that eclipsed faith in the state and paralyzed individual and group efforts to rebuild structures of governance. More than 13,347 people had been killed by the end of 2006, approximately 8 percent of them women and more than 3 percent children. Political activists, agricultural workers and police personnel also became major victim groups, amounting to some 72 percent of the total killings. In addition 50,356 people were displaced by end 2004, the greatest number in the Mid-Western De-

velopment Region.¹⁹ Even after the signing of the CPA in November 2006, another 551 people were killed in 2007 and 541 in 2008.²⁰

Overall, the conflict took its highest toll in the rural and less-developed areas and regions, such as the Mid-West and Far-West Development Regions, as well as in excluded groups of population, including rural agricultural labourers—in short, the groups most vulnerable in terms of both education and material assets. Even in the less developed region such as the Mid-West, the number of killing varies widely across districts of the region from 30 in Humla to 904 in Rukum district with a regional average of 324 persons (see Figure 1.2). Maps 1.1–1.3 vividly depict the relationship between the extent of suffering and levels of human development. While low levels of human development may have caused the onset of civil war from the Mid-West Development Region, the perpetuation of the conflict certainly brought them lower. It may also have resulted in a further deepening of Nepal's spatial inequality.

The conflict also has had a direct impact on the income dimension of human development by cutting employment opportunities. Indeed, the economic growth rate of the 1990s—4.8 percent—sank to 2.8 percent during 2002/03–2006/07, largely because of insecurity that decreased investment from the private sector and reduced the use of public expenditure. The fighting damaged physical infrastructure, along with the schools, health centres and other social facilities worth five billion rupees that served largely the rural poor.²¹

School damage and the use of school buildings as shelter by both the rebels and state soldiers, coupled with the presence of improvised explosive devices around some schools, resulted in high drop-out rates, es-

BOX 1.4 Key conventions ratified by Nepal

- ▶ The Universal Declaration of Human Rights, 1948.
- ▶ The International Convention on the Elimination of All Forms of Racial Discrimination, 1965.
- ▶ The International Covenant on Civil and Political Rights, 1966.
- ▶ The International Covenant on Economic, Social and Cultural Rights, 1966.
- ▶ The Convention on the Elimination of all forms of Discrimination Against Women, 1979.
- ▶ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984.
- ▶ The Convention on the Rights of the Child, 1989.
- ▶ The convention on indigenous and tribal peoples, 1989.

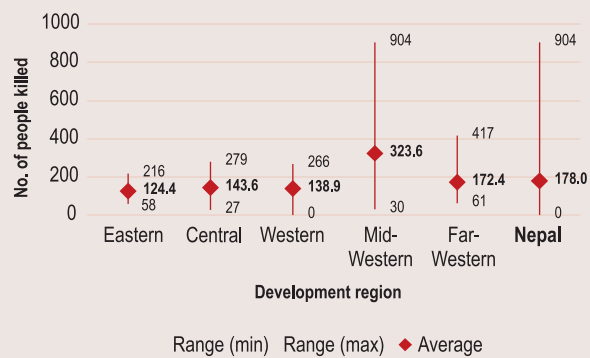
Source: UN websites.

pecially for girls. The restrictions imposed on the mobility of rural people, together with the inability of outreach staff to visit health facilities, continues to curtail access to quality health services by many who need them most, particularly women, children and vulnerable groups in remote areas. Some experts estimate that public health care dropped by 25 percent because of insecurity and difficulties of movement alone.²² This figure takes no account of the psycho-social effects of conflict, including losses in social capital in terms of the destruction of mutual trust and confidence.

Over and above these kinds of loss, the warring parties targeted media institutions and journalists and thereby attacked people's right to information. In the name of security, authorities on both sides forbade the informal gatherings of small groups in public places.

FIGURE 1.2

Range and average number of people killed in a district, Nepal, 1996-2006



Source: INSEC 2005 and 2007.

Even peaceful demonstrations were met with state violence—that ultimately led to the collapse of the state itself. This pattern has manifested itself worldwide and points to the interdependence of peace-building and human

MAP 1.1

People killed across development regions, Nepal, 1996-2006



Source: INSEC 2005 and 2007.

MAP 1.2 People displaced across development regions, Nepal, 1996-2004



Source: INSEC 2005.

MAP 1.3 Human development index across development regions, Nepal, 2006



Source: Annex 2.3, Table 1.

development. Without peace, human development is not possible and, without human development, peace is not sustainable. Both require inclusion and participation—which can come through restructuring state and deepening the democratic political system. Although the conflict came to a halt after the signing of the Comprehensive Peace Accord by the Seven-Party Alliance (SPA) and the then Communist Party of Nepal (CPN - Maoist)—now called Unified CPN (Maoist), this accord was followed by the uprisings of the Janajati and Madhesi for a more inclusive state and governance structure. Still ongoing in the Tarai, this struggle puts their demands for identity and inclusion with fair representation and participation at the core of the transformation of the state.

The Nepali comprehensive peace accord—its content and follow-up

Thus far, several agreements have been signed during the course of Nepali peace process (Box 1.5).²³ Signed on 21 November 2006, the CPA has four major components:

- ▶ political and socioeconomic transformation;
- ▶ management of armies and arms;
- ▶ ceasefire provisions and measures for normalization; and
- ▶ protection of human rights and fundamental rights.

This multi-sectoral Agreement is consistent with a human development and human security approach because the various dimensions of security and development are taken into consideration to promote a sustainable peace process.

Of the four components of CPA, the first component deals mainly with longer-term changes, and includes provisions such as:

- ▶ removing all powers from the monarchy (3.3);

- ▶ adopting a democratic political system (3.4);
- ▶ state restructuring in an “inclusive, democratic, and forward-looking” manner for ending discrimination (3.5);
- ▶ creating a common minimum programme of “socio-economic transformation... to end all forms of feudalism” (3.6);
- ▶ dealing with land issues (3.7, 3.10);
- ▶ establishing rights of all citizens to education, health, housing, employment and food sovereignty (3.9)
- ▶ generating a common plan for socio-economic development (3.12); and
- ▶ providing enhanced employment opportunities (3.13).

Without peace, human development is not possible and, without human development, peace is not sustainable

The subsequent three components all focus more on immediate issues, beginning with the management of armies and arms. Two

BOX 1.5 Key building blocks of peace process in Nepal

- ▶ **22 Nov 2005:** 12-point understanding between seven political parties and Unified CPN (Maoist) to restore peace, resolving a decade-long conflict.
- ▶ **18 May 2006:** Proclamation of the House of Representatives that it assumes all the state powers until the formulation of a new constitution.
- ▶ **25 May 2006:** Code of Conduct for a ceasefire agreement between the Government of Nepal and the Unified CPN (Maoist) to translate the accord into lasting peace.
- ▶ **16 Jun 2006:** 8-point agreement between senior political leaders of seven political parties and Unified CPN (Maoist) to move the peace process forward.
- ▶ **9 Aug 2006:** Letters by the government and Unified CPN (Maoist) to the United Nations requesting the cooperation in the peace process.
- ▶ **8 Nov 2006:** Decisions of the Meeting of high-level leaders of the seven political parties and Unified CPN (Maoist) on the governance of the country.
- ▶ **21 Nov 2006:** Comprehensive Peace Accord between seven political parties and Unified CPN (Maoist) to end conflict.
- ▶ **8 Dec 2006:** Agreement on Monitoring of the Management of Arms and Armies.
- ▶ **15 Jan 2007:** Proclamation of Interim Constitution 2007.
- ▶ **23 Dec 2007:** 23-point agreement between the seven political parties to reach a consensus on holding the CA election by mid-April 2008, among other steps towards consolidating peace.

Source: MOPR 2007A and MOPR records.

critical clauses in this section are 4.4, which calls for a “special committee” to be constituted by the Interim Cabinet for the purpose of carrying out the “supervision, integration, and rehabilitation” of the Maoist army combatants, and 4.7, which calls for the “right-sizing” and “democratic restructuring” of the Nepal Army.

The provisions of the permanent ceasefire echo the May 25, 2006 Code of Conduct agreement and set out measures for “normalization,” including mechanisms for transitional justice. The CPA calls for the creation of a National Peace and Rehabilitation Commission and a high-level Truth and Reconciliation Commission to “probe into those involved in serious violations of human rights and crime[s] against humanity in [the] course of the armed conflict for creating an atmosphere for reconciliation in the society” (sic) (5.2.5). It also calls upon both sides to account publicly for the disappeared within 60 days (5.2.3); to allow the respectful return, rehabilitation and reintegration of the displaced (5.2.8); and to resolve any problems that arise on the basis of mutual agreement (5.2.9).

The need for political accountability remains

The final component covers the rule of law and protection of rights. The CPA makes clear that “the Nepal Police and the Armed Police Force shall continue the task of maintaining lawful arrangements and peace and order...” (5.1.6), thus placing responsibility for security squarely with these two bodies. The Agreement also prioritizes compliance with human rights, fundamental rights, and humanitarian laws—reiterating many of the rights referenced in the preamble and other parts of the Code, and including far-reaching commitments to end discrimination and impunity, to ensure the right to freedom of movement, food security and private property, and to give special protections to workers, women, and children.

On a variety of challenging questions, the CPA was purposefully left open-ended in order to produce a document to which all sides could agree. However, the parties did pledge to continue dialogue on these issues. This continued dialogue has been one of the greatest strengths of the peace process, carrying it forward at times when all signs indicated that it was on the verge of collapse. At the same time, this working method has also delayed conclusive outcomes. It has allowed both sides to sign agreements to which they are not genuinely committed by using language vague enough to permit differing interpretations and deadlock. Continued negotiation has sometimes prolonged the process for months at a time on a single phrase.

The possibility of putting off difficult problems by promising to agree in the future means that the transition process has been slow and fragile, fraught with bargaining for new demands, with little assurance of final resolution—save for hope that somehow things will keep moving forward. However, immediately following the signing of the CPA, concerns were raised about both the mechanism used to negotiate the Agreement itself and the timeliness laid out in the document. Further, the CPA put forward what proved to be extremely overambitious timelines, calling for Constituent Assembly elections by June 2007 and for all parties to make public the whereabouts of the disappeared within 60 days, with no clear mechanism to ensure meeting these deadlines. Thus, the need for political accountability remains.

The post-CPA documents

The Interim Constitution

On 15 January 2007, the Government of Nepal promulgated an Interim Constitution to cover the transition period prior to the Constituent Assembly’s drafting of a new constitution.

Many of its clauses echo the spirit of the CPA. The Interim Constitution essentially eliminates a political role for the monarchy during the interim period, and declares Nepal a secular state instead of a Hindu Kingdom. Furthermore, it lays out key procedures and rules for the election of the Constituent Assembly. Most notably, it is the first Nepali constitution promulgated in the name of the sovereign people of Nepal (as opposed to the King).

Upon its promulgation, however, the Interim Constitution encountered criticism from a variety of groups, including members of the national legislature and constitutional lawyers.²⁴ Among their concerns, they put foremost the apparently excessive powers given to the executive branch; this included making the Prime Minister both the head of government and the head of state.²⁵ The critics also objected to several clauses that appeared to compromise the independence of the judiciary, along with the decision of the SPA and the then CPN (Maoist) to write their own party names into the new Constitution (in clauses 38, 45, and 139). The strongest protests, however, came from the historically marginalized groups, especially the Madhesis, who claimed that they were being treated as second-class citizens. Moreover, even as he worked for the adoption of the draft, Prime Minister Girija Prasad Koirala expressed the belief that the document contained flaws that would require amendment in the future.

This pronouncement proved prescient: as of the time of this writing, the Interim Constitution has been amended six times since its promulgation and is going to be amended again. The changes thus far have addressed such issues as federalism, the rights of marginalized groups, the electoral system, the abolition of the monarchy, and provisions regarding the presidency, the prime ministership, and other key positions.

Agreements with historically marginalized groups

Following their widespread participation in the April 2006 Janandolan, marginalized groups had expected the Interim Constitution to devote more direct attention to issues of inclusion.²⁶ In January 2007, Madhesi activists burned copies of the document and founded a Madhesi Andolan (Madhesi People's Movement) that went on to change the course of the peace process and resulted in amendments to the Interim Constitution. The Movement refocused the debate on issues of identity and exclusion. Other groups also launched protest movements and *bandhs* (strikes), but the Madhesi Movement was by far the most prominent.²⁷

Because of the protests, the ensuing violence, and overall insecurity in many areas, the Ministry of Peace and Reconstruction (MOPR) opened negotiations with representatives of the marginalized groups. Over a period of months, numerous agreements were signed with organizations such as the Madhesi Janadhikar Forum, the Nepal Federation for Indigenous Nationalities, Chure Bhawar Ekta Samaj, the United Madhesi Front, the Federal Republican National Front, and the Federal Limbuwan State Council.²⁸ Nonetheless, like the agreements between the SPA and the Unified CPN (Maoist), these accords await implementation.

Inclusion—the core of a transformation agenda

The Nepali peace agreements and major documents, including the CPA and the Interim Constitution, all look to the transformation of state and society for promoting inclusion and a more equitable development. Two key policies reflect this orientation:

- ▶ state restructuring or establishment of a democratic federal republic of Nepal; and
- ▶ developing and implementing a minimum socioeconomic improvement programme

The Nepali peace agreements and major documents, including the CPA and the Interim Constitution, all look to the transformation of state and society

*Translating the
CPA into
permanence is
therefore the first
and foremost step
for promoting
inclusion and
restoring lasting
peace*

The CPA envisages an inclusive, democratic and progressive state restructuring by eliminating the centralized and unitary form of the state in order to address the concerns of women, Dalits, indigenous nationalities, Madhesi, the oppressed, the neglected and minorities and backward regions by ending discrimination based on class, caste, language, gender, culture, religion and region. Translating the CPA into permanence is therefore the first and foremost step for promoting inclusion and restoring lasting peace. However, these transformations require implementing the other components of the CPA.

In order to implement the inclusion agenda of the CPA, this Report provides

inputs for discussion from the point of view of human development. Towards this goal, chapter two of the Report presents the facts and figures on spatial and socioeconomic exclusion that serves as a basis for attaining the rise of citizens; chapter three discusses how to move the peace process ahead so as to provide an enabling environment for the transformation of the state. Chapters four and five demonstrate how inclusion can be enhanced through a reform of the political system and the restructuring of the state. The last chapter provides a set of policy recommendations and suggestions for promoting inclusion and human development.

2
CHAPTER

Unequal
human
development

2

Chapter

Unequal human development

Human development and
its measurement

Human development in South Asia

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Poverty and human development

Caste and ethnicity and
human development

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To sum up...

2

Chapter

Unequal human development

A person's status in Nepal is determined largely by her or his birthplace, sex, age, and caste/ethnicity, apart from education and income. Differences in these features, together with deep-seated socioeconomic and cultural discrimination, have given rise to disparate human development outcomes across different geographical areas, along with differing caste and ethnic groups. Nonetheless, all Nepalis are citizens, each entitled by law to the rights set out in the country's constitution and the United Nations covenants on human rights. This chapter concentrates on human development inequalities by geographic areas and by caste and ethnic groups; subsequent chapters will explore paths towards inclusion and participation in governance structures through which those who are now excluded can fulfill their birthright as citizens and thereby influence policy and institutions for their own development.

Human development and its measurement

Human development aims at enlarging people's choices. These can be infinite. They can also change over time. Like income, inclusion and participation represent important choices. Today, people seek not only to increase their incomes, but also their education, their social sta-

tus and their personal dignity. They want to take part in various groups and organizations so as to exert influence on the state and on society. Income is only one means to that end.

The concept of human development has been evolving and expanding since the 1980s, when it was launched by the eminent economists and philosophers, Mahabub ul Haq and Amartya Sen. Because of its multi-dimensional and cross-disciplinary nature, human development can be measured in a variety of ways. One of the best-known methods involves the calculation of composite indices.

The first, developed in 1990, is known simply as the Human Development Index (HDI). Related indices soon emerged—among these, the gender-related development index (GDI), the gender empowerment measure (GEM), and the human poverty index (HPI). When the indices are used for inter-group comparisons at the regional level and across various caste and ethnic groups, they can help us identify who is excluded where. This often opens the way to changing the structures—especially representation in governance institutions—that can enhance people's lives in a number of dimensions. It can also help guide Nepalis to shape the features of the federal structure for which the country is preparing.

Human development aims at enlarging people's choices. These can be infinite. They can also change over time

The HDI measures average achievement in three dimensions:

- ▶ a long and healthy life, as measured by life expectancy at birth;
- ▶ knowledge, as measured by the adult literacy rate, combined with the school enrolment ratio; and
- ▶ a decent standard of living, as measured by Gross Domestic Product per capita in purchasing power parity in US dollars.

The concept of HDI and its related indices can be explored further in the technical note of Annex 2.2.

Human development in South Asia

Nepal's HDI was the lowest of the five countries of the South Asian Association for Regional Cooperation (SAARC) in 2005. This has persisted for the last three decades—with the exception of 1990 and 1995, when Nepal ranked just above Bangladesh (see Figure 2.1).¹

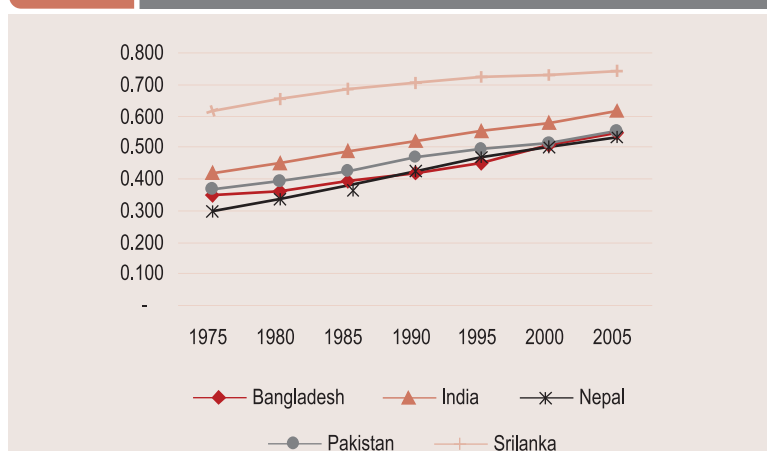
The main reason for low HDI in Nepal compared to other SAARC countries is lower

per capita income. Per capita income significantly increased in Bangladesh, Bhutan, India and Maldives between 1992 and 2005; the other two SAARC members, Pakistan and Sri Lanka, had already attained higher levels (see Figure 2.2). Thus, Nepal whose HDI position was higher than Bhutan's in 1992, has ranked below that country in recent years because of Bhutan's remarkable income gain—approximately a 5-fold rise in per capita income as compared to a 2.3-fold increase in that in Nepal.

The increased intensity of Nepal's conflict is a major reason for the country's low economic growth and its concomitant low per capita income, especially since 2001.² The growth rate during the Tenth Plan period (2002/03 - 2006/07) was less than 3 percent. However, the effect of conflict on life expectancy and educational attainment, the other two components of HDI, was low because they are stock variables, whose values tend to accumulate over time; they are therefore less volatile than per capita income. This suggests that a significant leap in Nepalis progress during the post-conflict period will depend on a higher and *more inclusive* growth rate, together with a gradual increase in the other two components.

In 2005 Nepal's HDI was the lowest of the five countries of the South Asian Association for Regional Cooperation

FIGURE 2.1 HDI trend of some SAARC countries at the interval of 5 years, 1975–2005



Source: UNDP 2006 and 2007.

The Nepal human development index

Measuring and analyzing human development for 75 districts and 103 caste and ethnic groups in Nepal can provide a comprehensive base for determining just how democratic and open the national political system actually is. Efforts to calculate at those levels of disaggregation are hampered by lack of comprehensive, up-to-date and reliable data. It is difficult to go beyond these levels, as the national household (sample) surveys in Nepal are conducted to provide estimates of well-being indicators only for large areas; 6 re-

gions have been defined under the Nepal Living Standards Survey (NLSS) and 13 sub-regions under the Nepal Demographic and Health Survey (NDHS).³ Moreover, the HDI calculated for different caste and ethnic groups from small (area-based) samples cannot be that robust. Taking into account these limitations, this time the HDI has been measured only for the following areas and groups:

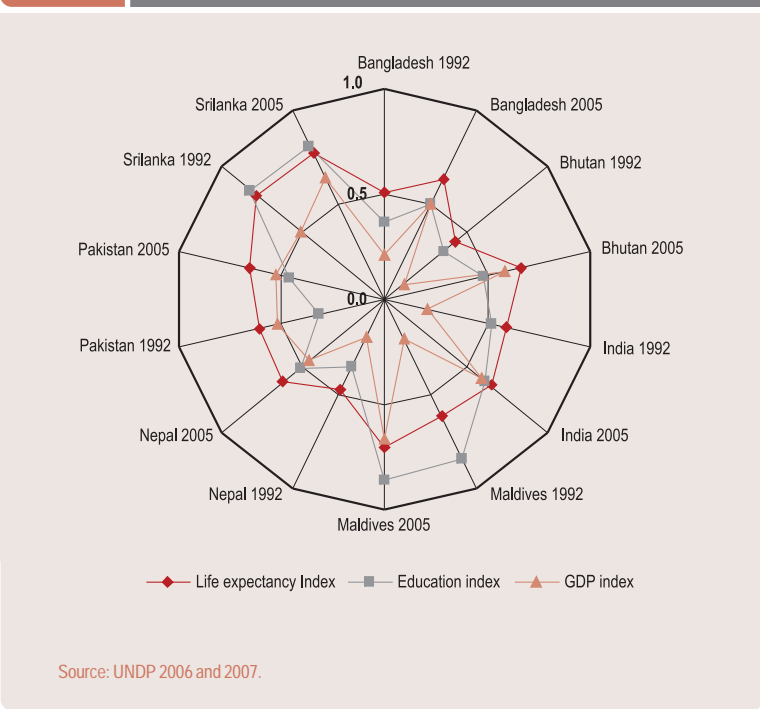
- ▶ the whole country;
- ▶ urban and rural Nepal;
- ▶ 3 ecological belts;
- ▶ 5 development regions;
- ▶ 13 sub-regions (a cross-section of 3 ecological belts and 5 regions, with Western, Mid-western and Far-western mountain combined in to one as 'Western Mountain' because of the small sample size)⁴; and
- ▶ 11 caste and ethnic groups.

Although these levels of disaggregation are limited for the purposes of inclusive planning and monitoring, they nonetheless provide a solid point of departure. The HDI values are computed largely on the basis of data from the NDHS 2006, and the NLSS 2003/04. Further detail is given in Annex 2.1, and the computed indices are given in Annex 2.3 and 2.4.

The Nepali HDI estimated in this Report is 0.509 for the year 2006, a figure lower than that of the global human development report for 2007/08 (0.534). The difference arises from discrepancies in methodology and data.⁵

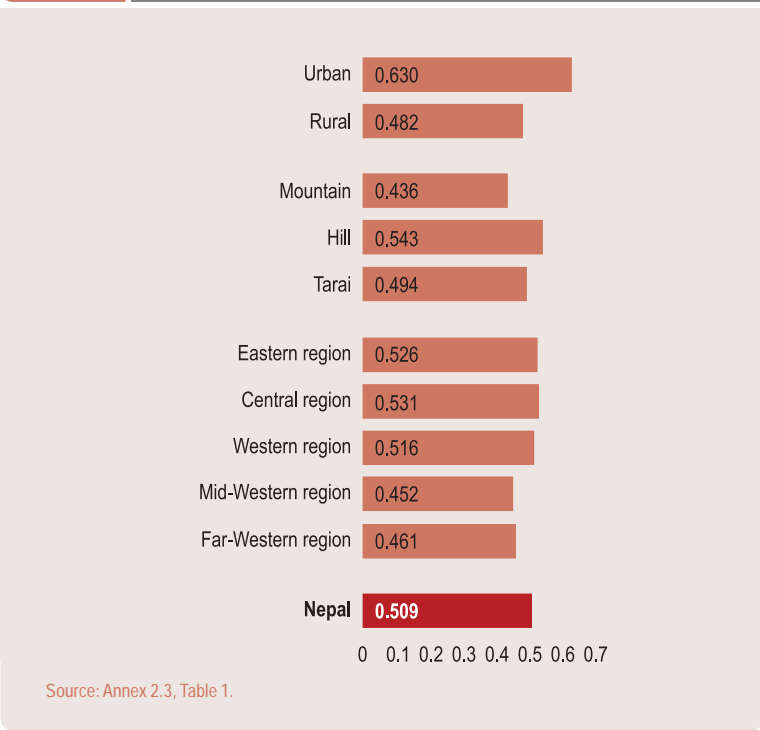
HDI throughout the country varies widely by urban-rural divide, by ecological belt, and by development region and sub-regions (see Figure 2.3, Table 2.1 and Map 2.1). On average, urban dwellers have much higher human development than their rural counterparts: 0.630 vs. 0.482; those who live in the Hills enjoy the highest standards, while those of the Mountains have the lowest. Among the development

FIGURE 2.2 Comparison of three sub-indices of HDI of SAARC countries, 1992 and 2005



Source: UNDP 2006 and 2007.

FIGURE 2.3 Human development index across areas and regions, Nepal, 2006



Source: Annex 2.3, Table 1.

TABLE 2.1 Change in human development index, Nepal, 2001 and 2006

Region	HDI in 2001		HDI in 2006		Δ (HDI 06-HDI 01)
	Value	Rank	Value	Rank	
Nepal	0.471		0.509		0.038
Urban/rural residence					
Urban	0.581	1	0.630	1	0.049
Rural	0.452	2	0.482	2	0.030
Ecological region					
Mountain	0.386	3	0.436	3	0.050
Hill	0.512	1	0.543	1	0.031
Tarai	0.478	2	0.494	2	0.016
Development region					
Eastern region	0.493	1	0.526	2	0.033
Central region	0.490	3	0.531	1	0.041
Western region	0.491	2	0.516	3	0.025
Mid-Western region	0.402	5	0.452	5	0.050
Far-Western region	0.404	4	0.461	4	0.057

Source: UNDP/Nepal 2004 and Annex 2.3, Table 1.

MAP 2.1 Human development index across eco-development regions, Nepal, 2006



Source: Annex 2.3, Table 1.

regions, the Mid-Western region has the lowest level of development, and of the 13 sub-regions, it is lowest in 'Western Mountain' that consists of three sub-regions: Western, Mid-Western, and Far-Western mountain (Map 2.1).

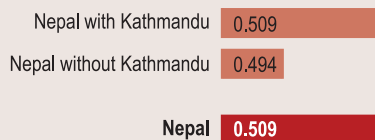
When Kathmandu is excluded, the HDI value for Nepal drops to 0.494 from 0.509, and the Hills and Central Development Region move from the top to lower positions (see Figures 2.4–2.6). This implies a higher disparity between the people of Kathmandu and those outside the capital. Murshed and Gates (2005) found that the extent of relative deprivation of the people in the remote rural districts of the Hills and Mountains is very high, and argue that the lack of development in these areas fuelled the Maoist insurgency. Apart from these citizens, some of the predominantly Madhesi districts also rank among the least developed in terms of human development indicators.⁶

The HDI over time

Human development has improved over time, but the trend of spatial inequality generally continues to be roughly the same (see Table 2.1 and Map 2.2). In particular, the HDI value increased by 8 percent from 0.471 in 2001 to 0.509 for the whole country in 2006, an annual rate of 1.6 percent. Yet there has been no change in the status of rural or urban areas and ecological regions, as the HDI ranking shows (Table 2.1). However, there is a change in the ranking of development regions. In 2001, the Central Development Region stood third; by 2006, it had moved up to the first place. This derives in part from the fact that development centres on Kathmandu and that those who could afford to do so moved from the rural areas to Kathmandu during the conflict. By contrast, as in 1996 and 2001, the people of Far- and Mid-Western development regions still rank lowest. Insecurity in the last ten years has further affected public services and private activities more in rural than in

FIGURE 2.4

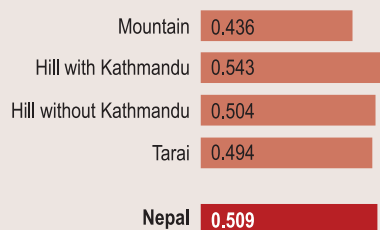
Human development in Nepal: with and without Kathmandu



Source: Annex 2.3, Table 1.

FIGURE 2.5

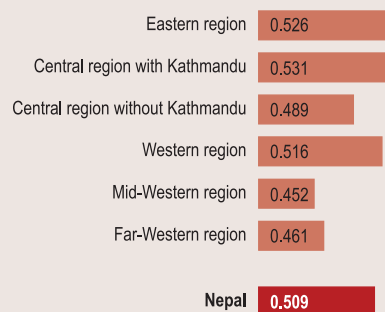
Human development across ecological zones: Hills with and without Kathmandu



Source: Annex 2.3, Table 1.

FIGURE 2.6

Human developments across development regions: Central region with and without Kathmandu

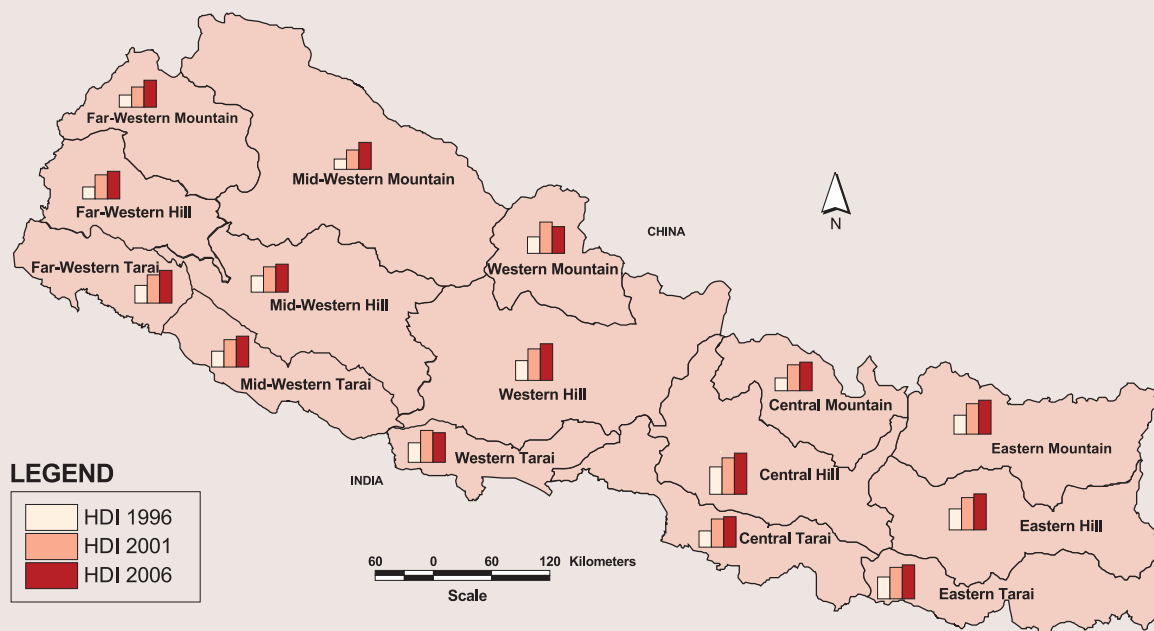


Source: Annex 2.3, Table 1.

Insecurity in the last ten years has further affected public services and private activities more in rural than in urban areas

MAP 2.2

Human development index across eco-development regions, Nepal 1996, 2001 and 2006



Source: Annex 2.3, Table 1; UNDP/Nepal 2004; and NESAC 1998.

The Gender Empowerment Measure and Gender-related Development Index measure inequality between women and men

urban areas, preserving the pre-war disparity. It also implies shortcomings in the government's policy on growth with equity. Political inclusion of disadvantaged groups and areas consequently appears a logical starting point for pro-poor policy.

Gender and human development

The *Human Development Report 1995* introduced the Gender-related Development Index (GDI) and Gender Empowerment Measure (GEM) to measure inequality between women and men. The GDI measures gender disparity by adjusting average achievements to reflect inequalities between female and male in the three dimensions of HDI outlined above. GDI therefore falls wherever men outrank women in achievement levels. Thus, the greater the gender disparity in basic capabilities, the lower a country's GDI compared to its HDI.

While GDI focuses on capability, GEM shows the use of those capabilities in taking

advantage of opportunities in life. Focusing on women's opportunities, the GEM captures gender inequality in three key areas: participation and decision-making power in political and economic affairs and power over economic resources.⁷

The gender-related development index

As measured by Nepal GDI, the difference in capabilities between women and men is low for the entire country, but higher for some areas and regions than others; these include the countryside in general and, more markedly, the Mountains and the Mid-Western Development Region, implying the low level of human development of women in those areas (Figure 2.7). At the sub-regional level, the situation of women is worst in the Mid-Western and Far-Western Hills and Mountains, the Central and Western Mountain sub-regions (see Map 2.3, and Annex 2.3 Table 2).

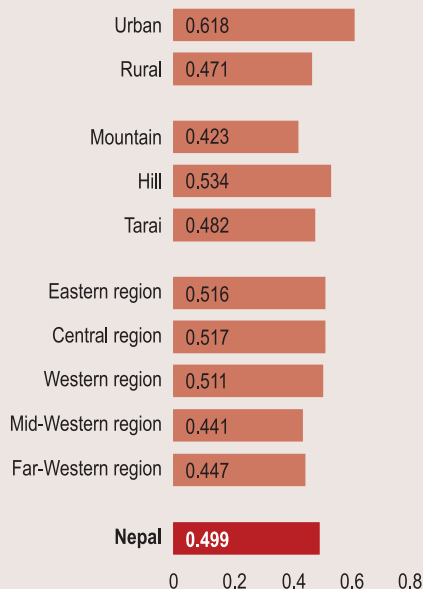
Trends in gender inequality

The *Human Development Report 1995* introduced a formula for measuring gender inequality relative to HDI: a simple difference of GDI over HDI expressed as a percentage of the HDI. Thus, higher the value, higher the gender inequality becomes.⁸ Gender inequality is computed on this basis for the year 2001 and 2006 and presented in Table 2.2. Overall, gender inequality decreased in all the ecological and development regions and sub-regions in 2006 as compared with 2001, but the most significant decrease was found in Mid- and Far-Western Mountains. Moreover, the ratio of GDI to HDI presented in Map 2.4 shows an improving trend for the status of women.

The main reason for this improvement is the increase in life expectancy of women, which has surpassed that of men in recent years.⁹ Together with increasing enrollments of girls, this may have narrowed the gender gap. However, this rate of decrease in gender inequality

FIGURE 2.7

Gender-related development index across areas and regions, Nepal, 2006

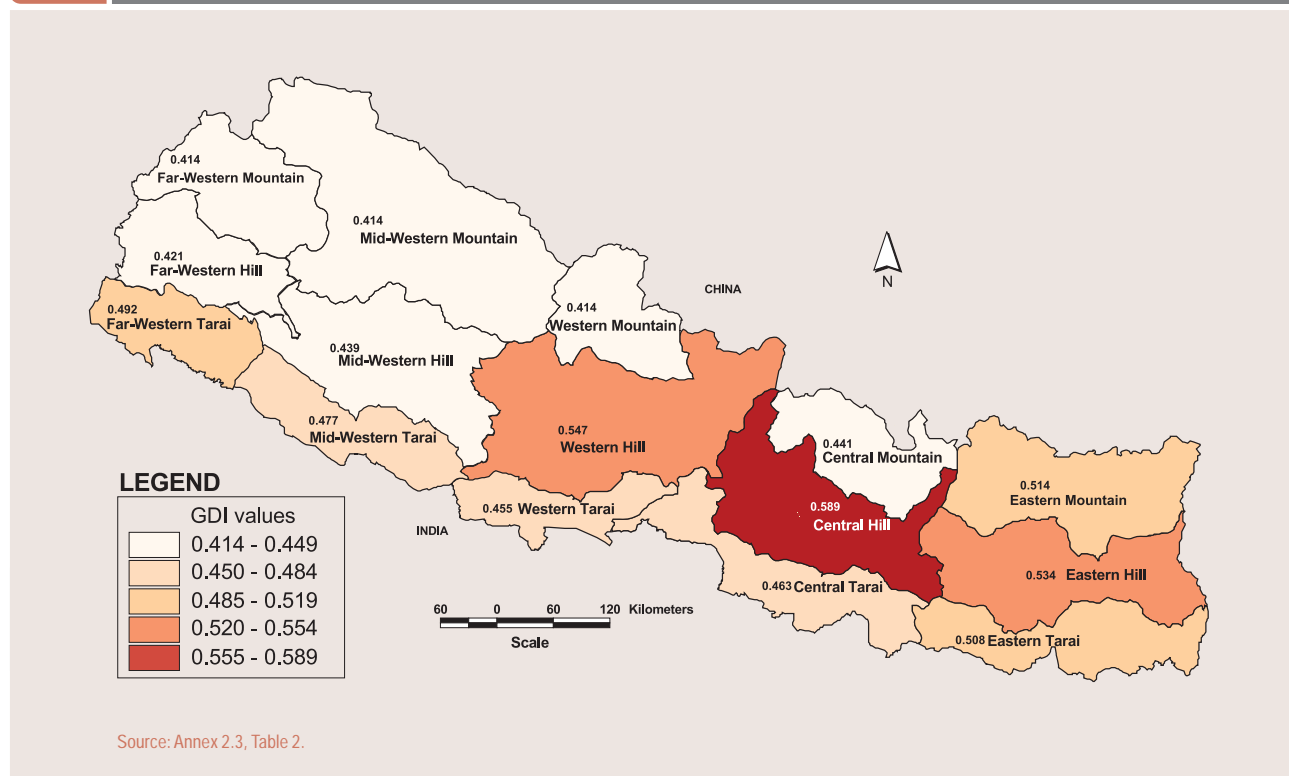


Source: Annex 2.3, Table 2.

The ratio of GDI to HDI presented in Map 2.4 shows an improving trend for the status of women

MAP 2.3

Gender-related development index across eco-development regions, Nepal, 2006



Source: Annex 2.3, Table 2.

is dwindling. It slowed more markedly from 2001 to 2006 than for the previous 5 years between 1996 and 2001 (Figure 2.8).¹⁰ This implies that greater resources will be required for a future shrinking of gender inequality.

The gender empowerment measure

Although the decrease in gender inequality implies an improvement in the relative capabilities of women, their representation and participation remains lower than that of men in the political, economic and professional domains. This is illustrated by the gender empowerment measure (GEM). Women's share of earned income was about one third of that of men, while their participation in political processes was only a fifth of the male rate. The gap widens further in their professional and administrative employment (See Annex 2.3 Table 3). Notwithstanding, a landmark towards enhancing women's representation was the affirmative action which led to women holding one-third of the total 601 seats of the new constituent assembly in April 2008.

TABLE 2.2

Percentage shortfall of GDI over HDI by region, Nepal, 2001 and 2006

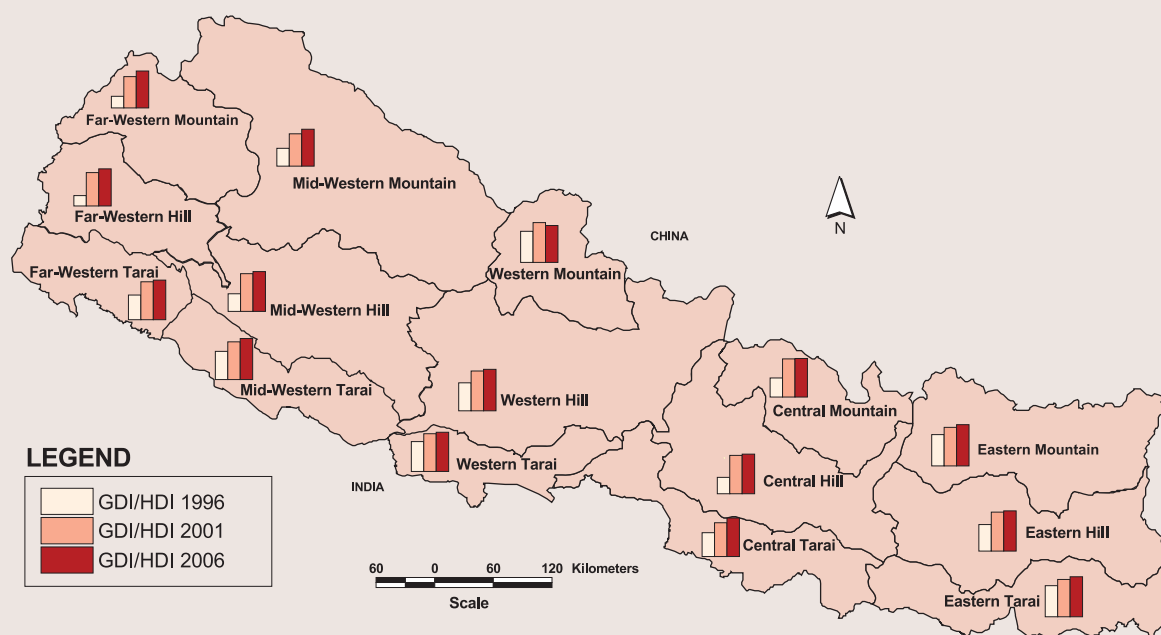
Region	Percent	
	2001	2006
Nepal	4.0	2.0
Urban	3.3	1.9
Rural	4.9	2.3
Mountain	6.0	3.0
Hill	2.7	1.7
Tarai	5.9	2.4
Eastern region	3.7	1.9
Central region	4.7	2.6
Western region	2.9	1.0
Mid-Western region	4.2	2.4
Far-Western region	6.7	3.0
Eastern Mountain	3.1	1.0
Central Mountain	3.5	2.9
Western Mountain	2.0	4.8
Mid-Western Mountain	9.5	4.8
Far-Western Mountain	10.1	4.8
Eastern Hill	2.8	1.7
Central Hill	3.5	2.2
Western Hill	2.0	0.4
Mid-Western Hill	4.1	2.0
Far-Western Hill	8.4	5.0
Eastern Tarai	4.5	2.1
Central Tarai	7.8	3.1
Western Tarai	4.0	2.8
Mid-Western Tarai	4.1	0.8
Far-Western Tarai	4.0	2.2

Note the values are calculated using $\{(HDI-GDI)/HDI\}^*$ 100 as introduced in HDR 2005.

Source: SHDI calculation based on data from UNDP 2004 and Annex 2.3.

MAP 2.4

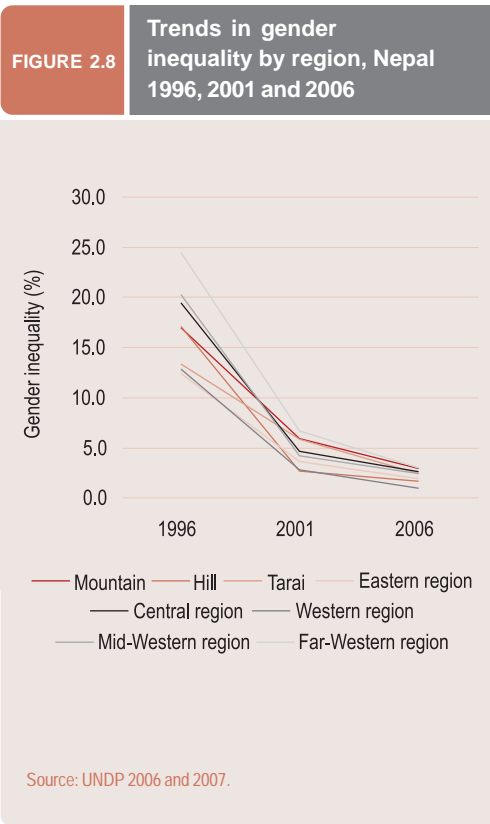
GDI/HDI ratio across eco-development regions, Nepal 1996, 2001 and 2006



Source: Annex 2.3, Table 2; UNDP/Nepal 2004; and NESAC 1998.

The participation of women also varies widely by geographical area. Between 2001 and 2006, the GEM in Nepal improved by a factor of 1.27. But a wide disparity persists: GEM varies from 0.391 in Western Tarai to a high of 0.538 in the Eastern Mountain Sub-Region (Map 2.5). Women in rural areas, the Mountains and the Tarai and especially those located in Mid-Western and Far-Western Development Regions participate less in political and economic decision-making, and have less power over economic resources (see Figure 2.9).

Whatever progress has been made, the discrepancies in the GDI and GEM values point to a persisting exclusion of women in decision-making and control over resources. Heritage lies at its root—the historic exclusion imposed by patriarchal society and exclusionary state policies. A study conducted for Gender and Social Exclusion Assessment in 2005,



The discrepancies in the GDI and GEM values point to a persisting exclusion of women in decision-making and control over resources

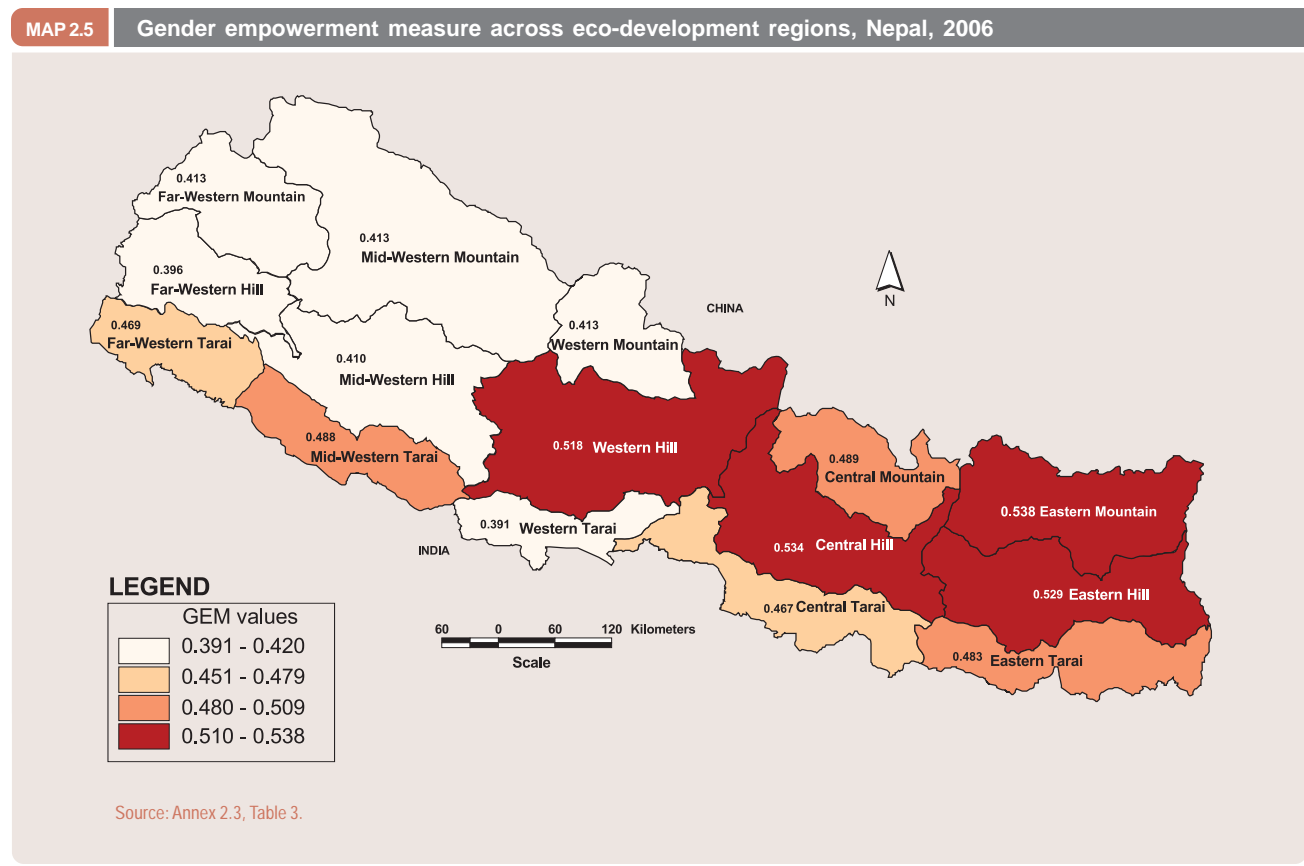
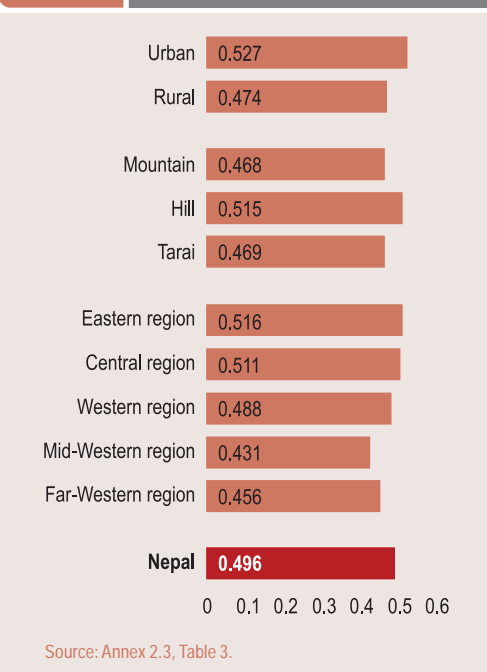


FIGURE 2.9 Gender empowerment measure across areas and regions, Nepal, 2006



found 32 provisions that discriminate on the basis of religion, caste and ethnicity, and 176 provisions in 83 pieces of legislations that discriminate against women.¹¹ As is the case with Nepal's general population, the first step to ending such disparities lies in the inclusion and empowerment of women.

Effect of increased female participation on GEM

Female participation in the parliament was dismally low in the past elections. With the provision of 33 percent quota for women in the Constituent Assembly (CA) 2008, female participation increased significantly. The GEM improved by 17 percent at the national level from an index of 0.496 to 0.581, with an increase in all the three ecological belts and five development regions. However, at the sub-regional level, a decrease in GEM can be noted

TABLE 2.3 Change in gender empowerment measure due to provision of quota for women in 2008 Constituent Assembly

	GEM 2006	GEM 1	Change in GEM (%)	Female Representation in CA (%)
Nepal	0.496	0.581	17.0	32.4
Eastern Region	0.516	0.591	14.6	30.3
Central Region	0.511	0.614	20.2	36.5
Western Region	0.488	0.548	12.3	29.2
Mid-Western Region	0.431	0.531	23.2	35.8
Far-Western Region	0.456	0.475	4.2	20.9
Mountain	0.468	0.489	4.6	22.6
Hill	0.515	0.601	16.7	33.6
Tarai	0.469	0.562	19.9	33.2
Eastern Mountain	0.538	0.439	-18.4	9.1
Central Mountain	0.489	0.548	12.1	28.6
Western Mountain	0.413	0.435	5.4	33.3
Mid-Western Mountain	0.413	0.424	2.6	30.8
Far-Western Mountain	0.413	0.271	-34.4	11.1
Eastern Hill	0.529	0.631	19.4	37.5
Central Hill	0.534	0.630	18.0	36.0
Western Hill	0.518	0.590	13.8	32.4
Mid-Western Hill	0.410	0.518	26.3	38.2
Far-Western Hill	0.396	0.350	-11.7	13.3
Eastern Tarai	0.483	0.558	15.5	29.8
Central Tarai	0.467	0.580	24.2	38.1
Western Tarai	0.391	0.414	5.9	21.2
Mid-Western Tarai	0.488	0.587	20.2	35.3
Far-Western Tarai	0.469	0.554	18.2	31.6

Note: GEM 1 includes women participation in parliament in 2008, whereas the values of other two indicators are of 2006. GEM 2006 provides a single estimate of three sub-regions because of small sample size as mentioned earlier. Source: SHDI calculation based on data from Annex 2.3; and election portal (www.nepalelectionportal.org)

in three sub regions: Eastern Mountain, Far-Western Mountain and Far-Western Hill as a result of low female representation in the CA from these areas. Female representation in these three sub-regions ranges from 9 percent to 13 percent, whereas in the 10 other sub-regions it ranges between 30 to 38 percent and in the last two it is between 21–29 percent (Table 2.3). Positive policy intervention can thus increase representation. However, such a policy should be implemented at wider level of disaggregation and further expanded to other areas of decision making.

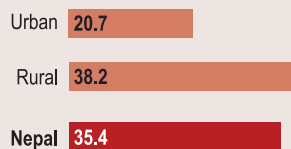
Poverty and human development

The human poverty index (HPI)

Human poverty is much more than income poverty. People are poor not only because of low income, but also because of their low access to opportunities or their participation in them. From the human development perspective, poverty is regarded as a state in which the opportunities and choices most basic to human development are denied (UNDP 1997). Human poverty therefore expands from income deprivation to capability deprivation into impaired human functioning. Introduced in 1997 as a measure of an extended definition of poverty beyond income, the HPI shows deprivations as contrasted with the capability or well-being measured by HDI.

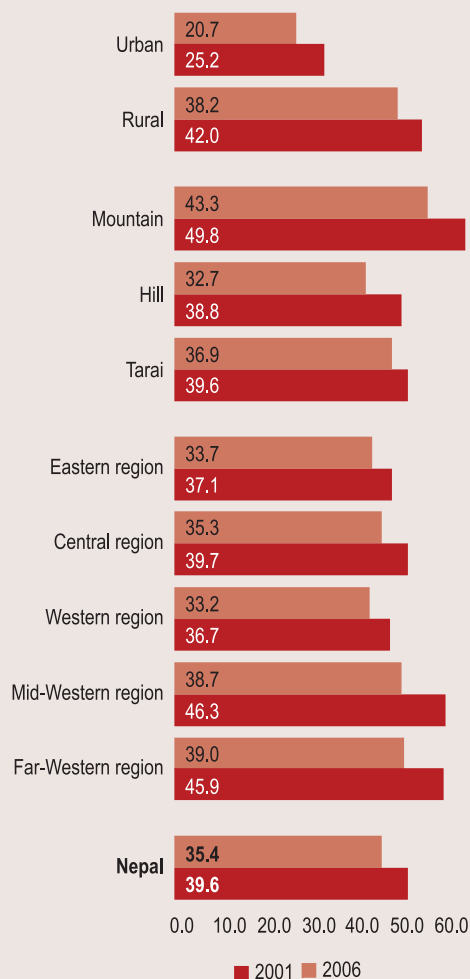
The HPI value for Nepal is estimated at 35.4, a figure fairly close to the HPI (38.1) reported in the global Human Development Report 2007/08. Like other indices, HPI varies by areas, regions and sub-regions. Human poverty is higher in rural areas and the Mountain belt. It is highest in 'Western Mountain', and in the Far-Western Hills—1.6 times higher than that of Central Hills, where HPI is lowest (Figures 2.10 and 2.11, Map 2.6 and Annex 2.3 Table 4).¹²

FIGURE 2.10 Human poverty in rural and urban Nepal, 2006



Source: Annex 2.3, Table 4.

FIGURE 2.11 Human poverty index across areas and regions, Nepal, 2001 and 2006



Source: Annex 2.3, Table 4.

Human poverty is much more than income poverty. People are poor not only because of low income, but also because of their low access to opportunities or their participation in them



Source: Annex 2.3, Table 4.

Despite the government policy of balanced regional development, the regions and areas most deprived in the past remain deprived today

HPI over time

HPI fell from 39.6 in 2001 to 35.4 in 2006 for the whole country (see Figure 2.11). Although the decline was found across all geographic divisions, its magnitude varies significantly with ecological belts and regions (see Map 2.7). Between 2001 and 2006, the larger decline took place in the Mountain and Hills rather than the Tarai; among development regions, the decrease was higher in the Far-Western and Mid-Western Development Regions (Figure 2.11).

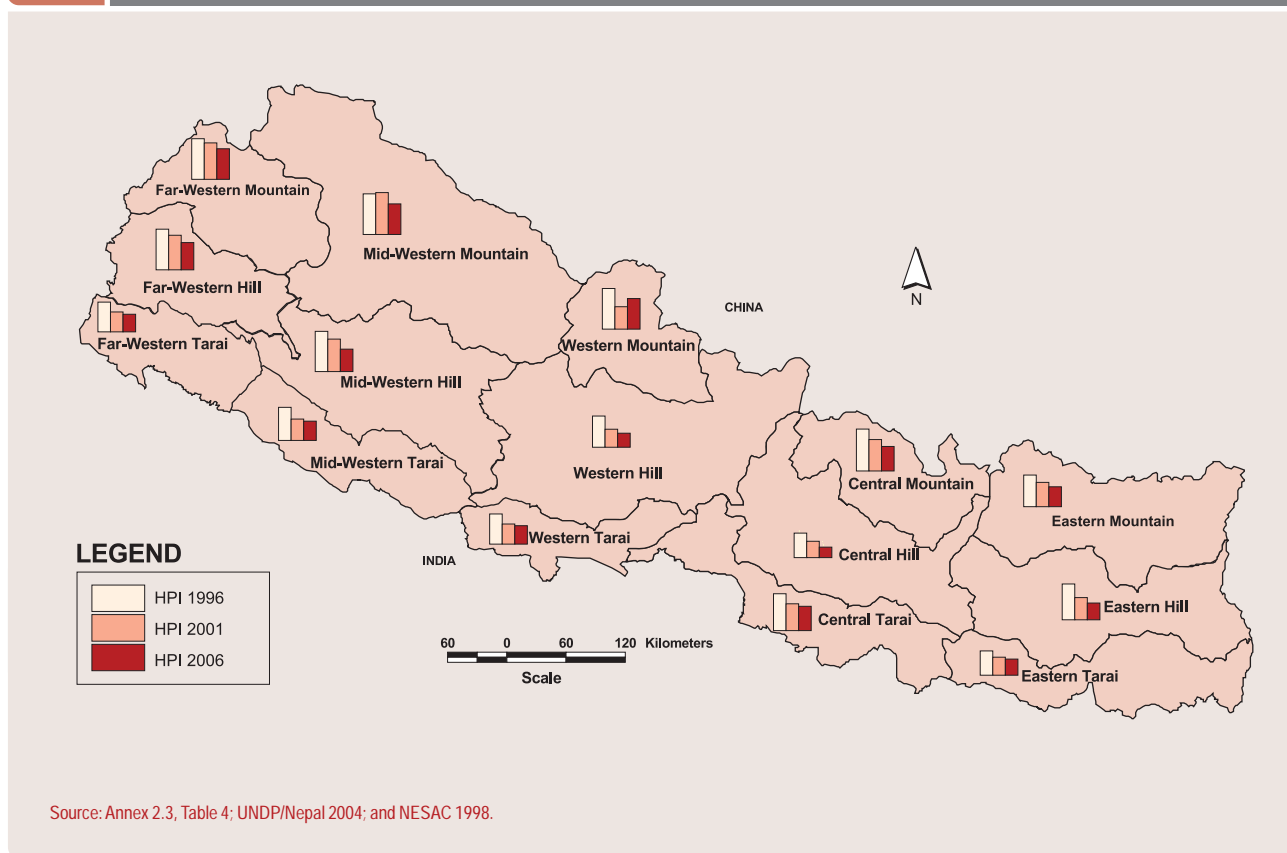
A comparison of values of the four indices across different areas points to the following trends:

- ▶ Human development improved at the national level, but showed high variation from one area to another;
- ▶ The population of the Mountains ranked lowest and the Hills highest, whether

capability or deprivation used as the base of human development measurement;

- ▶ By development region, the people of Mid-Western and Far-Western Development regions showed lower HD levels; the situation of women was also worse;
- ▶ Despite general improvement, rate of change of the indices varied disproportionately across the areas and were generally higher in those already better off. However, the GDI improvement rate was higher in the remote Mid- and Far-Western Mountains, mainly because of the very low status of women in those areas.

These findings imply that despite the government policy of balanced regional development, the regions and areas most deprived in the past remain deprived today. This suggests a need for renewed emphasis on their development. This failure stems in part from



the lack of fair representation and participation of people from the poor and deprived areas, and the rule by the centre and the more advantaged regions. This in turn suggests bringing governance closer to citizens. Moreover, the improvement of human development at the national, but at very varied rates across the regions, suggests the need for disaggregated data collection and analysis of information by areas, by gender and by caste and ethnic groups.

Caste and ethnicity and human development

HDI across the caste and ethnic groups of Nepal

As indicated at the beginning of this chapter, the HDI has been estimated for 11 caste and ethnic groups, following the broad classification of Bennett and Dahal (2008). These

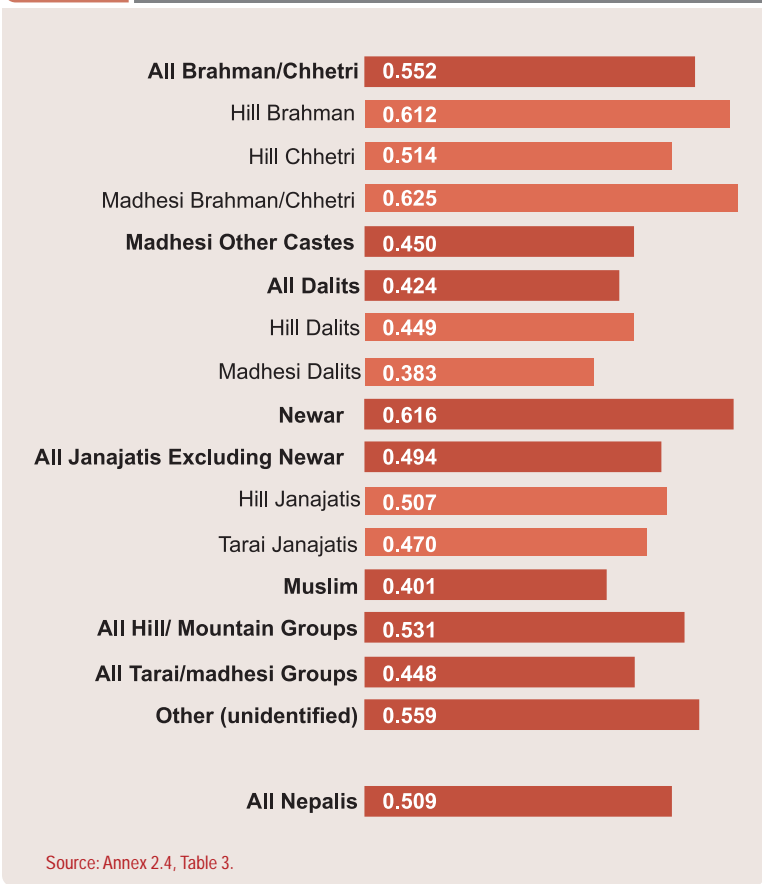
groups and subgroups and their HDI and other details are given in Annex 2.4 for some additional groups over those presented in figures 2.12 and 2.13.

The comparison of HDI presented here shows that HDI varies more widely by caste and ethnicity than by geographical area. They point to a need for targeting caste and ethnicity within a particular belt or region. For example, within the same Tarai belt, Dalits have the lowest HDI value, whereas Brahman and Chhetri have the highest (0.383 vs. 0.625, as shown in Figure 2.12).

The people of three caste and ethnic groups—Madhesi Brahman and Chhetri, Newar and Hill Brahman—have a higher HDI value (0.6 and above)—than that of Dalits and Janajatis, both from the Hills and the Tarai. Muslims have an index value of 0.401 - lower than that for Dalits as a whole, but higher than

HDI varies more widely by caste and ethnicity than by geographical area

FIGURE 2.12 Human development index by major caste and ethnicity, Nepal, 2006



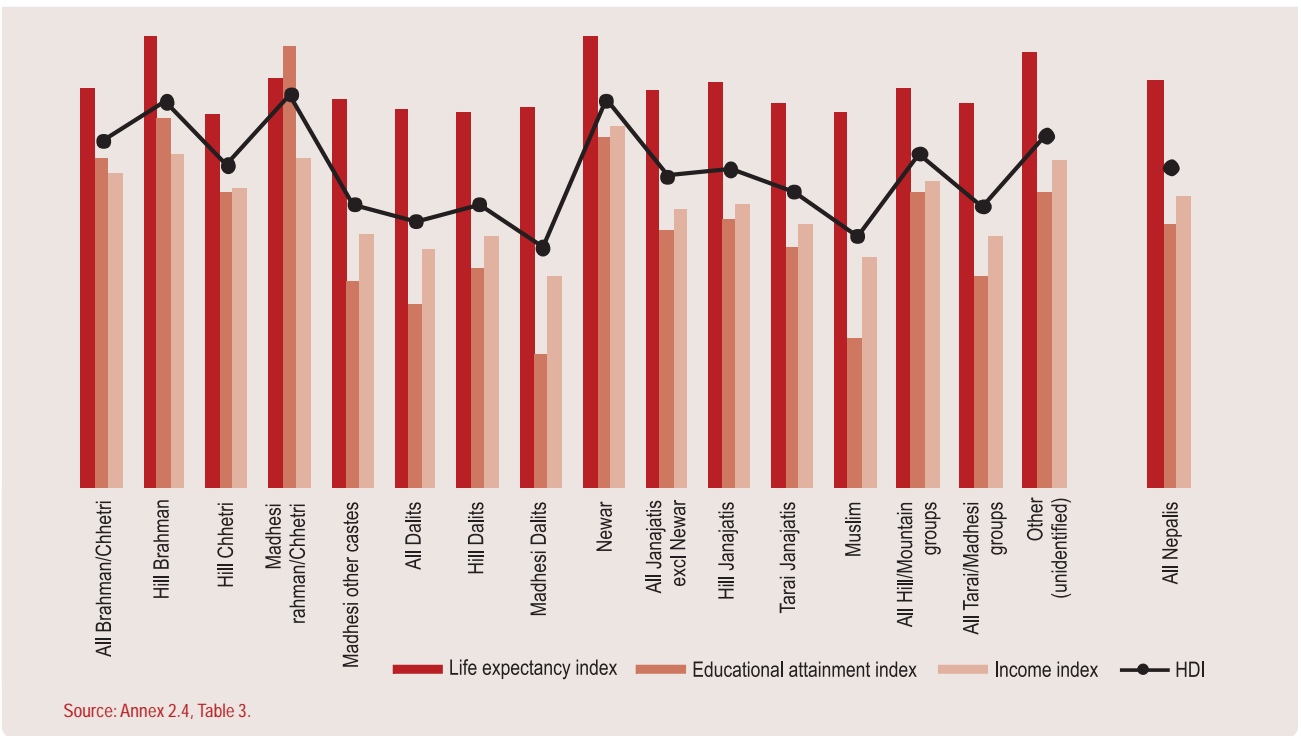
Madhesi Dalits (see Figure 2.12). These results are very similar to that of the inclusion index constructed by Bennett and Parajuli (2008) given in Box 2.1.

Of the three components of the HDI, education is the most significant driver. This accounts for the wide gap between the Brahman/Chhetri and other castes. The lower HDI for Dalits, especially Tarai Dalits and Muslims, derives largely from their very low educational attainment compared to other components of HDI (see Figure 2.13). Their low human development or capability hinders their representation and participation—which, in turn, perpetuates their low level of human development. Unless broken with help from the state, this cycle can only continue.

Income poverty across the caste and ethnic groups

In tandem with Nepal’s human development indices, the country’s poverty in Nepal decreased by 26 percent during 1995/96–2003/04, with wide variations

FIGURE 2.13 Human development index and its components by major caste and ethnicity, Nepal, 2006



To identify the excluded caste and ethnic groups that need the government support most, the National Planning Commission developed an inclusion index in 2008. This index consists of three sub-indices: poverty or economic exclusion; human capability; and political participation, and each of these combines several indicators. The computation of the inclusion index has been carried out for 80 caste and ethnic groups using the small area estimation method. However, it has not been done by gender for all the castes and ethnic groups because of the small sample size of national household surveys and the practice of collecting income data at the household rather than individual level.

According to the computed values of social inclusion index, the most excluded group is the Mushahar with the lowest value. When all the 80 groups are com-

pared into 11 caste and ethnic groups, as this Nepal Human Development Report does, the most excluded group is Madhesi Dalit, followed by Hill Dalits, Muslims and then Tarai and Hill Janajatis, respectively. The value of the inclusion index ranges from 19% among Madhesi Dalits to as high as 94% among the Newars, reflecting high discrimination between caste and ethnic groups.

By gender, significant differences appear in the level of the exclusion, with higher gender differences among Dalits, followed by Muslims and Tarai Janajatis. This implies that excluded caste and ethnic groups have higher gender differentials as well, indicating a greater degree of discrimination against women.

Source: Bennett and Parajuli 2008.

by areas and caste and ethnicity. A larger proportion of people were poor in the Mid-West development region than in the others (see Table 2.4). By caste and ethnic groups, poverty characterized a lower proportion of Newars and Brahman/Chhetri (14% and 18% respectively) than of Dalits, Muslims and Hill Janajatis, whose rates hover between 41% and 46%, significantly higher than the national average of 31 percent (Table 2.5). However, anecdotal evidence points to higher inequality in each of the caste and ethnic groups.

Decreases in poverty rates have also been very unequal, ranging from 6 percent among Muslims to 46 percent among Brahman and Chhetri during the period 1995/96–2003/04. Nationwide, poverty decreased by more than 20 percent in all but Hill Janajati and Muslim groups. This inequality has resulted in an increase in the Gini coefficient from 0.34 to 0.41.¹³

Like the variations in consumption and consumption-based poverty mentioned above, income also varies significantly across different caste and ethnic groups. Annual average

TABLE 2.4 Poverty incidence by geographical areas, Nepal, 1995/96 and 2003/04

Geographic region	Poverty head count rate (%)		
	1995/96	2003/04	Change in Percent
Nepal	41.8	30.8	-26
Urban	21.6	9.6	-56
Rural	43.3	34.6	-20
Development region			
Eastern	38.9	29.3	-25
Central	32.5	27.1	-17
Western	38.6	27.1	-30
Mid-Western	59.9	44.8	-25
Far-Western	63.9	41.0	-36
Ecological belt			
Mountain	57.0	32.6	-43
Hill	40.7	34.5	-15
Tarai	40.3	27.6	-32

Source: CBS 2005.

per capita income was highest for Newars and lowest for Dalits. While per capita incomes in rural areas lag behind those in urban areas, the per capita income of rural Tarai Brahman/Chhetri is significantly higher than for Dalits and Muslims in urban areas. But the per capita income of a rural Brahman individual is less than half of the urban Brah-

Decreases in poverty rates have been very unequal across the caste ethnic groups

By occupational groups, poverty is highest among agriculture wage labourers, followed by small farmers who cultivate their own land

Caste and ethnicity	Poverty headcount rate		
	1995/96	2003/04	Change in Percent
	Nepal	41.8	30.8
Brahman/Chhetri	34.1	18.4	-46
Dalits	57.8	45.5	-21
Newar	19.3	14.0	-28
Hill Janajati	48.7	44.0	-10
Tarai Janajati	53.4	35.4	-34
Muslim	43.7	41.3	-6
Tarai middle caste	28.7	21.3	-26
Others	46.1	31.3	-32

Source: CBS 2005.

man individual. The discrepancy is even higher among Newars, but lower among Muslims and Dalits (see Table 2.6).¹⁴

Variations in income poverty by socioeconomic characteristics

Apart from caste and ethnicity, the incidence of poverty varies widely by other characteristics, including the following:

- ▶ sector of employment or occupation;

- ▶ level of education of household head;
- ▶ demographic composition of household (household size, number of children); and
- ▶ the amount of land a household possesses.

By occupational groups, poverty is highest among agriculture wage labourers, followed by small farmers who cultivate their own land. The decrease in poverty in these two groups was also disproportionately low compared to others, implying that poverty persists across generations. Additionally, poverty was found to be higher among the landless households, larger families or those with larger numbers of children, and among the households with illiterate heads.

Income poverty by gender

It is difficult to establish directly that women as a group are poorer than men in terms of per capita income or consumption because poverty in Nepal is measured at the household rather than at the individual level. However, it is safe to say that poor women outnumber poor men. Women's access to the

	Average per capita income (NRs.)	Average household size	Average per capita urban (NRs.)	Average per capita rural (NRs.)
Nepal	15,000	-	28,957	12,534
All Brahman/Chhetri	18,400	-	33,731	15,674
Hill Brahman/Chhetri	16,200	5.78	34,678	13,628
Madhesi Brahman/Chhetri	23,900	5.54	32,408	21,465
All Dalits	10,000	-	19,381	9,026
Hill Dalits	8,830	5.64	18,602	8,018
Tarai Dalits	13,200	5.98	20,460	11,927
Newar	26,100	6.43	36,600	14,660
All Janajati	13,300	-	25,750	12,216
Hill Janajati	13,500	5.97	26,448	11,987
Tarai Janajati	12,700	9.68	14,106	12,719
Muslim	10,200	8.29	11,563	10,126
Tarai middle castes	11,300	7.22	12,736	11,212

Source: DFID and World Bank 2005.

household's productive assets and to the pooled household production and income is mediated by men, and even if aggregate household income is somewhat above the poverty line, this does not guarantee that the women of these households have secure access to an adequate share of household resources.¹⁵ In accordance with the other norms of patriarchal society, women also tend to lag behind men in access to almost all available opportunities and resources.

Inequality in educational and health outcomes

Literacy

Despite significant improvements in educational attainments, inequality persists in literacy rates across all regions, castes and ethnic groups and by gender. Three layers of exclusion continue: exclusion because

of remoteness leading to low access to schools; exclusion because of caste and ethnicity; and exclusion because of gender. According to the 2006 NDHS, among women of 15–49 years, less than a quarter of Madhesi “other caste” groups could read or write, whereas more than four-fifths of Madhesi Brahman and Chhetri women were literate (Table 2.7). By contrast, among Madhesi Brahman, men's literacy rate was 94 percent against only 83 percent for women. The inequality is higher in the Tarai/Madhesi group than the Mountain/Hill group (see Annex 3, Tables 16 and 17). These relative inequalities deepen beyond the primary level (see Annex 3, Table 16–19).

Under-five mortality rates

The Nepal Demographic and Health Survey of 2006 found significant improvements in health outcomes despite the de-

Despite significant improvements in educational attainments, inequality persists in literacy rates across all regions, castes and ethnic groups and by gender

TABLE 2.7

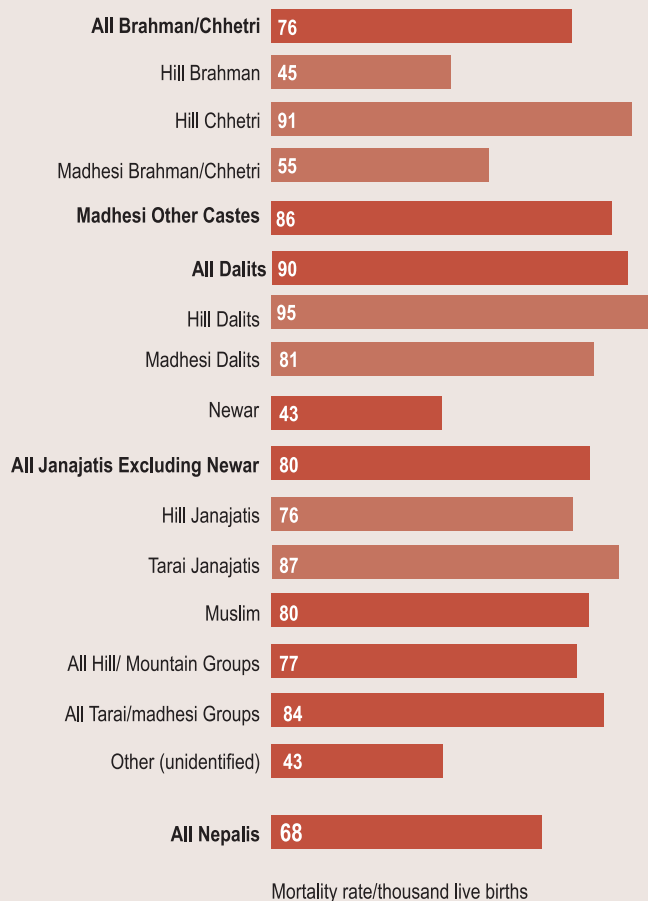
Differentials in educational attainment by gender, and caste and ethnicity (15–49 years) Nepal, 2006

Caste/ethnicity	Literacy rate (%)		Secondary School or Higher Level Education	
	Female	Male	Female	Male
All Nepalis	54.5	81.0	29.3	53.5
All Brahman/Chhetri	68.6	92.8	44.4	75.4
Hill Brahman	82.1	96.9	59.5	86.5
Hill Chhetri	59.4	90.0	34.0	67.1
Madhesi Brahman/Chhetri	82.5	93.9	61.6	90.1
Madhesi Other Castes	24.2	72.0	12.1	44.5
All Dalits	34.8	59.9	11.8	23.2
Hill Dalit	46.3	69.0	16.0	26.4
Madhesi Dalit	17.2	48.5	5.2	19.2
Newar	74.6	93.5	46.1	70.0
All Janajatis	56.9	79.6	26.4	45.8
Hill Janajati	60.0	82.4	29.5	48.1
Tarai Janajati	51.5	75.5	20.9	42.7
Muslim	26.5	61.8	12.0	25.5
All Hill/Mountain Groups	63.4	86.9	36.1	60.5
All Tarai/Madhesi Groups	35.9	69.9	16.0	40.0
Others (unidentified)	62.3	97.4	20.8	75.8

Source: Annex 3, Table 16 and 17

FIGURE 2.14

Under-five mortality rate by caste and ethnicity, and regional identity, Nepal, 2006



Source: Annex 3, Table 21

cade-long conflict. However, wide disparities persist in health outcome indicators across different caste and ethnic groups and by gender. Among Dalit children, 95

out of 1,000 do not survive to their fifth birthday; the corresponding figure for Newars is 43 (see Figure 2.14). Girls still have a higher mortality rate than boys. The under-five mortality rate of Tarai/Madhesi caste and ethnic groups is higher than that of the Hill/Mountain groups. As would be expected, access to health care, along with the nutritional status of children, tends to worsen among the excluded groups, resulting into their low human development.

To sum up...

The findings presented in this chapter suggest that power relations have not changed significantly since the restoration of democracy in 1990. Although human development has improved at the aggregate level, the gap between the advantaged regions or caste/ethnic groups and the disadvantaged is either widening or remains constant. Thus, the Dalit, Muslim and Janajati who have had lower levels of human development for generations, continue to suffer today. Moreover, the level of human development of women is still less than that of men, and the women still lack fair access to opportunities and resources.

Broadening representation and participation has the potential to change power relations. The following chapters look into ways and means by which fair representation and participation might be attained.

3
CHAPTER

Getting the
peace
process right

3

Chapter

Getting the peace process right

Deal ing with the past

Managing expectations in the present

Where we now stand

3

Chapter

Getting the peace process right

Pace-building in Nepal requires both political and socioeconomic transformation. Rarely do countries have the opportunity to change their most basic principles, structures, symbols, and laws. To some Nepalis, what is now taking place represents the achievement of long-held dreams. Others regard these events and trends as dangerous moves towards anarchy and national disintegration. The degree to which the peace process itself is inclusive, transparent, and responsive to the needs of the Nepali people will in a large part determine its ultimate success and, as a direct consequence, the pace of human development in Nepal. Some of the recommendations put forward by this Report can be realized in the short term. Others will require far more time. We aim here to highlight areas for further attention and renewed effort, and to suggest useful practices and lessons.

Dealing with the past

In fragile post-conflict environments, peace and justice often seem at odds with one another. To end violence, governments and other involved parties may wish to declare amnesties so as to ensure that all interest groups participate willingly in the peace process. By contrast, advocates of justice often demand punishment for perpetrators, even at the possible cost of endangering the peace; they maintain that one cannot have genuine peace without justice.

The case of Uganda and the International Criminal Court provides a recent example of this tension. In March 2008, the peace process between the Ugandan Government and the Lord's Resistance Army stalled in its final stages when the latter's representatives refused to sign the agreement painfully reached by both sides unless the International Criminal Court dropped charges against their leader, Joseph Kony.¹ This case exemplifies a basic problem for Nepal: to keep the peace process intact, sacrifices must sometimes be made to ensure that all parties remain at the table. However, if justice is compromised, the peace process becomes shallow and unstable; it loses public credibility. Consequently, justice and peace must work hand in hand.

Nepal suffers from a long and entrenched history of impunity. In the aftermath of 1990 and 2006 Janandolans, the commissions created to investigate human rights abuses—the Mallik Commission in 1990 and the Rayamajhi Commission in 2006—both produced detailed reports that were shelved without action.

Little progress on transitional justice has taken place since hostilities ceased. The families of the 1,027 disappeared persons remain ignorant of the fate or whereabouts of their relatives.² Compensation has not yet been received by all the wounded or all the families of those killed. In many instances, properties seized have not yet been returned.³ A

Little progress on transitional justice has taken place since hostilities ceased

number of displaced persons remain unable to return to their homes. To date, no individuals on either side of the conflict have been held accountable for their roles in gross violations of human rights. In his 2 January 2009 report presented to the Security Council UN Secretary-General Ban Ki-moon expressed this concern as follows, “Many peace process commitments have still not been implemented. Despite repeated commitments to return property seized by Maoists, none of the agreements reached with the interim government or the current government to establish a mechanism to monitor such return has been implemented....”⁴

Reconciliation, a fundamental component of transitional justice, has many meanings

Past studies and reports, including those of Annan (2005) and Collier and Hoeffler (2004), reveal the high risk of peace processes relapsing to conflict. In a report entitled *In Larger Freedom*, the former Secretary-General of the United Nations, Kofi Annan, notes, “Roughly half of all countries that emerge from war lapse back into violence within five years.”⁵ To prevent a resurgence of hostilities in Nepal, the root causes of the conflict must be addressed, and open

wounds healed through reconciliation, justice, and reparations. The recent rise of protests among marginalized groups and increasing lawlessness in the Tarai already signal the risk of outbreaks of new form of hostilities if these root causes are not addressed.⁶

Reconciliation and transitional justice

Reconciliation, a fundamental component of transitional justice, has many meanings.⁷ Here, it is defined as the process by which a society acknowledges its past and comes to terms with its shortcomings and wrongdoings; rebuilds the relationships among its citizens and between its citizens and the state; and attempts to create a shared vision for the future.⁸

Historically, reconciliation is also embedded in Nepali practices such as Kshama (forgive and forget) and Mel Milap (reconciliation). Though reconciliation is often misconstrued as simple forgiveness, its social and political intent is broader: a process for rebuilding a peaceful society. It does not mean impunity for perpetrators, but a continuous and explicit pursuit of truth and justice.

Collecting the views and perceptions of 811 victims of 17 districts of Nepal in 2007, the International Centre for Transitional Justice (ICTJ) and the Advocacy Forum (AF) concluded that ensuring peace and justice in Nepal requires a comprehensive approach to transitional justice, rather than ad hoc interventions. These organizations support the creation of a commission to determine the truth and to find the whereabouts of disappeared persons. Participants in several focus group discussions demanded an inclusive commission, as indicated in Box 3.1.⁹

A truth and reconciliation commission

Nepal’s CPA calls for the creation of a Truth and Reconciliation Commission (TRC) for transitional justice. TRCs have been used in a number of post-conflict countries to promote reconciliation, justice, healing, and repa-

BOX 3.1

The demand for an inclusive truth and reconciliation commission, Nepal

ICTJ and AF organized focus group discussions for collecting Nepalis’ perceptions on transitional justice in 2007. Upon the appointment of Commissioners of TRC in the future, a Dalit woman in Baglung made a powerful statement that underlined the need for genuine consultation: “It should include both men and women equally. It should be someone who is selected by the people. The process should be people-oriented and not centre-oriented, and must include victims of the conflict, excluded castes, ethnic groups, etc.”

This view is fully backed by United Nations Resolution 1325, which among other things, states that women need to be fully represented at all levels of peace processes and that their role in conflict resolution and peace-building should be enhanced (see Box 3.2).

Source: ICTJ and AF 2008, p. 37; and UN Security Council 2000.

rations on a nation-wide level. Perhaps the best-known TRC is that of South Africa, which was formed in 1995 following the end of apartheid. Other countries that have employed the TRC model include Chile, East Timor, El Salvador, Peru, and Sierra Leone. Worldwide, the form of TRCs has varied with national circumstances and the needs of the communities involved. From this broad spectrum, a number of clear principles and promising practices have emerged to guide the creation and work of these bodies:¹⁰

- ▶ a need for broad public awareness, understanding, and support for the goals, mandate, and working methodology of the TRC;
- ▶ the participation of all interested groups, including those of victims, civil society organizations, human rights associations, government representatives, political activists and mental health care professionals;
- ▶ gender balance, especially given the increasing use of sex crimes as weapons of war;
- ▶ an open, transparent and inclusive selection process;
- ▶ sufficient independence from the government to ensure credibility and impartiality;
- ▶ a secure enough environment to permit both victims and alleged perpetrators to testify without fear of violent consequences; and
- ▶ strong connections with other transitional justice mechanisms, including other investigative commissions, such as the Commission on the Disappeared, and clear procedures for criminal prosecution.

The fact that more than three-fourths of Nepali women and more than two-fifths of illiterate citizens have not yet heard of the TRC points to the need for a mass campaign to raise awareness of the reconciliation processes and of the Commission itself.¹¹

BOX 3.2

Protection of the interests of women: United Nations Resolution 1325

UN Resolution 1325, adopted by the Security Council at its 4213th meeting, on 31 October 2000, concerns the protection of women and girls during armed conflict; and the promotion of a gender perspective during peace processes. Among other things, it states that:

- ▶ women and girls must be protected from gender-based violence and have their rights recognized both during and after conflict;
- ▶ a gender perspective should inform peacekeeping operations and peace agreements; and
- ▶ women should be fully represented at all levels of peace processes and their role in conflict resolution and peace building enhanced.

Source: UN Security Council 2000.

In July 2007, the Ministry of Peace and Reconstruction released a draft TRC bill for circulation and comment to both domestic and international human rights groups, including the Advocacy Forum, the Office of the United Nations Office of High Commissioner for Human Rights (UN/OHCHR), Amnesty International, Human Rights Watch, and the International Center for Transitional Justice. While these groups congratulated the government for its proactive stance, they also expressed reservations about key provisions of the draft. The National Human Rights Commission of Nepal insisted that the government maintain international standards of human rights in formulating the TRC bill.

The main concern, raised in an August 2007 report by OHCHR and echoed by other groups, involved the provisions that would grant amnesty to perpetrators of gross human rights violations and violations of international humanitarian law; those crimes cited included extrajudicial execution, torture, and the disappearance of numerous persons. OHCHR noted that “Amnesty provisions [in the draft TRC bill] which prevent prosecu-

Restorative justice is increasingly used as a major instrument of reconciliation, since it is more concerned with restitution to the victim and the victimized community than with punishing the offender

tion for these offences are inconsistent with Nepal's obligations under international law."¹² Like other commentators, the High Commissioner's Office drew attention to the following issues:

- ▶ the bill's general emphasis on promoting compromise and settlement over prosecution;
- ▶ the dangers of coercive reconciliation;
- ▶ the potential for government over-involvement in TRC proceedings; and
- ▶ the need for public hearings and a final report.

The differences between the government and civil society organizations grow out of implicit fears on each side. The government may be concerned that:

- ▶ too inclusive a process will result in a lack of control; and
- ▶ an overemphasis on criminal prosecution could harm the fragile balance reached by the peace and upset key constituencies.

By contrast, civil society groups may fear that:

- ▶ the government intends to marginalise them in the TRC process, perhaps even exclude them from it; and
- ▶ the government will emphasize amnesty and thus impunity over justice.

Later, between December 2007 and December 2008, the Ministry of Peace and Reconstruction organized four regional consultations on the draft TRC bill, which were welcomed despite some reservations about their inclusiveness. The revised draft bill presented at these consultations included improvements on the mid-2007 version, but requires further revision to ensure compliance with international human rights standards, including the independence of the Commission, amnesties, and increased witness protection.¹³

But there is no need to rush the TRC process as a whole. A thoughtful, transparent

and wide consultation will best serve both international standards and the requirements of Nepal. In addition, consultations at all levels should take into account the history of impunity in Nepal, so as to ensure that the TRC report will not be shelved as were those of the Mallik and Rayamajhi Commissions. This will require a broader representation than that of the prior peace efforts.

Restorative justice

Justice has many faces: it can be retributive justice based on criminal prosecution or restorative justice based on mediation. Restorative justice is increasingly used as a major instrument of reconciliation, since it is more concerned with restitution to the victim and the victimized community than with punishing the offender. Because victims are central to restorative justice, the process makes offenders directly accountable to the person or community they have victimised.¹⁴

Restorative justice concentrates on repairing relationships rather than on retribution. It is "concerned with healing victims' wounds, restoring offenders to law-abiding lives, and repairing the harm done to interpersonal relationships and the community."¹⁵ It attempts to provide a healing process for the victims, perpetrators, their families and friends, and the community because all these entities are intimately involved in rebuilding relationships and together repairing the harm done. In the words of those who champion this view, "restorative justice...advocates restitution to the victim by the offender rather than retribution by the state against the offender. Instead of continuing and escalating the cycle of violence, it tries to restore relationships and stop the violence."¹⁶ In so doing, it asks "Who has been hurt? What are their needs? Whose obligations are these?"

Restorative justice allows communities to consider the broad context in which violations took place in order to understand these

wrongs better and thereby decide how they can best be corrected. It also focuses on reparations, expanding the concept beyond financial compensation to consider medium- and long-term measures that improve health, education, and employment. The long tradition of “Kshama” (forget and forgive rather than revenge), inherent in Nepali culture, gives restorative justice considerable scope in consolidating the peace process.

An increasing number of experts are promoting the benefits of restorative justice in post-conflict environments. The Truth and Reconciliation Commission of South Africa posited restorative justice as one of its foundational principles. So did the *gacaca* courts of Rwanda, created after that country’s 1994 genocide.

Let us bear in mind, too, that because Nepal is a collection of so many diverse cultures, local indigenous practices already exist for community reconciliation in particular areas. Consequently, local community leaders should be involved in designing and conducting reconciliation efforts where they live. But one must bear in mind that indigenous practices often reinforce historical hierarchies and biases that often exclude women, Dalits, and religious minorities.¹⁷ Many people in these categories may in fact have borne the brunt of the conflict’s violence. In such cases, development partners can help build capacity by providing trained mediators, together with the logistic and financial support such experts may need. These specialists can work under the oversight of local peace committees in districts.

Beyond retributive and restorative approaches

Because economic and social injustice has been both a root cause and a result of Nepal’s conflict, the country’s peace agreement reflects a deep commitment to redressing these inequi-

ties. Given the strong links that exist between transitional justice and development, attention to the inclusion of women and hitherto neglected caste and ethnic groups in legal and institutional reforms can contribute significantly to preventing future conflict.¹⁸ Future government efforts should therefore revise legislation that does not meet international human rights standards, especially discriminatory laws.¹⁹ Even as late as 2005, as many as 32 provisions perpetuated discrimination on the basis of religion, caste and ethnicity, while 176 provisions in 83 pieces of legislation discriminated against women in Nepal.²⁰ Fortunately, the April 2006 movement took important steps towards eliminating legal exclusion by gender, caste, ethnicity and religion. The Gender Equality Act (2006) adopted by the Interim Legislature-Parliament called for an end to all discriminatory laws and regulations against women, required 33 percent of those in government and government-appointed institutions to be women, and strengthened laws against domestic and other kinds of violence against women.

Social Reintegration and Rehabilitation of Internally Displaced Persons (IDPs)

At the height of the conflict, as many as 200,000 people were estimated to be internally displaced in Nepal.²¹ Because of insecure conditions, people fled their villages for district headquarters—some even beyond to Kathmandu or across the open border into India. The CPA guarantees IDPs the right to return, along with the return of their property. However, because no reliable comprehensive data exists as yet, it is still difficult to determine the number of IDPs who have successfully exercised their rights and returned home.²²

As of June 2008, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) stated that between 50,000 and

Restorative justice focuses on reparations, expanding the concept beyond financial compensation to consider medium- and long-term measures that improve health, education, and employment

Many recent migrants belong to vulnerable groups whose members are least likely to be included on government registration lists—among these, women in general and hitherto neglected marginalised groups

70,000 people remain displaced in Nepal.²³ Its report asserts that “people are not likely to register unless there are clear and tangible benefits” and that “the most vulnerable IDPs are still not registered and remain invisible” because they lack information about the registration process and may fear its consequences. A disproportionate number of registered IDPs are landowners, who have completed the process so as to seek compensation for lands seized during the conflict.²⁴ The majority of IDPs who intend to return to their original homes have already done so, the report concludes.²⁵

The reasons for non-return among IDPs involve both “push” and “pull” factors. The “push” factors, those that continue to keep people away from their homes, include continued harassment by Maoist/Young Communist League cadres, violence by armed Tarai groups and poor security and rule of law. Moreover, because their lands have been seized by one or another faction, some families have nothing to which they can return. The “pull” factors, which keep people in the cities to which they had fled, encompass better access to services and quality of life, greater job opportunities, job choice, higher salaries, and greater access to government officials. Many therefore prefer their new lives in the cities. But such preferences should not preclude reparations, especially because many recent migrants belong to vulnerable groups whose members are least likely to be included on government registration lists—among these, women in general and hitherto neglected marginalized groups.

Reparations

Reparations constitute one of the most tangible instruments of reconciliation. In the context of the peace process in Nepal, it is limited so far to providing financial compensation to the conflict victims so that they can develop or redevelop sustainable liveli-

hoods. The Ministry of Peace and Reconstruction has been offering financial relief and assistance following the Norms and Guidelines approved by cabinet in 2007, to the following persons of the conflict victims:

- ▶ Financial Assistance to the family of dead persons:
 - Assistance of one hundred thousand rupees to close relative;
 - Provision of scholarships to at most three children until the age of 18 years; and
 - Financial assistance of twenty five thousand rupees to widows.
- ▶ Provision of financial assistance to wounded persons for treatment.
- ▶ Financial assistance for the loss or damage of properties.
- ▶ Financial assistance for the damage of vehicles.
- ▶ Financial assistance of twenty five thousand rupees to persons disappeared more than 30 days.
- ▶ Provision of skill training and foreign employment to conflict affected persons and their families.²⁶

The details of such support and other relief appear elsewhere.²⁷

Integration of the armies and social rehabilitation of discharged combatants

Integration and rehabilitation of the Maoist army combatants

The United Nations Mission in Nepal (UNMIN) began the process of registration and verification of combatants and arms in 2007 following the agreement between the political parties of Nepal. The parties have agreed to verify the combatants on the basis of two bench marks. The agreement stated that those who: (i) were recruited in the Maoist army before the ceasefire, 25 May 2006, and (ii) were

18 years old prior to the ceasefire would be considered Maoist army combatants.²⁸

In the initial round, a total of 32,250 Maoist army combatants were registered. Additionally, a total of 3,475 weapons of the Maoist army combatants were registered and stored. An equivalent number of weapons of the Nepal Army was collected and stored under similar conditions. During the second round, only 23,610 Maoist army combatants participated, meaning that 8,640 had left the cantonments and were thus automatically disqualified. Of those, 19,602 were verified, comprising 15,756 men and 3,846 women, and 4008 were minors or late recruits. Thus far, the Joint Monitoring Coordination Committee has provided a successful example of collaboration between the two forces and the United Nations.

Article 146 of the Interim Constitution reads: “The Council of Ministers shall form a Special Committee to supervise, integrate and rehabilitate the combatants of the Maoist army...”²⁹ Now a Special committee has been formed, which has also constituted a eight-member Army Integration Technical Committee.

The CPA also makes a commitment to the “democratization” and “right-sizing” of the Nepal Army. However, it does not provide clear guidance about how these processes should take place. In view of the lack of clear guidance, this requires a decision from the highest political level. The Special Committee and Army Integration Technical Committee do not have a clear political mandate of taking such decision. Delaying this difficult decision could further result in leaving the Maoist army combatants in the cantonments for a longer time than what is expected.³⁰

Even more critical are the mechanisms for civilian control of the army, especially the

National Security Council and the Ministry of Defense. Now that the monarchy has been abolished, it is essential to establish trusted, transparent, and accountable institutions to oversee the military structure and prevent corruption by monitoring its finances and system of promotions.³¹⁻³² Those charged with these duties may well wish to examine the experience of other countries that have dealt with similar issues. Recent examples, such as Burundi and Sierra Leone, may prove useful. But the eventual solutions must be uniquely Nepali and tailored specifically to local context.

Rehabilitation of disqualified Maoist army personnel

The rehabilitation or social reintegration of 4,008 members of the Maoist army who were identified either as minors (2,973), or as recruited after 25 May 2006 (1035) during the UN-supported verification process, requires particular care. Like young people who fought in areas as different from Nepal as the former Yugoslavia and Rwanda, the minors amongst these Maoist army combatants should be included in the planning of their return to civilian life for successful reintegration into civil society.

UNMIN and the United Nations Children’s Fund have continuously insisted upon the urgency of fulfilling the commitment to discharge from the cantonments those who were minors on 25 May 2006, along with other personnel disqualified by UN verification. To support the discharge process, UNICEF, UNDP and UNFPA have developed social reintegration programmes in consultation with the Ministry of Peace and Reconstruction to address the special needs of young people who were qualified as minors.

The army integration Special Committee requested the Government to proceed with the discharge of disqualified Maoist army

Discharged combatants can play an important role in restorative justice efforts at the local and community levels

personnel from the cantonments on 11 February 2009. However, the process has not yet been started. On 5 May 2009 the Security Council called upon the government to implement its commitment to discharge minors in accordance with the international law.

Discharged Maoist army combatants can play an important role in restorative justice efforts at the local and community levels; they must become part of community healing and transformation. Because it is often difficult for individuals who have devoted so much time to fighting to move easily into the economic and social activities of peace, this element of reintegration requires particular attention and support. The case of Burundi provides an example of such a process. There, former combatants were provided with a “reinsertion package” that had five thrusts:

- ▶ targeted community-based assistance;
- ▶ training and self-employment;
- ▶ continued education;
- ▶ entrepreneurship support; and
- ▶ employment by existing enterprises and by the government itself.

Other United Nations experience dealing with former combatants in both peacekeeping and non-peacekeeping operations, including Cote d’Ivoire, Indonesia (Aceh), Liberia, and Sudan, can furnish other insights.³³ Among others, UN organizations in Nepal have developed such reintegration packages (Box 3.3).

Managing expectations in the present

Restoring the rule of law and improving justice

Throughout Nepal, citizens have called for the restoration of the rule of law as one of their primary concerns. They want the law administered impartially by all actors in the system—from law enforcement personnel (the police) through the judiciary (judges and courts) to those charged with this mandate in the Ministry of Home Affairs. Civil society also plays a critical role in this process, acting as an intermediary between the public and law enforcement authorities by promoting knowledge and awareness and by

BOX 3.3 Social reintegration package for the disqualified Maoist army personnel, Nepal

UNDP Nepal, working in collaboration with UNMIN, UNICEF and UNFPA, and in close consultation with the Ministry of Peace and Reconstruction, developed a strategy in 2008 to provide social reintegration assistance packages. These consist of (1) vocational training/apprenticeship, (2) agriculture and livestock training, (3) micro-enterprise development, and (4) non-formal education—each with various options. These training and educational services will be available in all five development regions and will range from several weeks to one year. Special arrangements can be made to facilitate participation of groups with special needs, such as lactating mothers and disabled youths.

To ensure the livelihoods of disqualified Maoist army personnel, support and follow-up is planned after the completion of training. This includes issuing tool kits and employ-

ment-related information, along with facilitating access to micro-credit for those who choose vocational skill training; providing agricultural inputs and basic equipment, furnishing small livestock, such as poultry and beehives, and the linkage of this assistance with potential markets for those who choose the agriculture and livestock training package. Similarly, for those involved in micro-enterprise training, the package provides grants of small-scale equipment, along with linkages to credit and output markets.

To support the effectiveness of the training and the sustainability of livelihood opportunities, the social reintegration strategy also features suggestions for several follow-up activities to be undertaken by the government.

Source: UNDP records.

facilitating access to justice. All societies governed by the rule of law strive to give citizens access both to the law and to legal assistance (whether certified lawyers or other knowledgeable authorities), paid for by public funds if necessary. In this connection, we should recall that the smooth functioning of rule of law plays a key role in economic development, investment, and growth—and therefore in human development.

The CPA clearly assigns the primary responsibility for creating a secure environment to the Nepal Police and the Armed Police Force, under the direction of the Ministry of Home Affairs. Weakened by the conflict, the Nepal Police and the Armed Police Force are now working to regain the trust of the public; they are frequently criticized for not having adequate capacity, technical skills and equipment, and training. Additionally, many Nepali believe that police morale is low because of insufficient political backing from the central government, along with political interference from high-ranking officers and politicians. Such interference not only results in impunity for perpetrators, but undermines the will of the rank and file patrolmen to maintain the fundamentals of law and order. Why take action if one's work will ultimately be undone?

Further, weakness in the rule of law encourages the emergence of parallel structures, among these the Unified CPN (Maoist)-affiliated Young Communist League and the CPN (Unified Marxist-Leninist - UML)-affiliated Youth Force. Such groups dole out extrajudicial punishment to alleged lawbreakers. In addition, the political parties themselves are also acting as surrogates for the state, operating on a “consensus” basis to resolve all kinds of problems, whether political or criminal.

To return the rule of law to its fundamental place in Nepal, the government must take several steps, among them the following:

- ▶ visible political backing at the highest levels for the Nepal Police, the Armed Police Force, Chief District Officers, and all who are legally responsible for impartial law enforcement to carry out their work in a manner that is respectful of human rights;
- ▶ the equal dispensation of justice, regardless of the alleged perpetrator's membership in any group;
- ▶ a campaign that publicizes concrete examples of effective law enforcement;
- ▶ further capacity-building for the Nepal Police and Armed Police Force, especially in community relations-building efforts; many people are still traumatized by the police and do not see them a force for their individual protection; and
- ▶ Recruiting local police officers. This practice may also help to improve access to justice in communities.

Additionally, both the state and local civil society must work to reduce impediments to accessing the justice system. These include:

- ▶ the high costs imposed by the legal system;
- ▶ the backlog of cases that severely slows down the judicial process; justice deferred can well become justice denied;
- ▶ lengthy and cumbersome court procedures;
- ▶ unfamiliarity or misunderstanding of legal terms and legal rules; and
- ▶ the absence of key laws required for prosecution.

There can be no peace without justice, and there can be no justice without the rule of law. As is often the case, the poor and the excluded who need critical legal services

Weakness in the rule of law encourages the emergence of parallel structures

There can be no peace without justice, and there can be no justice without the rule of law

lack access to them. There are at least four fundamental barriers to this access: a lack of legal identity, ignorance of legal rights, inadequate availability of legal services, and unjust and unaccountable legal institutions. Even in today's Nepal, there remain individuals deprived of legal identity either because they lack formal citizenship registration or because they are landless. They are therefore barred from benefiting from the law of land, especially if they seek redress from exploitation by the powerful. Many ordinary Nepalis have little or no knowledge of their legal rights despite various programmes aimed at fostering awareness.

Moreover, the formal court system in Nepal extends only to district headquarters and is encumbered by potential interventions from political leaders. This is yet another manifestation of the tendency of the justice authorities to intervene in the better off-regions and on behalf of the upper and middle classes. Even those citizens who know their rights cannot undertake legal action because they cannot afford legal fees. Rising awareness, coupled with an inability to pay for legal services, leads to increasing frustration among Nepalis. Despite efforts by the government and Non-Government Organisations to correct these shortcomings, improvements are scattered, little-known, and lacking in the rural areas where the need is the greatest. To enhance access to justice, therefore, yet another significant step could be an increased emphasis on community mediation efforts (see Box 3.4). These not only cost far less in both time and money, but often meet local needs more effectively than government action at higher levels. Hardly least, such local mediation efforts provide an opportunity to cultivate peace-building skills at the community level. Where communities choose to apply indigenous practices to current cases, these traditional local modes need to be examined,

adapted to contemporary needs and laws, and publicly promoted.

Corruption has also played a major role in discouraging people from using the legal procedures available to them. Those who seek justice through official channels pay higher costs in time as well as money. Many find themselves forced to sell whatever they can, including land. In addition, procedural delays tie up cases for years and years. Hence the classic Nepali aphorism "Law for the poor, immunity for the rich".

Improving service delivery

In addition to restoring the rule of law, improving service delivery enhances human development in post-conflict situations, especially in terms of health care, education and local security. Indeed, many Nepalis question how far the political transition can succeed without the restitution of such services.

In this area, the most important factor is the reconstitution of local governance bodies. This entails functional devolution down to the community level with appropriate checks and balances. To make service delivery more effective, a new Good Governance (Operation and Management) Act of 2007 and its regulation of 2008 have been adopted, along with provisions for integrated service delivery centres to meet the needs of people below the district level. Donors can play an important role in such efforts.

Despite earlier shortcomings in similar endeavors, the end of the conflict presents a unique opportunity to transform the way in which government reaches out to citizens. The following general strategies may help:

- ▶ Making service providers directly accountable to the community via local elections and frequent regular consultations between the providers and those they serve;

UNICEF supports an extensive network of Para-legal Committees (PLCs) in Nepal. A total of 482 PLCs operating at the VDC level are functional in 23 districts where the Decentralised Action for Women and Children is implemented by the Ministry of Local Development with the support of UNICEF. Para-legal Committees are comprised of women from different cultural, socio-economic and religious backgrounds.

Formed as early as in 1999 as part of an anti-trafficking intervention, PLCs initiated their interventions against all forms of violence, exploitation and abuse of women and children in 2002. They are supported by District Resource Groups (DRGs), which are district-based groups of 10-12 lawyers and social activists who provide training, technical support, and monitoring to all the PLC groups in their district.

PLCs deal with a broad range of cases, particularly those involving domestic violence, trafficking, early marriage, witchcraft, property disputes and polygamy. They mediate cases or refer them as needed to a range of local service providers, including the courts. They also follow up cases which they have referred as well as those they have mediated successfully, to ensure an ongoing fair outcome. In 2008, out of 5,696 reported cases, 4,698 (84%) were resolved by PLCs while 898 (16%) were referred.

The community-based justice and mediation offered by PLCs is recognized as an extremely effective, holistic

and inexpensive means of attaining justice for women, children and other excluded groups even in places where the formal justice system is accessible. PLCs also play an extremely important role in prevention, promoting gender equity and women's rights through social mobilisation and awareness-raising in their communities. Through constant advocacy, they have created space for women to share 'private' abuses, as well as gradually changing the social context which allows such abuses to occur.

The PLCs were able to operate even during the conflict, when many communities suffered from a vacuum of law enforcement. This was due to their engagement in promoting the rights of women and children, and their neutrality, transparency, and impartial justice for the vulnerable groups who are in the serious need of such support.

Because of the growing achievements of PLCs, the government and other UN agencies have begun including PLCs in their programmes and projects. The Local Governance and Community Development Programme (LGCDP) of the Ministry of Local Development has used PLCs to mobilise community participation in local planning. Similarly, UNDP under its Access to Justice Programme is planning to expand the PLCs; and UNICEF, UNFPA and UNIFEM will expand PLCs in 60 VDCs in four districts where their joint programme on gender-based violence will be implemented.

Source: UNICEF Nepal.

- ▶ Reducing corruption by increasing the use of open book-keeping, social audits, and methods such as public hearings, radio broadcasts and non-verbal posters that allow people who are not literate to also monitor project implementation and spending;³⁴
- ▶ Increasing capacity-building, particularly for local user groups in rural areas so that they can participate in planning project budgets, monitoring project operations and conducting evaluations of public service; and
- ▶ Allocating adequate funds to projects that affect marginalized groups.

Widening representation and participation

As this Report has earlier pointed out, human development concerns enlarging options—of which income is only one. People also want to take part in the decisions that directly effect their lives—the key principle of democracy. The disconnect between Kathmandu and the rest of the country—mirrored by the disconnect between dis-

Implementing the peace process demands that all Nepalis feel vested in the country's development opportunities

trict headquarters and rural settlements—has concentrated power in the hands of an elite. Fully implementing the peace process demands that all Nepalis feel vested in the country's development opportunities. This means enlisting local people, as far as possible, in peace-building activities that include:

- ▶ Local Peace Committees (LPCs) and other peace-building efforts;
- ▶ The TRC and other transitional justice mechanisms;
- ▶ The constitutional process; and
- ▶ The state restructuring debate.

This is all the more important because local initiatives thus far have received relatively little attention. While problems at the local level often cannot be resolved before the conclusion of a detailed agreement at the centre, local efforts can certainly have effects far above their level, even in connection with security and land return.

Local peace committees

Provision for LPCs has been made under article 8.3 and 8.4 of the CPA. Article 8.3 provides that both sides [SPA and Maoist] are committed to resolve all types of common differences or problems through mutual dialogue, agreement and understandings. Article 8.4 states that both sides express their commitment to the fact that the Interim Council of Ministers shall, in order to implement this Accord, ..., constitute the National Peace and Rehabilitation Commission, the truth and Reconciliation Commission, and other mechanisms as per necessity, and may determine their working procedure.

Since the CPA provides only broad guidelines on many topics, LPCs could become important fora for discussion, implementation, and peace-building at the grassroots level. Unfortunately, the Committees have

faced problems in the districts in which they have been piloted in 2006. Initially, their affiliation only with the Ministry of Peace and Reconstruction has generated mistrust. Although their official Terms of Reference call for an inclusive approach, they so far seem to have little involvement of women and other interested groups. This has led to their being perceived as “top-down” bodies controlled by the major parties, rather than “bottom-up” representatives of their respective districts. Box 3.5 sums up the findings of an assessment of 28 LPCs commissioned by the Ministry itself.³⁵

The assessment culminated in a range of proposals specific to individual LPCs, as well as recommendations for the MOPR at the national level. These included:

- ▶ amending the LPC's Terms of Reference so as to make them more inclusive;
- ▶ preparing and circulating operational guidelines and an Implementation Manual for the establishment and maintenance of the LPCs;
- ▶ re-issuing instructions to the officials responsible for organizing LPCs in districts where they had not yet been formed; and
- ▶ launching a capacity development programme for government officials and relevant stakeholders so as to enhance the functioning of the Committees.

As a result, the Terms of Reference of the LPCs were revised and issued in early 2009 with a view to institutionalizing their peace-building activities at the local level. The new mandate stresses responding to the concerns of local stakeholders for the practice of democratic values and beliefs in developing a sustainable peace, as well as in fostering an environment for the emergence of a

just system by resolving the remaining elements of conflict and promoting peace and reconstruction through mutual goodwill and a spirit of unity. Each of the LPCs must now comprise 23 members, at least one third of them women, along with individuals chosen by Dalits, indigenous nationalities, Madhesi, and Muslims; representatives of conflict-affected sectors, as well as spokespersons of civil society and the private sector, including human rights activists and leaders of commerce and industry. However, 12 of the 23 members must represent the district working committees of the political parties present in the CA. The LPC will serve until the new constitution is completed and enacted.

Each Committee will form a nine-member local peace secretariat from its membership to carry out its decisions; this secretariat, which will regularly report to the LPC, must include two women and equitably represent the major political parties.³⁶ Additionally, the LPC can also form a nine-member VDC or Municipality level Peace Committee. The Secretary of the Village Development Committee or the Executive Officer of the Municipality will act as the Secretary of the Peace Committee.

The resources of local bodies—District Development Committee, Village Development Committee and Municipality—will support the operations of the LPC. The Committee can invite representatives from district line agencies, including the District Administrative Office, the District Development Committee, and the District Police Office, as well as other bodies and individuals working at the local level, to act as observers in the Committee meetings. The LPC agenda will necessarily be more political than technical. However, its activities will help build capacities useful for reconstruction activities.

BOX 3.5

Assessment of Local Peace Committees in Nepal: some key findings

During February and June 2008, the MOPR interviewed 250 persons, including Chief District Officers, leaders of political parties, representatives of civil society organizations and business people so as to assess the LPCs. Among the key findings are the following:

- ▶ Most of the respondents welcomed the concept of LPCs warmly and characterized it as very desirable—indeed, necessary—to the transition period. They felt that it gave them a forum for participating and contributing collectively to the peace process at the district level. Some people, however, called the LPCs redundant because the “all-party” mechanisms, together with the existing district administration and the district council, wield all decision-making power—and will continue to do so. They also pointed out that LPCs would work best only when a consensus government took power in Kathmandu.
- ▶ Some of the LPCs were very active, especially during their first few weeks. Many contributed significantly to preventing election-related inter-party violence during the run-up to the CA election, holding all-party meetings with civil society involvement, reinforcing commitment to the electoral code of conduct, mediating political disputes, and preventing minor conflicts from escalating.
- ▶ Although women and Dalits have been grossly under-represented in the existing LPCs, the number of civil society participants has almost doubled that of political party members in most of the Committees.
- ▶ The autonomy of the LPCs make them the only government-mandated bodies that can draw all major political and civil society leaders together at the district level to work for peace.

Source: MOPR 2008A.

Transforming the LPCs into effective bodies will require donor support, including that of the United Nations system. Globally, UNDP has extensive experience in fostering the development of local conflict prevention. UNICEF and other bodies of the international system have also been involved in strengthening similar efforts. Ideally, a joint programme would prevent as well as resolve conflicts at the local level. Eventually, LPCs could become “bottom-up” institutions for preserving peace and fostering democracy nation-wide.

Two critical challenges now face Nepal: ensuring a participatory constitution-building process, and finding an appropriate balance between the country's political agenda and its development needs

Securing the future: a participatory constitution-building process

Two critical challenges now face Nepal: ensuring a participatory constitution-building process, and finding an appropriate balance between the country's political agenda and its development needs.

Nepal has had six constitutions during in the last 60 years.³⁷ None except that of 1990 drew upon a participatory process for its drafting and even then the collected information was hardly used. Arguably, even that process seems to have been dominated by a small expert body with close connections to both the political parties and the palace. Indeed, the King proclaimed this constitution's promulgation.

The result of these top-down procedures excluded large numbers of citizens from influencing successive constitutional changes and from exerting significant political or economic power. Consequently, each constitution was challenged as varying groups became able to articulate their grievances and demand justice. The 2006 Janandolan can be read as a direct expression of the Nepali people's desire to be included in their own democratic governance.

Participation of the CA members

The Interim Constitution of Nepal contains a provision that a Constituent Assembly (CA) will prepare the new constitution of Nepal. After three postponements, the election of the CA was held on 10 April 2008, following a mixed electoral system discussed in the following chapter.

The 601-member CA is sufficiently representative of different caste and ethnic groups, as well as of women, to give it legitimacy for drafting the constitution. The formation of 14 committees with the delineation of

responsibilities end 2008 was a major step forward (see Box 3.6).³⁸

If necessary, minority CA members should be allowed to speak in the language in which they are best able to express their views; a summary could be provided for other members in Nepali.³⁹ Formal and informal procedures should be utilized to ensure that women and marginalized group representatives are able to participate fully in the proceedings so as to contribute to the credibility of the process—and, more important, to contribute ideas that have not formally been voiced before. Given the history of elite-driven political decision-making in Nepal, this will not be easy. Religion and culture have already led senior male members to try to dominate the proceedings. Others have already protested.

The process of free prior informed consent (FPIC) from different social groups may alleviate this sort of contention. The principle appears in the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly on 13 September 2007, as well as in the International Labour Organization Convention 169 concerning Indigenous Peoples in Independent Countries. Following this process, concerned members of the Constituent Assembly might inform previously excluded groups about any discussion that involves them. This would entitle members of such groups to speak in successive meetings of the Assembly on the points that concern their rights and practices.⁴⁰

Participation of the broader community

CA Members should not be the only conduit for public input. There are other means of gathering people's views on the content of the future constitution. South Africa's is well known and involved three phases:

- ▶ eliciting public input before the formal drafting;
- ▶ gathering public comments on the draft text; and
- ▶ finalization and adoption by South Africa's constitutional assembly.

In the first phase, a media department was created to publicize the work of the constitution-makers; all thematic committees explicitly sought public input in their areas. Nearly 1.7 million submissions resulted, both written and oral, including suggestions made via the Internet, at public meetings and through telephone calls to a dedicated talk line. Through a face-to-face outreach programme, the members of the country's parliament, assisted by local civil society organizations, targeted communities that could not easily access information through print or electronic media—particularly those in remote areas and those with low literacy rates.

For the first time, many South Africans had active contact with their elected representatives. Over four million copies of the draft constitution were circulated for comment, resulting in approximately 250,000 responses. The CA then held private meetings to negotiate contentious issues—a move that was criticized, but also allowed for freer debate. Finally, seven million copies of the final document were distributed in all 11 official languages, as well as a version with pictures accompanying the text.⁴¹

This process provides some useful examples for Nepal, including:

- ▶ Dividing the constitutional process into multiple phases, each generating input;
- ▶ Creating a media or public information department that helps inform citizens about the constitutional process, and allows for targeted monitoring to test how

BOX 3.6

Process adopted by the Government of Nepal for developing the new constitution

Towards the end of 2008, the government made following provisions for preparing the new constitution:

- ▶ Formation of 14 committees from the 601-member CA: 10 *subject committees*, each preparing the draft on a specific subject/section of the constitution in consultation with experts; three *process committees* to organize consultations with citizen groups during the preparation of the constitution; and one *constitution committee*, responsible for compiling the sectional drafts and providing a legal basis for the constitution. The Constitution Committee will comprise at most 63 members, and the others at most 41.
- ▶ Once the constitution is compiled, it will be submitted to the CA for discussion. The draft will be revised in accordance with the inputs and comments received. This revision will be taken to the districts for consultations facilitated by the three process committees. The text will then be further revised to incorporate the comments and views submitted by citizens of each district.
- ▶ Finally, each and every section/point of the constitution will be discussed and, as far as possible, will be adopted by consensus. If consensus cannot be reached, a vote will be taken.

Source: Government of Nepal records.

well the message is being disseminated among various groups;

- ▶ Establishing a public submission mechanism that can handle vast numbers of submissions, consolidate the information, and ensure that it reaches the appropriate committee;
- ▶ Holding public seminars in which CA committee members themselves interact with citizens particularly interested in their handling of certain issues; and
- ▶ Distributing the draft text in Nepali and other native languages to foster public ownership of the final version.

All these steps point to introducing the idea of a mechanism to further communication for development. It could broaden information flow downward and allow voters, including women and those who belong to marginalized

CA Members should not be the only conduit for public input. There are other means of gathering people's views on the content of the future constitution

Equitable representation and participation must become the core principles for the new Nepal

groups, to voice their needs and opinions and thus participate in decision-making that affects their lives. Indeed, a lack of voice is an integral element of poverty. Access to information in languages and formats that people can understand and utilize is vital not only for furthering political democracy, but also helping citizens raise their living standards themselves.

Constitution-making can be a very contentious process. It poses serious risks of dividing any nation. Constitution-makers often long for decision-making by consensus. But procedures such as those outlined above are likely to foster a peaceful and constructive atmosphere—which is more likely to lead to a product with broad support. Free prior informed consent can strengthen the process. It translates into making a sovereign people the collective guardian of the law of their land, whatever the differences among them and whatever compromises their elected representatives must make to harmonize those differences. Few peoples in history have had a comparable opportunity.

Where we now stand

Thus far, the peace process has been characterized by a “one issue at a time” approach. This has slowed progress and limited decision-making authority in the hands of an elite few. Practically speaking, it has also meant an almost exclusive focus on politics at the expense of development. Now there is a need for balancing the political and development agendas.

Both public and civil society organizations in Nepal should consider pressing for an increased emphasis on development during this political transition period. A renewed focus on equitable growth and development will not only be the most effective way to provide a “peace dividend” for the people of Nepal. It can also offer another opportunity for community healing, reconciliation, and rebuilding, and as a chance for communities to practice inclusion.

Such a strategy can also bring together Nepali politicians and the international community. Politicians have an incentive to focus on development in order to build up their constituencies and win the “hearts and minds” of voters. The international community can also posit local development as part of its wider goal to support Nepal’s peace process.⁴²

There is no one model of peace process, just as there is no single model of development. The “best practices” of one country or society sometimes do not work for any other. While it is easy to criticize the government, political parties, civil society, donors and others for not doing enough to advance the task now under way, it is equally important to recognize its enormity. Most important is continuing to strive for the greatest possible inclusion and participation of the Nepali people throughout this period. Equitable representation and participation must become the core principles for the new Nepal—which forms the subject of the chapters that follow.

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
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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.

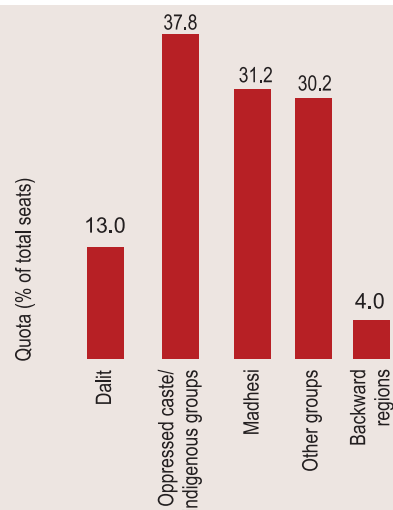
Although the FPTP system fairly represents geography, the PR system does not since its basis of representation is caste and ethnicity rather than a given geographic area. For example, four of the 75 districts—Okhaldhunga, Rasuwa, Parbat and Pyuthan of Nepal—did not receive even a single seat under the 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

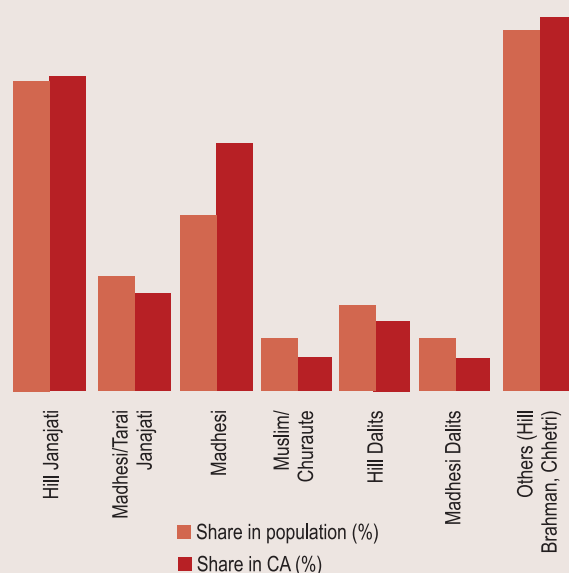
Quota for excluded caste and ethnic groups and region in the Constituent Assembly, Nepal, 2008



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.

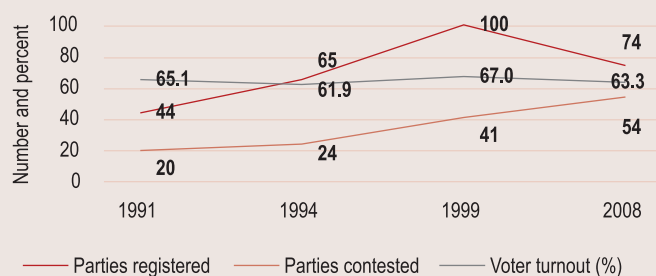
After the restoration of democracy, in the first election of 1991, the Nepali Congress Party won a majority of 110 seats out of 205 and formed the government. In the second election, in 1994, the Communist Party of Nepal (UML) secured a greater number and formed the government. However, they lost their 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

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Chapter

Federalism and human development

Nepal is now poised to adopt a new constitution that could provide the framework for dealing with the country's problems of exclusion, including those involved in political participation, that have troubled the country so long

Elected in April 2008, the Constituent Assembly (CA) has been given the task of drafting and adopting a new constitution within two years of its first meeting—which took place on May 28, 2008. Under the Interim Constitution, the CA has an unrestricted mandate to decide on the values, principles and institutions to be embodied by the constitution—except in two important respects. First, Nepal would become a functioning republic upon the first meeting of the CA, a concept which can accommodate a wide variety of arrangements.¹ For the interim, the functions and powers of the King were invested in the Prime Minister. Many people believe that the abolition of the monarchy has in itself improved prospects of democracy, inclusion and secularism.

Second, Nepal must become a “progressive democratic federation” (Art. 138, as amended on April 13, 2007). Though the details of the federal system are not spelled out, its purpose is clearly stated: “to bring an end to discrimination based on class, caste,

language, gender, culture, religion and region.” As in the case of instituting a republic, the CA is free to decide on what kind of federal system would be established.² However, the state must be “inclusive” and “progressive”, i.e., it must serve all citizens, including those who had earlier felt marginalized. Indeed, the adoption of a federal strategy stemmed in part from pressures from marginalized communities.

This chapter examines the politics of identity that are now central to debates on how Nepal should be governed. We then turn to the ways in which federalism can contribute to enhancing the human development of all the country's citizens. Ironically, the very concept of federalism has proved divisive: a 2007 survey showed a clear opposition by the Hill people and support among those of the Plains, as well as among Muslims.³ While the authors believe that federalism can provide a framework for the resolution of questions of identity and fairness and equity among citizens and communities, it cannot by itself solve all the problems of the country—and may indeed create problems of its own. We must therefore look at constitutional devices and measures that can supplement federalism so as to address the problems of discrimination and exclusion that are now so keenly felt.

Challenges facing Nepal

As earlier chapters have pointed out, Nepal now struggles with the legacy of ten years of conflict in which 13,347 died and 1,027 disappeared, while countless others were raped, dispossessed, displaced, bereaved or traumatized in other ways.⁴ Shame prevents many of these war victims from publicly acknowledging the extent or depth to which they were affected. Worse still, the underlying causes of the conflict have not yet been resolved. Nor have most of the results of the conflict been addressed. Poverty and discrimination on the basis of caste and ethnicity continue. So does marginalisation for other reasons, including remoteness from Kathmandu and other centres. In short, the grievances associated with the war persist and have been increased by its results—among these, ineffective government, internally displaced persons, frustrated combatants, and a population suspended between cynicism and hope. Indeed, in some areas, low-level conflict continues.

The underlying causes of the conflict have not yet been resolved. Nor have most of the results of the conflict been addressed

Consequently, Nepal is faced simultaneously with problems of nation-building and of state-building. As this Report has pointed out earlier, the country is undergoing multiple transitions:

- ▶ from monarchy to republic;
- ▶ from authoritarianism to democracy and human rights;
- ▶ from a hegemonic to a participatory system of governance;
- ▶ from a state wholly pervaded by one religion to secularism; and
- ▶ from a heavily centralized unitary system to one characterized by decentralization and autonomy.

Above all, the country is moving from a hierarchical society in which one's place was dictated by gender, by caste and by ethnicity, to one that aspires to making human dignity and equality its fundamental principles.

Although the 1990 Constitution of Nepal acknowledged that the country was 'multi-ethnic and multi-lingual,'⁵ it described the state as indivisible and sovereign⁶ and created a highly centralized government. It also declared Hinduism the official religion⁷ and made Nepali (in the Devanagari script) the sole official language; other languages were treated as national languages.^{8,9} The King, closely associated with Hinduism and its caste social structure, was described as the symbol of the Nepali nation and the unity of the Nepali people. Further, the people of Nepal were envisaged as a "collectivity" and the assertion of identity on the basis of religion, caste or language was banned.¹⁰ Thus, the 1990 Constitution not only established an exclusionary state, but actively endorsed it. Moreover, the hegemony of the high-caste elite in the major political parties was perpetuated by the prohibition of sectarian and ethnic parties.¹¹ A principle task of the state was the promotion among the people of Nepal of the spirit of fraternity and the bond of unity on the basis of liberty and equality.¹²

Nepal was not unusual in using the state to establish the hegemony of a particular elite or community and to define the entire population in its image. In this respect, the Constitution reaffirmed a much older tradition of state formation in Nepal¹³—and, indeed, of most existing states worldwide, whatever their constitutions proclaim. For this very reason, the legitimacy and fairness of this concept of the "nation-state" has come under severe challenge in many parts of the world. The roots of discontent lie in the economic, social and political exclusion of the non-elite communities and their members, such as non-whites in the USA and citizens from former colonies in other Western democracies. There is a close correlation between poverty and ethnic minorities. Although a powerful case for a more inclusive state system is based on the threat to the cul-

ture of minority communities and therefore to their identity, self-respect and social orientation, many ethnic protests and insurgencies are less about the preservation of culture, religion or tradition than about the lack of access to the state and the economy. In this way, ethnicity itself becomes a social and political force, a means to mobilize and organize members of the community, as its leaders advance claims for full participation in the affairs of the state.¹⁴

It has become increasingly difficult to resist such claims. Ethnic minorities now find support in both moral and legal theories rooted in the ideas of justice and self-determination. The international community urges political leaders to agree on measures of self-government or power-sharing, putting both the government and the insurgents under considerable pressure to find means to resolve internal conflicts. Efforts today to suppress ethnic loyalties, demands and organizations result largely in their gaining strength and reinforcing their potential to disrupt internal order and existing good will. Fuelling a deep sense of grievance risks violent outbursts, especially given the easy access to supplies of arms in international and regional markets that prevail today.

Claims of identity have come to play an important role in contemporary politics globally. Identity, it is claimed, is critical to a person's sense of belonging and orientation; the recognition of his or her ethnicity is an essential component of that person's dignity and self-respect. The denial of that identity is a manifestation of ethnic discrimination, the disparagement of other cultures and the disregard of the legitimate right to protection and development of the communities adhering to those cultures. The new politics of identity and recognition is seen as emancipatory and an empowerment of the hitherto marginalized and oppressed com-

munities. It is the weapon of the weak. By contrast, redressing past injustice enriches society through safeguarding diversity. Most political thinkers today believe that every culture can make some positive contribution to the states in which they now find themselves.

These contemporary understandings of collective identities have led to the review of the foundations of the state and its institutional organization, emphasizing the need for the political recognition of differences, together with finding ways to promote the co-existence of cultural and ethnic communities in peace and dignity. Consequently, in a number of states, new norms stress the virtues of diversity. This reconceptualisation of the political community and the division and sharing of sovereignty have found their way into the constitution. Clear alternatives, based on the political and legal recognition of ethnic or "national" communities, to the single nation state have emerged, among these:

- ▶ modes of representation and participation in public institutions and affairs;
- ▶ structures and distribution of power;
- ▶ the place of culture in the public sphere; and
- ▶ the settlement of competing claims of communities.

Often, these and various other ways of accommodating ethnic differences are grouped under the rubric of "unity in diversity."

As in many countries, a strong sense of ethnicity is most frequently a response to discrimination and deprivation. All the "marginalized" communities have suffered in this way. For many long years, they have asked for fair representation, fair treatment and fair opportunities. They have not rejected the state, but asked for their rightful place within it. Whether one looks at Nepali statistics for the economy, education, public service posts, representation in the legislature or the government,

Many ethnic protests and insurgencies are less about the preservation of culture, religion or tradition than about the lack of access to the state and the economy

Nepal faces the challenge of squaring the recognition of diversity with the benefits of the “nation-state”

one comes away with an overwhelming impression of the monopolization of power, authority, and opportunities by Brahman, Chhetri and Newar.¹⁵ Dalits have been oppressed for centuries, the Janajatis’ languages and cultures have been ignored; women suffer from severe discrimination across the whole of society; and Madhesis have long felt that they were not accepted as Nepalis, and labelled disparagingly as Indians.¹⁶ Most people, especially in the rural areas, feel—with good reason—that they cannot communicate with state officials: most of these representatives of the central government do not speak local languages.

The resistance of the eight-party alliance to the participation of the marginalized communities in decisions about the Interim Constitution and the future—in some cases, a refusal to acknowledge the legitimacy of the claims of these communities—has prompted a vigorous development of ethnic politics and organizations and disrupted the national unity of the Janandolan.¹⁷ In this way the traditional elites, by their intransigence, have created a situation which was one of their worst fears. Smarting under their exclusion, Dalits, Janajatis, Madhesis, and women are formulating their own agendas and recommendations for the new constitution. These include:

- ▶ fair and effective representation in state institutions;
- ▶ equality and elimination of all forms of discrimination;
- ▶ affirmative action, including “reservations” or quotas;
- ▶ secure citizenship;
- ▶ a secular state;
- ▶ political recognition of the diversity of cultures and languages; and
- ▶ self-government through a federal type of autonomy, preferably based on language and ethnicity.

Self-determination, understood in terms of group rights, has in some cases become the

leading principle of state reorganization for many of these groups. Understandably, the elite is uneasy with this agenda—and not only because it would chip away at its privileges. Yet the factors underlying these reform agendas lie at the heart of Nepal’s problems and will not go away. For stability and development, the constitution-making process must deal with it. Nepal faces the challenge of squaring the recognition of diversity with the benefits of the “nation-state” (community cohesion, common values, willingness to sacrifice for the common good, prospects of democracy, common public spaces, the expression and development of culture). In a word, the constitution-making process is about identity in a New Nepal, which emphasizes common bonds and interests while respecting differences.

This calls for recognizing the representatives of these communities in the CA as full members, not applicants. There are no simple or uniform solutions. The complexity of the ethnic situation is bewildering. Nepal has a heady—but potentially productive—mixture of race, caste, class, region, religion and ethnicity, along with gender as a factor in each proposed remedy. As indicated earlier in this Report, the country comprises more than 103 caste and ethnic groups, which speak more than 92 languages, and adhere to differing religions. Population and resources are unevenly divided among regions, so that there are also social and historical differences determined by topography. But this fragmentation also means that no group can be described as the majority. Hindus may be one sort of majority, but they are divided into sects, and also speak different languages as well as come from different regions. The Nepali speakers constitute the largest linguistic group, but these speakers belong to different classes and religions. Dalits have certain common characteristics (including social oppression), but they are divided by language and region—and even caste. Janajatis repre-

sent a variety of groups in size and cultural traditions and in varying degrees of integration into the modern economy and state structures.

Consequently, the most fundamental challenge facing Nepal and the making of the constitution is defining its identity in ways acceptable to its communities and regions. The constitution is more than the rebuilding of the state. The building or rebuilding of the state assumes a prior agreement to come together, to form a political community. But when there is disagreement on the fundamental values of the state or no sense of belonging to a common political community, the task of the constitution is two-fold. The first is the building of consensus, developing a framework for coexistence and cooperation among communities based on social justice, and the negotiation of national values and national identity. In short, constitution-making is about nation-building rather than the reconstruction of a particular polity. The process is as important as the substance of the constitution. State building—the “restructuring of the state”—follows from the way the first task is resolved.

Marginalized groups are united in their opposition to the present dispensation, but divided on what remedies and policies must be pursued. The inherent clashes in ideas, aims and practices of these communities mean that common devices may not suit every one of them. Some of these devices may indeed conflict with one another. Federalism may make sense for the Madhesis and perhaps the larger Janajati groups, but it is unlikely to do much for Dalits or for women. Similarly, more diverse language policies are not a major concern of Dalits or women. Dalits want the abolition of the caste system, while the agendas of other groups concern largely the recognition of caste, ethnic and linguistic distinctions.

This complexity also suggests that solutions cannot be based simply on ethnicity. There are more cross-cutting than overlapping differences, but even this should not obscure the fact that on various points, the interests of Dalits, Janajatis, Madhesis and women would conflict. And even among the Brahmins and Chhetri, there are poor people whose needs must be addressed. So while ethnicity should not be ignored, constitutional reform must be tied, broadly, to social justice. The roots of the political and social problems that have caused such suffering to the people of Nepal during the last decade lie not so much in ethnic differences as in pervasive injustice, massive discrimination and exclusion, and the failure of the state to develop constructively the notion and institutions of a common political community. There are many ways in which diverse identities can be fostered while being accommodated within an over-arching national loyalty; some of these are indicated in this chapter. Federalism itself, the principal focus here, is a device frequently used to acknowledge and integrate diversity. Moreover, the current wave of recognition of language, religion and culture of different caste and ethnic groups by the state suggests that Nepal needs to build its future laws and policies on social justice through the inclusion and participation of different social groups. This will also foster recognition of multiple culture and identities.

Social inclusion—the core values and principles of the constitution

The values and principles espoused by the eight political parties have been gleaned from the Comprehensive Peace Agreement, the most comprehensive accord among the major political parties, and the Interim Constitution. Both these documents are the product of negotiations among the political parties (substantially in pursuit of the goals of

Marginalized groups are united in their opposition to the present dispensation, but divided on what remedies and policies must be pursued

Interim Constitution 2007 represents a considerable improvement on the rights of minorities and disadvantaged communities compared to the similar provisions of the 1990 Constitution

the Janandolan of April 2006), which now have the people's mandate to make the new constitution and to ensure its acceptance and enforcement.

The 12-point agreement held between the seven parties and Unified CPN (Maoist) in 22 November 2005 was marked more by a commitment to democracy rather than to the rights of marginalized communities. However, the 2006 Janandolan, led by communities hitherto excluded from political and social power, established a progressive reform agenda with particular attention to the concerns and aspirations of minority, marginalized communities. This agenda was first reflected in the eight-point accord between the seven parties and the Unified CPN (Maoist) signed on 16 June 2006, when they agreed to “make a forward-looking restructuring of the state so as to resolve the class-based, racial, regional and gender-based problems through the election of the Constituent Assembly”.¹⁸ In an agreement on 8 November 2006 between the high-level leaders of the parties, a slightly more elaborate form of this commitment was agreed: “In order to end class, ethnicity, lingual, gender, cultural, religious and regional discriminations and also to end the centralized and unitary structure of the state, it shall be restructured into an inclusive, democratic and progressive state” (Point 10). This was expanded in Article 3.5 of the CPA by identifying groups or communities, including Dalits, against whom discrimination would be ended. The CPA also committed the parties to socioeconomic rights: to food; health; education; and private property (Article 7.5)—of particular relevance to the marginalized communities and to the poorer members of otherwise well-off communities due to pervasive poverty.

This fundamental transformation in attitudes, policies and commitments has been expressed in the Preamble and a number of Articles of the Interim Constitution. The Interim

Constitution 2007 represents a considerable improvement on the similar provisions of the 1990 Constitution. When providing for affirmative action, beneficiary communities are mentioned and include Dalits (Article 13(3)). The language in which the provision against untouchability and racial discrimination is expressed is longer, but not necessarily more extensive, than the preceding text. Real advance is manifest in Article 21, which gives “women, Dalits, indigenous groups, Madhesi communities, oppressed groups, the poor farmers and labourers, who are economically, socially or educationally backward...the right to participate in state structures on the basis of the principles of proportionality”. An amendment of the Interim Constitution provides for proportional recruitment into the armed forces (Art. 144(4) A). The Interim Constitution also sets out specific rights of women and of children (Arts. 20 and 22).

The provision concerning exploitation has been strengthened by two new clauses: (a) no person shall be exploited in the name of custom, tradition, and practice, or in any other way; and (b) no person shall be subjected to human trafficking, slavery or bonded labour (Art. 29(2) and (3)). The Interim Constitution also guarantees the right to work (Art. 18 (1)) and to “proper work practices” (Art. 30(1)). The cultural rights of minorities receive greater protection than in the former constitution (Art. 17). These rights are reinforced by the articulation of various state responsibilities and policies and directive principles (especially Article 33(d) to (i)). All in all, the regime of the rights of minorities and disadvantaged communities represents a great improvement on previous constitutions.

Federalism and human development

The commitment of the major political parties to federalism came late—only after vio-

lent protests by Madhesis and Janajatis. There was no reference to federalism when the Interim Constitution was first promulgated, though the text made reference to decentralization and the restructuring of the state. Few people—certainly almost no one among those who made the decision—had any real understanding of the institutional structures and functioning of federalism. The Interim Constitution itself provides no guidance on the principles or substance of a federal system. The matter was therefore left entirely to the CA—with the proviso that a high-level commission would make recommendations on the restructuring of the state. There have been fairly extensive discussions on federalism and explorations of the major federal systems.

Arguments for and against federalism in Nepal have been vigorously articulated, more on principles than on structures, the division of powers, and relationships between the centre and federal units. Although all major parties expressed support for federalism in their manifestoes for election to the CA, the degree of real commitment to it may be limited.¹⁹ The insurgency in Nepal was not primarily about federation (as in Sri Lanka or the Sudan); the key protagonists were concerned essentially about the control of the unified state. A combination of insufficient understanding of varied federal experiences elsewhere and lukewarm support may result in a weak system that cannot respond to problems of inclusion and national integration.

The constitution deals with various matters concerning the relationship between the different levels of government. It sets out the resource and financial powers available to each level, including the power to impose, collect and spend state taxes. Although in principle each level of government is free to exercise such power—subject to any consti-

tutional limitations, including the protection of human rights—in practice it is often necessary for governments to coordinate their policies or acts, or plan joint activities. For this purpose, machinery for intergovernmental discussions and decisions is usually established. In some federations like India, the constitution allows the national government to intervene in regional matters in an emergency. If there is a dispute—for example, if one level of government has encroached on the powers of another—the matter is usually resolved by the national courts, often the Supreme Court.

How these and other matters are dealt with in constitutions varies a great deal from one federation to another. Such matters as the methods of the division of powers and the actual division, the relative share of resources and revenue among different levels, the number and size of regions, the scope of cooperation between the centre and the regions, and procedures for dispute resolution depend on the characteristics of the country. Thus some federations give the bulk of the powers (at least, the most important) to the centre, others to regions. Some give all taxation powers to the centre, but provide for the sharing of the proceeds between the centre and the regions. In some federations, one region may have more powers than others, such as Quebec in Canada.

Before we discuss dealing with the issues of inclusion, we must look at the way in which the federation came about and at the underlying criteria for the formation of regions. A federation may be formed by the coming together of previously independent entities (“aggregation”, as in Australia, Switzerland, and the USA) or the restructuring of a unitary state (“disaggregation” as in Belgium, Ethiopia, Nigeria, Spain, and South Africa). The former has generally been easier to set up: It is based on the consent of the separate

There was no reference to federalism when the Interim Constitution was first promulgated, though the text made reference to decentralization and the restructuring of the state

units. It involves the establishment of only one new unit—the federal government (with transfer of limited powers). In addition, the regions have already well-established systems of government and laws, identity, and boundaries, which more or less guarantee their viability.

By contrast, federalizing by disaggregation raises a much larger number of issues, among these:

- ▶ the boundaries and number of the regions;
- ▶ the levels of government;
- ▶ the dismantling of at least some structures of the state;
- ▶ the establishment of numerous new governments and laws; and
- ▶ the transfer of substantial powers and personnel to the new regions.

*Federalism
represents a form
of power-sharing*

Moreover, almost all these issues are compounded by the fact that this type of federation is often accompanied by controversy and has sometimes resulted from armed conflict, as in the Sudan and the USA during its expansion from the Atlantic to the Pacific in the course of the 19th century.

The second distinction among federations lies between those based on considerations of geography and economy (“geo-economic”) or old boundaries (“territorial”), and those based on ethnic, linguistic or religious criteria (“ethnic”). The rationales of the two are different: the first deals with distance, common defense, democracy, responsiveness and accountability, the other with self-determination, identity and culture. With different objectives and purposes, they may produce very different kinds of federations. These differences become manifest in terms of the criteria for regions, the number and size of units, the relationship between the regions and the central government, the division of powers among different levels, the salience of culture and the politics of internal mobility. The dynamics of the two kinds are also dif-

ferent, the ethnic being perhaps more unstable. Often, it has tended towards the proliferation of regions, and towards strained relations between both the regions and the centre, and among the regions themselves.

It would therefore seem that ethnic federations face greater social and political problems than the “territorial”. In a territorial federation, the rights and obligations of individuals are based on residence in the region; personal characteristics like language, religion or culture are largely irrelevant. By contrast, in an ethnic federation, the land itself has ethnic, cultural dimensions. It is perceived by a community as its “homeland”, vested with religious history or emotions or, in a far more common way, the physical space in which a particular community has a numerical majority. In some federations of this last type, the members of that community have greater rights than other inhabitants of this land, as in the former Soviet Union. The exercise of regional power is in some sense tied to ethnicity. It may be that the language of the dominant community in the region will be the language of the government (as in France and India) or that its religion will have a special status (as in Switzerland), or that it will have superior land rights (as in Brazil and Colombia). Even if there are no special rights, the ethos and culture of the dominant community will pervade the policies and practices of the government. Several recent federations have an ethnic orientation; the precise rights related to ethnicity vary. The purpose of these federations is to acknowledge and provide for cultural diversity and to empower politically and economically a community that would otherwise be a permanent minority in the state. Federalism is a compromise between a highly centralized state and secession (as in the Oslo agreement between Liberation Tigers of Tamil Eelam and the Sri Lanka government, north and south Sudan, and Bosnia-Herzegovina). It represents a form of power-sharing. It is of-

ten forced on warring communities by the international community, and therefore is less consensual than the other, older federations.

How far could federalism resolve Nepal's problems of exclusion, the marginalisation of various communities, poverty and the lack of economic development, threats to national unity, the ineffectiveness and lack of accountability of the government, and its capacity and willingness to protect the rights of the people? These factors are crucial for human development. Supporters of federalism say that the domination of the country from Kathmandu (referring to excessive centralism) has prevented growth elsewhere. Further, this domination is exercised by small elite of Brahmins, Chhetris and Newars, resulting in acute discrimination against other castes and communities—and serious deficits in democracy. Two results of this concentration are widespread poverty and the failure to respond to the needs of the people, particularly in the rural areas of many parts of the country.

The experience of other countries shows a massive increase in political participation when they become federal—for example, India and Spain. Central institutions are organized to allow for the participation of all regions in central governance. Normally, a second legislative chamber is set up, or if one already exists, it is reorganized, often composed of regional representatives who are usually elected by the residents, as such, of the regions. In some federations, each region has the same number of representatives, in some it is based on population (with a minimum number for the smaller regions). Regions are also represented in the other national chamber, usually on the basis of population. The second chamber, where the regions are directly represented, plays a more important role in state affairs than in a unitary system. It gives the people of even remote regions the opportunity to bring to the

attention of the central government their pressing problems and to influence national policies. They also receive opportunities to influence policy and administration at local levels. In a federation, regions have their own elected legislatures and executives, with significant and independent powers. Here, citizen participation or influence can be direct, for they live close to the operations of these institutions and their members and officials have permanent local residence (with few opportunities to visit Kathmandu).²⁰ At that level, quite small communities that cannot expect to participate in—much less, influence—national affairs can wield considerable political power.

These constitutional arrangements also impact the organization and structure of political parties. They give rise to regional parties, giving people a greater choice among parties and the ability to influence party members. Political parties then have incentives to learn about local issues and establish an effective presence outside the capital city. In some federations, regional parties play a significant role at the national level (as in India today), so that the national government has to pay due attention to regional problems and needs. Through regional institutions, information about national affairs and policies is disseminated locally, and people become aware of them and of how they themselves fit into the national scene. Their understanding of democracy and political processes grows.

Although it is not guaranteed, the establishment of regional governments often leads to more efficiency and accountability. Almost by definition, the regional government will have greater knowledge of local circumstances, aspirations and obstacles to development, and is well placed to plan and execute appropriate policies. The regional government will have incentives to promote economic and infrastructural developments, ex-

The experience of other countries shows a massive increase in political participation when they become federal

ploring local opportunities, which would lead to the emergence of new growth centres and the creation of employment opportunities, reducing dependence on Kathmandu. Moreover, this is also not against the principles of subsidiarity, which hold that a larger and greater body should not exercise functions that can be carried out efficiently by a smaller body. Instead, the former should support the latter and help to coordinate its activity with the activities of the whole community.

The federal scheme for the sharing of revenue and the lobbying of the national government by regional representatives should ensure greater resources to the region for economic and social development. And if the constitution adopts mechanisms for equalizing development across the country, the less developed regions would receive a larger share of the national revenue. There should also be improvements in the delivery of welfare services, due to a greater familiarity of officials with local needs. And since the focus of most regional governments should inevitably be rural, disparities between rural and urban areas should begin vanishing.

Moreover, it will be easier to involve people in state organs and in development projects. The residents will have easier access to local officials, and should be able to deal with them in local languages. The regional government will have an incentive to please the local people in a way that the central government seldom has. Persons who until now were ignored as candidates at elections because of their caste or region would now have opportunities to contest elections to regional legislatures or appointments to other institutions. Proficiency in local languages, some of which will become official languages at the regional level, will enable persons hitherto handicapped by the lack of command of Nepali to compete in entrance examinations and to obtain posts in the civil service. Participation in regional and

local affairs will give people confidence in their ability to plan their own future.

People's confidence and their self-respect will also grow if regional governments promote their cultures and languages. For many communities, one of the most valued results of federalism would be the recognition of the worth of these cultures. Centuries of the denigration of their cultures and languages by ruling elites at first produced a sense of inferiority that is now developing into anger. Regional governments will provide the framework for sustaining local languages and cultures—and beginning to reverse the imposition of the values and cultures of others. The resurgence of these languages, literature, music, dances, religions, and life styles will truly enrich the cultural diversity of Nepal. And with the pride and confidence that this creates, the marginalized communities will be better able to participate in other public spheres, to work together with members of other communities, and to strengthen national capacity and unity. The tapestry of Nepal's rich and diverse cultures and the genius of its communities must become the background for developing the new identity of the country and the basis of its nationalism.

Federalism can also give voice to minorities at the national level, through arrangements for "shared rule". Regional participation in the second chamber of the legislature has already been noted. If regional parties become important, they will also be represented in the other chamber and, if the political system is parliamentary, they will also have representation in the national government (as part of a coalition government, as is becoming the norm in India). There will also be pressures to reflect regional diversity in the civil service, the judiciary and the armed forces. Regions can maintain a presence at the capital through an office dedicated to lobbying federal authorities. Regional partici-

The tapestry of Nepal's rich and diverse cultures and the genius of its communities must become the background for developing the new identity of the country and the basis of its nationalism

pation in national affairs can also take place through membership in bodies for intergovernmental cooperation (like a fiscal commission, a water authority, a development planning department, or a unit for dispute settlement). The broad federal structure thus becomes a node of centre-regional negotiations on a host of matters.

The granting of substantial powers to the regions often means that many problems between the regions and the centre become intra-regional. The politics of language in India in the 1950s became the centre of intense conflict between Delhi, bent on Hindi as the official language of the country, and the southern states, which wanted due recognition of regional languages, including the reorganization of federal units on linguistic grounds. The issue united several states and their residents in a national campaign against the central government. But once the linguistic principle was granted and states reorganized, the pressure on Delhi was replaced by internal differences and by competition within states. Centre-state relations subsequently improved, and it is generally believed that Indian unity was strengthened.²¹

Federalism is not the panacea for every one

Despite the promises of federalism, it is unlikely that it would deliver all that is expected of it. Among the groups unlikely to benefit are women, Dalits, those whose class now provides grounds for discrimination, and somewhat vaguely “oppressed and minority communities”. They will benefit as members of the general public if the positive developments noted above actually materialize. Although there is nothing to prevent regional authorities from making progressive provisions for women or Dalits, they may have no more incentive to do so than the national government. But Dalits are unlikely to have sufficient numbers in any re-

gion to exercise power at that level. In areas predominantly populated by Dalits, they may obtain some form of local autonomy within the region. And women will be in no different a position than in the country as a whole. However, it is possible that women may find it easier to participate in public affairs, including legislative debates, at the regional level than the national because their political activity would involve less travel, fewer absences from the family, and familiarity with local people. The position of women and Dalits may also depend on whether the federal or the regional governments are likely to be more sympathetic to their interests and welfare (Box 5.1), and on how the powers over matters of particular interest are divided between the national and regional governments and which have policies for promoting the interests and welfare of these particular groups. If federalization tends toward an emphasis on ethnicity and culture, it is possible that both women and Dalits will be

BOX 5.1 The effects of federal structure on excluded groups—women and the attitude of the authorities: some examples

Federalism does not necessarily ensure the rights of women unless the authorities have a positive attitude towards them. Examples abound on this issue, among these:

When a conservative party took office in the Kelantan and Terengganu states in Malaysia, it introduced various restrictions on women, including some practices of gender segregation that were not traditional in Malay Muslim culture. In addition, the Chief Minister of Kelantan discouraged Muslim women from taking employment that would require them to work on night shifts.

In Canada, where considerable autonomy has been given to “First Nations”, women have sometimes found that their rights are threatened by the application of the traditional law of those communities. This was so in the case of Sandra Lovelace, who had been deprived of the right to own land and participate in the community because she married an “outsider”. Similar action would not have been taken against a man in the same situation. Her case was referred to the United Nations Commission on Human Rights.

Source: Lovelace 1977; and Stark 2004.

handicapped, since both are in their different ways victims of religion and culture.²² Malaysia and Switzerland are instructive with regard to ethnic autonomy in respect of federations, as are Native American reservations in Canada and the USA. A particular form of this issue is likely to arise if there is a system of customary or traditional community law that federal units or local communities are able to apply. If this is the case, many such systems have been in conflict with international human rights standards. At the regional level, those who draft the constitution face a choice: favouring traditional law and practice in the hope that the community will advance or as in case of the constitution of South Africa, customary law subject to international human rights standards.

With regard to Madhesis, it must be recalled that the Madhes uprising in early 2007 put federalism firmly on the national agenda—and into the Interim Constitution, only a few months after its promulgation. In one sense, Madhesis have even more to gain from federalism than the Janajatis, who have long argued for it.²³ That amendment also gave Madhesis additional political representation (and easier access to citizenship cards) and led to changes in the electoral system for the CA, giving them the ability to play a major role in the design of the federation. The movement gave particular prominence to regionalism as a geographical and demographic concept, along with the sense of identity associated with it. Despite these gains, it is not clear that the Madhesi objective of “One Madhes, One Pradesh” (“pradesh” referring to a federal unit)—of converting what many non-Madhesis regard as geographical concept into a political and constitutional unit—is realistic. As Hachhethu (2007) has remarked, as a geographic unit, Madhes is the plains landscape from Siwalik hill range onwards and the Madhesi, as a group, broadly encompass people of non-

Hill origin. He states, “... such ethnic and regional identity is contested as there is non-Madhesis identity, culturally, religiously, or linguistically. The people of non-Hill origins are divided into three distinct cultural groups: Plains Hindu castes, Plains Janajati groups, and Muslims”. The latter two do not regard themselves as Madhesi. The picture becomes even more complex when one considers that although the Tharu assert their distinct identity, some are assimilated to the Madhesi. Hachhethu notes that the cultural differences between the Plains Janajatis and the Plains caste groups are as large as those between the Hill castes and the Hill Janajati groups, and that Muslim identity is predominantly associated with religion rather than region.²⁴ It is thus clear that the incorporation of the Tarai (as the Plains are often called) into the Nepali federation may not be a simple affair, although the ethnic Madhesis would stand to gain greatly from the federalization of the Tarai; it would allow them to negotiate more effectively with the centre. The divisions which have emerged among the people of Tarai could lead to the kind of internal conflicts and fragmentation that have characterised the North East of India, with the frequent and troubled carving up of the original Assam state.

Nor would the least developed regions, such as Karnali, necessarily benefit from federalism, as is often claimed. While it is true that some proposals would not only grant the least developed areas regional government, but also a higher degree of autonomy than other regions, these suggestions stem from the assumption that autonomy would promote development. Undoubtedly, such areas require special attention and extra resources, but federalism by itself is unlikely to increase such benefits. In general, better-off areas tend to attract personnel and resources. If officials do not have resources of their own, they will be hard put to secure

them from the better-endowed regions if the constitution makes the allocation of national resources a matter of regional need. As the authority of the central government in the regions is progressively reduced, these areas may suffer from further inaction and it may be more difficult to provide them with even the most basic services. Consequently, it would be necessary to complement the powers of these regional authorities with additional resources; the central government would have to assume responsibility for providing these resources and, at least initially, administering their disbursement.

Even if ethnicity is accepted as a criterion for defining a region, there are serious doubts, that many indigenous or cultural communities could govern the area. Here, of course, a great deal depends on the basis, size and number of regions—all of which are complicated by the fact that there are few substantial, contiguous areas in which any one ethnic community has a clear population majority. Moreover, the distinguished geographer, Professor Pitamber Sharma, states that one particular group constitutes a majority in only 14 districts (nine of these are dominated by Chhetris).²⁵ Groups that are dominant in one or more districts are also the most dispersed, a consequence of mobility. Sharma observes that as a result, “there is considerable ethnic/caste diversity even in areas that have a dominant ethnic/caste population....Even among the Janajatis, there are dominant/majority and minority Janajatis in the same geographical area.”²⁶ Therefore, if a single group is to be given a region of its own (as some groups have claimed), the area would have to be rather small. This would give rise to a large number of regions, a large proportion of whose members would not even live there. Too many small regions would also mean that few regions would have the resources or the capacity to undertake significant projects and national coordination would be difficult.

It has been proposed that in a region with a significant number of one caste or ethnicity (although short of a majority), the area would in some sense be deemed to “belong” to that group. This is reminiscent of the former Soviet Union’s theory of the titular autonomous community, which had special rights in that region. Moreover, such an arrangement would create anxiety in other communities—and although their rights would be fully protected in principle, it is not clear that they would feel the same affinity to the land as the dominant community.

One way to circumvent this difficulty is creating regions with substantial territory (populated by various castes and ethnic groups) for matters in which scale is important, and establishing additional tiers of government below the regional authority where a proportionally large ethnic group would enjoy autonomy in matters of particular concern to them. Partly for this reason, Professor Sharma has proposed three tiers below the national government: the regional, district and village/town levels. However, increasing the number of tiers would raise the cost of administration, a condition often overlooked. The concept of small autonomous areas like this has found favour in some countries, among them China, Bosnia-Herzegovina and India’s North East. Though well worth consideration, this idea compounds the complexity already inherent in a two-tier federation. Further, this complexity would spread thin both financial and human resources.

Even in a two-tier federation, it would be possible to specify the cultural and other rights of minorities, particularly at the regional level. Conceiving of culture as exclusive to a particular community is restrictive. The strength of diversity lies not in enclaves of cultural communities—almost analogous to apartheid—but exchanges of culture, so that every community has an interest and

The strength of diversity lies not in enclaves of cultural communities—almost analogous to apartheid—but exchanges of culture, so that every community has an interest and stake in the culture of its neighbours

Federations differ in the nature of the executive at the centre, the electoral system, the structure of parties, the role, structure and influence of the federal government, and so on

stake in the culture of its neighbours. This is a promising basis for national unity, and can perhaps be practised among the cultural communities in the region more easily than on a national basis. This approach would have to be supplemented by national policies on language and religion. The experience of both Nigeria and India shows that a major source of instability in a federation is not necessarily differences between the centre and regions, but differences between different communities in the region which spill over other parts of the country, and compel some form of federal intervention. Adequate protection of the rights of minorities, and their participation, at all levels of government is crucial for harmony and stability.

Another possibility where culture is a dominant concern is establishing a community council for each group that has minority status in one or more regions to deal with those cultural issues which affect that community throughout the country as a whole. Belgium, Hungary, Latvia and Poland are well-known examples of this sort of policy. Because of internal migration, many communities now live throughout large parts of the country, and the council device may provide a means of communication and the cultivation of their cultural values and practices. However, bodies like these have either become politically difficult to sustain, as in Belgium, or dwindle in significance, as in Hungary and Latvia.

Those who oppose “ethnic federalism” argue that this approach would deter development because the regions would not be based on criteria of economic viability. Development planning would become difficult because “natural” areas for development (such as river basins) would be broken up. Further division of powers would further undermine the ability to plan for the entire

country. The costs of government would increase dramatically, with several layers of government, additional legislatures, bureaucracies, and perhaps courts, absorbing money that could otherwise increase welfare services. In addition, there are fears that corruption would increase, finding new avenues in regional authorities. For these and other reasons, administration would become inefficient, and the delivery of services would suffer.

Serious political repercussions might also emerge. Regional minorities could suffer discrimination. Tensions might well arise between communities dominant in different regions, as well as among the dominant and smaller communities within a region. Communal harmony would be disturbed. Regionalism, particularly along Nepal’s borders, would expose the country’s vulnerability. The state would become weak because of its obligations in fulfilling regional interests, national symbols would be undermined, and federalism would become the first step towards the disintegration of Nepal.

One way to move forward is broadening the scope of the debate, which so far has focused almost entirely on the criteria for regional division rather than on institutional needs and technical requirements. As we have now seen, there is considerable flexibility in designing a federation, through which differences between the two sides can be narrowed. The design of the federation can also be fundamental to its success. There is a tendency to assume that there is a “federal model”, and to ignore the many ways in which federations vary and which influence the functioning of the federation, with significant influence on ethnic relations or stability. Federations differ in the nature of the executive at the centre (parliamentary or presidential), the electoral system (majoritarian or proportional), the structure

of parties (the balance between national and regional parties), the role, structure and influence of the federal government (whether dominant as in India and Nigeria, or coordinate as in Canada), the distribution of resources (oil being a major element in Nigeria and Iraq), dispute settlement procedure (particularly value placed on mediation and political conciliation), and so on. In India and Nigeria, the dominant role of the federal government has determined the unfolding of the federal relations. These are critical factors to take into account in designing federal arrangements.²⁷

The debate could benefit, too, from a more objective analysis of comparative federal experience. What does the experience of federalization elsewhere show us? The record is uneven, especially where an element of ethnicity is involved. In India and Spain, concessions to ethnicity have undoubtedly strengthened both national unity and the flourishing of cultural diversity. In the former Yugoslavia, ethnicity questions became the fault lines along which that federation foundered. To some extent, these issues have also posed problems in the former Soviet Union, as well as in the original Pakistan federation. Today, secessionist movements are stronger in unitary states than in those that have become federal. Indeed, federalism is often seen as a way to end secessionist claims, as in the Oslo framework for Sri Lanka, and the Sudan peace agreement. It is also possible, through varied forms of division of powers, the structuring of “shared rule”, and consultative and cooperation mechanisms, to strengthen bonds between regions to the center consensually.

Minorities need reassurance and a measure of self-government, which federalism can provide. It is equally true, however, that discrimination against minorities persists in some regions in ethnic federations, generally unconstitutionally and against federal and re-

gional laws. Both Nigeria and North East India have manifested such problems. Traditionally, minorities in regions have been protected through special powers lodged in the national government. These include a veto power on regional discriminatory legislation, a strong bill of rights that is binding throughout the federation, a proactive judiciary on cases involving discrimination, and, as indicated earlier, by giving minorities self-government powers in selected areas. Political and religious leaders can also contribute significantly to the cultivation of a national ethos.

It is also true that the costs of running a federation usually exceed those of a unitary state. But the benefits, several outlined above, usually far outweigh the costs in the long term, if not sooner. It is often pointed out that the four or five leading federations are among the most prosperous and stable states. Costs and benefits can be measured neither by financial accounts nor a “zero sum” mentality.

Designing the federation and institutional arrangements

Institutional design can avert many potential problems. Professor Ronald Watts says that “the function of federations is not to eliminate internal differences, but rather to preserve regional identities within a united framework. Their function, therefore, is not to eliminate conflict but to manage it in such a way that regional differences are accommodated”.²⁸ Institutions impact the organization and behaviour of political parties, as well as the conduct of civil servants and organized interest groups, either moderating or accentuating political conflict. Structural features, of course, vary with context, but it is perhaps possible to draw some lessons from comparative experience.²⁹

Federalism is likely to succeed where there are established traditions of democracy and the rule of law. Further, it benefits from:

Minorities need reassurance and a measure of self-government, which federalism can provide

Democratic politics in a region compel regional leaders to protect autonomy as well as empower them to do so

- ▶ an independent dispute settlement mechanism;
- ▶ proper constitutional guarantees for the federal arrangements; and
- ▶ limits on central power to intervene in regional government.

It must also be remembered that democratic structures are necessary for the exercise and protection of federalism. Democratic politics in a region compel regional leaders to protect autonomy as well as empower them to do so. At the national level, they encourage the government to abide by the constitution and seek consensus with regions. Moreover, Multi-ethnic federations have better prospects of success than those that are bi-ethnic.

All in all, the preconditions for the success of the formation and functioning of federalism can be summarized as follows:

- ▶ willingness to form the federation;
- ▶ trust;
- ▶ a strong sense of a common political community and a commitment to national unity;
- ▶ basic agreement on values;
- ▶ the rule of law;
- ▶ supremacy of the constitution;
- ▶ equitable judicial interpretation and enforcement; and
- ▶ where federations have arisen out of conflict, frequent demonstrations of understanding and the cultivation of relationships.

Sometimes federations have been structured to give greater powers to some units than to others, to recognize such factors as differences in cultures, capacities, and histories (for example, Quebec in Canada and Bougainville in Papua New Guinea). Sometimes, too, within a non-federal state a region can be given autonomy (such as the German-speaking South Tyrol in Italy).

Some of these arrangements work well. Often, though, they create resentment and a demand from other units in the federation for parity (which, in the case of Spain, has led to a fairly uniform federal structure).

Some of these factors are the product of history—about which not much can usually be done. Others are institutional, which human ingenuity can adjust to the circumstances of the country. The design of a federation involves both political and technical decisions—that are not always easy to separate. As this Report has explained earlier, the political decision to federalize has already been made. It is now the responsibility of the CA to decide what kind of a federation Nepal should have. Ultimately, the Assembly must make all decisions. But even political decisions depend on technical issues, especially as there has been little public discussion on details.

The CA might well derive great benefits from setting up an expert group to make recommendations on several critical issues in the design of the federation. These include the number and size of federal units, the number of levels of government, fiscal arrangements, the distribution of powers, and the establishment of dispute settlement mechanisms. Since components of federalization affect most aspects of the constitution—among these, the very system of government—more than one committee would have to address federal issues. An expert group could also coordinate the deliberations and decisions of the various CA committees.

It is also necessary to recognize that the implementation of a federal system will take several years. The Assembly should build into the constitution, perhaps in the form of a schedule, the different stages and goals in the development of the federation, as well as the dates

by which they must be achieved. In this way the transfer of powers from the center to the regions could be phased over, say ten years, as the regions develop the institutions and personnel they need to handle these powers. It would be necessary, at least for a period of time, to send officials now working in national ministries to the regions as they establish their own local civil service bodies. This will require organizing transfers of funds. Both public servants and political leaders will also need to learn about the mechanisms of the federation. For all these purposes, the expert group or a special commission can assist a great deal, providing both technical help and ensuring that the time table provided by the constitution or issued elsewhere is observed.

To sum up...

Although federalism can help promote political and socio-economic inclusion, strengthen the economy, and increase public participation, it will by no means solve all the problems of inclusion and social justice that this Report raises. The socioeconomic diversity of Nepal, along with its marked regional differences in resources, may call for a federalism that accords different degrees of autonomy and competences to different regions with regard to particular issues. Such is the case in both Italy and Spain. This may require a strong centre. Moreover, it will be necessary to supplement federalism with specific devices, many discussed in this chapter,

which the new constitution should feature. Ample provision for them already exists in the Interim Constitution. These supplementary mechanisms have to be primarily the responsibility of the central government—and they must be formulated as national policies, although their implementation will increasingly require consultation with the regional governments.

A federation is not a neutral constitutional device. There are different kinds of federations. The adoption of one or another type will have a major impact on how Nepal develops and how its people relate to their region and to the centre. It will also affect relations between communities and thereby the identities of Nepalis.

While most countries like to call themselves democracies and many say that they have federal structure for promoting inclusion and participation, the very principles of democracy are defeated unless human development is actively fostered. Moreover, democracy goes well beyond government structures. It also involves the democratization of the private sector and of civil society.

The ultimate need is both a democratic state and a democratic society. Unless society eliminates its exclusionary practices, state transformation can do little to help individuals feel free to develop and use their capabilities to the fullest extent possible.

Although federalism can help promote political and socio-economic inclusion and increase public participation, it will by no means solve all the problems of inclusion and social justice

6
CHAPTER

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Inequality as both cause and effect of exclusion

This Nepal Human Development Report depicts vivid gaps across the country's different regions and its caste and ethnic groups. These gaps become all the more pervasive with time both for the regions and the groups within them. This implies that the policies of the past have not addressed exclusion and inequalities effectively. This finding in itself is not new; past reports have portrayed a similar picture. However, at this historic juncture, inequality has moved to the forefront of the national agenda with the country striving to end exclusion through state restructuring and the creation of a new constitution for a Nepal that can sustain peace, achieve justice and function in such a way as to produce prosperity for its citizenry as a whole.

This Report advances the view that because exclusion causes unequal human development—which, in turn, perpetuates exclusion—a special focus on the equitable representation and participation of excluded groups and regions will surely improve the quality of human development. Consequently, the Report explores options for changes in the political system and the state structure that might better accommodate the interests of different groups of people. However, the Report also demonstrates that equitable representation

cannot alone resolve the problems of exclusion unless those who represent Nepal's various constituencies can influence policy decisions through direct and active participation. Those now excluded are unlikely to participate as effectively as advantaged groups because of their political inexperience and shortcomings in their endowments. Inequalities in endowment not only create, but cause exclusion. Consequently, inequality and exclusion must end simultaneously in all its dimensions, including that of political action—a major feat that can come about only through consensus and cooperation.

Government has made efforts in the past, at a much larger scale after the April 2006 Janandolan, to reduce cultural, political and socioeconomic exclusion. However, they require a holistic approach with the provision of other policies and their effective implementation. This can be done when the excluded groups are well represented and participate effectively in the political system to change the outcome in their favour.

To end exclusion, therefore it is clear that first, the political system and state structure need change, and, second, such change and progress requires peace. In short, ending inequality depends in large measure on political inclusion, whose prerequisite is peace. We therefore put forward the following key recommendations.

Equitable representation cannot alone resolve the problems of exclusion unless those who represent Nepal's various constituencies can influence policy decisions through direct and active participation

Reform the political system for equitable representation and effective participation

While the peace process opens the door for meeting the needs that became evident during the 2006 Janandolan, ending political exclusion, among others, remains paramount to averting further violent conflict. A democratic polity offers greater opportunities for participation than other forms of governance, and some forms of democracy promote greater participation than others. Democratic governance is also strongly influenced by improvements in the electoral system and ensuring democracy within the political parties. To this end, this Report makes the following recommendations:

A democratic polity offers greater opportunities for participation than other forms of governance, and some forms of democracy promote greater participation than others

1. Revisit the mixed electoral system that combines the first-past-the-post (plurality) regime with proportional representation

Nepal has used the First-Past-the-Post (FPTP) electoral system in its three parliamentary elections since 1990. The results reveal that parties can obtain spurious majorities by winning approximately only one-third of the popular vote, as pointed out in Chapter 4. The main benefit of the FPTP system is its fostering of accountability and stability. That of the proportional representation (PR) system is its ensuring of inclusion. The FPTP promotes stability, providing an opportunity for forming a majority government, and making the candidates it elects accountable to their constituencies. On the other hand, while the PR system does not promise accountability directly to the people, it ensures inclusion - the main demand of the Nepalis in the 2006 Janandolan. To promote inclusion, therefore, the government has used a mixed electoral system, a combination of FPTP (Plurality) and PR system with 58 per cent of seats allocated to PR in the CA election of 575 seats held in April 2008. How-

ever, the mixed electoral system did not provide an opportunity to form a majority government.

In designing its future electoral system, Nepal therefore has to find the right balance between greater accountability and stability, on the hand, and, on the other, greater inclusion in the current political context of Nepal. The post-conflict government needs both attributes for sustained recovery and reconstruction. Although the current CA of 601 members (including 26 nominees) has permitted far greater scope of representation than prior legislative bodies, it has proved unwieldy in producing solutions to urgent problems. Moreover, a small country moving towards a federal system probably will not require a national parliament so large. This hints at the limited possibility of representation of all 103 caste and ethnic groups in a modest size parliament, even adopting the PR system in future. Discarding the PR system completely can perpetuate the exclusion of some caste and ethnic groups. For this reason, a mixed electoral system that uses PR seems to be the solution for some time to come.¹

However, the type of electoral system for Nepal, whether PR or FPTP or a combination of both, should be decided upon the basis of several factors that revolve around the future political system and country's governance structure. Thus, the electoral system depends on the type of political system the country chooses (presidential or parliamentary) and on the federal type and the structure of its legislature (one or two chambers). Generally, the structure of the legislature is similar at both the central and state levels, although the electoral system can differ from one tier to another. Given a two-chamber legislature, a different mix of FPTP and PR electoral systems with different quotas for the excluded groups could be adopted, de-

pending on caste, ethnicity, and other social features of the regions/states.

In addition to the electoral system, the other important criterion for broadening popular participation is making the political parties more inclusive and democratic than they have previously been.

2. Make political parties inclusive in their makeup, and transparent and democratic in their decision-making

As explained above, an inclusive electoral system such as PR cannot serve Nepal's needs for political inclusion adequately unless the parties themselves are inclusive in their structure and democratic in their decision-making. Thus, unless the political parties follow democratic principles by undertaking reforms to include more women and members of the excluded castes and ethnic groups in their structures—including their central, parliamentary and other committees—their decisions cannot serve the interests of the excluded groups.

Today most of the political parties seems to lack organizational solidarity and efficiency, and find their support bases dwindling because of their earlier failures in delivering on the promises made in their electoral manifestos. They need to sharpen their identity. They need to improve not only their transparency and participation, but also clarify their policy platforms and make these available in full detail to their rank and file membership. Indeed, the process of platform-building must become far more participatory.²

Although the proliferation of political parties after the end of the party-less Panchayat system in 1990 was natural, it now threatens Nepal's political stability. Together with the PR system, the sheer number of parties mitigates against any one of them forming a vi-

able majority or coalition that can govern the country. Additionally, this increase has gone hand in hand with growing exclusion. Restoring a greater measure of inclusiveness could decrease the number of parties and increase the country's political stability. To these ends, this Report recommends for:

- ▶ making party membership transparent;
- ▶ making rules that the parties guarantee their secularism, basing their platforms on ideology rather than religion, language or other communal characteristics;
- ▶ making the party organizational structure inclusive, involving the excluded groups equitably;
- ▶ enforcing party law and rules more effectively;
- ▶ following democratic processes in decision-making and making them open and transparent;
- ▶ making parties accountable themselves to their constituencies; and
- ▶ fostering inter-party relationships and developing a political community.

Devise federalism for social justice, inclusion, and participation

1. Bring governance closer to the people by devising a federal structure suitable to the characteristics of Nepal

The third amendment to the Interim Constitution 2007 specifies state restructuring as the federal system. Despite the fact that 335 of the 575 elected seats (58%) have been allocated under PR system to a number of minorities, several caste and ethnic groups still could not send even a single member to the CA. And given the need for a legislature of viable size in the future, it is difficult to represent all the caste and ethnic groups in a unitary state structure. Thus, wide representation and power sharing lends weight to federal arrangements.

Unless the political parties follow democratic principles by undertaking reforms to include more women and members of the excluded castes and ethnic groups in party structures, their decisions cannot serve the interests of the excluded groups

Nepali federalism must be flexible and home-grown, developed and decided by its own citizens with their effective participation

Chapter 5 drew attention to the merits and drawbacks of area-based federations, as well as those based on caste and ethnicity, along with the possible weakening of governance in Nepal's "dis-aggregation" from a strong unitary state into a federation of regions. How strong a centre is needed in a resource-poor country that has both a highly diverse population socially and economically, together with many marked physical differences, is an issue that needs to be decided upon through wide consultation and discussion among Nepalis and their representatives. The extent of power sharing between the centre and regions could differ from one subject to the other and from one region to the other. Given the diversity there may be a need for asymmetrical federal arrangements in which the regions of the federal state do not all have the same powers.

In short, Nepali federalism must be flexible and home-grown, developed and decided by its own citizens with their effective participation. And this needs to be buttressed by adequate provisions of institutional arrangements that bolster democratic principles, enforce rule of law and foster relations between the diverse communities and regions. Without democratic principles and structures, federalism cannot provide the benefits that are envisaged.

In a federal structure, power needs to be devolved and must ultimately rest in the hands of local authorities. Despite the introduction of decentralization as early as the 1980s, the central authority has been reluctant to undertake devolution in all three spheres of the process—administrative, legislative and fiscal. Given recent constitutional commitments, as well as the principles of good governance, devolution has taken on increased importance and should be carefully carried out at the community level—irrespective of the type of federal structure that emerges from the CA. The human and

financial resources required for this process must be borne in mind.

2. Ensure the interests of the poor, women, Dalits, and other excluded groups while devising the federal structure

The Interim Constitution 2007 requires considerable homework on the design and structure of the federal system that must, in addition to the other functions of a state, honour the UN declarations on the rights of indigenous peoples (13 September 2007); on the elimination of discrimination against women (18 December 1979); and, most importantly, the two seminal human rights Covenants, respectively on civil and political rights, and on economic, social and cultural rights (19 December 1966).³

These numerous obligations cannot be met by a federation based largely on ethnic factors. It will not overcome the discrimination prevailing even within excluded castes and ethnic groups at the neighbourhood and household levels. Nor can a federal structure ensure the development of poor regions like Karnali. It cannot safeguard the rights of women in any and all groups. Therefore, the restructuring of the state has to be guided by social justice, along with the democratic principles of inclusion and participation. These needs can be met by a central government so long as the regions have not reached a certain threshold in terms of human development.

3. Build a strong nation-state

In Nepal today, there is a significant danger of a divergence between state-building and nation-building. This is a result of assimilation without choice—an unviable model of integration in the past.

Cultural differences can trigger violent conflict when state policies are discriminatory, deepening inequality in political and socio-economic affairs between the different groups and suppressing their cultural differences.

There is no trade-off between diversity and unity, nor between peace and respect for diversity. Both can move together well if one respects the other's culture under the multicultural policies of the state. But identity politics need to be managed to building a strong nation.

A state verges on failure unless it can perform a number of fundamental functions, among these:

- ▶ controlling violence and enforcing its laws;
 - ▶ collecting taxes;
 - ▶ maintaining the loyalty of its citizens, as well as their security; and
 - ▶ securing international recognition.
- Otherwise it loses its sovereignty.⁴

Only a strong state can control power and devolve it; guarantee the rule of law; eliminate impunity; implement development policies effectively; mediate among diverse social groups; and create conditions for political stability, development and peace by undertaking the reconstruction of the country's economic and social fabric.

This country, which will soon assume a federal structure with regional autonomy, has recently discarded a number of unifying factors—among these, the monarchy, an official language and religion, and a national code of dress. These amount to significant losses of social capital and identity. Nonetheless, all its citizens have common rights and obligations—of which many are still unaware—that can eventually contribute to a new sense of national identity and cohesion in tandem with the preservation of cultural diversity. The media have an important role to play in this immense transformation.

In addition, a sense of national identity tends to grow as a state matures. Consensus and compromise can foster this sense tremendously. So can a constitution in which all

Nepalis feel they can claim some ownership. Its implementation can strengthen the feeling of national identity.

4. Build a strong sense of citizenship and political community

The restoration of democracy has increased people's aspirations without fulfilling their expectations. The rights enshrined in the Interim Constitution include the rights to food and work, the delivery of basic services, and above all, guarantees of internal peace and stability. None of these legitimate demands has been adequately addressed. This has weakened the base of citizenship and increased clientelism. Many civil society actors, including private sector bodies, have become the clients of the political parties rather than true citizens. This has alienated the poor in general, especially among the country's farmers and agricultural labourers. If the state fails to address the basic needs and rights of these citizens, the country could well relapse into conflict, especially after the immense growth of political awareness since the 1990s and its even more rapid increase during the Maoist insurgency. The state must promote development that is inclusive, is humane, and just.

Building a strong sense of citizenship requires the representation and participation of individuals who respect the views of others. Such a sense of citizenship and the development of political community is necessary for the logical conclusion of the peace process and the making of the constitution. Peace is a prerequisite for the future progress of Nepal. Therefore, the peace process must be managed well so as to move the nation ahead through state transformation.

Make the peace process right

Some of the steps taken by the government to ensure transitional justice have not been open and democratic and therefore have been opposed in different quarters. These facts, coupled with ongoing impunity and disre-

The state must promote development that is inclusive, is humane, and just

gard for the rule of law, as well as the lack of action in returning properties seized during conflict, has further complicated the peace process in Nepal. In his report of 2 January 2009 to the Security Council, the United Nations Secretary-General, Ban Ki-moon, expressed concern about the delay in integrating and rehabilitating Maoist army personnel and inaction in implementing other short-term peace building measures⁵, and observed that Nepal's peace process continues to flag:

“The integration and rehabilitation of Maoist army personnel is critical to sustainable peace, but it is only one of the challenges facing Nepal. The need to implement other peace process commitments, improve the security situation, especially in parts of the Tarai, end the prevailing impunity and address the wounds of the conflict, reach sufficient consensus in the drafting of a federal constitution, promote inclusiveness in government positions, including in the security forces, and, above all, sustain sufficient cooperation among major political forces while those challenges are addressed, reflects the fact that the peace process in Nepal is still a fragile one.”⁶

In view of this assessment, and the findings of the report, this Nepal Human Development Report advances the following suggestions for making the peace process right:

1. Provide ‘citizenship rights’ through a functioning state

The legitimacy of the state begins in the eye of the citizens. For a very long time, the Nepali state has verged on failure or has had a “sovereignty gap” as defined by Ghani and Lockhart (2008)—a gap arising from the glaring differences between its *de jure* sovereignty—its recognition by its citizens and the international community—and its *de facto* sovereignty, which depends on its capability to

perform governance functions. While the gap also derives from the political upheavals of the past 12 years, the state should by now have curbed the problems of impunity, ensured the regular delivery of basic services, and offered some peace dividend. But the state has not been able to ensure the rule of law, improve access to justice, exert full administrative control, or create citizenship rights through developing and implementing social policy. Indeed, it has been unable to produce the “sovereignty dividend” of support for its decisions and trust in the overall system. Further, a vicious circle has begun in which various power centres vie for control, multiple decision-making processes confuse government priorities, and citizens have begun feeling disenfranchised.

Consequently, in accordance with the principle of the separation of powers, the Nepali state must perform all the functions of a sovereign state listed above. Arguably, the most important of these is the enforcement of the rule of law, which demands improving citizen access to justice, ensuring the independence of the judiciary, and giving the legislature far more power. The separation of powers is one of the most important principles of democracy. It helps shield a country from both anarchy and authoritarianism. If the implementing agency, the cabinet, also formulates laws and provides judicial verdicts, democratic principles will be defeated. In a parliamentary system, the party that forms the government has significant influence on the decisions made by the legislature. The constitution must therefore make provisions for guaranteeing the integrity of the legislature—the body that in principle protects the fundamental rights of citizens at large and of minorities.

As indicated above, strengthening democracy necessitates the independence of the judiciary and broadening access to justice. The formal court system badly needs capacity-building, the

The legitimacy of the state begins in the eye of the citizens

integration and institutionalization of legal aid services, and a far better image, so as to raise public confidence. Beyond such basic reforms, given Nepal's rugged terrain and the low level educational status of so much of its population, community mediation efforts at the local level must continue to deal with minor cases so that the poor do not waste their time and resources in attempting to resolve a large number of complaints through the district courts and those above. Mediation efforts could help reduce the backlog of cases. Donors have a particular role to play in supporting training for local authorities and community leaders to address the justice needs of socially excluded groups, of the poor and of women.

Moreover, economic and social policies with a focus on excluded groups is necessary for improving unequal human development, and attaining rapid human progress. Targeting basic services including education and health for women, Dalits and Janajatis together with changes in other policies is necessary. This social empowerment needs to move hand in hand with economic empowerment through the provision of decent employment opportunities.

However, ensuring citizenship rights requires positive participation by citizens as mentioned in chapter four of the report. Citizens should not merely claim rights and freedoms, but also fulfil their many obligations, among these:

- ▶ respecting the country's laws,
- ▶ recognizing the rights and freedom of others,
- ▶ eliminating discrimination, and
- ▶ observing justice in their daily activities.

2. Ensure representation and the participation of different stakeholders, including the victims of conflict and citizens at large in the formulation of policies and the development of institutions

The CPA and Interim Constitution have mandates for forming various commissions,

including a Truth and Reconciliation Commission (TRC). To create the TRC, the government drafted the relevant bill without sufficient consultation. This led to heavy criticism. Consequently, the government must ensure the representation and participation of different stakeholders, including the political parties, human rights organizations, victim groups, women, children and other excluded groups. It is also necessary to ensure the implementation of United Nations Resolution 1325 for protecting and empowering women both during armed conflict and afterwards as well as resolution 1820 to end impunity for the sexual violence that occurred during the conflict.

3. Ensure the participation of Maoist army combatants in choosing their options in the process of integration and/or rehabilitation

The development of an integration strategy will entail elaborating a new national security policy outlining the size, elements, and the form of the security forces needed by the country. All decisions in this regard should be open and participatory, and taken at the highest political level. The past debate and dissent on the issue of whether all or part of Maoist army personnel are to be integrated has elicited a mixed reaction among different stakeholders. But an effective solution must eliminate any impression that entering the security forces requires violence or political manoeuvres. Such an outcome should therefore involve the representatives of Maoist army personnel in a thorough discussion on issues and options. An assessment of their needs and aspirations will require conducting individual and group discussion and interviews among them.

4. Devise and implement a social reintegration and rehabilitation plan for disqualified Maoist army personnel and for internally displaced persons

Resolving the issue of IDP return and reintegrating disqualified Maoist army personnel

Citizens should not merely claim rights and freedoms, but also fulfil their many obligations

Sustainability also demands increasing employment opportunities, especially for the jobless young people

calls for stress on “push” factors, among these public security, the return of land, and the cessation of violence by various groups. Addressing these problems will have benefits that extend well beyond the two groups directly involved to the citizenry as a whole.

Full implementation of both the IDP policy and directives, particularly in regard to assistance such as repairing and rebuilding homes, educational assistance, livelihood loans, and other means that help people make new beginnings is probably the most effective way of signalling that social reintegration will proceed smoothly. As women and excluded minorities or castes are least likely to be found on the government’s IDP registration list, their situations merit special attention.

When the UN-led registration and verification of the Maoist army combatants was completed, a total number of 2,973 were identified as minors. However, despite commitments made in the CPA and other related documents to the immediate release of all children associated with the armed forces or armed groups, no formal release of the identified minors have taken place so far. Of particular concern is that the disqualified minors, who are still in the cantonment, remain separated from their families, and are missing out education and other development opportunities.

Even though there has been no formal discharge of minors from the cantonments, a considerable number of children and youth associated with armed forces or armed groups have either been informally released or self-released. Many of them have faced difficulties when returning to their homes and reintegrating back into their communities. In response to the self-released and informally released children and also in anticipation of a formal discharge of the minors from the cantonments, UNICEF has initiated community-based support programme for the release, return and reintegration, which provides edu-

cation support, vocational trainings, psychosocial counselling and other related service to approximately 7,500 children.

Many girls and women joined the Maoist to fight gender discrimination. Reintegration therefore should strive to build on the empowerment they achieved during fighting and avoid that women and girls need to revert to their traditional submissive role.

Past social reintegration efforts and the current situation point to the importance of four particular thrusts:

- ▶ non-formal education;
- ▶ agriculture and livestock;
- ▶ vocational skill training; and
- ▶ micro-enterprise development.

Since not all individuals will need all four of these categories of assistance, the disqualified Maoist army personnel should be carefully profiled in accordance with the options that will best suit them. It should also be connected to the already on-going programme of Children Associated with Armed Forces and Armed Groups (CAAFAG) run by UNICEF. However, the reintegration strategy must ensure their livelihoods. To take only one example, programmes in non-formal education and/or vocational training will have little value—or sustainability—unless the targeted beneficiaries are engaged in some form of enterprise development and are supported in undertaking commercially their agriculture and livestock activities. Such initiatives call for linkage with varied support organizations closely attuned to financial services and market needs. Particular effort should be made to avoid gender stereotyped support where women enter low paid “women-friendly” professions, while men get higher paid and qualified jobs.

Sustainability also demands increasing employment opportunities, especially for the jobless young people. This is particularly important in the context of the current world-

wide recession and the low growth rate of Nepal and therefore the low contribution of the per capita income component in human development, as shown in chapter two of this Report. The Nepali economy still relies heavily on remittances from abroad—yet another reason for stressing job creation within the country itself. This indeed requires an economic growth—which is high and lasting but inclusive and with high employment-intensity—thus a need for increased private investment apart from the public one.

5. Build the capacity of local peace committees to assume responsibilities for reconciliation and reintegration at the local level

Local Peace Committees are so far the sole organizations being created at the local level in post-conflict Nepal to support local development and promote peace-building. Such bodies tend to be more inclusive than District Development Committees because they bring together government organizations, political parties and civil society bodies that bridge Non-Government Organisations, private enterprises and the victims themselves. By contrast, the District Development Committees comprise only the representatives of political parties and thereby risk spurring the kinds of clientele formation that have earlier spurred conflict rather than true citizenship at the local level—yet can also lead socioeconomic reconstruction within their geographic scope. Assistance from both multilateral and bilateral donors will be needed for capacity-building of Peace Committees—in which the long experience of the United Nations system can be put to good use.

6. Ensure effective participation of Constituent Assembly members, all political parties, and citizens at large in the making of the new constitution

Despite the fact that the CA is more representative than any other previously established institution, this is not enough to ensure a na-

tionally owned result. Unless the Parliament Secretariat reaches well beyond those who have obvious credentials for the job, eventual support for the new constitution may not be as widespread as desired. To do so, this Report suggests:

- ▶ Making provision for enhancing knowledge and awareness of CA members for composing the new draft.
- ▶ Ensuring that participants can offer their opinions in their native languages so that they can contribute fully and comfortably.
- ▶ Given the tight deadline, the shortcomings of the 1990 drafting process should be carefully examined so as to avoid these dangers, notably in the presentation and analysis of information and its feedback to the drafting and finalization of the constitution.
- ▶ Provide sufficient lead time for broad popular consultation at the local level, managed as far as possible by NGOs and civil society bodies so as to have the greatest possible educational impact.
- ▶ Observe carefully the pertinent provisions of Convention 169 of the International Labour Organisation Concerning Indigenous and Tribal Peoples in Independent Countries, 27 June 1989, as well as the United Nations Declaration on the Rights of Indigenous Peoples, 13 September 2007.

7. Form collective identity in the process of constitution making

The CPA and Interim Constitution focus on state building. However, there is a need for collective identity formation for nation building. Cultural inclusion should form the foundation of such a collective identity. This requires removing exclusionary traditions, institutions and customs and building a collective identity which accommodates all 103 castes and ethnic groups and treats all the regions equally.

Constitution making offers the possibility to influence the nation building process towards es-

Local Peace Committees are the organizations being created at the local level in post-conflict Nepal to support local development and promote peace-building

Constitution making offers the possibility to influence the nation building process towards establishing a set of ideas, values, and institutions as a part of a collective national identity

establishing a set of ideas, values, and institutions as a part of a collective national identity. Therefore, of the 14 committees engaged in making of the constitution, especially the *committee on determination of bases for cultural and social reintegration* has to play a critical role in comprehending and incorporating the views of different groups of people following a participatory process.

Summing up

The fact that unequal human development is both a cause and result of exclusion points to the need for a two-fold strategy:

- ▶ ensuring the equitable representation of all groups in state structures; and
- ▶ enabling citizens to participate effectively in decisions concerning their development.

Although democracy is presumed to enshrine these principles, they can function only if society undergoes significant social and economic transformation. In other words, in addition to ensuring civil and political rights, the state must also guarantee the social and

economic rights of the people. The state has to invest disproportionately more both in the health and education and in income-generating activities of the poor in order to close the gap between those who are excluded and those who are not. Unless these two transformations—political and socioeconomic—take place in tandem, true democracy is unlikely to endure. Indeed, political democracy in Nepal has repeatedly collapsed because it was not accompanied by social transformation. Each such collapse has set off yet another popular uprising.

As this Report has repeatedly pointed out, there is no guarantee that a democracy can ensure the rights of all, produce a strong state that enjoys the respect of its citizens and offer every citizen equal respect. Nonetheless, these goals can be attained if individuals not only strive to fulfil their rights, but also their obligations as citizens towards the state and towards one another. All this can happen only when society undergoes a decisive change towards inclusive and equitable human development that increases the range of choice for everyone.

Endnotes

Chapter 1

- 1 The term “Dalit” refers to “a group of people who are religiously, culturally, socially and economically oppressed. They belong to different language and ethnic groups. Dalits *per se* are not homogeneous. Their heterogeneity and hierarchy can be better explained in terms of three broad regional groups: (1) Dalits in the Hill community, (2) Dalits in the Newar community, and (3) Dalits in the Tarai/Madhesi community (see UNDP/Nepal 2004). However, some Dalit scholars hold the view that there is no Dalit in Newar community. The social hierarchy of Nepali society as set out by the National Code of 1854 is given in Annex 1.2.
- 2 According to the National Foundation for Development of Indigenous Nationalities Act 2002 indigenous peoples or nationalities are those ethnic groups or communities who have their own mother tongue and traditional customs, distinct cultural identity, distinct social structure and written or oral history of their own. Based on the above, the government has identified 59 ethnic groups as indigenous peoples or nationalities (see UNDP/Nepal 2004, p. 180).
- 3 The Madhesis are people who originated on Nepal’s Plains, who live in the Tarai, and who feel marginalised by modern Nepali nationalism, which has rested on the ideas of monarchy, a single Nepali language, and a Hill-centric identity. This restrictive concept has excluded Madhesis -- who speak varied languages—among these, Maithili, Awadhi, Bhojpuri, Urdu and Hindi—and who have extensive cultural, social and kinship links with Indian citizens living across the border in Bihar and Uttar Pradesh. These differences have led Hill Nepalis to view Madhesis with suspicion and to question their fitness for citizenship.
- 4 Evidence abounds showing that if the state could not meet the growing expectations of people during the post-conflict period, a relapse into fighting would take place (Annan 2005; and Collier and Hoeffler 2004).
- 5 UNDP 2004.
- 6 A failed state is the extension of a failing state, which is defined by the Fund for Peace as being characterized by such factors as a loss of physical control of its territory or a monopoly on the legitimate use of force; the erosion of legitimate authority to make collective decisions; an inability to provide reasonable public services; and the inability to interact with other states as a full member of the international community. The common characteristics of a failing state include a central government so weak or ineffective that it has little practical control over much of its territory; a failure to provide public services; widespread corruption and criminality; the proliferation of refugees and involuntary movements of populations; and sharp economic decline [http://en.wikipedia.org/wiki/State_failure]. Also see Ghani and Lockhart 2008.
- 7 While inclusion is not the opposite of exclusion, it calls for equitable representation and opportunities for otherwise participating in governance.
- 8 For details, see Haq 1996, pp. 16 – 20.
- 9 According to Lee’s hypothesis, socioeconomic rights are more important than the civil and political rights in developing countries. However, this idea has been refuted by many others, including Amartya Sen (see Sen 1999).
- 10 Although the Report rightly points towards an ongoing discussion about human rights—which it considers critical—the Human Rights-based Approach sets out no hierarchy among different types of rights. All rights should be pursued progressively and simultaneously. If it is true that some rights can generate others, it is also true that the absence of some rights can erode those that had earlier been considered fully realized.

- 11 The proportions of population by different caste and ethnic groups, as well as by other features, can be found in Annex 1.1.
- 12 DFID and World Bank 2006.
- 13 Bhattachan et al 2002.
- 14 See Annex 1.2.
- 15 Hangen 2007.
- 16 Bennett and Dahal 2008.
- 17 Gaige 1976.
- 18 The International Bill of Human Rights consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and its two Optional Protocols. "...in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights."
- 19 INSEC 2005, 2006 and 2007. See Annex tables 1.6 - 1.8.
- 20 INSEC 2008 and 2009.
- 21 The details are given in Annex 1.9.
- 22 WFP and OCHA 2007.
- 23 For the full text of the English and Nepali versions, please see: [<http://www.unmin.org.np/?d=official&p=peace>]. The complete list of all the agreements, understandings, terms of reference and other documents is given in Annex 1.4, and the contents are given in MOPR 2007A.
- 24 Nepal News 2006; and Dhakal 2006. The Nepali Parliament has been assigned twin roles: to work as a parliament, and as a Constituent Assembly to prepare the new constitution for Nepal.
- 25 Now that this has been resolved, the Prime Minister is the head of the government and the President is the head of the state.
- 26 The 2006 Janandolan is taken as the second in the series that began in 1990. However, public movements had taken place before that date, led by Bishweshar P. Koirala, Ganesh Man Singh, and Pushpa Lal. The 2006 Andolan could therefore be viewed as the fifth in the series. This Report merely reflects the usage of recent literature; its writers have no wish to discredit the previous Andolans.
- 27 There were as many as 29 armed Tarai groups; towards the end of 2008; since January 2009, the government has been engaged in negotiations with them in order to restore peace.
- 28 These agreements, together with all other previous agreements, are well documented by the Ministry of Peace and Reconstruction in its subsequent publication (see MOPR 2007A).

Chapter 2

- 1 The HDI value for Bhutan and Maldives is available only for 2005, but not for the preceding years. Therefore, the trend line of HDI is calculated only for the other five SAARC countries (Figure 2.1) The data were taken from UNDP 2006 and UNDP 2007.
- 2 In fact, because of the civil war, less than three-fourths of development/capital budget was spent during 2002–06, when the conflict reached its pinnacle.
- 3 The national household surveys conducted in Nepal can provide estimates at most for 15 sub-regions (a cross-section of five development regions and three ecological belts); thus, estimates of 75 districts have to rely on census data available at the interval of a decade. Therefore, despite the utmost need for such indices at least at the district level, their estimate can be computed only if recent census data are available.
- 4 A cross-section of five development regions and three ecological belts of Nepal gives 15 sub-regions as follows: Eastern Tarai, Central Tarai, Western Tarai, Mid-Western Tarai, Far-Western Tarai; Eastern Hills, Central Hills, Western Hills, Mid-Western Hills and Far-Western Hills; and Eastern Mountain, Central Mountain, Western Mountain, Mid-Western Mountain and Far-Western Mountain. However, because of the sparse population of the western mountains and limited size of the sample, the Nepal Demographic and Health Survey (NDHS) 2006 combines the Western Mountain, Mid-Western Mountain and Far-Western Mountain into one domain called as 'Western Mountain' and provides a single estimate of the variables/indicators. Therefore, in tandem with the NDHS 2006, which is the main source of data, this report provides estimates only for the 13 domains/sub-regions. However, in order to make the readers understand the 15 sub-regions, the Maps of chapter two present the same estimate for the three sub-regions.
- 5 The Nepal HDR 2009 used mainly 2006 data, whereas the global HDR 2007/08 used the data from different sources and extrapolations.
- 6 UNDP/Nepal 2004.
- 7 Focusing on women's opportunities, the GEM captures gender inequality in three key areas: (1) political participation and decision-making power, as measured by women's and men's percentage shares of parliamentary seats; (2) economic participation and decision-making power, as measured by two indicators—women's and men's percentage shares of positions as legislators, senior officials and managers, and women's and men's percentage shares of professional and technical positions; and (3) power over economic resources, as measured by women's and men's estimated earned income (PPP US\$).
- 8 Chhetry 2006.

- 9 Usually, female life expectancy is higher than that of males due to a natural advantage that females have over males. In, Nepal, however, this was the reverse until recently. The life expectancy of females was for the first time found higher than that of males in the 2001 population census.
- 10 Like figures 2.1 and 2.2, sources of data for figure 2.8 are the UNDP global human development reports 2006 and 2007/08.
- 11 DFID and World Bank 2006, Box 9, p. 42.
- 12 It is generally thought that HPI is the obverse of HDI, although each has a different set of indicators.
- 13 The trend of change in poverty has been analysed using the data from the two rounds of NLSS surveys, 1995/96 and 2003/04 (see CBS 2005).
- 14 Multivariate analysis of consumption pattern among different caste and ethnic groups indicates that the socially excluded groups have to “pay a caste/ethnic penalty”. When the effect of variables such as household size, proportion of children in household, the household head’s occupation and level of education, land ownership, receipt of remittances, residence, ecological location, etc., are controlled, the average per capita consumption of excluded groups such as Dalits, Muslims and Janajatis remains much lower than those of Newars and Brahmin/Chhetris, implying low level of consumption of these excluded groups (DFID and World Bank 2006).
- 15 Wide differences prevail between men and women in their possession of property such as land and houses and livestock. The proportion of households where a woman owns a house was about 6 percent and such a proportion in the case of land ownership was about 11 percent, implying that these types of property are generally owned by men. In aggregate, in less than one percent of the households did women own all three types of property: land, house and livestock (DFID and World Bank 2005).
- development regions. Moreover, of the 1,700 people abducted, 343 were from those Tarai districts (For details, see INSEC, Nepal Human Rights Year Book 2008, p. 3). In 2008, 18 government officials were killed: 17 in the Tarai and one in the Hills (Kantipur News). The Nepal Human Rights Year Book 2009 reveals that 541 individuals were murdered and 729 abducted in 2008.
- 7 ICTJ 2006.
- 8 Vinck and Pham 2008.
- 9 The respondents of the ICTJ and AF survey stated the beliefs that the whereabouts of those who have disappeared must be discovered and that a commission should be established to determine the truth of what happened and why, so that these atrocities will not be repeated in future. They also clearly voiced the view that the perpetrators should be tried in national courts for their crimes and should not be given amnesty. Further, they asserted that the government should provide victims with reparations, and that the country’s security sector and legal institutions needed significant reform (see ICTJ and AF 2008).
- 10 OHCHR Nepal 2007B
- 11 ICTJ and AF conducted survey among 811 households to find about the awareness of the TRC. Asked whether they had heard about the TRC, 65 percent of respondents replied affirmatively, and 35 percent stated that they knew nothing about it. Fewer women than men had heard about the TRC—24 percent of all the women respondents compared with 40 percent of male respondents. An even higher proportion of illiterate persons (42%) had never heard of the TRC (see ICTJ and AF 2008, pp. 32–33). In fact, the proportion of respondents who had not heard of the TRC would perhaps have been higher if the question had been put to non-victims.
- 12 OHCHR Nepal 2007B.
- 13 United Nations 2009
- 14 Zehr 1982.
- 15 Maiese 2003.
- 16 Maiese 2003.
- 17 At times, indigenous practices and mediation can violate human rights principles and international laws.
- 18 There is strong link between transitional justice, development and lack of discrimination between men and women, as well as caste and ethnic groups. The peace-building initiatives unfolding in Nepal encourage a timely examination of the development of rights in transitional justice mechanisms. These rights comprise much more than economic growth; they include a human rights-based process that aims at empowering marginalised groups. In Nepal, this must include women, who not only bore the brunt of the conflict, but also

Chapter 3

- 1 Thomasson 2008.
- 2 MOPR 2008B.
- 3 *Kantipur*, (daily national newspaper), 15 December 2008. The paper noted that as much as 7,000 Bigha land of Dang, one of the 75 districts of Nepal, remain under the control of Maoists (1 Bigha is equivalent of 0.68 hectares).
- 4 United Nations Security Council 2009, para. 5. A parliamentary monitoring committee has been established to monitor the government, but has not yet produced significant results.
- 5 Annan 2005.
- 6 Of the 551 people killed in 2007, 127 came from 10 Tarai districts of the East and Central

- continue to suffer systemic discrimination. For further discussion, see Aguirre and Pietropaoli 2008. There are also strong cases for taking action to remedy social and economic inequality. For further discussion, see Tafadzwa 2008.
- 19 CIDA. *Truth and Reconciliation Commission and Peace-Building: an Operational Framework*. undated.
 - 20 Cited in DFID and World Bank 2006, p 42.
 - 21 OCHA 2008.
 - 22 OCHA. 2008.
 - 23 By the end of February, 2009, MOPR officials had documented 52,163 IDPs; this number may well rise by the completion of the enumeration process.
 - 24 OCHA 2008.
 - 25 OCHA 2008. The Nepal Peace Trust Fund (NPTF) has approved a US\$ 5.5 million relief package for IDPs who return to their original homes. The Nepal Government has also created a National Policy on Internally Displaced Persons that includes reintegration assistance and has created a set of "Procedural Directives" involving a consultative process. However, while the Policy was approved in February 2007, the Directives have not yet been formally approved, thus delaying full implementation and resulting in "ad hoc assistance" at present. As of 15 May 2008, US\$ 3.8 million of NPTF funds has been released, with support reportedly provided to 29,772 persons (Ministry of Finance 2008).
 - 26 For detail, see MOPR 2007B
 - 27 See Ghimire 2008.
 - 28 See Representative of the UN Secretary-General, Ms Karin Landgren's interview with Kantipur daily, Sunday, 7 June 2009. [<http://www.unmin.org.np/>].
 - 29 Interim Constitution of Nepal 2007.
 - 30 See Representative of the UN Secretary-General, Ms Karin Landgren's interview with Kantipur daily, Sunday, 7 June 2009. [<http://www.unmin.org.np/>]. She also holds that it is important to address the questions of how many combatants will join the security forces and when, what are the established criteria, and whether they will be integrated individually or collectively, and how many will be rehabilitated into society.
 - 31 Jha 2008.
 - 32 Institute of Peace and Conflict Studies 2008.
 - 33 Resources regarding rehabilitation are available at: <http://www.unddr.org/index.php>.
 - 34 Workshop on Local Governance and Pro-Poor Service Delivery 2003.
 - 35 see MOPR 2008A.
 - 36 MOPR 2009.
 - 37 These six constitutions are as follows: (i) Interim Constitution 2004 of Rana regime, (ii) Interim Constitution 2007, (iii) Constitution of the Kingdom of Nepal 2015, (iv) Nepal's Constitution 2019, (v) Constitution of the Kingdom of Nepal 2047, and (vi) Interim Constitution of Nepal 2063 BS (here all the years are expressed in Nepali year of Bikram Sambat (BS) which exceeds by 57 years over the AD).
 - 38 The 14 committees are (1) constitution committee, (2) committee on fundamental rights and directive principles, (3) committee for protecting the rights of minorities and marginalized communities, (4) committee on state restructuring and division of state power, (5) committee on the determination of legislative structure, (6) committee on state governance structure, (7) committee on judicial system, (8) committee on the determination of the form of constitutional bodies, (9) committee on the allocation of natural resources, revenue and economic rights, (10) committee on determination of bases for cultural and social reintegration, (11) committee on protection of national welfare, (12) committee on civil relations, (13) committee on public opinion collection and coordination, and (14) committee on capacity building and resource management.
 - 39 The rules of the Indian Constituent Assembly provided that Hindustani (Urdu or Hindi) or English could be used, but, if the President of the Constituent Assembly took the view that a member could not express himself or herself in one of those languages, that member could address the Constituent Assembly in her or his mother tongue and a summary could be provided for members in English or Hindustani. In Bolivia, the rules of the Constituent Assembly provided that plenary and committee sessions must use interpreters and translators so that members could express themselves in their mother tongues (Art. 52).
 - 40 Bhattachan 2009B
 - 41 Barnes and De Klerk 2002.
 - 42 As Susan Goldmark, Country Director of the World Bank in Nepal, has commented, "peace needs development and development needs peace." *Nepal Biz News*, 2008.

Chapter 4

- 1 Regmi 1999, p. 69. This information has been taken by Regmi from the Royal Nepal Army Headquarters. For the information in Prithvi Narayan Shah favoured certain castes and communities (Pande, Basnyat, Pantha, Thakuri and Magars), see Regmi 1995, p. 38.
- 2 Nepali parliament has been renamed as legislature-parliament during the transition period.
- 3 See Annex 3, Table 3 and 4; and Lawoti 2007.
- 4 For more details on the dimensions of women's political activities, see Stephanie Tawa Lama, "Po-

- litical Participation of Women in Nepal”, in Dhruva Kumar, ed., *Crisis of Governability in Nepal*, Kathmandu, n.15, pp. 174-75.
- 5 The districts of backward regions are Achham, Kalikot, Jajarkot, Jumla, Dolpa, Bajhang, Bajura, Mugu and Humla. They rank at lowest in HDI among Nepal’s 75 districts.
 - 6 Lake and Rothschild 1996
 - 7 Source: [<http://www.nepalelectionportal.org/EN/elections-in-nepal/electoral-system.php>].
 - 8 Source: [<http://www.nepalelectionportal.org/EN/elections-in-nepal/electoral-system.php>].
 - 9 The “Other Group” is defined as communities not clearly identified in the four other listed categories (see Figure 4.1). Some observers believe that when the “Other Group” was originally specified in the Interim Constitution, it was meant to provide affirmative action for oppressed groups not already covered by those previously listed, such as the Muslim community in Nepal. When Parliament adopted this constitutional provision as an integral element of electoral law, legislators chose to define the “Other Group” as “everyone else in Nepal”. This could result in the election of candidates under this rubric who come from groups already privileged in Nepali society, while other previously disadvantaged groups, not covered by the remaining quota definitions, would not obtain the representation intended. This quota would have been utilized better for allowing a larger number of Dalits to be seated under the PR system, as their share of representation in the CA remains insufficient. Besides these five quotas, there was also an overall 50 percent quota for the women under the PR system.
 - 10 On November 22, 2007 former US President Jimmy Carter met many political actors of Nepal. He made several suggestions. On the election system he preferred a 70:30 ratio - 70 percent of candidates on a proportional basis and 30 percent on first-past-the post (see FES 2007).
 - 11 Dev Raj Dahal. 2001. *Electoral System and Election Management in Nepal*, Democracy Nepal, FES. Kathmandu. undated. [http://www.nepaldemocracy.org/civic_education/election_management.html].
 - 12 In a revolutionary move to make political parties of Nepal responsible, transparent and inclusive, a bill was moved in the interim Parliament of Nepal in March 2007. Some of the provisions of the Bill were: (i) make it illegal for political parties to declare “bandhs”, and prohibit them from calling strikes that would impact national economy; (ii) make it illegal to vandalise public or private properties when organizing their programmes; (iii) introduce the concept of State funding of political parties on the one hand and prohibit them from receiving grants or donations from national and international organizations, foreign governments and any individual as well; (iv) asks parties to make their executive committees inclusive and properly keep and regularly publicise the assets of their office-bearers; and (v) ask parties to audit their financial transactions and present the reports to the Election Commission within six months of the completion of fiscal year. The Commission may impose fines on the parties which do not abide by these provisions. However, the bill was not passed.
 - 13 WFP 2009
 - 14 See [www.nepalbandh.com]. It is a site that lists the chronology of Bandhas, updating these events daily.
 - 15 WFP 2009. However, no scientific method has yet been used to estimate the dimensions of such losses.
 - 16 Scott 2006.
 - 17 Administrative records of Department of Education and Department of Health Services of Government of Nepal.
 - 18 UNDP had supported the capacity-building of local bodies in 66 of the country’s 75 districts under its Local Governance Programme.
- ### Chapter 5
- 1 The first meeting of the CA was held on 28 May 2008, which implemented the country’s transition to the status of republic.
 - 2 See Article 138(1) and 138(3) of the Interim Constitution of Nepal 2007.
 - 3 Despite the rise of ethnic and regional “nationalism” in Nepal in recent years, the Nepal Democracy Survey 2007 found that an overwhelming majority of respondents (more than 90 percent) belonging to different groups, including Madhesis, said that they were “proud” to belong to their own community and also “proud” to be Nepali. For detail see IDEA 2007.
 - 4 The respective sources of two figures are INSEC 2007, and administrative records of Ministry of Peace and Reconstruction, Government of Nepal, 2008.
 - 5 See, Article 4(1) of the Constitution of the Kingdom of Nepal, 1990.
 - 6 Constitution of the Kingdom of Nepal, 1990.
 - 7 Constitution of the Kingdom of Nepal, 1990.
 - 8 See Article 6(1) of the Constitution of the Kingdom of Nepal, 1990.
 - 9 The Nepali language is, however, at least 300 years old, even older than Nepali state; for a variety of reasons, it seemed a “link” language.
 - 10 See, Article 2 of the Constitution of the Kingdom of Nepal, 1990.
 - 11 See, Article 112(1) and provision 3 of Article 12(2) of the Constitution of the Kingdom of Nepal, 1990.

- 12 See, Paragraph 3 of the Preamble of the Constitution of the Kingdom of Nepal, 1990.
- 13 See, for example, Werner Levi, "Government and Politics in Nepal: I" Far Eastern Survey, Vol. 21, No. 18, pp. 185–191; "Government and Politics in Nepal: II" Far Eastern Survey, Vol. 22, No. 1 pp. 5–10.
- 14 see Tiwari 2009A.
- 15 Gurung 1998.
- 16 Dhakal 2007 [<http://www.kantipuronline.com/kolnews.php?nid=101168>].
- 17 The point is more vividly expressed by the immediate denunciation of the Interim Constitution by the various marginalized communities immediately after its promulgation. This eventually led to months of protests that forced the coalition partners to concede and seek to allay the concern by two amendments within the span of a few months—albeit changes that still do not satisfy the protesting groups. See for example, the list of grievances of the groups:
Madhesi- (<http://www.kantipuronline.com/columns.php?nid=99316>; <http://www.kantipuronline.com/kolnews.php?nid=107147>),
Janajati- (<http://www.kantipuronline.com/kolnews.php?nid=115885>) and
Dalits- (<http://www.jagaranmedia.org.np/jagaran-media-nepal-dalit-news.php?id=44>)
- 18 The Maoists had, of course, made a commitment during the 1990s to advance the cause of Dalits and other disadvantaged communities when they announced their insurgency. Point 20 of their 40 points in 1996, stated that "All kinds of exploitation and prejudice based on caste should be ended" and Point 21 that the "status of Dalits as 'untouchables' should be ended and the system of untouchability ended once and for all."
- 19 Even the Maoists, who promoted the idea of federalism and autonomy, seem to have turned their back on federalism. For example, their party election manifesto says that laws passed by regions would need the approval of the central government.
- 20 People in Nepal (as in many other countries) complain that the only time they see their Members of Parliament is when they come to ask for their vote!
- 21 Das Gupta 1985.
- 22 See Cottrell 2008.
- 23 For the impact of the Madhes movement, see Hachhethu 2007.
- 24 Hachhethu 2007, p. 3. In fact, Hill Janajatis are divided by religion, but plain Janajatis are mostly Hindus.
- 25 Krishna Hachhethu says that there are 12 such districts (with the majority of Chhetri in seven, Gurung in two and each of Tamang, Tharu and Newar in one district each). Hachhethu 2007, p. 11.
- 26 Professor Sharma's views (and the tables which show ethnic distribution of population) are summarized on p. 14 of Ghai and Cottrell (eds). 2008A. See also Sharma 2008.
- 27 see Iff 2009 for a comparative analysis of India and Nigeria using the disaggregation of institutional arrangements.
- 28 Watts 2008, p. 181
- 29 These lessons are drawn principally from Ghai 2000; and Watts 2008.

Chapter 6

- 1 However, the proportion of the seats allocated to FPTP and PR system could differ, depending on the objectives sought. As political stability derives to some extent from the type of the political system—higher in the presidential and lower in the parliamentary system—higher stability in a parliamentary system requires a legislature that can form a majority government. Consequently, other factors being equal, FPTP works better for a parliamentary structure, while PR offers greater promise for the presidential form.
- 2 See Centre for Studies on Good Governance and Democracy (CSDG) July, 19, 2007 [http://www.fesnepal.org/reports/2007/seminar_reports/report_CSDG.html]
- 3 But the two covenants came into force on March 23, 1976 and 3 January 1976, respectively.
- 4 Ghani and Lockhart (2008) specify ten functions a state must perform; if the state cannot carry out even one of these, it moves towards failure. To these social scientists, a strong state should have the sole monopoly in the following four respects: firstly, it has to maintain a legitimate monopoly on the control of violence, impunity and must enforce rule of law; secondly, it alone must have the authority to collect taxes and counter any opposition to this authority; thirdly, it must continuously maintain its citizens' loyalty; and, fourthly, it must obtain full international recognition.
- 5 These include the return of captured property, the formation of various committees—including the Truth and Reconciliation Commission—and information concerning those persons who have disappeared. For details, see [<http://www.securitycouncilreport.org/site/c.gIKWLeMTIsG/b.2802333/>]
6. United Nations Security Council 2009, pp. 14–15.

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ANNEX 1 Basic information

ANNEX 1.1 Percentage distribution of population by some social characteristics, Nepal, 2001

Population groups	Number	Percent
Nepal	22,736,934	100.0
Religion		
Hindu	18,330,121	80.6
Buddhist	2,442,520	10.7
Islam	954,023	4.2
Kirant	818,106	3.6
Others	192,164	0.8
Languages		
Nepali	11,053,255	48.6
Maithili	2,797,582	12.3
Bhojpuri	1,712,536	7.5
Tharu	1,331,546	5.9
Tamang	1,179,145	5.2
Newar	825,458	3.6
Magar	770,116	3.4
Awadhi	560,744	2.5
Gurung	338,925	1.5
Limbu	333,633	1.5
Others	1,833,994	8.1
Caste and ethnic groups		
Hill/Tarai Brahman/Chhetri (B/C)	7,450,564	32.8
Hill B/C	7,023,219	30.9
Tarai B/C	427,345	1.9
Tarai middle castes	2,938,827	12.9
Dalits (oppressed castes)	2,675,182	11.8
Hill Dalits	1,615,577	7.1
Tarai Dalits	1,059,605	4.7
Janajatis (indigenous nationalities)	8,460,702	37.2
Hill Janajati	6,234,554	27.4
Tarai Janajati	2,226,148	9.8
Muslim	980,018	4.3
Others	231,641	1.0

Source: CBS 2003, Vol. I; and UNDP/RIPP and NTG 2006.

	Hierarchy	Habitat	Belief/religion
A	WATER ACCEPTABLE (PURE)		
	1. Wearers of the sacred thread/<i>tagadhari</i>		
	"Upper caste" Brahman and Chhetri (Parbatiya)	Hill	Hinduism
	"Upper caste" (Madhesi)	Tarai	Hinduism
	"Upper caste" (Newar)	Kathmandu Valley	Hinduism
	2a. <i>Matawali</i> alcohol drinkers (non-enslavable)		
	Gurung, Magar, Sunuwar, Thakali, Rai, Limbu	Hill	Tribal/Shamanism
	Newar	Kathmandu Valley	Buddhism
	2b. <i>Matawali</i> alcohol drinkers (enslavable)		
	Bhote (including Tamang)	Mountain/Hill	Buddhism
Chepang, Gharti, Hayu	Hill		
Kumal, Tharu	Inner Tarai	Animism	
B	WATER UN-ACCEPTABLE/Pani Nachalne (IMPURE)		
	3a. Touchable		
	Dhobi, Kasai, Kusale, Kulu	Kathmandu Valley	Hinduism
	Musalman	Tarai	Islam
	Mlechha (foreigner)	Europe	Christianity, etc.
	3b. Untouchable (<i>achhut</i>)		
Badi, Damai, Gaine, Kadara, Kami, Sarki (Parbatiya)	Hill	Hinduism	
Chyame, Pode (Newar)	Kathmandu Valley	Hinduism	

Source: DFID and World Bank 2005.

- 1768 Gurkha ruler Prithvi Narayan Shah conquers Kathmandu and lays foundations for unified kingdom.
- 1792 Nepali expansion halted by defeat at hands of Chinese in Tibet.
- 1814-16 Anglo-Nepalese war; culminates in treaty that establishes Nepal's current boundaries.
- 1846 Nepal falls under sway of hereditary Chief Ministers known as Ranas, who dominate the monarchy and cut country off from outside world.
- 1923 Treaty with Britain affirms Nepal's sovereignty.
- Absolute monarchy**
- 1950 Anti-Rana forces based in India form alliance with monarch.
- 1951 End of Rana rule. Sovereignty of crown restored and anti-Rana rebels in Nepalese Congress Party form government.
- 1953 29 May, New Zealander Edmund Hillary and Nepal's Sherpa Tenzing Norgay become the first climbers to reach the summit of Mount Everest.
- 1955 Nepal joins the United Nations.
- 1955 King Tribhuvan dies, King Mahendra ascends throne.
- 1959 Multi-party constitution adopted.
- 1960 King Mahendra seizes control and suspends parliament, constitution and party politics after Nepali Congress Party wins elections with B.P. Koirala as premier.
- 1962 New constitution provides for non-party system of councils known as "Panchayat" under which king exercises sole power. First elections to Rastriya Panchayat held in 1963.
- 1972 King Mahendra dies, succeeded by Birendra.
- Multi-party politics**
- 1980 Constitutional referendum follows agitation for reform. Small majority favours keeping existing panchayat system. King agrees to allow direct elections to national assembly - but on a non-party basis.
- 1985 Nepali Congress Party begins civil disobedience campaign for restoration of multi-party system.
- 1986 New elections boycotted by Nepali Congress Party.
- 1989 Trade and transit dispute with India leads to border blockade by Delhi resulting in worsening economic situation.
- 1990 Pro-democracy agitation coordinated by Nepali Congress Party and leftist groups. Street protests suppressed by security forces, resulting in deaths and mass arrests. King Birendra eventually bows to pressure and agrees to new democratic constitution.
- 1991 Nepali Congress Party wins first democratic elections. Girija Prasad Koirala becomes Prime Minister.
- Political instability**
- 1994 Girija Prasad Koirala's government defeated in no-confidence motion. New elections lead to formation of communist government.
- 1995 Communist government dissolved.
- 1995 Radical leftist group, the then Communist Party of Nepal (Maoist), begins insurrection in rural areas aimed at abolishing monarchy and establishing People's Republic, igniting a conflict that would continue over a decade.
- 1996 13 February, Communist Party of Nepal (Maoist) launched people's war.
- 1997 Prime Minister Sher Bahadur Deuba loses no-confidence vote, ushering in period of increased political instability, with frequent changes of Prime Minister.
- 2000 Girija Prasad Koirala returns as Prime Minister, heading the ninth government in ten years.
- Palace killings**
- 2001 1 June, King Birendra, Queen Aishwarya and other close relatives killed.
- 2001 4 June, Prince Gyanendra crowned king of Nepal after Dipendra dies of his injuries.
- 2001 July, Maoist rebels step up campaign of violence. Prime Minister Girija Prasad Koirala resigns over the violence; succeeded by Sher Bahadur Deuba.
- 2001 November, Maoists end four-month truce with government, declare peace talks with government failed, and launch coordinated attacks on army and police posts.
- Emergency**
- 2001 November, State of emergency declared after more than 100 people are killed in four days of violence. King Gyanendra orders army to crush the Maoist rebels. Hundreds are killed in rebel and government operations during the following months.
- 2002 May, Parliament dissolved, new elections called amid political confrontation over extending the state of emergency. Sher Bahadur Deuba heads interim government, renews emergency.
- 2002 October, King Gyanendra dismisses Sher Bahadur Deuba and puts off indefinitely elections set for November. Lokendra Bahadur Chand appointed as Prime Minister.

- 2003** January, Rebels and government declare ceasefire.
- 2003** May-June, Lokendra Bahadur Chand resigns as Prime Minister; king Gyanendra appoints his own nominee, Surya Bahadur Thapa, as new premier.
- End of truce**
- 2003** August, Rebels pull out of peace talks with government and end seven-month truce. The following months see resurgence of violence and frequent clashes between students/activists and police.
- 2004** April, Nepal joins the World Trade Organisation (WTO).
- 2004** May, Royalist Prime Minister Surya Bahadur Thapa resigns after weeks of street protests by opposition groups.
- 2004** June, King Gyanendra reappoints Sher Bahadur Deuba as Prime Minister with the task of holding elections.
- Direct power**
- 2005** 1 February, King Gyanendra dismisses Prime Minister Sher Bahadur Deuba and his government, declares a state of emergency and assumes direct power, citing the need to defeat Maoist rebels.
- 2005** 30 April, King Gyanendra lifts the state of emergency amid international pressure.
- 2005** November, Maoist rebels and main opposition parties agree on a programme intended to restore democracy.
- 2006** 24 April, King Gyanendra agrees to reinstate parliament following a 19-day Janandolan with violent strikes and protests against direct royal rule. Girija Prasad Koirala is appointed as Prime Minister. Maoist rebels call a three-month ceasefire.
- 2006** May, Parliament votes unanimously to curtail the king's political powers. The government and Maoist rebels begin peace talks, the first in nearly three years.
- 2006** 16 June, Rebel leader Prachanda and Prime Minister Girija Prasad Koirala hold talks-the first such meeting between the two sides-and agree that the Maoists should be brought into an interim government.
- 2006** 21 November, The government and Maoists sign a peace accord, declaring a formal end to a ten-year rebel insurgency. The rebels agree to join a transitional government and place their weapons under United Nations supervision.
- 2007** January, Maoist leaders enter parliament under the terms of a temporary constitution. Violent ethnic protests erupt in the southeast; demonstrators demand autonomy for the region.
- 2007** April, Former Maoist rebels join interim government, a move that takes them into the political mainstream.
- 2007** May, Elections for a constituent assembly pushed back to November.
- 2007** September, Three bombs hit Kathmandu in the first attack in the capital since the end of the Maoist insurgency. Maoists quit interim government to press demand for monarchy to be scrapped. This forces the postponement of November's constituent assembly election.
- 2007** October, UN Secretary-General Ban Ki-moon urges Nepal's parties to sink their differences to save the peace process.
- 2007** December, Parliament approves abolition of monarchy as part of peace deal with Maoists, who agree to re-join government.
- 2008** January, Elections for constituent assembly set for 10 April. A series of bomb blasts kill and injure dozens in the southern Tarai plains. Groups there have been demanding regional autonomy.
- 2008** 8 February, Three Madhesi political parties-the Madhesi People's Right Forum, Nepal Sadbhawana Party (SP-Mahato), and Tarai-Madhes Loktantrik Party-unite to form an United Democratic Madhesi Front (UDMF), a technical alliance to negotiate collectively with the Seven-Party Alliance government and to engage in protest action in the Tarai.
- 2008** 13 February, The UDMF starts an indefinite strike in the Tarai that leads to the closure of government offices, disruption of public services, declaration of curfews in certain districts and clashes between protestors and the security forces resulting in the death of at least 50 people.
- 2008** 28 February, The Nepal Government and the agitating UDMF signs an eight-point agreement, which brings to an end the 16-day long indefinite strike in the Tarai.
- 2008** 10 April, Constitutional assembly election is held all over the country.

Source: Adapted from BBC News. [http://news.bbc.co.uk/2/hi/south_asia/country_profiles/1166516.stm].

ANNEX 1.4

Building blocks in the Nepali peace process, 2005-2008

1. Twelve-point Understanding between the political parties
2. Second understanding of Seven Party Alliance (SPA) and the then CPN (Maoist)
3. Proclamation of the house of representatives
4. Code of Conduct for Ceasefire agreed between Government of Nepal and the Unified CPN (Maoist)
5. Formation of National Monitoring Committee on Code of Conduct (NMCC) and Observer Team
6. Decision of Interim Constitution Drafting Committee (ICDC)
7. Press statement of eight-point agreement of the parties
8. Agreement on the terms of reference of NMCC
9. Press release of expansion of ICDC
10. Procedures of the NMCC
11. Press release of expansion of ICDC
12. Dissolution of NMCC
13. Extending time limit of ICDC
14. Terms of reference of Local Peace Committees
15. Letter of Prime Minister to United Nations
16. Letter of Unified CPN (Maoist) to United Nations
17. Press release of Summit I rounds of meetings
18. Press release of Summit II rounds of meetings
19. Decision of the high level leaders of SPA and Unified CPN (Maoist)
20. Comprehensive peace accord between the Government of Nepal and Unified CPN (Maoists)
21. Agreement on Monitoring of the Management of Arms and Armies
22. 23 point-agreement between the Seven Parties
23. An understanding between the political parties to facilitate constitution amendment and peace process
24. Understanding between the Government of Nepal and Association Related to the Civil Servants
25. Understanding between Government team and Corporate Drivers Association of National Free Employees Union Centre
26. Understanding between Government and different indigenous groups
27. Agreement between Government of Nepal and Madhesi People's Rights Forum, Nepal
28. Agreement between Government of Nepal and Chure-Bhawa Regional Unity Society, Nepal
29. Understanding between Government of Nepal and National Badi Rights Struggle Committee
30. Agreement concluded between the Governments of Nepal and United Democratic Madhesi Front
31. Understanding between Seven Parties and National Front for Federal Republic, Nepal
32. Understanding between Seven Parties and Federal Limbuwan State

Source: MOPR 2007A.

Social group	Problem of exclusion	Agenda for inclusion
Dalits		
	Cultural	
	1. Caste discrimination	1. Secular state
	Socio-economic	
	2. Low literacy	2. Free education
	3. Unemployment	3. Seat reservation
	4. Landlessness	4. Alternative livelihood
	Political	
	5. Poor representation	5. Collegiate election
Janajati		
	Cultural	
	1. Religious discrimination	1. Secular state
	2. Linguistic discrimination	2. Official status
	Socio-Economic	
	3. Low literacy	3. Targeted education
	4. Unemployment	4. Affirmative action
	Political	
	5. Poor representation	5. Proportional representation
	6. Subjugated in governance	6. Ethnic autonomy
Madhesi		
	Cultural	
	1. Linguistic discrimination	1. Official status
	Economic	
	2. Employment discrimination	2. Recruitment in army
	Political	
	3. Hill dominance	3. Regional autonomy
	4. Citizenship problem	4. Ascertain long term residents vis-à-vis recent immigrants

Source: Shakya 2007.

Year	No. of persons killed			No. of women killed			No. of children killed			
	State	Maoist	Total	State	Maoist	Total	State	Maoist	Total	Percent of total persons killed
1996	59	22	81	1	0	1	1.2	0	3	3.7
1997	16	32	48	2	1	3	6.3	0	0	0.0
1998	334	75	409	37	1	38	9.3	2	21	5.1
1999	328	141	469	44	3	47	10.0	3	19	4.1
2000	180	219	399	17	8	25	6.3	10	19	4.8
2001	243	390	633	25	8	33	5.2	10	15	2.4
2002	3,266	1,337	4,603	238	35	273	5.9	32	123	2.7
2003	1,217	646	1,863	138	21	159	8.5	29	61	3.3
2004	1,606	1,113	2,719	205	53	258	9.5	42	100	3.7
2005	815	709	1,524	89	49	138	9.1	28	63	4.1
2006	313	286	599	24	14	38	6.3	4	23	3.8
Total	8,377	4,970	13,347	820	193	1,013	7.6	246	447	3.3

Sources: INSEC 2005 and 2007.

ANNEX 1.7

Number of persons of different occupations killed
by State and Maoist, Nepal, 1996-March 2005

Occupation	Number of persons killed		Total	
	State	Maoist	No	Percent
Agricultural workers	1,130	540	1,670	14.7
Teachers	52	74	126	1.1
Political workers	4,917	366	5,283	46.3
Police personnel	9	1,236	1,245	10.9
Common people	221	407	628	5.5
Students	166	124	290	2.5
Civil servants	34	451	485	4.3
Social workers	6	6	12	0.1
Business persons	39	78	117	1.0
Workers	98	49	147	1.3
Health workers	1	3	4	0.0
Army personnel	5	497	502	4.4
Photographers	1	3	4	0.0
Journalists	11	4	15	0.1
Law professionals	0	2	2	0.0
Prisoners	1	3	4	0.0
Dacoits	0	3	3	0.0
Engineers	0	1	1	0.0
Unidentified persons	752	109	861	7.6
Total	7,443	3,956	11,399	100.0

Source: Nepal Coalition of Human Right Defenders 2005; and INSEC 2005.

ANNEX 1.8

Number of displaced persons by 2004, Nepal

Development region	Number	Percent
Eastern	3,979	7.9
Central	4,791	9.5
Western	7,247	14.4
Mid-Western	27,581	54.8
Far-Western	6,758	13.4
Total	50,356	100.0

Source: INSEC 2005.

(in thousand NRs)

Ministry/department/organisation	Estimated cost of damage	Percent	Cost of reconstruction	Percent
Ministry of Local Development	596,446	11.73	161,722	3.78
Ministry of Water Resources	342,703	6.74	297,243	6.94
Ministry of Health and Population	417	0.01	130,130	3.04
Ministry of Forest and Soil Conservation	354,461	6.97	377,123	8.80
Ministry of Education and Sports	20,960	0.41	44,984	1.05
Ministry of Agriculture and Cooperatives	260,755	5.13	-	-
Ministry of Industry and Commerce	72,768	1.43	69,709	1.63
Ministry of Environment, Science and Technology	3,209	0.06	-	-
Ministry of Information and Communication	741,555	14.58	145,166	3.39
Ministry of Culture and Civil Aviation	134,747	2.65	26,550	0.62
Ministry of Physical Planning and Works	25,174	0.49	19,746	0.46
Ministry of Land Reform and Management	32,215	0.63	361,181	8.43
Ministry of Foreign Affairs	-	-	-	-
Ministry of General Administration	-	-	-	-
Ministry of Law and Justice and Parliamentary Affairs	-	-	-	-
Ministry of Defence	30,967	0.61	53,266	1.24
Ministry of Finance	4,666	0.09	2,270	0.05
Ministry of Home	2,428,646	47.75	2,428,203	56.69
Ministry of Women Children and Social Welfare	265	0.01	-	-
Ministry of Labour and Transport Management	524	0.01	524	0.01
Other organizations				
National Planning Commission	242	0.00	-	-
Supreme Court	27,489	0.54	165,555	3.87
Election Commission	2,946	0.06	-	-
Office of the Attorney General	201	0.00	-	-
Public Service Commission	4,781	0.09	1	0.00
Commission for the Investigation of Abuse of Authority	-	-	-	-
Office of Financial Comptroller General	-	-	-	-
Total amount in thousand	5,086,137	100.00	4,283,373	100.00

Source: MOPR records.

ANNEX 1.10

Maoist 40-point demand, Nepal, February 1996

Nationalism (7)	Political (13)	Economic (13)	Socio-cultural (7)
Abrogation of 1950 treaty	Republican constitution	End capital aggrandizement	Secular state
Abrogation of Mahakali treaty	End royal privileges	Self-reliant economy	Equality to women
Border regulation	Civil authority over army	Land to the tiller	End ethnic oppression
Discontinue Gurkha recruitment	Repeal repressive regulations	Nationalization of dubious property	Abolish untouchability
Introduce work permit system	Release prisoners	Employment generation	Equality of languages
End cultural invasion	End state terrorism	Set minimum wage	Access to education and health services
Stop imperial elements (INGO)	Enquiry on actions against Maoists	Resettle squatters	Protection of the disabled
	Recognition on martyrs and penalty to perpetrators	Debt relief and credit provision	
	Ethnic autonomy	Cheap inputs, fair price for agriculture products	
	Freedom of speech	Control price	
	Freedom of thought	Provide road, electricity, water supply to rural areas	
	Regional devolution	Promote cottage industries	
	Local governance	Control corruption	

Source: Gurung 2005.

ANNEX 2.1 *Sources of data*

The major data source used to produce the human development index (HDI) and other related indices is the Nepal Demographic and Health Survey (NDHS) 2006 and Nepal Living Standards Survey (NLSS) 2003/04. Other data sources, such as Nepal Family Health Survey (NFHS) 1991 and 1996, the National Census 2001, the Local Election Data Tape, and earlier human develop-

ment reports of the country were also used to supplement the estimated figures from the NDHS 2006, as well as to collate and verify them. The major objectives of these surveys, their sample sizes, data collection procedures and limitations are presented in detail in the respective reports. A brief summary of data sources and its use in this Report is shown in Table 1 below:

TABLE 1

Major sources of data used to calculate the HDI and related indices

Sources of Data/ Publications	Organisation	Indicators/ Components	Calculated indices
NDHS 2006	MOHP Nepal, New ERA Nepal and Macro International Inc, USA	<ul style="list-style-type: none"> ▶ Life expectancy index, deprivation in longevity ▶ Education index: adult literacy index and mean years of schooling index ▶ Equally Distributed Equivalent Percentage (EDEP) for administrative and managerial; and professional and technical positions ▶ Proportion of population without safe water ▶ Proportion of underweight children under five years of age and health deprivation index 	<ul style="list-style-type: none"> ▶ HDI ▶ GDI ▶ GEM ▶ HPI
National Census 2001 data tape	GON, Central Bureau of Statistics	<ul style="list-style-type: none"> ▶ Percentage share of male and female in total population ▶ Proportion of people not surviving beyond 40. (Used for verification of the 2006 index) 	<ul style="list-style-type: none"> ▶ HDI ▶ GDI ▶ GEM ▶ HPI

Continued to next page

Sources of Data/ Publications	Organisation	Indicators/ Components	Calculated indices
NDHS 2001	MOHP Nepal, New ERA Nepal and Macro International Inc, USA	(Used for the verification of the 2006 index)	▶ HDI ▶ GDI ▶ GEM ▶ HPI
NFHS 1996	GON, Department of Health, Kathmandu		
NFHS 1991			
Local Election data tape	GON, Election Commission Nepal	▶ Election data for parliamentary representation	▶ GEM
National Account of Nepal	GON, Central Bureau of Statistics, NPC, Kathmandu	▶ GDP by sectors	▶ HDI ▶ GDI
NLSS 2003/04	GON, Central Bureau of Statistics, NPC, Kathmandu	▶ Income index: Per capita income by different caste and ethnic groups	▶ HDI by caste and ethnic groups
NDHS 2006	MOHP Nepal, New ERA Nepal and Macro International Inc, USA	▶ Education index: Literacy rates and mean years of schooling by caste and ethnic groups ▶ Life expectancy index: Life expectancy by caste and ethnic groups	▶ HDI by caste and ethnic groups
Caste, Ethnic and Regional Identity in Nepal: Further Analysis of 2006 NDHS			

NFHS = Nepal Family Health Survey; NDHS = Nepal Demographic and Health Survey; and NLSS = Nepal Living Standards Survey

ANNEX 2.2 *Technical notes—calculating HDI and other related indices*

Human development index

The HDI is a summary measure of human development that has three dimensions:

1. A long and healthy life measured by life expectancy at birth;
2. Knowledge, measured by an aggregate of the adult literacy rate (two-thirds) and the combined gross primary, secondary and tertiary enrolment rates (one-third); and
3. A decent standard of living, measured by gross domestic product (GDP) per capita in purchasing power parity (PPP) US dollars.

An index is created for each of these three dimensions by choosing maximum and minimum values for their indicators. Performance in each dimension is expressed as a value between 0 and 1 by using the following formula:

$$\text{Dimension index} = \frac{(\text{actual value} - \text{minimum value})}{(\text{maximum value} - \text{minimum value})}$$

Life expectancy index

The life expectancy index measures the relative achievement of a country in the number of years that people in a given population can expect to live at birth. It is a summary measure of mortality in a population. Statistics on life expectancy are derived from a mathematical model known as a life table, which creates a hypothetical cohort of 100,000 persons and subjects it to the age/sex specific mortality rates observed in a given population.

The infant mortality rate (IMR) has been computed for estimating life expectancy at birth using 2006 NDHS data in this Report. Both direct and indirect methods were used to calculate this index. Later, this was used to produce a table of the equivalent level of mortality using Coale and Demeny (1966) west mortality model. Several sensitivity analyses were performed to derive a robust mortality estimate.

Life expectancy has been calculated for both rural and urban areas, ecological regions, development regions, eco-development regions, and for caste and ethnic groups. It is based on a stable model technique that uses the distribution of population by age and sex. As none of the single mortality estimation techniques was sufficient to produce consistent indicators at the regional and sub-regional levels, this method has also been applied in generating the crude death rate and the proportion of population at age (x) to calculate the life expectancy at birth.

The task of estimating life expectancy at birth index is very challenging in a country like Nepal because other external means of verification for a derived index are not yet available. Thus, performing the estimate depends on internal consistency checks; in this Report, these have been done by:

1. computing mortality rates using various direct and indirect methods and comparing the values of estimated mortality; and
2. comparing mortality trends over years.

To undertake this kind of validation, data from other sources, such as the NDHS 2001, the National Population Census 2001, and the NFHS 1996 have also been used. This has helped to verify the estimates derived from the NDHS 2006 data for this Report.

Education index

The education index is constructed so as to measure the knowledge component of HDI. It shows a country's relative achievement in both literacy and in enrolment ratios by merging the adult literacy rate (two-thirds weight) and combined primary, secondary and tertiary gross enrolment ratio (one-third weight).

However, in this Report, as in its predecessor, the mean year of schooling has been used as a substitute for gross enrolment ratio because:

1. it captures the quality of education obtained by literate adults and the educational attainment of young people (combined enrolment ratio); this is not possible when the gross enrolment ratio (GER) alone is used;
2. generally, GER is overestimated because it derives from enrolment-based government grants in school;
3. the data on tertiary enrolment is not available; and
4. GER at the primary level in Nepal is significantly greater than 100, implying that both under-age children and these beyond the primary level enrol, especially at primary level. Initially, the global human development report preferred the use of the mean year of schooling; later, however, GER was suggested because of the difficulty of obtaining this type of data.

In the absence of the latest population census and comparable surveys in Nepal today, the Nepal Human Development Report has estimated the adult literacy rate and mean year of schooling from the NDHS 2006 data to compute the education index. Literacy rates and mean years of schooling were calculated for urban-rural areas, ecological zones, development regions, eco-development regions and for caste and ethnic groups.

Gross domestic product

GDP is vital to measuring human development. However, it is not the sole measure of progress (UNDP 1993). The economy of a country simply cannot be explained by the activities of private households, as it consists of collective efforts by government, formal businesses, households, and, last but not least, non-profit Institutions.

The GDP presents income in the form of compensation to all employees, the gross operating surplus to all entrepreneurs including those who are self-employed, and revenue to the government at both the local and central levels in the form of taxes and non-tax duties. The income data derived from household surveys can approximate only the first of these components - compensation to employees and some portion of mixed income at the household level by its working members. The other two components of income generation are not generally recorded through household surveys. Therefore, using GDP per capita rather than per capita income within households is regarded as a better measure of a decent standard of living.

Maximum and minimum values used for calculating HDI

Indicator	Maximum value	Minimum value
Life expectancy at birth	85	25
Adult literacy rate	100	0
Mean years of schooling	15	0
GDP per capita PPP\$	40,000	100

Calculation of human development index: an illustration for urban population

Basic data table showing data to calculate HDI:

Region	Life expectancy at birth (years)	Adult literacy rate (% age 15 and above)	Mean years of education	GDP per capita (PPP US\$)
Urban Nepal	68.06	72.30	5.19	

Computation of HDI components

<i>Life expectancy index:</i>	$\frac{68.06 - 25}{85 - 25}$	=	$\frac{43.06}{60}$	0.7176
<i>Adult literacy index:</i>	$\frac{72.30 - 0}{100 - 0}$	=	$\frac{72.30}{100}$	0.7230
<i>Mean years of schooling index:</i>	$\frac{5.19 - 0}{15 - 0}$	=	$\frac{5.19}{15}$	0.3459
<i>Educational attainment index:</i>	$[2(0.723) + 1(0.346)]/3$			0.5973
<i>Adjusted GDP per capita (PPP US\$) index:</i>	$\frac{\log(3,149) - \log(100)}{\log(40,000) - \log(100)} = \frac{1.4981147}{2.60206}$			0.5757

HDI output table:

Region	Life expectancy index	Educational attainment index	Income index	Sum of three	Human development index
Urban Nepal	0.7176	0.5973	0.5757	1.8906	0.630

The gender-related development index

While HDI measures average achievement, gender-related development index (GDI) adjusts average achievement to reflect inequalities between men and women in the same dimensions as those of HDI. The GDI thus adjusts the average achievement of each region/sub-region and social groups in all the three dimensions of HDI: a long and healthy life, knowledge, and a decent standard of living.

The calculation of the GDI involves three steps: First, female and male indices in each dimension

are calculated. Second, these indices in each dimension are combined so as to reveal differences in achievement between men and women. The resulting index is referred as the equally distributed index. As suggested in the Human Development Report 2006, the report has used a weighted formula that expresses a moderate aversion to inequality, setting the weighting parameter, ϵ , equal to 2 for gender-sensitive adjustment. This is a harmonic mean of male and female value. Finally, in the third step, the GDI is calculated by combining the three equally distributed indices in an unweighted average.

**Calculation of gender-related development index:
an illustration for urban population**

Percentage share of population

Female	0.4836
Male	0.5164

Step one: Computing the equally distributed life expectancy index

Life expectancy

Female	70.18
Male	66.19

Life expectancy index

Female	$(70.18 - 27.5)/60 = 0.711$
Male	$(66.19 - 22.5)/60 = 0.728$

Equally distributed life expectancy index

[Female population share X (female life expectancy index)⁻¹ + Male population share X (male life expectancy index⁻¹)⁻¹

$$[[0.4836 * (0.711)^{-1}] + [0.5164 * (0.728)^{-1}]]^{-1} = \mathbf{0.7197}$$

Step two: Computing the equally distributed educational attainment index

Adult literacy rate (percentage age 15 and above)

Female	61.23
Male	83.36

Mean years of schooling

Female	4.345
Male	6.033

Adult literacy index

Female	$(61.23 - 0)/100 = 0.612$
Male	$(83.36 - 0)/100 = 0.834$

Mean year of schooling index

Female	$(4.345 - 0)/15 = 0.290$
Male	$(6.033 - 0)/15 = 0.402$

Educational attainment index

Female	$[2/3(0.612) + (1/3(0.290))] = 0.505$
Male	$[2/3(0.834) + (1/3(0.402))] = 0.690$

Equally distributed educational attainment index

[Female population share X (female educational attainment index)⁻¹ + Male population share X (male educational attainment index⁻¹)⁻¹

$$[[0.4836 * (0.505)^{-1}] + [0.5164 * (0.690)^{-1}]]^{-1} = \mathbf{0.5849}$$

Step three: Computing the equally distributed income index

GDP per capita

Female	1,786
Male	4,425

Adjusted GDP per capita (PPP US\$) index

Female	$\frac{\log(1,786) - \log(100)}{\log(40,000) - \log(100)} = 0.4811$
Male	$\frac{\log(4,425) - \log(100)}{\log(40,000) - \log(100)} = 0.6325$

Equally distributed income index

[Female population share X (female income index)⁻¹ + Male population share X (male income index⁻¹)⁻¹

$$[[0.4836 * (0.481)^{-1}] + [0.5164 * (0.632)^{-1}]]^{-1} = \mathbf{0.5490}$$

Step four: Computing gender-related development index

Region	Equally distributed life expectancy index	Equally distributed educational attainment index	Equally distributed income index	Sum of three	Gender-related development index
Urban	0.720	0.585	0.549	1.854	0.618

The GDI uses different maximum and minimum values for female and male for the four indicators. For example, for the life expectancy of women, the maximum value is 87.5 years and the minimum 27.5 years; for men the corresponding values are 82.5 and 22.5 years, respectively (UNDP 2006). Similarly, the calculation of GDI requires separate per capita income in PPP\$ for both sexes. The procedure therefore begins with disaggregating per capita income by sex, using the standard set of formulae used in human development reports.

The minimum and the maximum values for the variables used in calculating GDI for Nepal and the formula used for calculating the GDI at each of the three steps mentioned above are given in the corresponding box that illustrates the computation of GDI.

The gender empowerment measure

The gender empowerment measure (GEM) uses variables constructed explicitly to measure relative empowerment of women and men in political and economic spheres of activity. This index focuses on women's opportunities rather than their capabilities and captures inequality in following three key areas:

- ▶ *Political participation and decision-making power* is measured by women's and men's per-

centage share in parliamentary seats. The participation of men and women only in local election at Village Development Committee (VDC) and municipality level is used to reflect the political participation and decision-making power.

- ▶ *Economic participation and decision-making* is measured by percentage share of men and women in administrative and managerial positions, and in professional and technical positions.
- ▶ *Power over economic resources* is measured by women's and men's estimated earned income (PPP US\$). It is calculated in the same way as GDI, except that the unadjusted rather than adjusted GDP per capita is used.

The three indices—political participation and decision-making, economic participation and decision-making, and power over economic resources—are averaged to derive the final GEM value (UNDP 2006). For all variables, Equally Distributed Equivalent Percentage (EDEP), as used in the calculation of GDI, has been calculated assuming a value of 2 for 'aversion to inequality'. The calculation process of equally distributed income index for GEM is similar to that of GDI. The only difference is in the formula for calculating separate income per capita indices for both sexes.

Calculation of gender empower measure an illustration for urban population

Percentage share of population

Female	0.4836
Male	0.5164

Step one: Calculating indices for parliamentary representation, administrative and managerial, and professional and technical positions.

Percentage share of parliamentary representation

Female	18.10
Male	81.90

Percentage share of administrative and managerial position

Female	34.01
Male	65.99

Percentage share of professional and technical position

Female	34.97
Male	65.03

Equally distributed equivalent percentage (EDEP) for parliamentary representation

[Female population share X (female's share in parliamentary representation)⁻¹ +
Male population share X (male's share in parliamentary representation)⁻¹]⁻¹
[[0.4836 * (18.10)⁻¹] + [0.5164 * (81.19)⁻¹]]⁻¹ = 30.28

Equally distributed equivalent percentage (EDEP) for administrative and managerial positions

[Female population share X (female's share in administrative and managerial positions)⁻¹ +
Male population share X (male's share in administrative and managerial positions)⁻¹]⁻¹
[[0.4836 * (34.01)⁻¹] + [0.5164 * (65.99)⁻¹]]⁻¹ = 45.36

Equally distributed equivalent percentage (EDEP) for professional and technical positions

[Female population share X (female's share in professional and technical positions)⁻¹ +
Male population share X (male's share in professional and technical positions)⁻¹]⁻¹
[[0.4836 * (34.97)⁻¹] + [0.5164 * (65.03)⁻¹]]⁻¹ = 45.93

Indexing parliamentary representation: 30.28/50 = 0.606

Indexing administrative and managerial positions: 45.36/50 = 0.907

Indexing professional and technical positions: 45.93/50 = 0.919

Combining the indices for administrative and managerial, and professional and technical, positions

(Index of administrative and managerial positions + Index of professional and technical positions)/2 = (0.907 + 0.919)/2
= 0.9129

Step two: Calculating index for male and female income

$$S_i = \frac{W_i/W_m \times ea_i}{W_i/W_m \times ea_i + ea_m} \quad 3A$$

$$Y_i = \frac{S_i Y}{N_i} \quad 3B$$

$$Y_m = (1 - S_i) Y / N_m \quad 3C$$

$$W(Y_i) = \frac{Y_i - 100}{40,000 - 100} \quad 3D$$

$$W(Y_m) = \frac{Y_m - 100}{40,000 - 100} \quad 3E$$

Equally distributed income index for GEM: $I_{GEM} = (P_i W(Y_i)^{-1} + P_m W(Y_m)^{-1})^{-1}$ (4)

Where the symbols have their usual meanings, for example in urban $Y_i = 1786$ \$ $Y_m = 4425$ \$

$W(Y_i) = (1786 - 100) / (40000 - 100) = 0.042256$

$W(Y_m) = (4425 - 100) / (40000 - 100) = 0.108396$

Equally distributed income index: $[[0.4836 * (0.042256)^{-1}] + [0.5164 * (0.108396)^{-1}]]^{-1} = 0.0616$

Step three: Computing GEM index

GEM = 1/3 (index of parliamentary representation + combined index of administrative, managerial, professional and technical positions + equally distributed income index)

GEM urban = 1/3 (0.606 + 0.9129 + 0.0616) = 0.527

Human poverty index

The human poverty index (HPI), a multi-dimensional measure of poverty introduced in the Human Development Report 1997 (UNDP 1997), is a reverse image of HDI that focuses on human deprivation instead of human achievement. While HDI measures average achievement, the HPI-1 designed for developing countries measures deprivation in the three basic dimensions of human development included in the HDI and therefore brings together in one composite index the deprivation in each of the three basic dimensions of human life—a long and healthy life, knowledge, and a decent standard of living.

Deprivation in three basic dimensions is measured as follows: Deprivation in a long and healthy life (P_1) is measured by the percentage of people born alive today who are not expected to survive to age 40; deprivation in knowledge/exclusion (P_2) is measured by the adult illiteracy rate; and deprivation in economic provisioning/decent standard of living (P_3) is measured jointly by the unweighted composite value of two indicators: (i) the percentage of population without sustainable access to safe drinking water (P_{31}), and (ii) the percentage of children under five who are underweight for their age (P_{32}), that is, $P_3 = [(P_{31} + P_{32})/2]$. The HPI is calculated as outlined in HDR 2006 with the assumption of a generalized mean $a = 3$.

Calculation of human poverty index an illustration for urban population

Region	Percentage of people not expected to survive to age 40	Adult illiteracy rate	$((P_{31}) + (P_{32}))/2$		
	Deprivation in longevity (%)	Deprivation in knowledge (%)	Percentage of people without access to safe water	Percentage of under weight children under age 5	Deprivation in economic provisioning
	(P_1)	(P_2)	(P_{31})	(P_{32})	(P_3)
HPI urban	9.1	27.7	10.01	23.0	16.0

$$HPI = [1/3 \{P_1^3 + P_2^3 + P_3^3\}]^{1/3}$$

$$HPI \text{ urban} = [1/3 \{(9.1)^3 + (27.7)^3 + (16.0)^3\}]^{1/3} = 20.57$$

ANNEX 2.3 Values of human development index and other related indices

TABLE 1 Human development index, Nepal, 2006

Region	Human development index 2006	Life expectancy at birth 2006	Adult literacy (% age 15 years and above) 2006	Mean years of schooling 2006	GDP per capita (PPP US\$) 2006	Life expectancy index 2006	Educational attainment index 2006	GDP index 2006*	Ratio to national HDI
Nepal	0.509	63.69	52.42	3.21	1597	0.645	0.421	0.4624	100.0
Urban	0.630	68.06	72.30	5.19	3149	0.718	0.597	0.5757	123.7
Rural	0.482	63.09	48.35	2.84	1286	0.635	0.386	0.4263	94.7
Eastern region	0.526	66.16	53.95	3.21	1570	0.686	0.431	0.4596	103.2
Central region	0.531	65.69	51.53	3.26	1989	0.678	0.416	0.4991	104.3
Western region	0.516	64.12	55.65	3.43	1477	0.652	0.447	0.4494	101.3
Mid-Western region	0.452	57.21	50.78	3.07	1192	0.537	0.407	0.4136	88.8
Far-Western region	0.461	61.33	48.70	2.91	1023	0.605	0.389	0.3881	90.5
Mountain	0.436	57.91	44.67	2.44	1158	0.548	0.352	0.4088	85.7
Hill	0.543	66.48	57.60	3.68	1683	0.691	0.466	0.4712	106.6
Tarai	0.494	62.76	49.02	2.92	1584	0.629	0.392	0.4610	97.0
Eastern Mountain	0.519	65.42	55.29	3.06	1441	0.674	0.437	0.4453	101.8
Central Mountain	0.454	62.94	40.51	2.33	1161	0.632	0.322	0.4092	89.2
Western Mountain	0.435	51.79	41.89	2.18	2401	0.447	0.328	0.5305	85.4
Eastern Hill	0.543	69.33	57.16	3.42	1344	0.739	0.457	0.4336	106.6
Central Hill	0.602	71.27	61.10	4.18	2461	0.771	0.500	0.5346	118.2
Western Hill	0.549	69.10	58.25	3.71	1415	0.735	0.471	0.4422	107.8
Mid-Western Hill	0.448	56.74	52.36	3.17	1073	0.529	0.419	0.3961	88.0
Far-Western Hill	0.443	61.08	45.34	2.55	905	0.601	0.359	0.3676	86.9
Eastern Tarai	0.519	64.87	52.46	3.14	1696	0.664	0.420	0.4725	101.9
Central Tarai	0.478	62.75	42.19	2.43	1676	0.629	0.335	0.4705	93.9
Western Tarai	0.468	56.90	51.86	3.05	1561	0.532	0.413	0.4586	91.9
Mid-Western Tarai	0.481	60.78	50.71	3.14	1387	0.596	0.408	0.4389	94.4
Far-Western Tarai	0.503	66.11	51.96	3.22	1143	0.685	0.418	0.4066	98.8

* : derived using the information from the National account. The life expectancy in 2006 in Tarai as compared to earlier Nepal HDR 2004 has slightly decreased. The earlier life-expectancy value was based on the 2001 Census data, while the current one is based on the NDHS 2006 data. Note that there was a coverage problem in the 2001 census data. Source: NDHS 2006 and N.L.S.S 2003/04.

TABLE 2 Gender-related development index, Nepal, 2006

Region	Gender-related development index	Life expectancy 2006		Adult literacy (%) 2006		Mean years of schooling 2006		Estimated earned income* 2006		Relative value 2006	
		Female	Male	Female	Male	Female	Male	Female	Male	Nepal=100	GDI/HDI
Nepal	0.499	65.71	61.92	38.44	69.67	2.468	4.080	0.408	0.503	100	0.979
Urban	0.618	70.18	66.19	61.23	83.36	4.345	6.033	0.481	0.633	124	0.981
Rural	0.471	65.09	61.32	34.30	66.47	2.149	3.682	0.377	0.464	95	0.978
Eastern region	0.516	68.24	64.33	41.42	69.09	2.584	3.937	0.399	0.504	103	0.982
Central region	0.517	67.75	63.87	36.57	68.74	2.415	4.195	0.428	0.547	104	0.973
Western region	0.511	66.14	62.33	44.86	70.21	2.832	4.177	0.407	0.485	102	0.990
Mid-Western region	0.441	59.04	55.59	35.28	70.57	2.338	3.959	0.376	0.444	89	0.976
Far-Western region	0.447	63.28	59.60	31.15	71.80	2.000	3.992	0.370	0.405	90	0.971
Mountain	0.423	59.76	56.26	29.08	64.22	1.703	3.347	0.369	0.441	85	0.969
Hill	0.534	68.57	64.65	44.52	73.71	2.933	4.578	0.417	0.513	107	0.983
Tarai	0.482	64.76	61.00	34.51	66.93	2.176	3.768	0.402	0.503	97	0.976
Eastern Mountain	0.514	67.48	63.61	46.15	67.53	2.774	3.434	0.392	0.486	103	0.992
Central Mountain	0.441	64.94	61.17	26.85	56.80	1.728	3.061	0.352	0.452	88	0.969
Western Mountain	0.414	53.95	50.35	21.56	67.42	1.143	3.481	0.490	0.560	83	0.951
Eastern Hill	0.534	71.43	67.49	44.69	71.62	2.822	4.095	0.376	0.477	107	0.983
Central Hill	0.589	73.33	69.46	47.03	76.19	3.267	5.172	0.458	0.585	118	0.978
Western Hill	0.547	71.20	67.26	49.78	70.60	3.175	4.407	0.406	0.475	110	0.995
Mid-Western Hill	0.439	58.55	55.14	36.66	73.06	2.485	4.055	0.378	0.413	88	0.980
Far-Western Hill	0.421	63.03	59.36	24.62	75.08	1.547	3.851	0.369	0.366	84	0.952
Eastern Tarai	0.508	66.92	63.07	39.53	68.18	2.457	3.926	0.407	0.518	102	0.980
Central Tarai	0.463	64.74	60.99	26.80	61.29	1.658	3.308	0.408	0.514	93	0.968
Western Tarai	0.455	58.72	55.30	36.73	69.99	2.287	3.894	0.401	0.501	91	0.973
Mid-Western Tarai	0.477	62.72	60.99	38.73	66.23	2.533	3.851	0.374	0.485	96	0.991
Far-Western Tarai	0.492	68.19	64.28	35.63	72.46	2.374	4.187	0.375	0.432	99	0.978

*: derived using the information from the National account.
Source: NDHS 2006 and NLS 2003/04.

TABLE 3

Gender empowerment measure, Nepal, 2006

Region	Gender empowerment measure 2006	Women participation in local election (%) [*]	Women in professional jobs 2006 ^{**}	Women in administrative jobs 2006 ^{**}	Ratio of estimated female to male earned income 2006 ^{**}
Nepal	0.496	19.33	29.78	28.95	0.375
Urban	0.527	18.10	34.97	34.01	0.386
Rural	0.474	19.40	26.56	25.66	0.313
Eastern region	0.516	19.20	31.29	36.58	0.365
Central region	0.511	19.00	35.13	28.48	0.339
Western region	0.488	20.30	24.29	31.88	0.407
Mid-Western region	0.431	19.20	16.19	25.33	0.412
Far-Western region	0.456	18.60	40.59	15.41	0.451
Mountain	0.468	19.80	21.89	28.08	0.402
Hill	0.515	19.90	34.52	31.23	0.376
Tarai	0.469	18.60	23.95	26.60	0.368
Eastern Mountain	0.538	19.50	37.78	43.15	0.373
Central Mountain	0.489	19.90	21.46	37.78	0.358
Western Mountain	0.413	28.70	7.06	11.05	0.394
Eastern Hill	0.529	19.70	45.50	32.30	0.368
Central Hill	0.534	19.60	39.01	31.88	0.326
Western Hill	0.518	21.10	31.29	35.90	0.429
Mid-Western Hill	0.410	19.30	10.70	27.67	0.469
Far-Western Hill	0.396	18.40	37.78	5.72	0.476
Eastern Tarai	0.483	18.80	20.81	37.01	0.361
Central Tarai	0.467	18.30	28.23	21.72	0.362
Western Tarai	0.391	18.40	7.87	26.39	0.364
Mid-Western Tarai	0.488	19.00	29.07	27.87	0.354
Far-Western Tarai	0.469	18.70	43.15	16.48	0.421

^{*} This information is taken from the 1997 local election data as this is the only information we have on women's participation in the local election. However, the GEM has been updated using the women participation in CA 2008 (See Table 2.3 in Chapter Two of the Report).

^{**} Estimated using NDHS 2006.

Source: NDHS 2006 and NLSS 2003/04.

TABLE 4 Human poverty index , Nepal, 2006

Region	Human poverty index 2006	Under weight children under 5-years of age 2006	Adult illiteracy rate 2006	Proportion of population with life expectancy < 40 years 2006	Percent of population without access to safe drinking water 2006	Relative value Nepal=100
All Nepal	35.4	38.5	47.6	14.3	17.55	100.00
Urban	20.7	23.0	27.7	9.1	10.01	58.45
Rural	38.2	40.7	51.6	15.0	18.90	108.09
Eastern region	33.7	32.5	46.1	11.4	17.72	95.34
Central region	35.3	38.5	48.5	11.9	12.33	99.83
Western region	33.2	38.5	44.3	13.8	15.91	93.94
Mid-Western region	38.7	43.5	49.2	22.4	27.00	109.53
Far-Western region	39.0	43.1	51.3	17.2	24.23	110.35
Mountain	43.3	40.9	55.3	21.5	39.01	122.40
Hill	32.7	33.0	42.4	11.0	27.14	92.41
Tarai	36.9	42.6	51.0	15.4	6.15	104.33
Eastern Mountain	37.6	35.3	44.7	12.2	46.26	106.23
Central Mountain	42.2	29.6	59.5	15.2	15.25	119.31
Western Mountain	48.1	47.1	58.1	29.7	48.90	135.90
Eastern Hill	34.3	32.1	42.8	8.0	37.13	96.88
Central Hill	28.2	22.3	38.9	6.1	17.91	79.72
Western Hill	31.8	34.2	41.8	8.2	22.57	89.85
Mid-Western Hill	40.0	46.0	47.6	23.0	36.81	112.98
Far-Western Hill	44.9	43.4	54.7	17.5	50.33	126.99
Eastern Tarai	33.8	32.3	47.5	12.9	5.47	95.71
Central Tarai	41.9	50.7	57.8	15.4	6.53	118.42
Western Tarai	36.0	45.0	48.1	22.8	6.05	101.82
Mid-Western Tarai	36.8	37.9	49.3	17.9	19.57	103.98
Far-Western Tarai	35.3	41.6	48.0	11.4	12.47*	99.88

* Since NDHS 2006 did not provide this information, we used the same data used in the 2004 Nepal human development report.

Source: NDHS 2006 and NLS 2003/04.

ANNEX 2.4 *Human development by major caste and ethnicity*

Human development index of major caste and ethnic groups

Caste and ethnicity are the basic elements of the social mosaic of Nepal. In the recent years, the demand for data and indices by caste and ethnicity has risen because of the increase in identity politics, along with the need for disaggregated planning. The 2001 Census has listed 103 groups but only 101 groups are specified; and the two groups which are not specified are: (i) Dalit - unidentified, and (ii) Caste/ethnicity – unidentified. The Nepal Living Standards Survey (NLSS) 2003/04 found 80, while the Nepal Demographic and Health Survey (NDHS) 2006 enumerated only 75 groups in their surveys, respectively.

As indicated earlier, the NDHS 2006 and the NLSS 2003/04 are the two main sources of data available for computing the HDI of caste and ethnic groups in Nepal. The NDHS 2006 provided the information on demographic and health aspects while NLSS 2003/04 provided information on the economic dimension. Despite demands for HDI estimates for all the caste and ethnic groups separately, the national household surveys rule these out because of their limited sample size. The actual sample size of the NDHS 2006 was 8,707 households and for the NLSS 2003/04, 5,072 households. Moreover, they do not capture all the caste and ethnic groups in their sample surveys. To ensure the minimum number required to estimate HDI by caste ethnicity in

Nepal, all the 75 caste and ethnic groups found in the NDHS 2006 are grouped into seven main caste/ethnic groups and 11 caste/ethnic groups with regional divisions, as suggested by Bennett and Dahal (2008). This is presented in Table 1. However, apart from the 11 groups broken down by region, estimates have also been made for the following additional 9 groups: (1) all Brahman, (2) all Dalits, (3) all Janajati, (4) all Hill Mountain groups with Newar, (5) all Hill Mountain groups without Newar, (6) all Tarai/Madhesi groups with Muslim, (7) all Tarai/Madhesi groups without Muslim, (8) all Janajati including Newar, and (9) all Hill Janajati including Newar. Altogether, then, HDI has been estimated for 20 groups and is presented in Table 3. The number of cases used for the estimate is given in Table 4.

Limitations

The HDI value calculated for caste and ethnic groups in this Report has some limitations that should be considered before drawing any firm conclusion. First, the HDI value is calculated by amalgamating the 75 caste and ethnic groups into 20. Second, the data used in this study represent geographic regions rather than caste and ethnicity. Therefore the estimates are robust only for the geographic region for which the sample was designed. Third, because of the pooling of data from the NLSS and NDHS, the number of samplings has been reduced further.

TABLE 1 Caste and ethnicity classified by major groups

7 Major groups	11 Caste/ethnic sub-groups	All caste and ethnic groups
1. Brahman/Chhetri	1.1 Hill Brahman 1.2 Hill Chhetri 1.3 Tarai/Madhese Brahman/Chhetri	1.1 Hill Brahman 1.2 Chhetri, Thakuri, Sanyasi 1.3 Madhesi Brahman, Nurang, Rajput, Kayastha
2. Tarai/Madhese other castes	2.1 Tarai/Madhese other castes	2.1 Kewat, Mallah, Lohar, Nuniya, Kahar, Lodha, Rajbhar, Bing, Malli, Kamar, Dhuniya, Yadav, Teli, Koiri, Kurmi, Sonar, Baniya, Kalwar, Thakur/Hazam, Kanu, Sudhi, Kumhar, Haluwai, Badhai, Barai, Bhediyar/Gaderi,
3. Dalits	3.1 Hill Dalits 3.2 Tarai/Madhese Dalits	3.1 Kami, Damai/Dholi, Sarki, Badi, Gaine, unidentified Dalits 3.2 Chamar/Harijan, Musahar, Dushad/Paswan, Tatma, Khatwe, Dhobi, Baantar, Chidimar, Dom, Halkhor
4. Newar	4. Newar	4. Newar
5. Janajati	5.1 Hill Janajati 5.2 Tarai/Madhese Janajati	5.1 Tamang, Kumal, Sunuwar, Majhi, Danuwar, Thami/Thangmi, Darai, Bote, Baramu/Bramhu, Pahari, Kusunda, Raji, Raute, Chepang/ Praja, Hayu, Magar, Chhantal, Bankarya, Rai, Sherpa, Bhujel/ Gharti, Yakha, Thakali, Limbu, Lepcha, Bhote, Byansi, Jirel, Hyalmo, Walung, Gurung, Dura 5.2 Tharu, Jhangad, Dhanuk, Rajbanshi, Gangai, Santhal/Satar, Dhimal, Tajpuriya, Meche, Koche, Kisan, Munda, Kusbadiya/ Patharkata, unidentified Adibasi Janajati
6. Muslim	6. Muslim	6. Madhesi Muslim, Churoute (Hill Muslim)
7. Other	7. Other	7. Marwari, Bangali, Jain, Punjabi/ Sikh, unidentified others
8.1 All Hill and Mountain groups with Newar		
8.2 All Hill and Mountain groups without Newar		
8.3 All Tarai/Madhese groups with Muslim		
8.4 All Tarai/Madhese groups without Muslim		
8.5 All Janajati including Newar		
8.6 All Hill Janajati including Newar		

Note: The categorization is the same as that of Bennett and Dahal 2008.

Caste and ethnic groups and human development

Of the seven main caste and ethnic groups, the HDI of all Brahman and Chhetri ranks third (0.552) after the Newar (0.616) and other caste and ethnic groups (0.559). The HDI of Janajati falls somewhere in between (0.494). The lowest value is that of Muslim (0.401), followed by all Dalits (0.424). However, across these seven castes and ethnic groups, wide variation emerges when they are disaggregated by region. Of the 11 groups viewed regionally, the Tarai Madhesi Brahman and Chhetri have the highest level of HDI, followed by the Newar, most of whom live in urban areas. By contrast, the Tarai/Madhesi Dalits have the lowest level of human development (0.383), followed by Muslim (0.401) and all Dalits (0.424). However, because of the small number of samplings, this estimate may not be robust.

Table 2 presents the caste/ethnic groups in four categories ranked in terms of their HDI value, which shows that the Brahman and Chhetri and the Newar have the highest HDI irrespective of geographic region. At the other extreme lie the Tarai Madhesi Dalits.

Among the three components of HDI, life expectancy has the greatest contribution among all caste/ethnic groups except the Tarai/Madhesi Brahman/Chhetri group, where education becomes a great factor. GDP per capita falls below the other two components despite the fact that there is higher variation in household income as measured by household surveys such as the NLSS. This may indicate one of the limitations of using per capita GDP as a HDI measure; it also suggests that unless the state provides more services to the poor as well as the excluded, GDP per capita may have to be adjusted by household income data for a more accurate estimate.

Educational attainment varies widely. It is higher for Brahman/Chhetri and Newar than for the other caste and ethnic groups. This implies that the HDI of Dalits and Muslim can be improved by investing more in education. However, the lower value of the GDP per capita among most of the caste and ethnic groups also suggests that a high and inclusive GDP growth can play the larger role in human development.

TABLE 2

HDI value of caste and ethnic groups by four broad categories

Caste/ethnicity	HDI value
Hill Brahman	0.612 - 0.625
Tarai/Madhesi/Brahman/Chhetri Newar	
All Brahman/Chhetri	0.507 - 0.559
Hill Chhetri	
Hill/Mountain Janajati	
All Janajati including Newar	
All Hill Janajati including Newar	
All Hill Mountain groups with Newar	
All Hill Mountain groups without Newar	
Other	
Tarai/Madhesi other caste	0.401 - 0.494
All Dalits	
Hill Dalits	
All Janajati	
Tarai Janajati	
Muslim	
All Tarai/Madhesi groups with Muslim	
All Tarai/Madhesi groups without Muslim	
Tarai/Madhesi Dalits	0.383

TABLE 3 Human development by caste and ethnicity with regional divisions, Nepal, 2006

Country/ caste-ethnicity	Life expectancy at birth	Adult literacy	Mean years of schooling	Per capita income PPP in US\$	Life expectancy index	Educational attainment	Income index	Human development index	Ratio to National HDI	Rank
All Nepal	63.69	52.42	3.21	1597	0.645	0.421	0.4624	0.509	100.0	
<i>Caste ethnicity</i>										
All Brahman/Chhetri	62.95	63.65	4.40	2027	0.633	0.522	0.5022	0.552	108.4	5
Hill Brahman	68.10	69.93	5.40	2395	0.718	0.586	0.5301	0.612	120.1	3
Hill Chhetri	60.61	58.40	3.69	1736	0.594	0.471	0.4763	0.514	100.8	9
Tarai/Madhesi/Brahman/Chhetri	63.89	83.80	6.40	2333	0.648	0.701	0.5257	0.625	122.7	1
Tarai/Madhesi/other caste	61.94	41.85	2.30	1119	0.616	0.330	0.4031	0.450	88.3	15
All Dalits	61.03	38.02	1.73	977	0.601	0.292	0.3804	0.424	83.3	18
Hill Dalits	60.89	45.50	2.07	1099	0.598	0.349	0.4001	0.449	88.2	16
Tarai/Madhesi/Dalits	61.26	27.32	1.21	743	0.604	0.209	0.3348	0.383	75.1	20
Newar	68.00	68.20	4.66	3097	0.717	0.558	0.5730	0.616	120.9	2
All Janajati excluding Newar	62.91	51.67	2.96	1405	0.632	0.410	0.4410	0.494	97.1	12
Hill/Mountain/Janajati	63.61	53.81	3.05	1490	0.644	0.427	0.4509	0.507	99.5	11
Tarai Janajati	61.55	48.11	2.81	1224	0.609	0.383	0.4180	0.470	92.3	13
Muslim	60.99	30.32	1.60	890	0.600	0.238	0.3648	0.401	78.7	19
All Janajati including Newar	63.33	53.52	3.14	1697	0.639	0.427	0.4726	0.513	100.7	10
All Hill Janajati including Newar	64.15	56.23	3.31	1869	0.652	0.448	0.4887	0.530	104.0	7
All Hill/Mountain groups with Newar	63.12	58.47	3.67	1846	0.635	0.471	0.4866	0.531	104.3	6
All Hill/Mountain groups without Newar	62.86	57.75	3.60	1699	0.631	0.465	0.4728	0.523	102.7	8
All Tarai/Madhesi groups with Muslim	61.59	42.34	2.37	1094	0.610	0.335	0.3993	0.448	88.0	17
All Tarai/Madhesi groups without Muslim	61.69	43.74	2.47	1143	0.612	0.346	0.4066	0.455	89.3	14
Others	66.35	57.97	3.70	2227	0.689	0.469	0.5180	0.559	109.7	4

Source: NDHS 2006 and NLS 2003/04.

TABLE 4

Number of cases/observations used to calculate the mean years of schooling, adult literacy and income for the 11 caste and ethnic groups with regional divisions

Caste and ethnic group	Population under 15 years of age	Population aged 15 and over	Number of households
Hill Brahman	3,849	2,877	551
Hill Chhetri	6,166	4,267	733
Tarai/Madhese Brahman/Chhetri	282	216	37
Tarai/Madhese other castes	3,629	2,459	360
Hill Dalits	2,282	1,488	312
Tarai/Madhese Dalits	1,509	1,036	128
Newar	1,366	1,003	379
Hill Janajati	7,172	4,960	907
Tarai/Madhese Janajati	4,228	2,985	270
Muslim	1,198	785	165
Others	708	521	31
Total	32,388	22,597	3,873

Source: NDHS 2006 and NLSS 2003/04.

TABLE 5

Number of cases/observations used to calculate the mean years of schooling, adult literacy and income for the 20 caste and ethnic groups with social and regional divisions

Caste group	Population aged under 15 years of age	Population aged 15 and over	Number of household
All Brahman/Chhetri	10,297	7,360	1,321
Hill Brahman	3,849	2,877	551
Hill Chhetri	6,166	4,267	733
Tarai/Madhese Brahman/Chhetri	282	216	37
Other Tarai/Madhese	3,629	2,459	360
All Dalits	3,791	2,525	440
Hill Dalits	2,282	1,488	312
Tarai Dalits	1,509	1,036	128
Newar	1,366	1,003	379
All Janajati excluding Newar	11,399	7,945	1,177
Hill Janajati	7,172	4,960	907
Tarai Janajati	4,228	2,985	270
Muslim	1,198	785	165
All Janajati including Newar	9,647	8,948	1,556
All Hill Janajati including Newar	8,538	5,963	1,286
All Hill/Mountain groups with Newar	20,835	14,595	2,882
All Hill/Mountain groups without Newar	12,765	13,593	2,503
All Tarai/Madhese groups with Muslim	10,846	7,480	960
All Tarai/Madhese groups without Muslim	19,469	6,696	795
Others	708	521	31

Source: NDHS 2006 and NLSS 2003/04.

ANNEX 3 Statistical tables

TABLE 1 Representation of caste /ethnic groups and gender in the FPTP electoral system of the Constituent Assembly, Nepal, April 2008

Party name	Hill Brahman/ Chhetri/ Thakuri	Janajati excluding Tharu	Madhesi including Tharu	Hill Dalits	Muslim	Female	Male	Total
Unified CPN (Maoist)	56	40	16	8	0	23	97	120
Nepali Congress	21	8	7	0	1	2	35	37
CPN (UML)	18	10	4	0	1	1	32	33
Madhesi People's Rights Forum, Nepal	1	1	25	0	3	2	28	30
Tarai Madhes Loktantrik Party	0	0	9	0	0	1	8	9
Sadbhawana Party	0	0	4	0	0	0	4	4
Janamorcha Nepal	1	1	0	0	0	0	2	2
Nepal Workers and Peasants Party	0	2	0	0	0	0	2	2
Independents	0	0	1	0	1	0	2	2
Rastriya Janamorcha	1	0	0	0	0	0	1	1
Total	98	62	66	8	6	29	211	240
Percent (a)	40.8	25.8	27.5	3.3	2.5	12.1	87.9	100.0
Proportion of caste/ethnicity in total population (b)	30.9	23.1	31.5	7.9	4.3	50.5	49.5	-
Representation ratio (a/b)	1.3	1.1	0.9	0.4	0.6	0.2	1.8	-

Source: *Nepal Magazine* 4 May 2008.

TABLE 2 Number of seats of political parties in CA election, Nepal, 2008

No	Political parties	FPTP result	PR result	Total	Nominees [*]	Grand total
1	Unified CPN (Maoist)	123	105	228	10	238
2	Nepali Congress	36	73	109	5	114
3	CPN (UML)	34	70	104	5	109
4	Madhesi People's Rights Forum	29	22	51	2	53
5	Tarai-Madhes Loktantrik Party	9	11	20	1	21
6	Sadbhawana Party (Mahato)	4	5	9	1	10
7	Rastriya Prajatantra Party	0	8	8	-	8
8	CPN (ML)	0	8	8	1	9
9	CPN (United)	0	5	5	-	5
10	Nepal Workers and Peasants Party	2	2	4	1	5
11	Rastriya Janamorcha	1	3	4	-	4
12	Rastriya Prajatantra Party Nepal	0	4	4	-	4
13	Rastriya Janashakti Party	0	3	3	-	3
14	Rastriya Janamukti Party	0	2	2	-	2
15	CPN (Unified)	0	2	2	-	2
16	Nepal Sadbhawana Party (Anandi Devi)	0	2	2	-	2
17	Nepali Janta Dal	0	2	2	-	2
18	Sanghiya Loktantrik Rastriya Manch	0	2	2	-	2
19	Samajbadi Prajantantrik Janta Party Nepal	0	1	1	-	1
20	Dalit Janajati Party	0	1	1	-	1
21	Nepal Pariwar Dal	0	1	1	-	1
22	Nepal Rastriya Party	0	1	1	-	1
23	Nepal Loktantrik Samajbadi Dal	0	1	1	-	1
24	Chure Bhawar Rastriya Ekata Party Nepal	0	1	1	-	1
	Independents	2	0	2	-	2
	Total	240	335	575	26	601

^{*} Refers to 26 members nominated from various sections of society to make a 601-member CA.

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

TABLE 3

Representation of different caste/ethnic groups and gender in the house of representatives, Nepal, 1991, 1994 and 1999

Caste/ ethnic groups	Population	Percentage of population	Representation of different caste and ethnic groups		
			1991	1994	1999
Hill caste groups	702,320	30.89	114 (55.6%)	129 (62.9%)	122 (59.5%)
Brahman	-	-	37.6	42.0	46.3
Chhetri	-	-	18.1	19.5	17.1
Dalit	1,692	7.11	1(0.5%)	-	-
Kirat/Mongol					
Ethnic groups	501,131	22.04	34 (16.6%)	24 (11.7%)	28 (13.7%)
Newar	124,532	5.58	14 (6.8%)	12 (5.8%)	14 (6.8%)
Ethnic groups of inner Madhes	251,117	1.11	1 (0.5%)	-	-
Madhesi castes	3,464,249	15.24	18 (8.7%)	22 (10.7%)	29 (14.1%)
Madhesi Dalits	904,924	3.99	-	-	-
Madhesi ethnic groups	2,814,927	8.11	18 (8.8%)	14 (6.8%)	10 (4.9%)
Muslim	971,056	4.27	5 (2.4%)	4 (1.6%)	2 (1.0%)
Female	11,377,556	50.04	7 (3.4%)	7 (3.4%)	12 (5.8%)
Male	11,359,378	49.96	198 (96.6%)	198 (96.6%)	193 (94.1%)

Source: CBS 2003; Election Portal [<http://www.nepalelectionportal.org/EN/elections-in-nepal/electoral-system.php>].

TABLE 4

Representation of different caste/ethnic groups in parliament, Nepal, 1959-1999

Caste/ ethnicity	1959		1967		1978		1981		1986		1991		1994		1999	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Brahman	30	27.5	30	24.2	27	21.9	14	12.5	23	20.5	77	37.7	86	41.9	77	38.7
Chhetri	34	31.2	47	37.9	46	37.4	41	36.6	43	38.4	39	19.1	40	19.5	44	22.1
Newar	4	3.7	15	12.1	10	8.1	9	8.0	7	6.2	14	6.9	13	6.3	14	7.0
Janajati (except Newar)	21	19.3	21	16.9	28	22.8	36	32.1	29	25.9	48	23.5	38	18.5	35	17.6
Tarai high and middle castes	18	16.5	11	8.9	11	8.9	10	8.9	10	8.9	21	10.3	24	11.7	27	13.6
Muslim	2	1.8	-	-	1	0.8	2	1.8	0	0	5	2.4	4	2.0	2	1.0
Dalits	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total	109	100.0	124	100.0	123	100.0	112	100.0	112	100.0	204	100.0	205	100.0	199	100.0

Source: UNDP/RIPP and NTG 2006; and Neupane 2005.

Note: Percentages may exceed hundred because of rounding up the decimals.

TABLE 5

Representation of caste and ethnicity in different sectors of society, Nepal, 1999 and 2005

Sector	BCTS		Nationalities		Madhesi		Dalits		Newar		Others		Total	
	1999	2005	1999	2005	1999	2005	1999	2005	1999	2005	1999	2005	1999	2005
Public sector	235	82	42	7	56	9	4	2	36	14	-	-	373	114
Political sector	97	93	25	20	26	11	-	1	18	14	-	-	166	139
Private sector	7	21	-	3	15	30	-	-	20	42	-	-	42	96
Civil society	69	94	3	9	8	18	-	1	16	19	-	-	96	141
Total	408	290	70	39	105	68	4	4	90	89	-	-	677	490
Percentage (a)	60.3	59.2	10.3	7.9	15.5	13.9	0.6	0.8	13.3	18.2	-	-	100.0	100.0
Caste in total population - %(b)	31.6	30.9	22.1	23.1	30.9	31.5	8.8	7.9	5.6	5.5	1.1	1.1	100.0	100.0
Ratio (a/b)	1.9	1.9	0.5	0.3	0.5	0.4	0.1	0.1	2.4	3.3	-	-	-	-

Note: The public sector includes supreme court, constitutional bodies, cabinet, Secretariates, lower and upper houses, whereas political sector includes leaders of political parties. Similarly, private sector refers to leadership of Federation of Nepali Chamber of Commerce and Industry (FNCCI) and Chamber of Commerce. Civil society includes the chiefs of different professional groups and media house.

BCTS refers to Hill Brahman, Chhetri, Thakuri and Sanyasi.

Source: Neupane 2005.

TABLE 6

Representation of caste and ethnicity in state organs, Nepal, 1999 and 2005

Sector	BCTS		Nationalities		Madhesi		Dalits		Newar		Others		Total	
	1999	2005	1999	2005	1999	2005	1999	2005	1999	2005	1999	2005	1999	2005
Supreme Court	16	11	0	0	0	0	0	0	0	0	0	0	16	11
Council of Ministers	20	8	4	1	5	1	-	-	5	2	-	-	34	12
Total	36	19	4	1	5	1	0	0	5	2	0	0	50	23
Percentage (a)	72.0	82.6	8.0	4.3	10.0	4.3	-	-	10.0	8.7	-	-	100.0	100.0
Caste in total population - % (b)	31.6	30.9	22.1	23.5	30.9	31.5	7.9	-	5.6	5.5	1.1	1.1	-	100.0
Ratio (a/b)	2.3	2.7	0.4	0.2	0.3	0.1	-	-	1.8	1.6	0.0	0.0	-	-

Note: Lower and upper houses of two-chamber legislature are not included because there was no lower house in 2005. BCTS refers to Hill Brahman, Chhetri, Thakuri and Sanyasi.

Source: Neupane 2005.

TABLE 7

Participation of caste and ethnic groups in the leadership positions of judiciary, executive, legislature and constitutional bodies, Nepal, 2005

Sector	BCTS	Nationalities	Madhesi	Dalits	Newar	Others	Total
Supreme Court	11	-	2	-	2	-	15
Commission for Investigation of Abuse of Authority	3	1	-	-	1	-	5
Election Commission	3	-	-	-	1	-	4
Office of the Attorney General	1	-	-	-	-	-	1
Office of the Auditor General	1	-	-	-	-	-	1
Public Service Commission	2	1	1	-	2	-	6
Council of Ministers	8	1	1	-	2	-	12
Central Administration- Secretary or its equivalent	28	1	1	-	3	-	33
Lower House	-	-	-	-	-	-	-
Upper House	25	4	4	2	3	-	38
Total	82	8	9	2	14	-	115
Percentage	71.3	7.0	7.8	1.7	12.2	-	100.0

Source: Neupane 2005. BCTS refers to Hill Brahman, Chhetri, Thakuri and Sanyasi.

TABLE 8

Participation of caste and ethnic groups in the central level committee/bureau, Nepal, 2005

Political party	BCTS	Nationalities	Madhesi	Dalits	Newar	Others	Total
Nepali Congress (Central Committee)	22	3	3	-	1	-	29
CPN (UML-Central Committee)	31	4	1	-	6	-	42
National Democratic Party	22	8	6	1	4	-	41
CPN (Maoist-Polite Bureau)	18	5	1	-	3	-	27
Total	93	20	11	1	14	-	139
Percentage	66.9	14.4	7.9	0.7	10.1	-	100.0

Source: Neupane 2005. BCTS refers to Hill Brahman, Chhetri, Thakuri and Sanyasi.

TABLE 9

Participation of caste and ethnic groups in the leadership positions of Federation of Nepali Chamber of Commerce and Industry and Chamber of Commerce, Nepal, 2005

Organisation	BCTS	Nationalities	Madhesi	Dalits	Newar	Others	Total
Federation of Nepalese Chambers of Commerce and Industry	16	2	14	-	27	-	59
Nepal Chamber of Commerce	5	1	16	-	15	-	37
Total	21	3	30	-	42	-	96
Percentage	21.9	3.1	31.2	-	43.7	-	100.0

Source: Neupane 2005. BCTS refers to Hill Brahman, Chhetri, Thakuri and Sanyasi.

TABLE 10

Participation of caste and ethnic groups in the leadership positions of civil society organisations, Nepal, 2005

Organisation	BCTS	Nationalities	Madhesi	Dalits	Newar	Others	Total
Nepal Press Federation	18	1	1	-	1	-	21
NGO Federation	11	-	2	1	2	-	16
Nepal Bar Association	14	2	-	-	1	-	17
Nepal Professor Association	14	-	3	-	2	-	19
Nepal Teacher Union	12	1	5	-	6	-	24
Nepal Medical Association	7	1	5	-	1	-	14
Nepal Engineering Association	9	1	2	-	3	-	15
Nepal Nursing Association	9	3	-	-	3	-	15
Total	94	9	18	1	19	-	141
Percentage	66.7	6.4	12.8	0.7	13.5	-	100.0

Source: Neupane 2005. BCTS refers to Hill Brahman, Chhetri, Thakuri and Sanyasi.

TABLE 11

Class-wise caste and ethnic composition in gazetted level employees

S.N.	Caste/ethnic groups	Special class	Gazetted level			Total	
			First class	Second class	Third class	Number	%
1	Brahman	24	230	1,161	3,306	4,721	58.3
2	Chhetri	6	63	283	728	1,080	13.3
3	Dalit	0	3	11	60	74	0.9
4	Newar	7	68	374	703	1,152	14.2
5	Janajati (excluding Newar)	1	3	70	190	264	3.3
6	Madhesi, Muslim and Marwari	0	30	237	538	805	9.9
	Total	38	397	2,136	5,525	8,096	100.0
	Percentage	0.5	4.9	26.4	68.2	100.0	

Source: Nijamati kitabkhana (civil service) records 2006.

TABLE 12 Recruitment of police, Nepal, during May 2006-April 2008

Caste/ethnicity	Biratnagar	Bharatpur	Butwal	Nepalgunj	Dipayal	Total	Percent
Dalit	28	64	51	122	43	308	5.1
Janajati	191	209	148	85	13	646	10.7
Madhesi	570	421	250	308	29	1,578	26.2
Women	142	118	100	46	33	439	7.3
Others	423	490	559	776	810	3,058	50.7
Total	1,354	1,302	1,108	1,337	928	6,029	100.0

Source: Ministry of Home records.

TABLE 13 Women's representation in local government, Nepal, 1997-2002

Local bodies	Total representation	Share of women (%)
District Development Councils	10,000	1.5
DDC	1,117	6.7
Municipalities	4,146	19.5
Village Development Committees	50,857	7.7
Village Councils	183,865	2.1
Ward Committees	176,031	20.0

Source: UNDP/Nepal 2004.

TABLE 14 Women's representation in civil service by class and level, Nepal, 1991-2000

Class	Number of civil servants	% of women	
		1991	2000
Special	85	3.5	2.4
First	633	5.1	4.1
Second	2,719	4.9	3.2
Third	7,418	5.3	5.2
Non-gazetted	87,834	8.0	8.2
Total	98,689	7.7	7.8

Source: UNDP/Nepal 2004.

TABLE 15

A summary of events in the process of decentralisation in Nepal

Year	Events	Impact
1951	End of Rana rule and advent of Democracy	Ushered new ideas for development and welfare of the people.
1956	Tribhuvan Village Development Programme introduced by US and Indian Aid	Village Development Centres established and Block Development Officer appointed to co-ordinate rural development.
1961	Introduction of Panchayat System of Polity	Establishment of local institutions called as the Panchayats at village and district Levels.
1962	Promulgation of the Constitution of Nepal 2019	
1963	Viswabandhu Thapa Commission on Decentralisation of Administration	Major Recommendations: (a) Provision of district and village level cabinets (b) Delegation of law and order responsibility to villages (c) Enactment of Local Administration Act.
1966	Promulgation of Local Administration Act	Establishment of 75 districts in the place of already existing 35 districts.
1967	Bhojraj Ghimire Committee to look into the implementation of decentralisation	Major Recommendations: (a) Decentralization of power to local level institutions (b) Appointment of Chief District Officer as District Panchayat Secretary (c) Provision of government financial grants to local panchayats.
1968	Vedananda Jha Commission on Administrative Reform	Recommendation of administrative reforms and reorganization
1969	Jaya Prakash Committee to examine effectiveness of decentralisation scheme	Major Recommendations: (a) Co-ordination among various central level ministries (b) Formulation of District Level Plans by District Panchayat and its implementation by Chief District Officer.
1970	Decentralisation Committee	Recommendations made for the strengthening of decentralization.
1970	Implementation of the Fourth Plan (1970-75)	Regional planning was introduced during the fourth five-year plan. A growth pole development strategy was conceptualized under which the country was divided into 4 development regions each with a growth pole.

Year	Events	Impact
1974	Implementation of District Administration Plan	All district line agencies of development ministries put under the authority of Chief District Officer, and were made responsible for the formulation of district development plan.
1975	Implementation of Small Area Development Programme	Concepts of growth centres and growth corridors introduced in ten areas.
1976	Bhekh Bahadur Thapa Administrative Reform Commission	Administrative reform was recommended both at central and local levels.
1976	Integrated Rural Development Projects launched with International Bank for Reconstruction and Development Assistance.	
1978	Implementation of Integrated Panchayat Development Decision	The authority for formulating and approving plans was given to the village and district assemblies and Panchayats; service centres were recommended.
1980	Creation of Ministry of Panchayat and Local Development	The responsibility of coordinating all rural development projects and programmes was assigned to this ministry.
1981	Formation of Decentralisation Sub-committee	It worked out Decentralization Act 1982.
1982	Decentralisation Act 1982	Devolution of decision making power to local level panchayats for their development.
1984	Decentralisation Byelaws	The Act was to be implemented all over the country up to 1991 on a phase wise basis.
1999 2000	Decentralisation Act 1999 Decentralisation Rules 2000	The act and rules have set an unprecedented policy shift by legally endorsing the concept of self-governance and devolution of authorities to local bodies. They clearly defined the objectives, principles and policies, duties and responsibilities, inter-agency relationship for local governance in the country.

Source: Updated from Tiwari 1991.

TABLE 16

Literacy by caste/ethnicity and regional identity: Women

Percent distribution of women age 15-49 years by level of schooling attended and level of literacy, and according to caste/ethnicity and region, Nepal, 2006

Caste/ethnicity and regional identity	No schooling or primary school										Percentage literate ¹
	Secondary school or higher	Can read a whole sentence	Can read part of a sentence	Cannot read at all	No card with required language	Blind/visually impaired	Missing	Total	Number		
All Brahman/Chhetri	44.4	15.4	8.8	31.3	0.0	0.0	0.0	100.0	3,539	68.6	
Hill Brahman (B)	59.5	14.7	7.9	17.9	0.0	0.0	0.0	100.0	1,344	82.1	
Hill Chhetri (C)	34.0	16.0	9.4	40.6	0.0	0.0	0.0	100.0	2,099	59.4	
Madhesi B/C	61.6	12.6	8.2	17.5	0.0	0.0	0.0	100.0	96	82.5	
Madhesi other castes	12.1	6.4	5.7	75.8	0.0	0.0	0.0	100.0	1,124	24.2	
All Dalits	11.8	14.4	8.7	64.8	0.0	0.2	0.1	100.0	1,261	34.8	
Hill Dalits	16.0	19.2	11.0	53.4	0.0	0.1	0.2	100.0	765	46.3	
Madhesi Dalits	5.2	6.9	5.1	82.5	0.0	0.3	0.0	100.0	496	17.2	
Newar	46.1	19.8	8.7	25.4	0.0	0.0	0.0	100.0	453	74.6	
All Janajati (excluding Newar)	26.4	20.7	9.9	42.9	0.2	0.0	0.0	100.0	3,816	56.9	
Hill Janajati	29.5	22.9	7.5	39.7	0.3	0.0	0.0	100.0	2,433	60.0	
Tarai Janajati	20.9	16.6	14.0	48.5	0.0	0.0	0.0	100.0	1,383	51.5	
Muslim	12.0	8.5	5.9	73.5	0.0	0.0	0.0	100.0	389	26.5	
Others	20.8	25.3	16.3	37.7	0.0	0.0	0.0	100.0	211	62.3	
Total	29.3	16.3	8.9	45.4	0.1	0.0	0.0	100.0	10,793	54.5	
All Hill/Mountain groups	36.1	18.7	8.6	36.4	0.1	0.0	0.0	100.0	7,092	63.4	
All Tarai/Madhesi groups	16.0	10.9	9.0	64.1	0.0	0.0	0.0	100.0	3,488	35.9	

¹ Refers to women who attended secondary school or higher and women who can read a whole sentence or part of a sentence. Source: MDHS 2006

TABLE 17 Literacy by caste/ethnicity and regional identity: men

Percent distribution of men age 15-49 years by level of schooling attended and level of literacy, and according to caste/ethnicity and region, Nepal, 2006

Caste/ethnicity and regional identity	Secondary school or higher	No schooling or primary school						Total	Number	Percentage literate ¹
		Can read a whole sentence	Can read part of a sentence	Cannot read at all	No card with required language	Blind/visually impaired				
All Brahman/Chhetri	75.4	14.1	3.2	7.1	0.1	0.0	100.0	1,192	92.8	
Hill Brahman	86.5	8.7	1.7	3.1	0.0	0.0	100.0	456	96.9	
Hill Chhetri	67.1	18.5	4.4	10.0	0.0	0.0	100.0	690	90.0	
Madhesi B/C	90.1	2.1	1.8	3.2	2.9	0.0	100.0	46	93.9	
Madhesi other castes	44.5	17.0	10.5	28.0	0.0	0.0	100.0	481	72.0	
All Dalits	23.2	28.8	7.9	40.1	0.0	0.0	100.0	437	59.9	
Hill Dalits	26.4	33.8	8.8	31.0	0.0	0.0	100.0	243	69.0	
Madhesi Dalits	19.2	22.5	6.8	51.5	0.0	0.0	100.0	194	48.5	
Newar	70.0	20.7	2.8	6.5	0.0	0.0	100.0	169	93.5	
All Janajati (excluding Newar)	45.8	24.2	9.5	20.2	0.0	0.2	100.0	1,341	79.6	
Hill Janajati	48.1	27.1	7.3	17.2	0.0	0.3	100.0	783	82.4	
Tarai Janajati	42.7	20.2	12.7	24.5	0.0	0.0	100.0	558	75.5	
Muslim	25.5	25.9	10.5	38.2	0.0	0.0	100.0	127	61.8	
Others	(75.8)	(14.1)	(7.6)	(2.6)	(0.0)	(0.0)	(100.0)	107	(97.4)	
Total 15-49 years	53.5	20.3	7.2	18.9	0.0	0.1	100.0	3,854	81.0	
Total men 15-59 years	49.7	21.3	7.7	21.2	0.0	0.1	100.0	4,397	78.7	
All Hill/Mountain groups	60.5	21.2	5.2	13.0	0.0	0.1	100.0	2,341	86.9	
All Tarai/Madhesi groups	40.0	19.4	10.6	30.0	0.1	0.0	100.0	1,405	69.9	

¹ Refers to men who attended secondary school or higher and men who can read a whole sentence or part of a sentence.

Note: Figures in parenthesis are based on 25-49 un-weighted cases.

Source: NDHS 2006 Survey Data.

TABLE 18

Educational attainment by caste/ethnicity and regional identity: women

Percent distribution of women age 15-49 years by highest level of schooling attended or completed, and median grade completed, according to caste/ethnicity and region, Nepal, 2006

Caste/ethnic and regional identity	Highest level of schooling							Number of women	Median grade
	No education	Some primary	Completed primary ¹	Some secondary	Completed secondary ²	More than secondary	Total		
All Brahman/Chhetri	38.4	11.3	5.8	27.5	8.7	8.3	100.0	3,539	4.1
Hill Brahman	26.2	9.5	4.7	32.3	13.0	14.3	100.0	1,344	7.0
Hill Chhetri	47.4	12.0	6.5	24.6	5.4	4.0	100.0	2,099	1.0
Madhesi B/C	13.4	18.9	6.0	22.7	21.4	17.5	100.0	96	7.8
Madhesi other castes	74.6	9.2	4.2	10.7	1.0	0.5	100.0	1,124	-
All Dalits	69.0	15.2	4.0	10.5	0.8	0.6	100.0	1,261	-
Hill Dalits	58.8	20.2	5.0	14.3	0.8	0.9	100.0	765	-
Madhesi Dalits	84.7	7.5	2.5	4.6	0.6	0.0	100.0	496	-
Newar	32.8	17.1	4.0	27.3	9.7	9.1	100.0	453	4.0
All Janajati (excluding Newar)	54.9	12.6	6.1	21.3	2.8	2.3	100.0	3,816	-
Hill Janajati	48.5	15.0	7.0	22.5	3.8	3.1	100.0	2,433	-
Tarai Janajati	66.1	8.5	4.5	19.1	1.1	0.7	100.0	1,383	-
Muslim	77.6	8.3	2.1	10.1	1.6	0.4	100.0	389	-
Others	54.0	19.1	6.1	12.7	6.3	1.8	100.0	211	-
Total	53.1	12.3	5.3	20.6	4.6	4.1	100.0	10,793	-
All Hill/Mountain groups	44.1	13.8	6.0	24.4	6.1	5.7	100.0	7,092	2.1
All Tarai/Madhesi groups	71.3	8.8	3.9	13.4	1.6	1.0	100.0	3,488	-

¹ Completed 5 grades at the primary level.

² Completed 10 grades at the secondary level.

Source: NDHS 2006 Survey Data.

TABLE 19 Educational attainment by caste/ethnicity and regional identity: men

Percent distribution of men age 15-49 years by highest level of schooling attended or completed, and median grade completed, according to caste/ethnicity and region, Nepal 2006

Caste/ethnic and regional identity	Highest level of schooling							Median grade	
	No education	Some primary	Completed primary ¹	Some secondary	Completed secondary ²	More than secondary	Total		
All Brahman/Chhetri	7.5	10.5	6.6	39.5	11.4	24.4	100.0	1,192	8.2
Hill Brahman	3.4	4.2	5.9	39.0	13.3	34.3	100.0	456	8.9
Hill Chhetri	10.5	15.0	7.3	41.4	9.9	15.8	100.0	690	7.3
Madhesi B/C	1.4	5.6	2.9	16.4	16.2	57.5	100.0	46	11.2
Madhesi other castes	24.9	22.2	8.5	29.3	10.9	4.2	100.0	481	4.3
All Dalits	34.1	34.8	7.9	18.5	2.9	1.8	100.0	437	2.0
Hill Dalits	24.5	40.2	9.0	22.9	0.6	2.9	100.0	243	2.6
Madhesi Dalits	46.2	28.1	6.5	13.0	5.8	0.4	100.0	194	0.0
Newar	6.5	14.8	8.7	28.8	8.9	32.3	100.0	169	8.0
All Janajati (excluding Newar)	21.0	24.0	9.2	34.6	5.5	5.8	100.0	1,341	4.5
Hill Janajati	17.7	26.9	7.3	35.9	5.6	6.6	100.0	783	4.7
Tarai Janajati	25.5	20.0	11.8	32.8	5.2	4.6	100.0	558	4.4
Muslim	42.0	22.2	10.4	22.5	1.4	1.6	100.0	127	2.5
Others	(6.7)	(14.1)	(3.5)	(43.9)	(15.4)	(16.5)	(100.0)	107	7.2
Total 15-49 years	18.4	20.1	8.0	33.2	8.0	12.2	100.0	3,854	5.6
Total men 15-59 years	21.5	20.8	8.0	30.9	7.6	11.3	100.0	4,397	5.0
All Hill/Mountain groups	12.7	19.5	7.3	36.3	8.1	16.2	100.0	2,341	6.7
All Tarai/Madhesi groups	28.9	21.6	9.5	27.4	7.2	5.4	100.0	1,405	3.9

¹ Completed 5 grades at the primary level.

² Completed 10 grades at the secondary level.

Note: Figures in parenthesis are based on 25-49 unweighted cases. Source: NDHS 2006 Survey Data.

TABLE 20 Grade repetition and dropout rates by caste/ethnicity and regional identity

Repetition and dropout rates for the de facto household population age 5-24 years who attended primary school in the previous school year by school grade, according to caste/ethnicity and regional identity, Nepal, 2006

Background characteristics	School grade				
	1	2	3	4	5
REPETITION RATE¹					
Ethnicity					
All Brahman/Chhetri	28.0	9.6	7.8	8.5	5.0
Hill Brahman (B)	18.2	10.1	5.1	5.6	5.4
Hill Chhetri (C)	32.6	9.7	9.4	9.9	4.9
Madhesi B/C	16.6	0.0	0.0	8.8	0.0
Madhesi other castes	29.9	4.1	6.3	5.5	5.3
All Dalits	36.2	15.0	11.4	9.1	14.1
Hill Dalits	37.1	18.7	13.5	9.4	18.7
Tarai/Madhesi Dalits	34.4	4.4	5.1	8.0	0.0
Newar	18.4	8.1	4.1	13.5	6.0
All Janajati (excluding Newar)	27.6	12.0	11.5	13.5	11.4
Hill Janajati	25.1	14.1	12.1	15.8	8.9
Tarai Janajati	30.6	7.3	10.1	9.2	15.6
Muslim	5.8	6.0	0.0	0.0	0.0
Others	13.2	23.3	0.0	16.4	0.0
Total (based on 7,681 households with caste/ethnicity reported by men/women)	28.2	10.6	9.0	10.4	8.1
Total (based on all 8,707 households)	28.0	10.6	8.8	10.4	8.3
All Hill/Mountain groups	28.3	12.5	9.9	11.5	7.6
All Tarai/Madhesi groups	28.7	5.5	7.3	7.1	9.9
DROPOUT RATE²					
Ethnicity					
All Brahman/Chhetri	0.4	0.2	0.7	0.8	2.3
Hill Brahman	0.0	0.0	0.6	1.5	1.6
Hill Chhetri	0.6	0.3	0.8	0.5	2.3
Madhesi B/C	0.0	0.0	0.0	0.0	13.3
Madhesi other castes	0.4	0.0	0.5	2.0	3.4
All Dalits	0.9	2.3	2.4	2.2	0.5
Hill Dalits	0.8	1.9	3.2	1.5	0.6
Tarai/Madhesi Dalits	1.3	3.4	0.0	4.4	0.0
Newar	0.0	0.0	0.0	3.3	0.0
All Janajati (excluding Newar)	0.8	0.4	1.0	2.1	7.3
Hill Janajati	1.3	0.5	1.5	2.9	9.2
Tarai Janajati	0.2	0.2	0.0	0.6	4.1
Muslim	0.0	0.0	0.0	5.7	4.0
Others	2.4	0.0	0.0	0.0	2.6
Total (based on 7,681 households with caste/ethnicity reported by men/women)	0.6	0.5	0.9	1.8	4.1
Total (based on all 8,707 households)	0.7	0.6	1.0	2.1	4.1
All Hill/Mountain groups	0.7	0.5	1.2	1.8	4.3
All Tarai/Madhesi groups	0.4	0.4	0.2	1.8	3.9

¹ The repetition rate is the percentage of students in a given grade in the previous school year who are repeating that grade in the current school year.

² The dropout rate is the percentage of students in a given grade in the previous school year who are not attending school in the current school year.

Note: The NDHS 2006 has not collected the caste and ethnicity information from the household questionnaire, however, caste and ethnicity identity was collected from the individual questionnaire such as that of the women questionnaire which has been administered to the women of age 15-49 years only. Therefore, while processing the information contained in the table, caste and ethnicity identity of household has been found identifying such information from women's questionnaire; however, as all the households do not have eligible women of 1-49 years, it has become difficult to identify the caste and ethnicity household of about 1026 households. Therefore, total values of the indicators are reported for both the two totals: one for which the caste and ethnicity has been identified and the other for which it was not.

TABLE 21 Early childhood mortality rates by caste/ethnicity and regional identity

Neonatal, post-neonatal, infant, child, and under-five mortality rates for the ten-year period preceding the survey, by caste/ethnicity and region, Nepal, 2006

Caste/ethnicity and regional identity	Neonatal mortality (NN)	Post neonatal mortality ¹ (PNN)	Infant mortality (1q0)	Child mortality (4q1)	Under-five mortality (5q0)
All Brahman/Chhetri	34	25	59	18	76
Hill Brahman	18	18	36	10	45
Hill Chhetri	42	28	70	23	91
Madhesi B/C	11	43	55	0	55
Madhesi other castes	44	19	64	24	86
All Dalits	44	25	68	23	90
Hill Dalits	41	28	69	28	95
Madhesi Dalits	49	18	67	15	81
Newar	24	12	36	7	43
All Janajati (excluding Newar)	36	24	59	22	80
Hill Janajati	34	22	56	22	76
Tarai Janajati	38	28	66	23	87
Muslim	56	13	68	13	80
Others	32	11	43	0	43
All Hill/Mountain groups	35	24	58	20	77
All Tarai/Madhesi groups	44	21	65	20	84

¹ Computed as the difference between the infant and neonatal mortality rates.
Source: NDHS 2006 Survey Data.

TABLE 22

Antenatal care by caste/ethnicity and regional identity

Percent distribution of women who had a live birth in the five years preceding the survey by antenatal care (ANC) provider during pregnancy for the most recent birth, and the percentage of most recent births receiving antenatal care from SBA, according to caste ethnicity and region, Nepal, 2006

Caste/ethnicity and regional identity	Health assistant/worker				Traditional birth attendant			Percentage receiving antenatal care from SBA ¹			
	Doctor	Nurse/midwife	Health assistant/worker	MCH worker	VHW	FCHV	Other	No one	Total	Percentage receiving antenatal care from SBA ¹	Number of women
All Brahman/Chhetri	28.9	28.1	9.4	11.0	1.3	0.1	0.0	20.6	100.0	57.0	1,249
Hill Brahman	42.7	32.9	7.9	6.4	0.6	0.0	0.0	9.2	100.0	75.6	406
Hill Chhetri	21.0	25.9	10.4	13.4	1.7	0.2	0.0	26.7	100.0	46.9	820
Madhesi B/C	(67.2)	(19.1)	(3.3)	(5.0)	(0.0)	(0.0)	(0.0)	(5.4)	(100.0)	(86.4)	23
Madhesi other castes	17.7	22.5	13.8	14.1	1.9	0.0	0.2	23.5	100.0	40.2	486
All Dalits	14.8	25.4	12.5	13.7	3.7	0.5	0.3	28.1	100.0	40.2	594
Hill Dalits	19.5	22.1	9.4	12.3	2.9	0.0	0.0	33.8	100.0	41.6	355
Madhesi Dalits	7.9	30.3	17.1	15.8	4.9	1.1	0.7	19.7	100.0	38.2	239
Newar	46.5	21.9	7.4	5.4	1.6	0.0	0.0	17.2	100.0	68.4	141
All Janajati (excluding Newar)	16.1	17.9	12.9	15.8	2.1	0.1	0.5	33.5	100.0	33.9	1,331
Hill Janajati	17.8	16.7	11.4	8.4	2.0	0.2	0.8	41.8	100.0	34.5	897
Tarai Janajati	12.5	20.2	16.0	31.0	2.2	0.0	0.0	16.2	100.0	32.7	434
Muslim	14.9	16.6	25.9	13.8	3.6	0.0	0.0	22.2	100.0	31.5	194
Others	(24.8)	(6.2)	(22.2)	(24.4)	(1.6)	(0.0)	(0.0)	(19.2)	(100.0)	(31.0)	71
Total	21.2	22.5	12.5	13.5	2.1	0.1	0.2	26.2	100.0	43.7	4,066
All Hill/Mountain groups	24.4	23.1	10.0	10.0	1.8	0.1	0.3	29.6	100.0	47.6	2,620
All Tarai/Madhesi groups	14.8	22.2	16.6	19.5	2.8	0.2	0.2	20.1	100.0	37.0	1,376

¹ SBA includes doctor, nurse and mid-wife.

Note: Figures in parenthesis are based on 25-49 unweighted cases, therefore the figures should be used cautiously as they are not much robust.

MCH = Maternal and Child Health; VHW = Village Health Worker; FCHV = Female Community Health Volunteer.

Source: NDHS 2006 Survey Data.

TABLE 23 Assistance during delivery by caste/ethnicity and regional identity

Percent distribution of live births in the five years preceding the survey by person providing assistance during delivery, percentage of births assisted by SBA and the percentage delivered by caesarean-section, according to caste/ethnicity and region, Nepal, 2006

Caste/ethnicity and regional identity	Person providing assistance during delivery										Total	Percent delivered by SBA ¹	Percent delivered by c-section	Blood transfusion of births	Number
	Doctor	Nurse/midwife	Health assistant/health worker	Traditional birth attendant	FCHV	Relative/other	No one	Percent delivered by SBA ¹							
All Brahman/Chhetri	14.8	10.8	4.2	7.5	2.8	51.9	8.0	100	25.6	4.6	0.9	1,652			
Hill Brahman	21.7	16.3	6.1	5.7	4.1	39.3	7.0	100	38.0	6.8	0.3	521			
Hill Chhetri	10.2	8.2	3.4	8.0	2.2	59.2	8.8	100	18.4	2.9	1.1	1,099			
Madhesi B/C	(62.9)	(6.7)	(2.7)	(17.3)	(0.0)	(10.3)	(0.0)	(100)	(69.7)	(27.9)	(3.2)	32			
Madhesi other castes	6.1	9.8	5.3	33.5	4.4	39.7	1.1	100	15.9	1.6	0.1	722			
All Dalits	5.0	5.5	2.4	22.1	2.3	54.2	8.4	100	10.5	1.3	0.2	848			
Hill Dalits	6.2	7.7	2.3	10.4	1.1	59.8	12.6	100	13.9	1.3	0.2	525			
Madhesi Dalits	3.0	1.9	2.7	41.2	4.3	45.2	1.6	100	4.9	1.2	0.1	323			
Newar	31.8	18.1	3.9	8.2	1.2	33.7	3.0	100	49.9	5.9	1.8	182			
All Janajati (excluding Newar)	8.1	6.2	4.5	20.7	1.3	51.7	7.5	100	14.3	1.9	0.4	1,773			
Hill Janajati	9.4	6.4	3.8	5.7	0.9	63.6	10.2	100	15.7	2.4	0.5	1,216			
Tarai Janajati	5.4	5.7	6.0	53.5	2.0	25.6	1.7	100	11.2	0.9	0.2	557			
Muslim	5.3	7.8	3.3	33.3	0.6	46.7	3.0	100	13.1	1.0	0.4	288			
Others	34.4	1.8	1.3	13.7	0.0	46.2	2.5	100	36.2	1.4	0.0	80			
Total	10.4	8.3	4.1	18.8	2.2	49.7	6.5	100	18.7	2.7	0.5	5,545			
All Hill/Mountain groups	12.1	9.2	3.8	7.3	1.8	56.6	9.3	100	21.3	3.2	0.7	3,542			
All Tarai/Madhesi groups	6.2	6.9	4.7	40.3	3.0	37.1	1.6	100	13.1	1.7	0.2	1,921			

¹ SBA includes doctor, nurse and mid-wife.

Notes: Figures in parenthesis are based on 25-49 unweighted cases; not robust because of the fewer number of observations.

FCHV = Female and Community Health Volunteer.

Source: MDHS 2006 Survey Data.

TABLE 24

Nutritional status of children by caste/ethnicity and regional identity

Percentage of children under five years classified as malnourished according to three anthropometric indices of nutritional status: height-for-age, weight-for-height, and weight-for-age, by caste ethnicity/region, Nepal, 2006

Caste/ethnicity and regional identity	Height-for-age			Weight-for-height			Weight-for-age			
	Stunting			Wasting			Underweight			
	Percentage below-3 SD ¹	Percentage below-2 SD	Mean Z-score (SD)	Percentage below-3 SD ¹	Percentage below-2 SD	Mean Z-score (SD)	Percentage below-3 SD ¹	Percentage below-2 SD	Mean Z-score (SD)	Number of children
All Brahman/Chhetri	18.1	47.1	-1.9	2.5	10.9	-0.8	7.8	34.7	-1.6	1,584
Hill Brahman	15.2	41.1	-1.7	2.3	15.8	-0.9	7.4	35.6	-1.6	517
Hill Chhetri	19.9	50.7	-1.9	2.5	8.6	-0.7	8.1	34.5	-1.6	1,038
Madhesi B/C	(6.8)	(22.3)	(-1.3)	(6.4)	(8.6)	(-0.9)	(0.0)	(24.0)	(-1.4)	29
Madhesi other castes	20.2	52.3	-2.0	3.4	19.8	-1.2	15.0	48.2	-2.0	676
All Dalits	25.1	56.6	-2.2	3.3	15.4	-1.0	15.1	48.4	-2.0	787
Hill Dalits	26.2	57.1	-2.2	3.5	13.2	-0.9	13.5	45.8	-1.9	496
Madhesi Dalits	23.3	55.6	-2.1	3.1	19.2	-1.2	18.0	52.7	-2.1	291
Newar	9.3	33.1	-1.3	0.0	2.3	-0.3	2.9	10.2	-1.0	173
All Janajati (excluding Newar)	20.1	48.0	-1.9	2.5	10.6	-0.7	8.8	35.3	-1.6	1,695
Hill Janajati	25.3	53.3	-2.1	1.2	6.5	-0.5	8.1	33.0	-1.5	1,161
Tarai Janajati	8.6	36.3	-1.5	5.2	19.6	-1.3	10.3	40.2	-1.7	534
Muslim	26.3	58.3	-2.2	2.8	17.3	-1.1	19.8	52.1	-2.0	257
Others	(17.0)	(32.2)	(-1.7)	(0.0)	(6.3)	(-0.7)	(11.0)	(26.1)	(-1.5)	86
Total	20.2	49.3	-1.9	2.6	12.6	-0.8	10.6	38.6	-1.7	5,258
All Hill/ Mountain groups	21.4	50.2	-2.0	2.1	9.3	-0.7	8.5	34.6	-1.6	3,385
All Tarai/Madhesi groups	17.9	48.4	-1.9	3.8	19.1	-1.2	14.5	46.7	-1.9	1,786

¹ Includes children who are below -3 standard deviations (SD) from the International Reference Population median.

Excludes children whose mothers were not interviewed.

First born twins (triplets, etc.) are counted as first births because they do not have a previous birth interval.

Includes children whose mothers are deceased.

For women who are not interviewed, information is taken from the Household Questionnaire. Excludes children whose mothers are not listed in the Household Questionnaire.

Note: Figures in parenthesis are based on 25-49 unweighted cases. Table is based on children who stayed in the household the night before the interview.

Each of the indices is expressed in standard deviation units (SD) from the median of the NCHS/CDC/WHO International Reference Population.

Table is based on children with valid dates of birth (month and year) and valid measurement of both height and weight.

Source: NDHS 2006 Survey Data.

TABLE 25 Vaccinations by caste/ethnicity and regional identity

Percentage of children age 12-23 months who received specific vaccines at any time before the survey (according to a vaccination card or the mother's report), and percentage with a vaccination card, by caste/ethnicity and region, Nepal, 2006

Caste/ethnicity and regional identity	DPT			Polio			Hepatitis 3			All basic vaccinations ¹	No vaccinations	Percentage with a vaccination card seen of children
	1	2	3	1	2	3	1	2	3			
All Brahman/Chhetri	95.6	92.9	91.8	97.6	95.6	93.6	78.1	74.7	72.0	89.9	2.2	28.3
Hill Brahman	97.8	97.8	96.8	98.8	98.2	97.8	87.5	84.6	81.2	92.9	1.2	31.1
Hill Chhetri	94.5	94.2	90.8	97.0	94.2	91.8	73.1	69.9	67.4	88.5	2.8	26.0
Madhesi B/C	*	*	*	*	*	*	*	*	*	*	*	*
Madhesi other castes	96.4	95.2	90.6	100.0	98.7	98.4	73.4	71.8	63.3	80.7	0.0	28.7
All Dalits	84.6	85.0	82.2	95.0	88.0	81.8	66.9	59.5	56.6	71.3	4.5	28.7
Hill Dalits	83.5	84.1	80.1	96.7	86.9	79.3	68.3	60.1	55.8	72.8	2.6	30.2
Tarai/Madhesi Dalits	(86.7)	(86.7)	(86.0)	(91.7)	(90.1)	(86.7)	(64.0)	(58.4)	(58.2)	(68.5)	(8.3)	(25.7)
Newar	(98.8)	(98.8)	(97.7)	(100.0)	(100.0)	(98.8)	(85.6)	(84.5)	(80.0)	(96.2)	(0.0)	(55.4)
All Janajati (excluding Newar)	92.8	90.7	88.7	95.7	93.4	89.3	78.4	74.1	72.3	86.8	3.4	35.7
Hill Janajati	90.4	88.2	85.6	94.4	91.3	86.4	72.3	66.2	64.8	83.3	4.3	32.6
Tarai Janajati	98.4	96.8	96.2	98.7	98.4	96.2	93.4	93.4	90.5	95.5	1.3	43.2
Muslim	(96.3)	(96.3)	(92.9)	(96.9)	(92.9)	(92.9)	(67.4)	(64.0)	(64.0)	(77.3)	(3.1)	(23.2)
Others	*	*	*	*	*	*	*	*	*	*	*	*
Total	93.4	92.7	90.4	96.9	94.1	91.1	76.3	72.3	69.4	85.0	2.7	31.8
All Hill/Mountain groups	92.3	91.5	88.9	96.5	93.1	89.5	75.0	70.2	67.7	85.6	2.9	31.1
All Tarai/Madhesi groups	95.6	95.1	93.5	97.7	96.3	94.6	78.1	75.8	72.1	83.3	2.3	33.0

¹BCG, measles and three doses each of DPT and polio vaccine.

Note: Figures in parenthesis are based on 25-49 unweighted cases.

An asterisk indicates that a figure is based on fewer than 25 unweighted cases and has been suppressed.

Source: NDHS 2006 Survey Data.



The end of the Cold War worldwide generally moved the focus of armed conflict from clashes between states to tensions within them. Preventing and averting civil war requires allowing all citizens to resolve their differences through representation and participation in the various fora of state and society from the local through to the national level. Redressing exclusion and inequality requires vastly different approaches to varied sets of circumstances – political, cultural, social, economic, and those created by gender. This report focuses especially on the structure of the state, emphasizing the importance of inclusion as a trigger for the improvement in other dimensions as well.

As this Report argues, representation can become a catalyst for creating a society that offers greater equality and justice to all in a number of spheres. And a significant change in political representation demands active, equitable involvement of those now excluded from the processes of framing and implementing policy. This calls first and foremost for opening state structures to participation by groups that have never before engaged in governance. It means transforming the State and Nepali society as the vast majority of the country's inhabitants have known it through most of their lives. This report explores how reform of the electoral system, enhancement of the democratic culture of political parties, and greater decentralisation can widen and deepen the quality of representation and participation, and thus democracy.

Nepal has only recently emerged from a decade of civil war and is navigating a fragile peace. Protecting these vital achievements requires managing popular expectations through rule of law, transitional justice, improving access to services by the poor and excluded, fostering a sense of national community and creating a new constitution. It also will entail managing a nation-building process alongside a state restructuring project.

With the Comprehensive Peace Accord as a starting point, the Nepal National Human Development Report 2009 attempts to explore the relationships between inclusion, human development and the role of state transformation as a means to these ends. It argues that if inclusion is to be sustained in future, it also requires the fair political representation and integration of various cultural groups and regions in nation building. The Report invites all Nepali stakeholders to engage in the debate on the structure of the state, the modes of democracy they want, and the ways in which they can reconcile their differences harmoniously.

Without peace, human development is not possible, and without human development, peace is not sustainable.

Nepal Human Development
Report 2009
State Transformation and Human Development

