Exclusionary Democratization in Nepal, 1990–2002

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Procedural processes like periodic elections based on universal adult franchise, political rights and civil liberties may not ensure the inclusion of minorities in governance of multiethnic democracies. The Nepali case shows that exclusion from governance may in fact increase in new democracies. However, as the open polity facilitates awareness and mobilization among the disadvantaged groups, the over all effect, despite the exclusion, is democratization. The exclusion, however, could lead to the derailment of democracy as sections of the excluded groups question the legitimacy of the process that excludes them while others support non-democratic forces. This study discusses the role of historical legacies, majoritarian political institutions, informal norms, and political elite attitudes and behaviour for the continuation or increase in political exclusion in Nepal.

Key words: exclusion; democratization; institutions; representation; Nepal

Introduction

Does the introduction of democracy generally lead to the progressive inclusion of traditionally excluded groups? Literature on democratization contains both affirmative and negative answers to this question. This article will reconcile this apparent contradiction. It will show that inclusion at one level could exist with exclusion at another level. The case from Nepal will show that exclusion in governance could *increase* in new democracies with universal adult franchise.

An implicit assumption among scholars of democracy and democratic activists is that the introduction of democracy leads to inclusion. With successive global waves of democracy, more countries democratized, and more people were included in the polities.[1] Robert Dahl developed his widely accepted definition of polyarchy, or democracy in the real world, from the notion that countries democratize as participation in the polity increases, along with competition for elected offices.[2] The concept of democracy is built upon the notion that it is the rule of the people, by the people and for the people. When the 'people' is understood as everyone through the extension of universal suffrage, the polity is considered inclusive.[3]

However, even with universal adult franchise, exclusion has occurred in many countries. In Sri Lanka, the exclusion of Tamils increased after independence when democratic elections became the norm in the country.[4] Exclusion led to the demise

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of democracy in many African countries such as Kenya, Cameroon, and Chad.[5] Many indigenous peoples (in Peru, for example), Afro-Americans in Latin American countries (as in Brazil), and Roma in Eastern Central European countries are excluded despite democratic elections.[6] The exclusion of women and minorities from influential governance positions continue even in established democracies like the United States.[7]

How does one reconcile the apparent contradictory claims of inclusion and exclusion in democracies? This article argues that the claims and counter claims of inclusion and exclusion in democracies can be reconciled if we analyze inclusion beyond suffrage rights. More people have gained the right to vote after successive waves of democratization but that did not result in increased inclusion of minorities in governance in many countries. In fact, exclusion from governance increased for some groups in some countries.

Democratization and Exclusion

If exclusion continues, countries may not be democratizing. In fact, exclusion could derail the democratization process. It is generally accepted that it is difficult but not impossible to consolidate democracies in multiethnic countries. Problems could precipitate if majority groups win elections and formulate policies that benefit their groups and harm others. The excluded groups may question the legitimacy of the decisions and may not accept them.[8] This could destabilize polities. Linz and Stepan argue that without addressing the issue of nationalism, democratization is difficult to achieve: as long as some groups in multiethnic polities remain dissatisfied with the way the state is defined, the polity may not acquire the legitimacy required for consolidation.[9] The surveys of freedom conducted by Freedom House support this argument. Many third wave democracies that did not consolidate are multi-ethnic polities.[10]

Tomes have been written on democratization, and many adjectives have been used to discuss different problems encountered by new democracies. For instance, the presence of periodic elections without liberal constitutional rights have been called 'illiberal democracies'[11] or electoral democracies, as opposed to 'liberal democracies' that have both political rights and civil liberties.[12] 'Competitive authoritarianism' refers to the political system of countries with more or less independent judiciary, media, and civil society but where the rulers sporadically abuse power to influence electoral outcomes to remain in power.[13] Polities where the effective power of the elected leaders is limited and political competition, elections, and civil and political liberties are constrained have been termed 'semi-democracies.'[14] One-party dominance and the hegemonic party system are systems where the relatively institutionalized ruling party monopolizes the political arena and denies opposition opportunities to gain power.[15] Many new democracies have often failed to consolidate, on the other hand, due to the lack of horizontal accountability. The executives undermine powers of other government branches and concentrates power in itself, leading to unrestrained abuse of power.[16] Many of these regimes have been called 'hybrid regimes' as they are neither democracies nor autocracies.[17]

In the Freedom House index, many of them fall into 'Partly Free' categories, in between 'Free' and 'Not Free' regimes.[18] On the other hand, non-democratic regimes that attempt to present a democratic façade by holding multiparty elections have been called 'electoral authoritarian' or 'pseudodemocratic'.[19] The numerous typologies used to describe the varied forms and subtypes of democracy have led to some scholars to call the phenomena 'democracy with adjectives'.[20]

This rich literature, however, does not describe a phenomenon that this writer calls exclusionary democratization, the increase or continuation of the political exclusion of traditionally marginalized socio-cultural groups from governance despite universal suffrage and periodic elections. A few studies have discussed the effect of democratization on indigenous people and mobilization of gypsies.[21] Karen Remmer calls the restricted participation of citizens in competitive electoral polities 'exclusionary democracy'.[22] Her analysis, however, does not look beyond electoral participation. Others have pointed out that electoral politics in divided societies could lead to ethnic mobilisation and conflict.[23] Jack Snyder shows that new democracies are more prone to nationalist mobilization and violence.[24] Women scholars have pointed out the neglect of gender perspectives in democratization scholarship, including the overlooking of facts related with women in data sets.[25] However, no study has systematically analyzed the continued political exclusion of ethnic groups from decision-making positions and its consequences. This study aims to accomplish this goal in respect of Nepal. An analysis of inclusion/exclusion in decision-making bodies is important because it influences the formulation of public policies that affect the general public. Excluded groups' issues and problems may not get equal weight during deliberations and policies that are harmful to them might be adopted.[26] In such circumstances, excluded groups could become alienated and support non-democratic forces. This can undermine democracy.

This article discusses the causes and consequences of exclusion in Nepal, an area beyond the usual democratization study arenas of Latin America and Southern and Eastern Europe. An investigation of wider regions can be helpful in generating hypotheses and contesting, confirming or complicating assumptions and arguments derived from the analysis of just one or several similar regions.[27] This study generates a new hypothesis that could help us expand our understanding of why democracies fail to consolidate in divided societies.

Exclusionary Democratization in Nepal

Nepali democracy, restored in 1990 by a people's movement,[28] began to flounder from early on, despite some successes.[29] The successes include three parliamentary and two local elections held between 1990 and 2002. More people became empowered during the period as the traditionally excluded groups began to mobilize. The media witnessed a boom and civil society broadened. Service sectors like banking, insurance, and airlines grew and became more efficient.[30] However, corruption became widespread.[31] A culture of impunity grew as ruling leaders were not held accountable when they abused their power. Scholars have described the phenomena as a crisis of governance.[32] Power aggrandizement among and within political parties

and political leaders led to governmental instability. Twelve governments were formed in 12 years. Nepal also witnessed frequent strikes that shut down highways, towns, and the whole country by social groups and political parties seeking to make demands upon the state. The strikes were often implemented with coercion. Shops, educational institutions, and so forth were closed and transportation stopped by violence or the threat of it.[33] As disillusionment among the people increased, the Nepal Communist Party (Maoist) launched a violent rebellion in 1996.[34] It grew rapidly and undermined the fledgling liberal democracy.

The democratic years also witnessed the continued exclusion of minorities. The existing literature on ethnic politics in Nepal demonstrates cultural, political, and economic inequalities and exclusion and identifies social and political structural reasons for these problems.[35] The literature, however, does not discuss the empowerment of marginalized groups despite their exclusion in governance, nor does it analyze the contribution of exclusion to the derailment of democracy, or study the causes of exclusion comprehensively. This article will discuss the issues.

In a country of more than 60 ethnic groups, 100 languages, and half a dozen religions, the CHHEM (caste hill Hindu elite males) – or CHHE (caste hill Hindu elite), when both men and women are considered – consisting of Chhetri, Bahun, Thakuri, and Sanyasi, are the dominant group (30.89 per cent in 2001). They overwhelmingly dominate the political, social, and economic realms. The indigenous nationalities (36.31 per cent),[36] *dalit* or the traditional 'untouchable' Hindus (14.99 per cent), and *madhesi* or the plain people (22.30 per cent) are the marginalized groups. They collectively constitute more than two-thirds of the population.[37] The marginalized groups are either discriminated against culturally (unequal treatment of languages, religions, and so forth) or in terms of material well-being, employment, and access to public office, or on both levels.

The years 1990–2002 in Nepal can be described as exclusionary democratization. The phenomenon is a paradox. Democratization means the extension of political rights to more individuals and groups in a society. Indeed, the restoration of democracy in Nepal changed the political and societal conditions of the marginalized groups as well. They obtained considerable space to speak, organize, and mobilize for their rights.[38] These activities led to the recognition of their grievances and they pushed for an increased presence in governance. However, the political exclusion of marginalized national/ethnic/caste and regional groups, who are collectively a numeric majority, increased in some influential governance arenas after 1990 and continued in others. As will be shown later, the Parliament, civil service, cabinet, and judiciary demonstrated a continuation or an increase in the political exclusion compared to both the non-democratic Panchayat years (1960–1990) and the first parliamentary experiment in 1959–1960. This was despite the marginalized groups' dramatic increase in mobilization during the period. This contradictory phenomenon of continuation or increase in the political exclusion in governance despite universal adult franchise and the increase in political mobilization of marginalized groups can be called exclusionary democratization. The term describes both the positive aspects of increased rights and mobilization as well as the negative aspect of increase or continuation of political exclusion in governance.

This article intensively investigates the paradox of increased or continued political exclusion in Nepal during its democratic years (1990–2002) to understand its causes and consequences. It argues that the major factors of exclusion are the democratic majoritarian institutions adopted in 1990, the informal norms, the historical legacies of marginalization, and the lack of sensitivity of the political elite. While it is not surprising that majoritarian democratic institutions punish numerical minorities, this study shows that the institutions facilitated the domination of a collective majority by a minority, and the exclusion of the collective majority increased or continued vis-à-vis the previous non-democratic period.[39]

Explosion of Identity Movements after 1990

The post-1990 open environment saw an 'explosion' of identity and women's movements.[40] The movements increased the awareness of inequality and discrimination, constructed group identities, formulated and made demands upon the state and the dominant society, developed national and international network and advocacy skills, and broadened organizations.

Numerous associations, NGOs (non-governmental organizations), and partisan fronts of various national/ethnic/caste and religious groups and women emerged. Many groups have formed coalitions and federations. The Nepal Federation of Indigenous Nationalities (NEFIN) brought together more than 50 indigenous nationalities groups.[41] *Dalits* have also formed a federation of NGOs. Muslims have also formed loose coalitions even though they have not been as assertive as other groups.[42] *Madhesi* and indigenous nationalities have formed ethnic political parties as well. However, except for the *madhesi*'s Nepal Goodwill Party (NGP), which elected a few representatives in all the three parliamentary elections since 1990, no other ethnic party elected any legislators.

The movements have begun to reach a higher level of activism, as evidenced by emerging cross group and movement coalitions. More than 50 native language groups from the mountains, hills, and Tarai, the lowland tropical region, formed an all-Nepal linguistic coalition to fight against linguistic discrimination in 2000. Since 1999, a broad linguistic coalition has been protesting annually against the Supreme Court's decision to ban dual official languages in local governments. A national coalition consisting of representatives of linguistic, religious, ethnic/caste, and human-rights movements, the National Coalition Against Racial Discrimination, has been operating since 2000, after it was formed in preparation for The Third World Conference Against Racism in 2001. However, despite the significant growth in mobilization of the marginalized groups, their political inclusion in governance did not increase. In fact, as described below, the exclusion increased in some sectors and continued in others.

An Increase in Political Exclusion

The representation of indigenous nationalities declined after the restoration of democracy compared to the pre-1990 autocratic Panchayat epoch (see Table 1 and Figure 1). The representation of indigenous nationalities, excluding Newars, averaged 19.7 per cent in the four Panchayat Parliaments while it averaged 13.9 per cent in the three parliaments after 1990, a decline of six per cent. Their average representation

TABLE 1
NATIONAL/ETHNIC/CASTE AND GENDER REPRESENTATION IN PARLIAMENT, 1959–1999

	1959		1967		1978		1981		1986		Average of 1978, 1981, 1986	1991		1994		1999		Average of 1990s
	Democracy		Non-Democracy (*Panchayat*)									Democracy						
	No.	%	No.	%	No.	%	No.	%	No.	%		No.	%	No.	%	No.	%	
CHHE	64	58.7	77	61.6	73	57.5	55	49.1	66	58.9	56.8	116	56.6	126	61.5	121	59	59
Dalit	0	0	1	0.8	1	0.8	0	0	0	0	0.4	1	0.5	0	0	0	0	0.2
Indigenous-nationalities	17	15.6	19	15.2	24	18.9	25	22.3	25	22.3	19.7	31	15.1	25	12.2	30	14.6	13.9
Newar	4	3.7	15	12	10	7.9	9	8	7	6.3	8.5	14	6.8	13	6.3	14	6.8	6.7
Madhesi	24	22	13	10.4	19	14.9	23	20.5	14	12.5	14.6	43	20.9	41	20	40	19.5	20.2
Total	109	100	125	100	127	100	112	100	112	100	100	205	100	205	100	205	100	
Women	1						2	1.8	3	2.3	2.1*	7	3.4	7	3.4	12	5.9	4.2
							Intra CHHE Distribution											
Bahun	30	27.5	30	24	27	21.3	14	12.5	23	20.5	19.6	77	37.6	86	41.9	77	37.6	39
Chhetri	34	31.2	47	37.6	46	36.2	41	36.6	43	38.4	37.2	39	19	40	19.5	44	21.5	20

Sources: Harka Gurung, 'Sociology of Elections in Nepal', *Asian Survey*, Vol. 22, No. 3, pp. 304–14; FWLD, *Shadow Report* (Kathmandu: Forum for Women, Law and Development, 1999); Pancha Narayan Maharjan, *Electoral Politics in Nepal* (Banaras: Banaras Hindu University, 1994); Nepal Election Commission, *Facts and Figures on Elections in Nepal*, 2003, http://www.election-commission.org.np.

Notes: The 1959, 1991, 1994, and 1999 data are for the House of Representatives (upper house not included) while the *Panchayat* data do not include members nominated by the King. The 1967 and 1978 parliaments were formed through indirect elections. For 1967, there is no separate data for the Muslim: they were included in the *madhesi* category.

FIGURE 1
NATIONAL/ETHNIC/CASTE AND GENDER REPRESENTATION IN PARLIAMENT, 1959–1999

Source: As for Table 1.

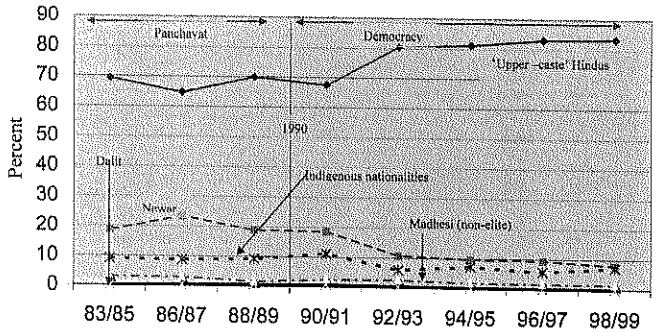
in the three elections since 1990 is also less than that during the first multi-party election in 1959 when it was 15.6 per cent. The representation of Newars, an indigenous nationalities group of the capital otherwise doing well in accessing resources also declined after 1990. For the *dalit*, the restoration of democracy has not made much difference. Only a single *dalit* was elected to the House of Representatives (HOR) in 1991.

The *madhesi* fared better in the post-1990 period compared to the Panchayat years. *Madhesi* averaged 14.6 during the Panchayat period and 20.2 per cent after 1990. However, their representation is still less than their proportion of the population, and is also less than 22 per cent of *madhesi* representation in 1959. Furthermore, it declined since the 1991 election. Conversely, the CHHE has done better in the post-1990 period; their participation increased by an average of two per cent compared to the Panchayat period.

The gap in civil administration has widened even more. Figure 2, with data from 1983 to 1999, displays a clear trend of the increased dominance of the 'upper caste' Hindus after the restoration of democracy while the representation of other groups further declined from their already marginalized position. The gap here widened further than the gap in the Parliament. From a high of 60 per cent during the 1980s, the Hindu 'high-caste' dominance reached more than 80 per cent in the 1990s.[43]

The comparison of representation in the cabinet, legislature, and the judiciary of the different national/ethnic/caste groups in 1959, representing the first 18-month democratic period, and 1999 also indicate a downward trend for the marginalized groups. From an average domination of below 60 per cent in 1959, the CHHE's representation crossed 60 per cent in 1999 in the three institutions. The CHHE domination in the Supreme Court, Parliament, and cabinet was 80 per cent, 58.7 per cent, and 52.6 per cent respectively in 1959 while it was 88.9 per

FIGURE 2
NATIONAL/ETHNIC/CASTE DISTRIBUTION OF CIVIL SERVICE EXAM GRADUATES, 1983–1999



Source: Chaitanya Subba, Amrit Yonjan, Nilamber Acharya, Laxmi Limbu, Shyamlal Krishna Shrestha, Sangini Ranamagar, and Dwarikanath Dhungel, *Adibasi/Janajatis in National Development* (Kathmandu: IIDS, 2002).

cent, 60.5 per cent, and 62.5 per cent respectively in 1999.[44] The *madhesi* and indigenous nationalities' representation declined in all of the three institutions. The representation of *dalits* in all the three institutions was nil in 1959 and after 40 years they were still nil in 1999.

Even though comparative data across time for other sectors is not available, the 1999 data suggests that the situation in other sectors may be similar. Neupane's national/ethnic/caste status data for 1999 shows the dominance of the CHHE in additional arenas such as politics (local government, party leadership), academia, industry, commerce, civil society, and the leadership of cultural associations. Jointly the CHHE and Newars were 36.37 per cent of the population in 2001, but they were holding on an average more than 80 per cent of leadership positions in important state arenas in 1999. Their domination was 95.1 per cent in civil administration, 90.62 per cent in the judiciary, 80 per cent in the constitutional commissions, 71.88 per cent in the cabinet, and 67.55 per cent in the Parliament (both houses) in 1999. Even the relatively progressive realms such as academia, media, and civil society demonstrate the negligible presence of marginalized groups. Neupane found that the combined CHHE and Newar dominance in the leadership of professional bodies of cultural, academic, science-technology, and civil society was 94.69 per cent, 88.66 per cent, 87.06 per cent, and 90.74 per cent respectively.[45] The extreme exclusion prevalent in Nepal can be better understood through the example of the *dalit*. Not a single *dalit* was made a minister during the entire period of 1990–2002. Except for one representative in the teaching and academic professional associations leadership and four members of the Upper House of the Parliament, a powerless institution, there was no *dalit* in any leadership position in the influential ten social, political, and economic sectors that Neupane investigated for 1999.

Absence of Inclusive Public Policies

In the context of exclusion from governance, marginalized groups did not fare much better in the policy realm either. Despite the mobilization and demands for social justice, the polity did not, except for a few minor interventions, formulate specific public policies to address the discrimination and inequality faced by women and national/ethnic/caste groups. Some symbolic steps to recognize marginalized groups were taken: a few postal stamps of famous persons belonging to the marginalized communities were issued; a Newar and a Sherpa woman were declared national heroes; a few ethnic groups obtained holidays for the groups during their festivals; and brief news reports began to be broadcast in a number of languages in the state radio.[46] Development committees for the *dalit* and indigenous nationalities were set up in late 1990s. *Dalit* and women's commissions were formed in 2002.[47] However, committee and commission members have complained of insufficient resources allocation. In the case of the *madhesi*, such programmes were not formulated, indicating the government's unwillingness to recognize them.[48]

Furthermore, the polity did not eliminate discriminatory laws that discriminated against the marginalized groups (discussed in the next section). The polity even ignored the directive principles of the Constitution (article 26.10), which directed the state to adopt policies to raise the standard of the socially and economically backward groups. The Constitution had directed many laws into legislation, but many laws were not legislated during the 1990s. The majority of laws not legislated by the Parliament concerned the disadvantaged groups.[49] Similarly, the Constitution ended untouchability. However, no laws were passed that would require the state to take initiatives against the practice of untouchability.

The dismal performance of the Nepali polity becomes more evident if we compare it with India. 15.5 and 7.5 per cent of positions are reserved for scheduled castes (*dalit*) and scheduled tribes (indigenous groups) in the Parliament and central civil administration in India. Minority group members have even become president and prime minister. Persons who treat others as untouchable are heavily penalized by the state. Ethnic parties are permitted to operate, the state was declared secular, and 18 languages are recognized (the discussions that follow will point out the Nepali state's contrasting attitude).

What happened during the 1990–2002 period in Nepal is ironic. The open polity facilitated the awareness of inequality and discrimination among marginalized groups. It led to marginalized groups organizing and making demands upon the state. The state's responses, however, were slow and minimal. Thus, despite some concessions from the state, the period saw an increased alienation and aggressiveness among the marginalized groups as the gap between the aspirations and demands and the state's responses widened.

Exclusion, Maoists, Monarchy and the Lack of Consolidation of Democracy

Political exclusion contributed to the erosion and, ultimately, the demise of representative democracy. The significant participation of the excluded groups in the Maoist insurgency and the King's cabinets show that exclusion led to dissatisfaction with the democratic regime and support for non-democratic forces.

The participation of the excluded groups such as the indigenous nationalities, *dalit*, and women have been significant in the Maoist insurgency since it began in 1996.[50] The participation of *madhesis* increased at a later stage. The representation of marginalized groups in the Maoist party and its leadership is much greater than in the mainstream parliamentary political parties. The Maoists adopted the major demands of the marginalized groups – the right to self-determination, cultural autonomy, federalism, a secular state, linguistic and gender equality – and penalized perpetrators of caste and gender discrimination. They formed regions along ethnic lines and were instrumental in eliminating compulsory Sanskrit from schools. The neglect of marginalized groups' issues by the state and major political parties led a large number of the marginalized groups to support the Maoists.

The Maoist insurgency achieved some positive results, such as undermining ethnic/caste and gender inequality. However, it undermined the fledgling liberal democracy. Not only were elections not possible due to the threats of the Maoists, but political rights and civil liberties were constrained by the Maoists in areas that they dominated. Many social activists, school teachers, and opposition political cadres were killed by the Maoists. Many more people died in the clashes between the security forces and the Maoists. The insurgency also developed a culture of violence. All this undermined the fledgling democracy and provided a rationale for the King to assume direct rule.

The King dismissed the elected government in 2002 and formed a cabinet, which he headed, in 2005.[51] A higher number of individuals from marginalized groups found space in the royal cabinets compared to those formed by the political parties during the 1990s, including several leaders of ethnic parties. For the first time, a leader of a hill ethnic party was made a minister, and a *madhesi* was elevated to the position of deputy prime minister. Several Muslims and *dalits* were included in the various cabinets.[52] Obviously, not all marginalized group members support the King or the Maoists, but the fact is that significant proportions of politically active marginalized group members and leaders supported non-democratic forces at various stages.[53] This shows that when people are excluded, they seek alternative means of gaining political voice and power. When democratic forces excluded marginalized groups, the non-democratic forces benefited. The argument here is not that the marginalized groups were the main factors behind the Maoist's success or the King's increasing power, but that their participation enhanced both these developments.[54] Thus, minorities, especially if they constitute a large population, should not be excluded if the aim is to reduce the likelihood of derailing democracy. This is evident even in the post-April 2006 transition process, which began after the King was forced to give up power and the subsequent government reached a settlement with the Maoists. The *madhesi* and indigenous nationalities launched movements in early 2007 demanding proportionate representation in the Constituent Assembly and an inclusive state in the new constitution. These demands have increased the uncertainty of the transition process.[55] Two JTMM (Janatantrik Tarai Mukti Morcha), splinter Maoist groups, *Madhesi* Tiger and Tarai Cobra, are also fighting insurgencies in the name of *madhesi* rights. More than 30 people have died in the *madhesi* movement. The *madhesi* and indigenous nationalities movements have clashed with the Maoist cadres. The lack of inclusion by major political parties, even after April 2006, and despite their rhetoric of inclusion, fuelled these movements, which suspect the sincerity of the major political parties dominated by the CHHE.

The Causes of Exclusion

Historical Legacies and Contemporary Exclusion

Historical legacies of marginalization and exclusion are important factors for the contemporary exclusion. I will discuss a few major instances, as comprehensive discussion is beyond the scope of this article. The codification of the caste system by Janga Bahadur in 1854 is an important event that marginalized the non-CHHE groups. It incorporated indigenous nationalities into the caste system as 'lower castes'. For the same crime, the 'lower caste' groups were punished more severely.[56] The minorities were restricted from high positions because of caste norms.

The feudal state distributed land to the priests and state functionaries, who mostly belonged to CHHE, to compensate for their services to the state.[57] Conquered lands, including those of the indigenous nationalities, were alienated for the purpose.[58] The usurpation of land created misery among the people, as land was the basis of sustenance for most of the population. The process contributed to the formation of a ruling elite, who mostly belonged to the CHHE. Likewise, the state discouraged education among the non-CHHE groups until the mid-20th century. It denied these people opportunities to develop capabilities and skills and kept them in the dark about their rights.

The policies created a sharp cleavage between the CHHE elite and others in terms of material resources, education, and political power, which continues in contemporary Nepal. Pervasive inequalities continue to hamper the social mobility of the marginalized groups. As 'control of economic resources, high caste status, identification with the hill culture, and a high level of educational attainment' are the prerequisites of successful participation in national politics,[59] the non-CHHE groups, who lack these prerequisites, continue to be excluded politically.

Historical discrimination has contributed to contemporary exclusion, but it does not explain the increase in political exclusion after 1990. If historical legacies were the only cause, then exclusion should have decreased because of the explosion of identity movements, which have been working to reduce the exclusion. Even if the effects of mobilization had been negligible, the level of representation of the marginalized groups should have remained more or less the same. The increase in the political exclusion after 1990 clearly demonstrates that other contemporary factors, which are the subject of discussions in the next sections, are responsible for the exclusion.

Exclusionary Formal Political Institutions

The increase in the political exclusion of some of the marginalized groups after the restoration of democracy implicates the post-1990 polity. However, democracy cannot be the cause for the increase in the exclusion. Global records show that

democratization generally has included more people in the polity. In this context, the relevant question is: which elements of the post-1990 polity were responsible for the increase in the exclusion?

Scholars have written extensively about exclusion in Nepal, especially after mid-1990s. However, very few have conducted a systematic analysis of the different causes of exclusion. Bhattachan identified the centralized unitary state and Lawoti showed that the majoritarian political institutions caused exclusion.[60] This article examines the role of formal institutions in exclusion more systematically and argues that other factors, such as informal institutions, and political elite, also contributed to the exclusion.

A large body of literature on democratization and political institutions has shown that democratic consolidation requires congruence between the society and formal structures.[61] With regard to multicultural societies, scholars have argued that power-sharing institutions are necessary to accommodate various cultural groups. Studies have demonstrated that majoritarian institutions that work in non-plural societies are not capable of addressing cultural cleavages in ethnically divided societies.[62] In fact, majoritarian institutions have been shown to lead to ethnic domination and violent conflicts. For instance, countries with unitary structures, a FPTP (first past the post) electoral method, and majoritarian party systems have been shown to be more prone to violent conflicts.[63] An investigation of Nepali electoral system and governance structure confirms the exclusionary nature of the majoritarian institutions.

Electoral System and Exclusion

The FPTP electoral system in Nepal has contributed to the exclusion of socio-cultural groups. Like elsewhere, compared to the Proportional Representative (PR) method, the FPTP in Nepal is biased toward big parties,[64] which are overwhelmingly dominated by CHHE males.[65] The consequence is the under- or non-representation of smaller identity-oriented parties in elected offices. The comparison of seats based on votes by different parties under the FPTP and PR methods in the three elections to the House of Representative after 1990 shows that the marginalized groups received less representation under the FPTP system (see Table 2). For instance, in 1999, the National Peoples Liberation Party (NPLP) of the indigenous nationalities with 1.11 per cent and the NGP of *madhesi* with 3.34 per cent of popular votes would have got three and seven seats respectively under a PR method, instead of zero and 5 seats under FPTP.[66] In the 1994 hung Parliament, the NPLP, with 1.18 per cent of popular vote, would have had three members. They probably would have been cabinet ministers, since major political parties wooed even independent members during the hung parliament, in order to frequently form new government. The PR electoral method may not result in the election of marginalized groups proportionate to their percentage of the population, but the Nepali case clearly demonstrates that representation of marginalized groups would have been better than under the FPTP method.

In a PR system, marginalized groups may obtain other indirect benefits as well. For instance, smaller countrywide parties like the NDP (National Democratic

TABLE 2
PARLIAMENT SEATS UNDER FPTP AND PR ELECTORAL METHODS, 1991, 1994, AND 1999

Political Parties	1991				1994				1999			
	Total vote	Vote %	FPTP	PR	Total vote	Vote %	FPTP	PR	Total vote	Vote %	FPTP	PR
NC	2,742,452	41.51	110	85	2,545,287	37.51	83	77	3,214,786	38.03	113	78
CPN-UML	2,040,102	30.88	69	63	2,352,601	34.67	88	71	2,734,568	32.35	68	67
CPN-ML									567,987	6.82		14
NDP-C	478,604	7.24	3	15					295,812	3.55		8
NDP-T	392,499	5.94	1	12								
NDP	-				1,367,148	20.15	20	41	902,328	10.83	12	22
NGP	298,610	4.52	6	9	265,847	3.92	3	8	278,435	3.34	5	7
NWPP	91,335	1.38	2	3	75,072	1.11	4	2	48,685	.58	1	1
UPFN	351,904	5.33	9	11	100,285	1.48		3	74,669	.90	1	2
CPN-D	177,323	2.68	2	6								
NPF												
NPLP	34,509	.52		1	79,996	1.18		3	121,426	1.46	5	3
Total									92,567	1.11		3

Source: Election Commission, 2003 and Nepal Home Page, 2003 (for CPN-ML and NPLP 1999 votes) http://www.nepalhomepage.com/politics/elections/general2056/factsfig/searchdata.php3
Note 1: For PR-method calculations, votes received by parties with 0.5 per cent and over were considered as the total vote; the votes of parties that received less than 0.5 per cent of the vote and independents were not counted (seats were distributed to political parties only). In calculating PR, the whole country was considered a single constituency and all seats were calculated based on total popular votes received. Vote % shows a revised percentage. This is slightly different from the election commission data. The largest decimals were rounded so that the seats distributed reached 205.
Note 2: NC=Nepali Congress; CPN-UML=Communist Party of Nepal- United Marxist-Leninist; NDP-T=National Democratic Party –Thapa; NWPP=Nepal Workers and Peasants Party; UPFN=United Peoples Front Nepal; CPN-D=Communist Party of Nepal – Democratic; NPF=National Peoples Front.

Party), the NCP-ML (Communist Party of Nepal, Marxist-Leninist), and NDP-C (National Democratic Party-Chand) in 1999 had a higher proportion of marginalized ethnic/caste groups in their central committees than the two largest parties. In all likelihood, these parties would have sent more marginalized group members to the Parliament if they had received seats based on their vote share.

Smaller ethnic/community oriented parties would have benefited psychologically and organizationally as well if their popular vote had yielded a proportionate number of seats in the Parliament. At present, since small ethnic parties have little chance of winning seats under FPTP, people do not vote for them, preferring candidates with a real chance of winning. The voters' psychology of voting for the winner would have worked less against the small parties in a PR system.

Unitary Governance Structure and Exclusion

The unitary state structure also contributed to the continued domination of the CHHE in Nepal. The CHHE is the largest ethnic group countrywide, facilitating their dominance of the centre.[67] The various national/ethnic/caste groups, many of whom are regionally concentrated, become minorities at the centre. Further, the dominant group forms majorities in different realms with select other groups. It is the largest linguistic

group (48.6 per cent) with the hill *dalit*, a Hindu majority (80.6 per cent) with *dalit* and Hindu *madhesi*, and a regional hill nationalist majority (67.7 per cent) with hill *dalits* and indigenous nationalities, and majority 'upper caste' (80 per cent) with indigenous nationalities, non-Hindus, and non-dalit *madhesi*. It is thus the majority or the largest group in every realm, whereas other groups become discriminated against in at least one sphere.

The control of the centre in a unitary system allowed the CHHE to impose public policies, which were often influenced by their values, on all other groups. The CHHE have influenced cultural, educational, and development policies, which have facilitated the political exclusion of marginalized groups. For instance, the policy of instruction in the Khas-Nepali language in schools resulted in a high dropout rate among non-native Khas-Nepali speakers.[68] The lower literacy rate among minorities has disadvantaged them in everyday life. It lowered their ability to articulate and demand rights, compete for political offices, and to be effective supporters of ethnic movements and parties, among other things.

The problems caused by a unitary system in a multicultural society can be understood better by analyzing the possibilities of an opposite type of structure – federalism. Federalism in plural societies allows different regional majority groups to self-govern on socio-cultural-political-developmental matters. Federalism is the most frequently used institutional tool to include diverse cultural groups in culturally plural societies. According to Alfred Stepan, 'every single longstanding democracy in a territorially based multilingual and multinational polity is a federal state'.[69] Federalism turns many groups into majorities in regions, allowing them to self-govern themselves in matters that affect them. Even if groups cannot become majorities, regionally clustered groups can become more influential in lobbying for policy changes at the regional level.[70] Thus, the political system is responsive to more minority groups in a federal structure. It may encourage minorities to become more mobilized, facilitating further empowerment. Further, in a federal system, the bureaucracy may increasingly reflect the regional composition because the regional governments would hire local people. Bureaucrats with proficiency in local languages and knowledge of specific local problems would be in a better position to deliver more efficient administration. The inclusion of more national/ethnic/caste members in regional politics and administration could ensure more public policies directed toward regional needs, instead of centrally directed policies that are often irrelevant regionally. Effective administrative, fiscal, and political decentralization could also benefit the marginalized groups. However, a centre with considerable power in a decentralized but unitary state would mean that the domination of CHHE would continue in more arenas than under federalism.[71]

Discriminating Constitutional Articles

Scholars and marginalized group activists have shown that many Constitution articles discriminate against them. NEFIN claimed that more than 25 articles of the Constitution discriminated against the indigenous nationalities. The Forum for Women, Law, and Development (FWLD) claimed that more than 50 constitutional and legal

provisions discriminated against women in issues relating to citizenship, inheritance, penal code, marriage, divorce, trafficking of women into the sex trade, rape, employment, and so on.[72] Although it is beyond the scope of this article to discuss all forms of constitutional discrimination, a few examples based on Krishna Bhattachan and Mahendra Lawoti's work are mentioned in order to deepen our understanding of this problem.[73]

Even though the 1990 Constitution called the state multiethnic and multi-linguistic, it did not equally recognize different languages, religions, and socio-cultural groups. For instance, the Constitution declared the state Hindu, effectively endowing the Hindu religion with privileged status. It facilitated laws based on Hindu jurisprudence, imposed Hindu value systems in governance by defining the rights and duties of the state and citizens based on Hindu norms, and initiated public policies imbued with CHHE values.[74] Killing a cow, a Hindu deity, for example, is punishable by 12 years of imprisonment. Members of the traditional beef-eating groups like the indigenous nationalities, Muslims, and *sarkis* (cobbler caste) have been imprisoned on charges of killing cows.

The constitutional articles 9.1 and 9.2 allowed the acquisition of citizenship through the father's lineage only, discriminating against women.[75] Article 8 (a) denied citizenship certificates to people whose parents and grandparents do not have citizenship certificates.[76] Many rural and poor people until a generation ago did not obtain citizenship certificates when they were distributed because they were not aware of their importance. In the Tarai the problem was compounded because the heavily hill-dominated administration suspected the *madhesi* of being migrants from India, and often obstructed their attempts to gain citizenship certificates.[77] The restrictive citizenship clause denied citizenship certificates during the 1990s to more than three million adult Nepalis even though they were allowed to cast their votes in elections.[78] Citizenship was denied mostly to the *madhesi*, but to the hill indigenous nationalities and *dalit* as well. In an environment where some groups have difficulties in obtaining citizenship certificates and where the minority languages, religions, and cultures are either not recognized equally by the state or discriminated against, individuals belonging to marginalized groups cannot compete equally with the dominant members, whose culture, language, and religion are promoted by the state.

A question could be asked as to whether the majoritarian institutions are really responsible for exclusion. A discussion of New Zealand, a long-established democracy, where majoritarian institutions were replaced for the purpose of addressing exclusion, is illustrative. The representation of Maori and Asians remained less than their population proportion until 1993 when New Zealand employed the FPTP method for elections. After it adopted a Mixed-Member Proportional system, the representation of Maori and Asians in Parliament increased considerably.[79] The case of New Zealand demonstrates that formal institutions can make a significant difference.

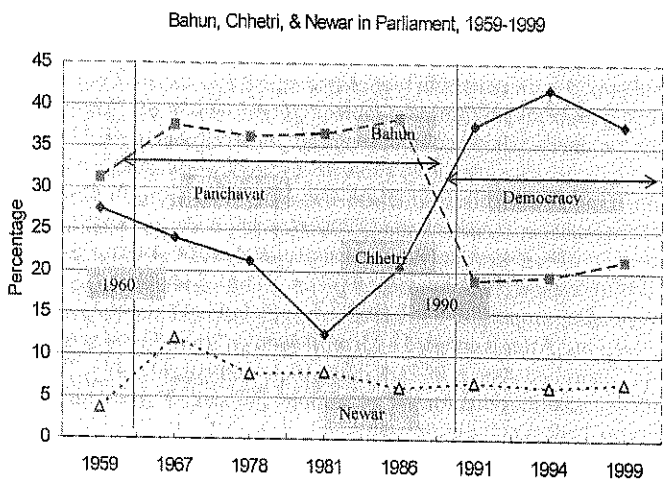
Informal Institutions and Exclusion

Even if the political parties of marginalized groups had won a proportionate number of seats under a PR method, as Table 2 shows, this number would have been higher

than under the FPTP method, but still relatively low. This indicates that while majoritarian institutions may have contributed towards exclusion, this is not a complete explanation. Informal institutions like patronage and nepotism, which are widespread and to a large extent based on caste, also facilitated exclusion.

Various studies have demonstrated that the caste system plays an important role in marginalization and inclusion/exclusion. Anthropologists have shown that by developing effective networks with administrators of the same caste group in the district headquarters, the village CHHE enhanced their domination of indigenous groups.[80] Bista formulated the notion of Bahunbad or Bahunism to explain the caste system and the fatalistic societal attitude for the marginalization of 'lower caste' groups and underdevelopment of pre-1990 Nepal.[81] The caste system has eroded to some degree over the years but its significant hold on politics even today is demonstrated by the behaviour of political actors. The dominant group political leaders mostly nominate family and caste brethren to important public offices. For instance, the dominant leadership rarely nominated *dalit* candidates during parliamentary elections, and as mentioned earlier, not a single *dalit* was inducted to the cabinet. The significance of the caste system also becomes evident if we look at the representation of Chhetri and Bahun in Parliament before and after 1990. In the pre-1990 days when the King, a Chhetri, was powerful, the Parliament was dominated by the Chhetri (37.2 per cent). On the other hand, since 1991, when Bahuns have led the major political parties, the proportion of Bahuns has increased sharply at the cost of Chhetris (see Table 1 and Figure 3). The Bahuns have gained nearly 20 per cent of seats while

FIGURE 3
BAHUN, CHHETRI, AND NEWAR IN PARLIAMENT, 1959–1999



Source: As for Table 1.

Chhetri dominance has decreased by 17 per cent. This shows that caste-based nepotism is very widespread despite its juridical abolition.[82] Here it should be noted that the attitudes of CHHE toward 'lower caste' groups are even more discriminating than between Bahuns and Chhetris.

Political Elite and Exclusion

The political elite have often been blamed for the political exclusion, as well as for corruption, instability and governance crises after 1990 in Nepal. The argument is that the political leadership could have included more marginalized groups in governance. This explanation is popular but interestingly, empirical studies on elite attitudes and behaviour with regard to democratic values (tolerance) and practices are mixed. Attitudes of Parliament members in 2000 showed that they were highly tolerant, meaning that they would allow marginalized groups to put forward demands and mobilize to achieve them.[83] If, on the contrary, the political elite had been intolerant, it could be blamed for exclusion, because its intolerance could have led to restrictions on marginalized groups' activities.[84] The behaviour of the elite in post-1990 years also supports the attitudinal findings. The marginalized groups were allowed to organize, express, and mobilize more or less freely (except for the constitutional ban on ethnic political parties). It shows that the political elite do not show overt and direct excluding behaviour. However, this does not mean that the CHHE elite had no role in the exclusion. As discussed before, *dalit* and other marginalized groups representation was low in public offices because the CHHE leadership did not nominate them as candidates or include them in the cabinet. Further, it was the CHHE leaders who adopted the formal institutions that were identified earlier as causes of exclusion. The CHHE overwhelmingly dominated the constitutional engineering process in 1990 and adopted the FPTP method, unitary structure, and discriminating constitutional articles, despite the demands for power-sharing institutions by marginalized groups.[85] Thus, even though the CHHEM may not be overtly exclusionary, their decisions have contributed to the exclusion of different groups.[86]

Blaming the Victims

Racist groups in Nepal blame the marginalized groups themselves for their lack of inclusion. Some CHHE members cite the lack of ability of marginalized groups as a reason for their exclusion. A comparison of Nepalis living in Nepal and India can debunk this popular myth. In the Indian states dominated by peoples of Nepali origin, the nationalities are doing extremely well, including occupying the highest public offices in the state of Sikkim and the autonomous hill region of Darjeeling. Unencumbered by any restrictions against them as in Nepal, the migrant nationalities of Nepali origin have performed well compared to the migrant CHHE in India. Furthermore, as discussed earlier, the movements of indigenous nationalities, *madhesi*, *dalit*, and women increased dramatically after 1990. It is another matter to argue that the mobilization of disadvantaged groups may not have been sufficient, but the dramatic growth of their movements clearly demonstrates that they did not lack initiative.

All in all, historical and contemporary factors, formal and informal political institutions, and the actions of the political elite combined to perpetuate the high level of exclusion, or even to increase exclusion, in some spheres, for some of the groups.

Exclusionary Democratisation: Beyond Nepal

Is political exclusion a short-term phenomenon? Will democracies eventually correct this problem in due course? First, the Nepali and New Zealand cases show that exclusion may not be a short-term phenomenon, especially if majoritarian institutions have been adopted. Second, even if we assume that procedural majoritarian democracies have the capacity to eventually address the problem, it may be too late. Democracies may destabilize, as in Nepal, or violent ethnic conflicts and civil wars may ensue, as evidenced in many culturally divided societies.

This article has shown that the procedural aspects of democracy such as periodic elections, an open polity, and individual political rights and civil liberties, are not enough to ensure the inclusion of diverse socio-cultural groups in governance in multicultural societies. Despite an increase in voice, organization, and mobilization in the post-1990 open Nepal, the exclusion of some marginalized groups increased in influential decision-making bodies. In fact, procedural aspects may have contributed to the legitimization of domination, showing off a 'democratic' façade. The CHHE elite claimed that the 1990 Constitution was the best in the world. Not a single article was amended despite demands by the marginal groups. The NC and CPN-UML commanded a two-thirds majority in the Parliament throughout the 1990s, the requirement for amending the Constitution.

Exclusion from governance, however, does not mean that the marginalized groups were worse off. Increase in awareness, organization, and mobilization and even a few minor reforms and policies toward the groups show that they fared better than before. However, the overall consequence with regard to democracy was not positive. An increase in awareness increased aspirations and the continued exclusion from governance widened the gap between demands and met expectations. Resulting frustration and alienation reduced the legitimacy of the democratic system and helped derail democracy.

By showing that exclusion can in fact increase under democracy, this study forces us to interrogate elements of democracy that may otherwise be beyond questioning due to the high legitimacy carried by anything 'democratic'. Such an interrogation can lead to identifying 'democratic' causes of the non-consolidation of democracies. This study makes it clear that it is imperative to study political exclusion systematically in other parts of the world as it may be a significant factor hindering the consolidation of democracies in multiethnic societies.

The concept of exclusionary democratization can be extended to describe polities where exclusion continues despite having an open polity and periodic elections. The exclusion need not increase as in Nepal. Democracies can be deemed exclusionary if open and competitive processes do not lead to the reduction in the exclusion. As discussed above, many social groups in Latin America, Eastern Europe, Asia, and Africa are excluded. It is also well known that women's participation in the parliament and executive is minimal even in established democracies, despite women having universal suffrage for considerable periods. Thus, the concept could be employed to understand and deepen democracies even in established democracies, be they culturally plural or non-plural societies.

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NOTES

1. Robert A Dahl, *On Democracy* (New Haven, CT: Yale University Press, 1998); Samuel P. Huntington, *The Third Wave* (Norman, OK: University of Oklahoma Press, 1991); John Markoff, *Waves of Democracy* (Thousand Oaks, CA: Pine Forge Press, 1996).
2. Robert A Dahl, *Polyarchy* (New Haven: Yale University Press, 1971).
3. Charles Taylor, 'The Dynamics of Democratic Exclusion', *Journal of Democracy*, Vol. 9, No. 4 (1998), pp. 143–56.
4. Neil DeVotta, 'From Ethnic Outbidding to Ethnic Conflict: The Institutional Bases for Sri Lanka's Separatist War', *Nations and Nationalism*, Vol. 11, No. 1 (2005), pp. 141–59.
5. Donald Horowitz, 'Democracy in Divided Societies', in L. Diamond and M. F. Plattner (eds), *Nationalism, Ethnic Conflict, and Democracy* (Baltimore, MD: The John Hopkins University, 1994), pp. 35–55; W. Arthur Lewis, *Politics in West Africa* (New York: Oxford, 1965).
6. Zoltan Barany, 'Ethnic Mobilization without Prerequisites', *World Politics*, Vol. 54, No. 1 (2002), pp. 277–307; Ted Robert Gurr, *Peoples Versus States* (Washington DC: United Institute of Peace Press, 2000); Donna Lee Van Cott, 'Building Inclusive Democracies: Indigenous Peoples and Ethnic Minorities in Latin America', *Democratization*, Vol. 12, No. 5 (2005), pp. 820–37; Deborah J. Yashar, *Contesting Citizenship in Latin America* (Cambridge: Cambridge University Press, 2005). Van Cott and Yashar point out that in countries where indigenous people have been empowered, like Bolivia, they have been successful in electoral politics.
7. Christina Wolbrecht and Rodney E. Hero (eds), *The Politics of Democratic Inclusion* (Philadelphia, PA: Temple University Press, 2005).
8. Horowitz (note 5), Arend Lijphart, *Democracy in Plural Societies* (New Haven, CT: Yale University Press, 1977).
9. Juan J. Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation* (Baltimore, MD The John Hopkins University Press, 1996).
10. Based on the analysis of 117 electoral democracies in 1998, Karatnycky says that multiethnic democracies are nearly two-and-a-half times more likely to be only Partly Free than are monoethnic (where more than two-thirds of the population belong to the dominant group) ones. Adrian Karatnycky, 'The Decline of Illiberal Democracy', *Journal of Democracy*, Vol. 10, No. 1 (1999), pp. 112–25.
11. Fareed Zakaria, 'Illiberal Democracy', *Foreign Affairs*, Vol. 76, No. 6 (1997), pp. 22–43.
12. Larry Diamond, 'Thinking About Hybrid Regimes', *Journal of Democracy*, Vol. 13, No. 2 (2002), pp. 21–35; Andreas Schedler, 'The Menu of Manipulation', *Journal of Democracy*, Vol. 13, No. 2 (2002), pp. 36–50.
13. Steven Levitsky and Luncan A. Way, 'The Rise of Competitive Authoritarianism', *The Journal of Democracy*, Vol. 13, No. 2 (2002), pp. 51–65.
14. Larry Diamond and Juan J. Linz, 'Introduction: Politics, Society, and Democracy', in Larry Diamond, Juan J. Linz, and Seymour Martin Lipset (eds), *Democracy in Developing Countries*, (Boulder, CO: Lynne Rienner, 1989), pp. 1–58.
15. Dorothy Solinger, 'Ending One-Party Dominance: Korea, Taiwan, Mexico', *Journal of Democracy*, Vol. 12, No. 1 (2001), pp. 348–53.
16. Guillermo O'Donnell, 'Horizontal Accountability in New Democracies', *Journal of Democracy*, Vol. 9, No. 3 (1998), pp. 112–26.
17. Diamond (note 12); Terry Lynn Karl, 'The Hybrid Regimes of Central America', *Journal of Democracy*, Vol. 6, No. 3 (1995), pp. 72–86.

18. Freedom House, *Freedom in the World Country Ratings*, www.freedomhouse.org (accessed 6 March 2004).
19. Diamond (note 12).
20. David Collier and Steven Levitsky, 'Democracy with Adjectives: Conceptual Innovation in Comparative Research', *World Politics*, Vol. 49, No. 3 (1997), pp. 430–51.
21. Barany (note 6); Van Cott (note 6); Deborah J. Yashar, 'Democracy, Indigenous Movements, and the Postliberal Challenge in Latin America', *World Politics*, Vol. 52, No. 1 (1999), pp. 76–104.
22. Karen L. Remmer, 'Exclusionary Democracy', *Studies in Comparative International Development*, Vol. 20, No. 6 (1985–86), pp. 64–85.
23. Donald Horowitz, *Ethnic Groups in Conflict* (Berkeley, CA: University of California Press, 1985).
24. Jack L Snyder, *From Voting to Violence* (New York: W.W. Norton, 2000).
25. Lane Kenworthy and Melissa Malami, 'Gender Inequality in Political Representation: A Worldwide Comparative Analysis', *Social Forces*, Vol. 78, No. 1 (1999), pp. 235–68; Pamela Paxton, 'Women's Suffrage in the Measurement of Democracy: Problems of Operationalization', *Studies in Comparative International Development*, Vol. 35, No. 3 (2001), pp. 92–111; Andrew Reynolds, 'Women in the Legislatures and Executives of the World: Knocking the Highest Glass Ceiling', *World Politics*, Vol. 51, No. 4 (1999), pp. 547–72; Georgina Waylen, 'Women and Democratization: Conceptualizing Gender Relations in Transition Politics', *World Politics*, Vol. 46, No. 3 (1994), pp. 327–54.
26. Robert A Dahl, *Democracy and Its Critics* (New Haven, CT: Yale University Press, 1989); Anne Phillips, 'Dealing with Difference: A Politics of Ideas, or a Politics of Presence?' in Seyla Benhabib (ed.), *Democracy and Difference* (Princeton, NJ: Princeton University Press, 1996), pp. 139–152.
27. Valerie Bunce, 'Rethinking Recent Democratization: Lessons from the Postcommunist Experience', *World Politics*, Vol. 55, No. 1 (2003), pp. 167–92.
28. The 1990 Constitution ushered in a Westminster Parliamentary democracy with majoritarian institutions like the FPTP electoral system, a unitary structure, and a strong executive with a weak Parliament. The state was declared Hindu, and Nepali was made the sole national language in a multi-religious and multi-linguistic country.
29. Prithivinarayan Shah of Gorkha and his descendents conquered various petty kingdoms, principalities, and indigenous peoples during the late 18th century. The Ranas usurped power in 1846 by marginalizing the monarchs and ruled autocratically as prime ministers until 1951. Nepal experienced an open polity for a decade after that. In 1959, the Parliament was elected for the first time, but the King dissolved it in 1960 and ruled directly. In 1990 a movement for the restoration of democracy forced the King to become a constitutional monarch. In October 2002, the King dismissed the elected government after the it failed to hold parliamentary elections, which were due after the government had dissolved Parliament. In February 2005, the King formed a cabinet headed by him. The King was forced to give up power by the second peoples' movement in April 2006.
30. Meena Acharya, Yubaraj Khatiwada, and Shankar Aryal, *Structural Adjustment Policies and Poverty Eradication* (Kathmandu: IIDS, 2003); Mahendra Lawoti, (ed.), *Contentious Politics and Democratization in Nepal* (New Delhi: Sage Publications, 2007); Ram Sharan Mahat, *In Defense of Democracy* (New Delhi: Adroit Publishers, 2005).
31. Devendra Raj Panday, *Corruption, Governance and International Cooperation* (Kathmandu: Transparency International Nepal, 2001).
32. Lok Raj Baral, *Nepal: Problems of Governance* (Delhi: Konark, 1993).
33. Genevieve Lakier, 'Illiberal Democracy and the Problem of Law, in Lawoti (note 30), pp. 251–72.
34. The Maoists are an extremist communist group who aimed to establish a communist republic through violence. They reached a comprehensive peace agreement with the government in 2006 and joined the interim cabinet in 2007.
35. Krishna B Bhattachan, 'Ethnopolitics and Ethnodevelopment', in Dhruba Kumar (ed.), *State, Leadership and Politics in Nepal* (Kathmandu: CNAS, 1995), pp. 124–7; T. Louise Brown, *The Challenge to Democracy in Nepal* (London: Routledge, 1996); David N. Gellner, Joanna Pfaff-Czarnecka, and John Whelpton (eds), *Nationalism and Ethnicity in a Hindu Kingdom* (Harwood Academic Publishers, 1997); Susan Hangen, 'Between Political Party and Social Movement: The Mongol National Organization and Democratization in Rural Nepal', in Lawoti (note 30), pp. 178–98; Mahendra Lawoti, *Towards a Democratic Nepal* (New Delhi: Sage Publications, 2005); Govinda Neupane, *Nepalko Jatiya Prashna* [Nepal's National Question] (Kathmandu: Center for Development Studies, 2000).
36. The indigenous nationalities consist of around 60 national/ethnic groups while the *madhesi* are divided into various national/ethnic, religious, and caste groups.

37. *Madhesi* are 32.29 per cent when Tarai indigenous nationalities (8.96 per cent, Tarai *dalit* (6.74 per cent), and Muslim (4.29 per cent) are counted. The data of 2001 census are from Krishna B Bhattachan, *Indigenous Nationalities & Minorities of Nepal* (London: Minority Rights Group International, 2003).
38. The civil liberties and political rights began to be constrained after the Maoist insurgency's influence widened in late 1990s. The government was not able to hold regular local and parliamentary elections in 2002.
39. This does not mean that the non-democratic period was better. First, the marginal groups enjoyed more political rights in the democratic epoch. Second, the representation was less than the proportion of the marginalized groups even during the non-democratic period. However, what is significant is that the democratic period did not even match representation of non-democratic years.
40. Bhattachan (note 35); Anne de Sales, 'The Kham Magar Country: Between Ethnic Claims and Maoism', in D. N. Gellner (ed.), *Resistance and the State* (New Delhi: Social Science Press, 2003); D. N. Gellner (ed.) *Resistance and the State* (New Delhi: Social Science Press, 2003); Gellner, Pfaff-Czarnecka, and Whelpton (eds) (note 35).
41. NEFEN, an umbrella organization of around 50 ethnic associations, changed its name to NEFIN in 2003.
42. As a minority group constituting around four per cent of the population, Muslims fear retaliation from the Hindus, who constitute more than 80 per cent, if they mobilize and make public demands.
43. Chaitanya Subba et al., *Adivasis/Janajatis in National Development: Major Issues, Constraints and Opportunities: Plan of Actions Proposed for the Tenth Plan, 2003–2007* (Kathmandu: IIDS, 2002).
44. Neupane (note 35).
45. Onta and Parajuli found that the Bahun-Chhetri made up 79.57 per cent of newspaper and magazine media elite (editors, publishers, and columnists). Praytoush Onta and Shekhar Parajuli (eds), *Nepali Mediama Dalit Ra Janajati* (Kathmandu: Ekta Books, 2001/2002).
46. Selma K. Sonntag, 'Ethnolinguistic Identity and Language Policy in Nepal', *Nationalism and Ethnic Politics*, Vol. 1, No. 4 (1995), pp. 108–20. An overwhelming number of public holidays and national heroes are still those of the dominant group. In 2057 v.s. (2000/2001), 78.12 per cent public holidays were hill Hindu holidays. 67.86 per cent of national heroes are 'upper caste' personalities. Mahendra Lawoti, *Domination and Exclusion* (Kathmandu: NESAC, 2000); Neupane (note 35). Fourteen indigenous nationality and *madhesi* languages accounted for only 7.84 per cent of broadcast time while Nepali alone accounted for around 90 per cent. The remaining time taken up by English, Hindi and Urdu. Kumar Yatru, 'Radioma Janajati (Nationalities in the Radio),' in P Onta and Shekhar Parajuli (eds), *Nepali Mediama Dalit Ra Janajati* (Kathmandu: Ekta Publishers, 2001/2002), pp. 113–34.
47. The Indigenous Nationalities Academy was formed in 2003. The development committees were scrapped when the commission and the academy was formed. The royal government announced quotas (reservation) in education for the *dalit*, indigenous nationalities, and women in 2003.
48. Compared to identity groups, the state has initiated more policies for women. Reservation of three out of 65 seats in the Upper House, 25 per cent seats in village development committees, five per cent of candidates from the political parties in the parliamentary elections, and a women's ministry are some women-specific policies, even though these are limited in scope. Marginalized-group women, however, allege that the CHHE women overwhelmingly enjoy the benefits.
49. DLI, *Bidhi Nirman Prakriya Tatha Bidhaman Ain Niyamko Suchi* [Legislation Process and List of Current Laws] (Kathmandu: Development Law Inc., 2055 [1998]).
50. Mahendra Lawoti, 'Maoists and Minorities: Overlap of Interests or the Case of Exploitation?' *Studies in Nepali History and Society*, Vol. 8, No. 1 (2003), pp. 67–97.
51. Initially there was only lukewarm support for the anti-King protests launched by parliamentary political parties. The movement gained some momentum after the civil society groups joined. It achieved further momentum after political parties and the Maoists decided join forces against the King in late 2005. By that time, it had also become apparent that the King could not deliver peace, either through repression of the Maoists or settlement with them.
52. Gore Bahadur Khapangi, whose contribution in the ethnic movement is very significant, was one of the cabinet members.
53. The NGP and the NPLP (National People Liberation Party), the two largest ethnic parties, supported the King. A NGP faction split and opposed the King's takeover. The participation of Newars, the residents of the capital, was insignificant in the April 2006 movement compared to the 1990 movement.
54. After the King's intervention, the political parties incorporated some of the demands of the marginalized groups to attract them to the movement against the King's rule.
55. The government, the *Madhesi* People Rights Forum (MPRF), and NEFIN are negotiating at the time of writing (mid-2007), but the movement leaders have accused the government of not taking the negotiations seriously.

56. A. Hofer, *The Caste Hierarchy and the State in Nepal* (Innsbruck: Universitatsverlag, Wagner, 1979); Nancy E. Levine, 'Caste, State, and Ethnic Boundaries in Nepal', *Journal of Asian Studies*, Vol. 46, No. 1 (1987), pp. 71–88.
57. Frederick H Gaige, *Regionalism and National Unity in Nepal* (Delhi: Vikas, 1975); Mahesh C. Regmi, *Thatched Huts and Stucco Palaces* (New Delhi: Vikash, 1978).
58. Richard English, 'Gorkhali and Kiranti: Political Economy in the Eastern Hills of Nepal', PhD dissertation, New School for Social Research, the New School University, 1982.
59. Gaige (note 57).
60. Krishna B. Bhattachan, 'Possible Ethnic Revolution or Insurgency in Predatory Unitary Hindu State, Nepal,' in Dhruba Kumar (ed.), *Domestic Conflict and Crises of Governability in Nepal* (Kathmandu: CNAS, 2000), pp. 135–62; Lawoti (note 35).
61. Harry Eckstein, *Division and Cohesion in Democracy* (Princeton, NJ: Princeton University Press, 1966); Peter Siavelis, *President and Congress in Post Authoritarian Chile* (Philadelphia, PA: Pennsylvania State University Press, 1996).
62. Ted Robert Gurr, *Minorities at Risk?* (Washington DC: United States Institute of Peace Press, 1993); Horowitz (note 5); Lewis (note 5); Arend Lijphart, *Patterns of Democracy* (New Haven, CT: Yale University Press, 1999).
63. Frank S. Cohen, 'Proportional Versus Majoritarian Ethnic Conflict Management in Democracies', *Comparative Political Studies*, Vol. 30, No. 5 (1997), 607–30; G. Bingham Powell, 'Party Systems and Political Systems Performance: Voting Participation, Government Stability, and Mass Violence in Contemporary Democracies', *The American Political Science Review*, Vol. 75, No. 4 (1981), pp. 861–79; Stephen M. Saideman, David Lanoue, Michael Campenni, and Samuel Stanton, 'Democratization, Political Institutions, and Ethnic Conflict: A Pooled Time-Series Analysis, 1985–1998', *Comparative Political Studies*, Vol. 35, No. 1 (2002), pp. 103–29.
64. As Table 2 shows, under PR the two largest political parties would have received fewer seats in all three parliamentary elections after 1990 and the other parties would have received more seats in 90 per cent of all instances.
65. In 1999, the CHHE dominated the mainstream political parties in the following proportions: CPN-UML=87.5 per cent, NC=70.97 per cent, CPN-ML=50 per cent, NDP=44.12 per cent, NDP-C=43.75 per cent. Neupane (note 35), p. 71. NDP-C and CPN-ML since then merged with NDP and CPN-UML respectively. NC and CPN-UML are the two largest political parties.
66. The use of pure PR in the calculation is just an exercise to demonstrate exclusion and not an attempt to recommend it, let alone compare the different variants of PR.
67. The Chhetri are in absolute majority in seven and Bahun in none of 75 districts but Chhetri and Bahun are the largest two caste groups in the country. Chhetri dominate 22 districts and Bahun nine. In rest of the districts, non-CHHE groups dominate. Harka Gurung, *Nepal: Social Demography and Expressions* (Kathmandu: New Era, 1998), p. 58.
68. Ramavatar Yadav, 'The Use of the Mother Tongue in Primary Education: The Nepalese Context', *Contributions to Nepalese Studies*, Vol. 19, No. 2 (1992), pp. 177–90.
69. Alfred Stepan, 'Federalism and Democracy: Beyond the US Model', in Larry Diamond and Marc F. Plattner (eds), *The Global Divergence of Democracy* (Baltimore: The John Hopkins University Press, 2001), pp. 215–16.
70. The higher presence of marginalized groups in local units of major political parties is an indication of such a possibility. Krishna Hachhethu, *Party Building in Nepal* (Kathmandu: Mandala Book Point, 2002).
71. Lawoti (note 35).
72. FWLD, *Discriminatory Laws in Nepal and Their Impact on Women* (Kathmandu: Forum for Women, Law and Development, 2000); NEFEN, *Nepalma Adibasi/Janjatiharuko Adhikar Prabardhan Garne Ramaniti Tayar Parne Rastriya Paramarsha Gosthi* [National workshop to develop strategies for protecting rights of Indigenous/Nationalities in Nepal] (Kathmandu, 2000).
73. Krishna B Bhattachan, 'Minority Rights in the Predatory Nepalese State', in Sumanta Banerjee (ed.), *Shrinking Space* (Lalitpur: SAFHR, 1999), pp. 38–58; Lawoti (note 35).
74. Marriage, divorce, inheritance, and other laws are guided by Hindu norms. The civil code does not recognize the customary laws of indigenous groups, Buddhists or Muslims. The CHHEM influenced laws have forced non-dominant groups to conform to the dominant value and customs. Lawoti (note 35); Gaiindra Bahadur Shrestha, *Hindu Bidhisastra Ra Nepalko Kanuni Byabastha* (Hindu Jurisprudence and Nepalese Legal System). 3rd ed. (Kathmandu: Pairabi, 2056 [2000]).
75. The children of Nepali women married to foreigners were denied citizenship. Women were also discriminated against by the more stringent eligibility requirements for citizenship acquisition by foreign spouses of Nepali women compared to men's foreign spouses (Article 9.5). Some of this discrimination were eliminated in 2006.
76. Citizenship acquisition article 9.4 (a) also discriminated among native languages. Only those who learn Khas-Nepali are eligible for citizenship. Speakers of other native languages are not awarded a similar privilege.
77. Some *madhesi* migrated when the Tarai was opened for cultivation. Migration to the Tarai was encouraged before and after the conquest of Nepal to increase the tax base. The hill Nepalis were averse to the malaria-infected jungles of the Tarai. Mahesh C. Regmi, *Kings and Political Leaders of the Gorkhali Empire, 1768–1814* (Hyderabad: Orient Longman, 1995). This discrimination was eliminated in 2006, and citizenships teams are distributing citizenship certificates at the time of writing.
78. Dhanpati Upadhaya, *Report of the High Level Citizenship Commission-2051*, (Kathmandu: HMG Nepal, 2052 [1995]).
79. Maori representation was 5.1, 5.1 and 7.1 per cent in 1987, 1990, and 1993 elections respectively. It increased to 13.3, 13.3 and 15.8 per cent in 1996, 1999, and 2002 respectively. Asians had no representation from 1987 to 1993. They got 0.8, 0.8 and 1.7 per cent in 1996, 1999, and 2002 respectively. Pacific Islanders had no representation in 1987 and 1990, but won 2.5 per cent in 1993 and again in the ensuing elections. The proportion of Maori, Asians, and Pacific Islanders in the population is 7.9, 5.7, and 4.4 per cent respectively. Jack Vowles and Peter Aimer, 'Political Leadership, Representation and Trust', in Jack Vowels, Peter Aimer, Susan Banducci, Jeffrey Karp, and Raymond Miller (eds), *Voters' Veto* (Auckland: University of Auckland Press, 2004), pp. 167–82.
80. Lionel Caplan, *Land and Social Change in East Nepal*. 2nd ed. (Lalitpur: Himal Books, 2000).
81. Dor Bahadur Bista, *Fatalism and Development* (Hyderabad: Orient Longman, 1991).
82. Some may point out that the Bahun's educational status may be the reason behind their performance. The declining performance of the Newar, who have comparable educational status and better access to economic resources but less dominance in political parties, shows that other factors beside educational status are at work.
83. Mahendra Lawoti, 'Exclusionary Democratization: Multicultural Society and Political Institutions in Nepal', PhD dissertation, University of Pittsburgh, 2002.
84. Being tolerant does not mean that the political elite would necessarily formulate inclusive public policies and push for higher inclusion. One can be tolerant towards strangers but that does not necessarily mean presenting them with gifts.
85. Mahendra Lawoti, 'Democracy, Domination, and Exclusionary Constitutional Engineering in Nepal,' in Mahendra Lawoti (note 35), pp. 48–72.
86. However, we must recognize that not being inclusive is different from being a cause of exclusion. The former is not a factor for exclusion; exclusion can occur when the elite remain indifferent while other factors cause the exclusion. The different elite attitudes and behaviour in 1990 and in 2000 could be due to their different recruitment process. The 2000 elite were elected to office whereas the elite who crafted the 1990 Constitution were nominated. The elected elite may have been more sensitive to societal moods.

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